

METROLINK

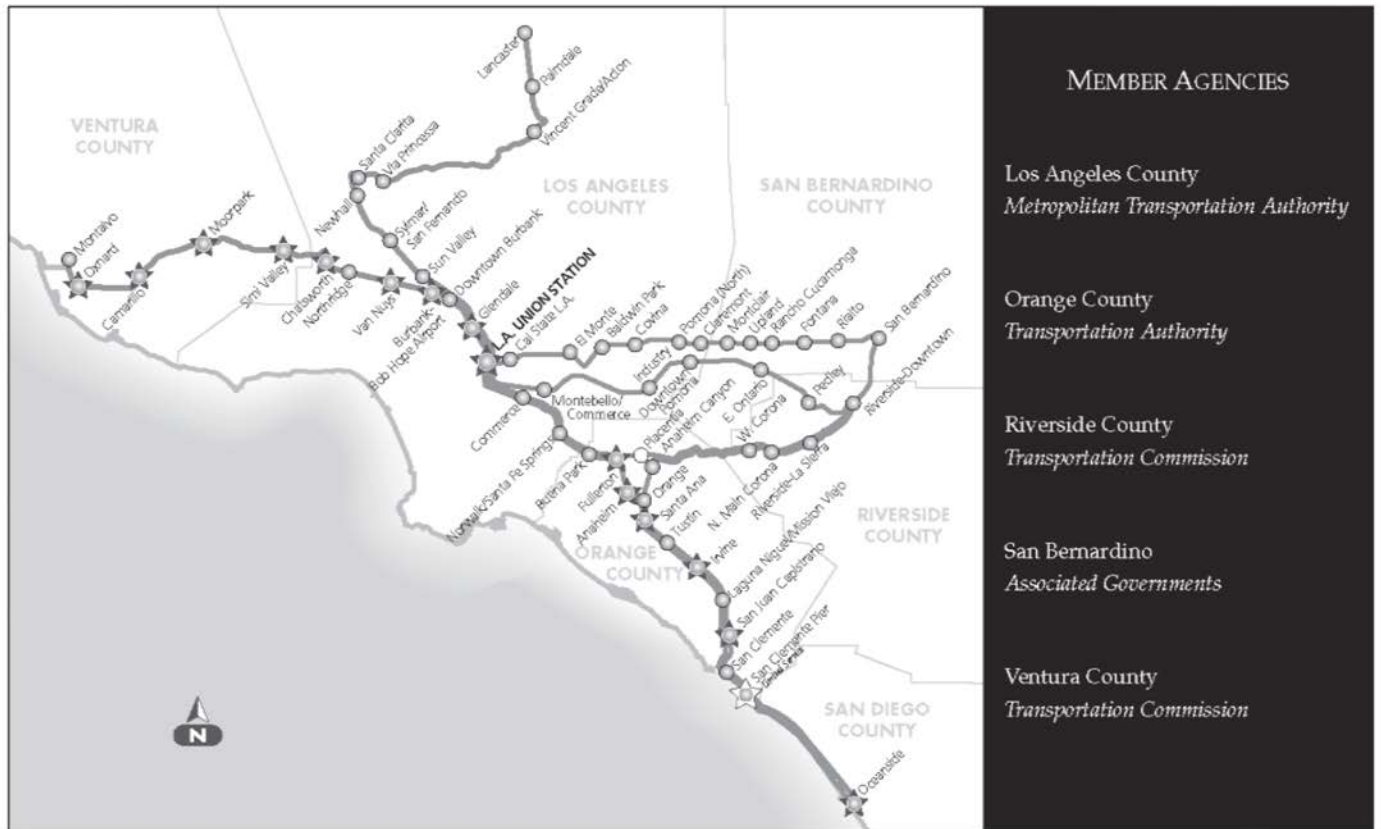
Southern California Regional Rail Authority



CONFORMED CONTRACT

NO. SP450B-16

ULTRASONIC RAIL TESTING



**SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY
METROLINK COMMUTER RAIL SYSTEM**

**SAMPLE CONTRACT NO. SP450B-16
ULTRASONIC RAIL TESTING**

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ATTACHMENT A - SCOPE OF SERVICE

This contract is made and entered into as of this 15th day of January 2016 by and between the SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY (hereinafter referred to as "Authority") and NORDCO Inc, (hereinafter referred to as "Contractor").

RECITALS

WHEREAS, Authority is a joint powers authority organized under §6500 *et seq.* of the California Government Code and §130255 of the California Public Utilities Code with power to contract for ULTRASONIC RAIL TESTING described in Attachment A – Scope of Service - to this contract entitled “Scope of Service” (hereinafter referred to as “Scope of Work” or “Scope of Service”);

WHEREAS, Authority desires to hire a Contractor;

WHEREAS, Contractor/Consultant has indicated it is qualified to perform and (1) has reviewed all the available data furnished by Authority pertinent to the Work; (2) has inspected and reviewed the Work; (3) will exercise the ordinary care and skill expected of a practitioner in its profession; and (4) is willing to accept responsibility for performing as set forth in this contract for the compensation and in accordance with the terms, requirements and conditions herein specified;

NOW, THEREFORE, for the consideration hereinafter stated, the parties agree as follows:

1. SCOPE OF WORK

- A. Contractor will perform the Services and related tasks as described in ATTACHMENT A - Scope of Services. ATTACHMENT A - Scope of Services is attached hereto and is incorporated by reference into and made a part of this Agreement.
- B. This is a non-exclusive Contract, whereby Authority may, at its sole discretion, augment or supplant the Services with its own forces or forces of another Contractor or entity. Contractor will cooperate fully with Authority's staff or other Contractor or entity that may be providing similar or the same Services for Authority.

2. NON-EXCLUSIVE CONTRACT

This is a non-exclusive Contract, whereby Authority may, at its sole discretion, augment or supplant the Vendor with its own forces or forces of another Vendor or entity. Vendor will cooperate fully with Authority's staff or other Vendor or entity that may be providing similar or the same work for Authority.

It is mutually understood and agreed that Authority is under no obligation whatsoever to purchase a minimum quantity of goods/services, that the Authority has made no

representations or commitments whereby Authority has agreed to purchase a set amount of goods/services, and that Authority may procure any such requirements elsewhere.

3. PERIOD OF PERFORMANCE AND COMPLETION OF WORK

The period of performance for this Contract is for three years, from February 8, 2016 to February 7, 2019, with one two-year option to be exercised at the Authority's discretion through a written Amendment to the Agreement or unless earlier terminated pursuant to the provisions of this Agreement.

4. CHANGES

The Authority may at any time order additions, deletions or revisions including but not limited to changes to drawings, designs or specifications, method of shipping or packing, place of delivery or delivery schedule, within the general scope of the contract. These actions will be authorized by a written amendment. Upon receipt of any such amendment, the Contractor shall promptly proceed under the applicable conditions of the contract, except as otherwise specifically provided. Unless included in a written amendment approved in accordance with Authority's policies, no order, statement or conduct of the Authority's personnel or agent(s) shall be construed as a change under the contract or entitle the Contractor to an adjustment under the contract.

5. TOTAL COMPENSATION

In consideration for the Work performed, the Authority will pay the Contractor an amount not to exceed the Total Contract Price which is \$600,000, payable as provided in the Contract.

Schedule of Quantities and Prices shown in Exhibit 1.

6. PAYMENT

1. Invoices may be submitted upon delivery and acceptance of ULTRASONIC RAIL TESTING, but no more often than once per month. The invoice shall be in a form approved by the Authority and shall be prepared by and at the sole cost of the Contractor.
2. Invoice may be submitted upon delivery and acceptance of ULTRASONIC RAIL TESTING. The invoice shall be in a form approved by Authority and shall be prepared by and at the sole cost of the Contractor.
3. Contractor shall submit an original and one copy of the invoice to:

Email Address

Accountspayable@scrra.net

Attn: Accounts Payable

with a copy to:

harrisw@scrra.net

Attn: Tim Harris

and

carpenters@scrra.net

Attn: Sean Carpenter

Electronic submissions of invoices are the Authority's preferred method.

4. Each invoice shall include the following information, as applicable, to this contract.
 - Contract Number
 - Release Number
 - Release Line Item Number
 - Description of Items Ordered
 - Unit Price
 - Quantity Ordered
 - Quantity Delivered
 - Cost of Freight per Line Item
 - Cost of Tax per Line Item for out of state Contractors
 - Cost of Tax per Line Item – As a purchaser of goods from outside the State of California, SCRRA, is responsible to remit use tax directly to the State of California, in the amount according to Exhibit 1.
 - Total Cost per Line Item
 - Amount of Payment Requested
 - Specific documentation as may be required by Authority's Project Manager

Invoice(s) received that do not include the required information will be returned by Authority without payment.

5. Payments will be made within 30 days of Approval of invoice by the Authority's Project Manager. The Authority has no obligation to pay for costs incurred or services rendered when the application for payment is submitted

more than ninety (90) days after the costs were incurred. Upon receipt of an invoice, the Authority shall act in accordance with the following:

- a. The Authority, at its discretion, may make deductions from the amount requested when Contractor has failed to perform one or more of its obligations under this contract. The amount of such deductions may be estimated by the Authority when the Schedule of Quantities and Prices (Exhibit 1) does not provide for such items.
 - b. The failure of the Authority to deduct any of the above-identified sums from a payment shall not constitute a waiver of the Authority's right to such sums.
 - c. In the event that the Authority should overpay Contractor, such overpayment shall not be construed as a waiver of Authority's right to obtain reimbursement for the overpayment. Upon discovering any overpayment, either on its own or upon notice of Authority, Contractor shall immediately reimburse Authority the entire overpayment. Authority, at its discretion, may deduct any overpayment from Contractor's future invoices.
6. Contractor's invoice for final payment shall indicate that all 1) material or equipment has been reviewed and accepted, 2) title has passed to Authority as required, 3) Contractor has performed in compliance with all terms and conditions of the contract, 4) no claims, loss, or disputes remain unresolved, and 5) Contractor releases the Authority from any further obligation. After final payment is made, Authority is under no obligation to accept or review claims made against this contract.

7. PROMPT PAYMENT TO SUBCONTRACTORS/SUPPLIERS

Contractor agrees to make prompt payment to all Subcontractors/Suppliers (both Disadvantaged and Non-Disadvantaged Business Enterprises) for satisfactory work performed. Prompt payment shall mean payment of all invoices from Subcontractors/Suppliers within 7 days after receiving a progress payment from the Authority. (Bus. & Prof. Code §7108.5) If a direct contractor has withheld retention from one or more of its subcontractors, the direct contractor must pay its subcontractors within 10 days after receiving all or a portion of retention, unless the retention received is specifically designated for a particular subcontractor. (Civ. Code §8814).

Failure of Contractor to make prompt payment as defined in this article or to delay payment without prior written consent of Authority shall constitute noncompliance with this Contract, which may result in appropriate administrative sanctions which may include withholding of payment of Contractor's invoice by Authority until payment is made to the Subcontractor/Supplier or termination of the Contract in accordance with the Article entitled, Termination of Contract.

Upon the Authority's request, the Contractor shall make available to the Authority evidence that the Contractor has paid Subcontractors/Suppliers all amounts due, in accordance with the Work performed in a satisfactory manner by each Subcontractor/Supplier.

8. INSURANCE

Throughout the duration of this Agreement, Contractor/Consultant shall maintain the following insurance, which shall be full-coverage insurance not subject to self-insurance provisions. Contractor/Consultant shall not of its own initiative cause such insurance to be canceled or materially changed during the course of this Agreement.

A. **Commercial General Liability** to include Products/Completed Operations, independent contractor, Contractual Liability, and Personal Injury Liability; with at least the following limits of liability:

1. Primary Bodily Injury Liability Limits of \$4,000,000 per occurrence; and
2. Primary Property Damage Liability Limits of \$4,000,000 per occurrence; or
3. Combined single limits of liability for Primary Bodily Injury and Primary Property Damage of \$4,000,000 per occurrence.

B. **Automobile Liability** with the following limits:

1. Primary Bodily Injury with limits of \$1,000,000 per occurrence; and
2. Primary Property Damage with limits of \$1,000,000 per occurrence; or
3. Combined single limits of Liability for Primary Bodily and Primary Property Damage of \$1,000,000 per occurrence.

C. **Workers' Compensation Insurance** with the limits established and required by the State of California.

D. **Railroad Protective Liability Insurance**

1. Contractor/Consultant shall provide, with respect to the operations they or any of their subcontractors perform on any property of Authority as per criteria shown in "Rules and Requirements for Construction on Railway Property," Railroad Protective Liability Insurance.
2. The policy shall have limits of \$5,000,000 per occurrence, combined single limit, for coverage and for losses arising out of injury to or death of all persons, and for physical loss or damage to or destruction of property, including the loss of use thereof. A \$5,000,000 annual aggregate shall apply.

3. Proposer shall include the following as insured under its Railroad Protective Liability Insurance.

Insured:

Southern California Regional Rail Authority (SCRRA)

Additionally Insured:

Burlington Northern Santa Fe Corporation (BNSF)

Los Angeles County Metropolitan Transportation Authority (MTA)

National Railroad Passenger Corporation (Amtrak)

Orange County Transportation Authority (OCTA)

Riverside County Transportation Commission (RCTC)

San Bernardino Associated Government (SANBAG)

Union Pacific Railroad Company (UPRR)

Ventura County Transportation Commission (VCTC)

Others at the request of Authority

“Occurrence,” as used herein, means any event or related exposure to conditions which result in bodily injury or property damage.

Proof on Insurance will be required prior to commencement of work under the contract. A certificate of insurance will be required to be furnished to the Authority’s Contract & Compliance Administrator. The insurance coverage is subject to the following requirements:

- i. The Authority, its member agencies, officers, directors, employees and agents are named as an additional insured via endorsement on Commercial General Liability and Automobile Liability insurance with respect to performance of services under the Agreement.

The coverage shall be primary and noncontributory as to any other insurance with respect to liability hereunder.

or

Pursuant to Section 15 Contractor will agree both to name SCRRA as additional insured on Contractor’s Commercial General Liability Insurance (CGL), and to provide SCRRA with Railroad Protective Liability Insurance (RPL). To the extent RPL provided by Contractor provides SCRRA primary coverage, paying for defense and legal liability pursuant to its terms, Contractor’s CGL shall be excel over the RPL. Contractor’s CGL shall otherwise be primary and non-contributory as to any other liability insurance available to SCRRA.

- ii. Thirty (30) days prior written notice of cancellation or of material changes in coverage is to be given to the Authority by endorsement.
- iii. The Authority, it's member agencies, officers, directors, employees and agents are named as an additional insured via endorsement on Commercial General Liability and Automobile Liability insurance with respect to performance of services under the Agreement.
- iv. The coverage shall be primary and noncontributory as to any other insurance with respect to liability hereunder.
- v. Thirty (30) days prior written notice of cancellation or of material changes in coverage is to be given to the Authority by endorsement.

Any deductibles or self-insured retentions (SIR) must be declared to and approved by the Authority. At the option of the Authority, either the Contractor shall reduce or eliminate such deductibles or self-insured retentions with respect to this Contract to be awarded or shall procure a bond guaranteeing the amount of the deductible or self-insured retention. If the Authority agrees in writing to a deductible or self-insured retention, then in the event of any claims or suits which may arise for which Authority seeks coverage under such policy as an additional insured, Contractor shall satisfy such deductible or self-insured retention to the extent of any loss covered by such policy arising from or connected with any alleged act or omission of Contractor its officers, directors, employees, agents, Subcontractors, or suppliers, even if Contractor is not a named defendant in the lawsuit. Contractor's policies shall neither obligate nor prohibit the Authority or any Additional Insured, from paying any portion of any Contractor deductible or SIR.

9. LIQUIDATED DAMAGES

- 1) The Authority shall be damaged if the Contractor fails to perform the Services adequately or in a timely manner. For certain performance failures, it may be difficult or impossible to determine the amount of the actual damages to the Authority. The parties have in good faith estimated the approximate amount of such damages at the time of entering into this agreement and the Contractor agrees to pay such amount as liquidated damages.

Contractor agrees to pay Authority liquidated damages and Authority shall deduct such amounts from the monthly Invoice as follows:

a) Train Performance

\$2,500 for each train that is delayed more than thirty (30) minutes later than the time stated in Metrolink's public timetable, if the primary cause of the delay is directly attributable to a negligent act or omission of Contractor, a Contractor employee or Subcontractor. The cumulative maximum amount of liquidated delays under this category for a single

day shall be capped at \$10,000 and for a month shall be capped at \$50,000.

b) Safety

Contractor's employees violating any Authority designated cardinal rules will be \$5000 per violation per employee with a cumulative maximum of under this this category for a month shall be capped at \$20,000.

c) Staff Vacancies

Contractor will be liable to Authority in the amount of \$750 per day, computed in accordance with Article 15 for each day Contractor fails to fill the position of any key personal, or other Key Staff vacancy. The maximum cumulative monthly under this category shall be capped at \$10,000.

d) Failure to Perform per Schedule

Contractor fails to meet respond to Authority's schedule in Attachment A-Scope of Service request will be assessed \$2,000 with a cumulative maximum under this category for a month at \$10,000.

- B. This Article provides an alternative means for the Authority to obtain damages in the event the Contractor fails to perform Services timely. At the Authority's sole discretion, the Authority may obtain its actual costs and damages in lieu of Liquidated Damages.
- C. Nothing in this Article shall preclude the Authority from terminating this Agreement in accordance with Article 22 entitled Termination for Breach of Agreement if, in the Authority's sole determination, the Contractor fails to perform satisfactorily.

10. INDEMNITY

Contractor agrees to indemnify and hold harmless Authority from and against all liabilities, damages, losses, claims, costs and expenses, including reasonable attorneys' fees ("Losses") to the extent that the Losses are caused by the negligence or willful misconduct of Contractor in the course of performing the requested Services, subject to the limitations set forth in this paragraph. Contractor shall not be held responsible or liable for any loss, damage or delay caused by accidents, strikes, fires, floods or other circumstances or causes beyond its control, including actions taken or not taken by Authority or other third parties. Neither party shall be liable or responsible for any indirect, special, punitive, exemplary, consequential or incidental damages (including without limitation, lost profits, lost opportunity, economic loss, overhead expenses, business interruption, loss of use, lost productivity, downtime, or damage to reputation or goodwill) irrespective of the nature

of any claim asserted, regardless of whether the other party was advised of the possibility of such damage or loss.

11. PAYMENT OF TAXES

The Contractor shall **be responsible to** pay all taxes and duties to the extent applicable to and assessable against any work, equipment, materials, services, processes, and operations incidental to or involved in the contract, including but not limited to retail sales and use, transportation, export, import, business, and special taxes, as required by laws or regulations in effect on the date the Bid was opened. The Contractor is responsible for ascertaining and acquainting itself with such taxes and making all necessary arrangements to pay them. The Contractor will maintain auditable records, subject to Authority reviews, confirming that tax payments are current at all times.

12. INSPECTION AND AUDIT

1. Contractor shall maintain a complete set of records relating to this Agreement in accordance with Generally Accepted Accounting Practices (GAAP) of the United States.
2. Authority may, at any time, and at its own cost, conduct or have conducted an inspection or audit of any aspect of Contractor's performance of its duties and obligations under this contract. Upon reasonable notice, Contractor shall permit auditors or any other duly authorized agent of Authority, the U.S. Department of Transportation, and the Comptroller General of the U.S. to inspect, examine and audit all financial books, records, accounts, work and materials relating to the Contractor's performance under this contract. Authority shall also have the right to reproduce any such books, records and accounts.
3. All such books, records, accounts and documents shall be maintained and be accessible to Authority, for three years after completion or termination of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain all records until Authority, the FTA Administrator, the Comptroller General, or any of duly authorized representatives, have disposed of such litigation, appeals, claims or exceptions related thereto. For purposes of audit, the date of completion of the contract shall be the date of Authority's payment for Contractor's final billing (so noted on the invoice) under this contract.
4. Subcontracts or other agreements with the Contractor's Subcontractors shall include the above provisions with respect to audits. The term "subcontract" as applies to these audit requirements excludes agreements not exceeding \$10,000.

5. Any payment by Authority shall be subject to a reasonable audit, in accordance with GAAP of the United States, and evaluation of operations, performance, and costs. The scope of such audit and evaluation may be either financial or operational, or both, and may include, in addition to costs and wages reimbursed by Authority, Contractor's controls, practices, and procedures and their effect upon the efficiency and quality of performance provided by Contractor. Upon completion of the audit, any adjustments required to make any reconciliation required shall be paid or credited, as the case may be, in accordance with the payment provisions of this contract.

13. AUTHORITY OF THE AUTHORITY'S PROJECTMANAGER

1. The Project Manager will have general control over the Work and the Contractor, including the power to enforce compliance with the contract. The exercise of or failure to exercise such power shall not relieve the Contractor of any of its obligations under the contract.
2. The Project Manager will inspect and accept or reject the Work as specified under the Article entitled Inspection and Acceptance of the Work.
3. The Project Manager shall not have control or charge of and shall not be responsible for the means, methods, sequences or procedures, have control or charge of safety precautions and programs in connection with the Work, or have control or charge of the act or omissions of the Contractor, Subcontractors or any other persons performing any of the Work in accordance with the contract.

In addition to the foregoing, the Project Manager shall have those rights and powers expressly set forth in other provisions of the contract.

14. NOTIFICATION

Any notice legally required to be given by one party to another or otherwise required concerning the Work to be performed under the contract shall be in writing and dated. The notice shall be signed by the party giving such notice or by a duly authorized representative of such party.

All notices shall be enclosed in a sealed envelope and physically transmitted by courier, overnight (Federal Express or similar service), registered or certified mail, return receipt requested, postage paid, and addressed as follows:

To the Authority:

Southern California Regional Rail Authority
One Gateway Plaza, 12th Floor
Los Angeles, CA 90012
Attn: Sean Carpenter
Sr. Contract & Compliance Administrator

To the Contractor:

Nordco, Inc.
245 West Forest Hill Ave
Oak Creek, WI 53149
Attn: Bob Besket
Regional Sales Manager

15. INDEPENDENT CONTRACTOR

- A. The Contractor's relationship to the Authority under this contract is that of an Independent Contractor. Contractor's personnel performing work under this contract shall at all times be under Contractor's exclusive direction and control and shall be employees of Contractor and not employees of the Authority. Contractor shall pay all wages, salaries and other amounts due its employees in connection with work performed under this contract 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.
- B. Contractor shall perform and exercise, and require its Subcontractors/Suppliers to perform and exercise due professional care and competence in the performance under this contract. Contractor shall be responsible for the professional quality, technical accuracy, completeness and coordination of Agreement, it being understood that Authority will be relying upon Contractor's professional competency.
- C. The Contractor shall be responsible for performance, in accordance with the contract. The Contractor shall be solely responsible for implementation of all means, methods, techniques, sequences, and procedures for any required coordination under the contract.

16. CONTRACTOR'S KEY PERSONNEL

The Contractor shall be solely responsible for the safety of its employees and third parties. The Contractor's Project Manager is considered as key personnel for the performance of the Work. Authority has the right to approve the designated Project Manager. Contractor shall not reassign or replace the approved Project Manager without the Authority's prior written Approval.

The following are Contractor's Key personnel, shown with their roles in the Work to be performed:

<u>Name</u>	<u>Role</u>
-------------	-------------

____Osterhout Harold _____

Chief Detector Car Operator ____

____Jones Laney_____

Chief Detector Car Operator____

____Cowan Samuel_____

Chief Detector Car Operator ____

Authority awarded this contract to Contractor based on Authority's confidence and reliance on the expertise of Contractor's key personnel described above. Contractor shall not reassign key personnel or assign other personnel to key personnel roles unless Authority gives prior approval of the reassignment or replacement in writing.

17. SUBCONTRACTORS/SUPPLIERS

1. The Contractor shall be fully responsible to the Authority for all acts and omissions of its own employees, and of Subcontractors, Suppliers and their employees. The Contractor shall also be responsible for coordinating the Work performed by Subcontractors/Suppliers. When a portion of the subcontracted Work is not performed in accordance with the contract, or if a Subcontractor/Supplier commits or omits any act that would constitute a breach of the contract, the Subcontractor/Supplier shall be replaced at the request of the Authority and shall not again be employed on the project.
2. Authority hereby consents to Contractor's subcontracting of portions of the Work to the parties identified below for the functions described in Contractor's Bid. Authority has awarded this contract based on the Subcontractor's/Supplier's expertise in the Work to be provided. Contractor shall not eliminate nor substitute Subcontractors/Suppliers without the prior approval of Authority in writing.

Subcontractor/Supplier	Goods/Materials/Services Provided
Name: Address: Phone: Fax: Contact:	

3. Contractor shall include in each contract with Subcontractors/Suppliers the stipulation that Contractor, not Authority, is solely responsible for payment to the Subcontractor/Supplier for the amounts owing and that the Subcontractor/Supplier shall have no claim, and shall take no action against Authority, Member Agencies or officers, directors, employees or sureties thereof for nonpayment by Contractor.

The following Articles, identified by title, shall be flowed down in the contract with all Subcontractors/Suppliers utilized in the performance of this work.

Inspection and Audit

Equal Opportunity

Public Records Act

While not required, Contractor may flow down to contract with Subcontractors/Suppliers the additional articles necessary to satisfy Contractor's contractual obligations.

18. CONTRACTOR'S INTERACTION WITH THE MEDIA AND THE PUBLIC

1. Authority shall review and approve in writing all Authority-related copy proposed to be used by Contractor for advertising or public relations purposes prior to publication. Contractor shall not allow Authority-related copy to be published in its advertisements and public relations programs prior to receiving such approval. Contractor shall ensure that all published information is factual and that it does not in any way imply that Authority endorses Contractor's firm, service, and/or product.
2. Contractor shall refer all inquiries from the news media to Authority, and shall comply with the procedures of Authority's External Communications Department staff regarding statements to the media relating to this contract.

19. SUSPENSION OF WORK

1. The Authority may at any time and for any reason within its sole discretion issue a written order to the Contractor suspending, delaying, or interrupting all or any part of the Work for a specified period of time.
2. The Contractor shall comply immediately with any written order of suspension that it receives from the Authority, and take all reasonable steps to minimize allocable costs covered by the suspension period. The Contractor shall resume performance of the suspended Work upon expiration of the notice of suspension, or upon direction of the Authority.

20. INSPECTION AND ACCEPTANCE OF THE WORK

1. Any and all Acceptance(s) are subject to warranty, and any and all deficiencies discovered during inspection and testing shall be corrected as provided under the Article entitled "Warranty".
2. If the Contractor does not promptly correct the deficiencies to the satisfaction of the Authority, the Authority may (1) replace or correct such Work by separate agreement, or otherwise, and charge the cost thereof to the Contractor or (2) terminate the Contractor's right to proceed in

accordance with the provisions of the Article entitled Termination for Default herein.

3. Upon successful completion of the inspection and testing, the Authority will notify the Contractor of Acceptance in writing, at which time the Contractor is entitled to invoice and receive payment for the ULTRASONIC RAIL TESTING which have been accepted.

21. WARRANTY

1. The Contractor warrants that all Work shall be in accordance with the Contract and shall be free from any defective or faulty material and workmanship for a period equal to, or greater than one year from Acceptance.
2. The Contractor agrees that it will be responsible for taking all corrective action required to satisfy all warranties for a period equal to one year after the date of Acceptance of the Work. Within three days after being notified in writing by the Authority of any defect in the Work or non-conformance of the Work, the Contractor shall at its sole expense determine the cause of any defects and remove, repair and/or replace and test any portions of the Work, and Work of other Contractors damaged by such defective or faulty Work, and that becomes damaged in the course of repairing and/or replacing defective or faulty Work. In addition to any of the Contractor's original warranty obligations, the Contractor warrants the corrected Work for one year from the date of Acceptance of such corrected Work or for the remainder of the original warranty obligations, whichever occurs later.
3. All warranties and guarantees of Subcontractors/Suppliers with respect to any portion of the Work, whether express or implied, are deemed to be obtained by the Contractor for the benefit of the Authority. The Contractor shall enforce such warranties and guarantees on behalf of the Authority, or if directed by the Authority, shall require such Subcontractors/Suppliers to execute such warranties and guarantees directly with the Authority. The Contractor shall be jointly and severally liable to the Authority under any such warranties or guarantees. To the extent that any such warranty or guarantee would be voided by reason of the Contractor's negligence in incorporating material or equipment into the Work, the Contractor shall be responsible for correcting such defect.
4. In the event that the Contractor fails to perform its obligations under this Article (or under any other warranty or guarantee under the Contract within a reasonable time and to the reasonable satisfaction of the Authority, the Authority shall have the right to correct and/or replace any defective or non-conforming Work and any Work damaged by such work or the

replacement or correction thereof. The Contractor shall be obligated to fully reimburse the Authority upon demand for any expenses incurred hereunder.

5. This warranty shall not apply to defects in the Work caused solely by abuse or neglect of the Authority. However, normal wear and tear shall not excuse the Contractor from its obligations under this Article.
6. Notwithstanding the foregoing, in the event that the Contractor's Work is not in compliance with the Contract and creates a hazard to the health or safety of Authority employees or property or the public, the Authority may undertake at the Contractor's expense and without prior notice all work necessary to correct such hazardous condition.

22. TITLE

1. Title shall pass to the Authority at the time of payment.
2. The title transferred as above shall in each case be good, and free and clear from any and all security interests, liens, and/or other encumbrances.
3. The transfer of title as specified above shall not imply Acceptance by the Authority, nor relieve the Contractor from the responsibility for strict compliance with the contract, including warranty as specified in the Article entitled Warranty of Work, and for any loss of or damage to the Work.
4. The Contractor at its own expense shall promptly execute, acknowledge, and deliver to the Authority proper bills of sale or other written instruments of title in a form as required by the Authority; said instruments shall convey to the Authority title free and clear of debts, claims, liens, mortgages, taxes, and/or encumbrances.
5. Contractor shall have title to and bear the risk of any loss of or damage to Work purchased hereunder until they are delivered, unloaded, and received by Authority at the FOB Destination specified herein. Contractor's responsibility for loss or damage except for loss or damage resulting from Contractor's negligence, shall cease when title passes to the Authority.

23. TERMINATION FOR CONVENIENCE

Authority may terminate this contract for Authority's convenience by giving Contractor ten days written notice thereof. Upon receipt of said notice, Contractor shall immediately take action not to incur any additional obligations, cost or expenses, except as may be reasonably necessary to terminate its activities. Thereafter, Contractor shall have no further claims against Authority under this contract. All finished or unfinished documents, materials and/or equipment procured for or produced under this contract shall become Authority property upon date of such termination.

24. TERMINATION FOR BREACH OF CONTRACT

1. If Contractor fails to perform any of the provisions of this contract or so fails to make progress as to endanger timely performance of this contract, Authority may give Contractor written notice of such default. If Contractor does not cure such default or provide a plan to cure such default, which is acceptable to the Authority within the time specified in Authority's notice of default, then Authority may terminate this contract due to Contractor's breach of this contract.
2. If a federal or state proceeding for relief of debtors is undertaken by or against Contractor, or if Contractor makes an assignment for the benefit of creditors, then Authority may immediately terminate this contract.
3. In the event Authority terminates this contract as provided in this article, Authority may, upon such terms and in such manner as Authority may deem appropriate, procure ULTRASONIC RAIL TESTING and Contractor shall be liable to Authority for all of its costs and damages, including, but not limited to, any excess costs.
4. All finished or unfinished documents and materials produced or procured under this contract shall become Authority property upon date of such termination.
5. If, after notice of termination of this contract under the provisions of this article, it is determined for any reason that Contractor was not in default under the provisions of this article, or that the default was excusable under the terms of this contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to the Article entitled Termination for Convenience.
6. The rights and remedies of Authority provided in this article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

25. ASSIGNMENT

1. This contract, any interest herein or claim hereunder, may not be assigned by Contractor either voluntarily or by operation of law, nor may all or any part of this contract be subcontracted by Contractor, without the prior written consent of Authority. Consent by Authority shall not be deemed to relieve Contractor of its obligations to comply fully with all terms and conditions of this contract.
2. The Authority retains the right to assign the Work in whole or in part to another governmental jurisdiction or public agency as long as the

assignment does not result in an increase in quantities above those in the original solicitation including option quantities that were evaluated as part of the award decision.

26. FORCE MAJEURE

The Contractor will be granted an extension of time for any portion of a delay in completion of the Work caused by acts of God or the public enemy, wars, civil disturbances, fires, floods, earthquakes, epidemics, quarantine restrictions, freight embargoes, strikes or weather more severe than normal, providing that (1) the aforesaid causes were not foreseeable and did not result from the fault or negligence of the Contractor, (2) the Contractor has taken reasonable precautions to prevent further delays owing to such causes, and (3) the Contractor notifies the Authority in writing of the cause(s) for the delay within five days from the beginning of any such delay. No claims for additional compensation or damages for the foregoing delays shall be allowed to the Contractor, and the extension of time provided for herein shall be the sole remedy of the Contractor on account of any such delays.

27. RIGHTS IN SHOP DRAWINGS, WORKING DRAWINGS, TECHNICAL DATA, PATENTS AND COPYRIGHTS

1. Shop Drawings and Working Drawings submitted to the Authority by the Contractor, its Subcontractors or Suppliers of any tier pursuant to the contract, are the property of the Authority, and the Authority may use and disclose, in any manner and for any purpose, Shop Drawings and Working Drawings delivered under the contract (subject to the Article entitled Public Records Act, herein).
2. Technical data, as used herein, means any form or format of technical writing, including operations/maintenance manuals, pictorial reproductions, drawings or other graphic representations, and documents of a technical nature, including computer software and program listings, which are developed or required to be delivered pursuant to the contract. The term does not include financial reports, cost analyses, and other information incidental to contract administration.
3. The Authority shall have the right, for the purpose of operating and maintaining the Authority service or any equipment or other items supplied by the Contractor, to use, duplicate, modify or disclose the technical data and the information conveyed therein, in whole or in part, in any manner whatsoever, and to have or permit others to do so except as limited by the Article entitled Public Records Act.
4. The Contractor shall agree to grant to the Authority and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free license to publish, translate, reproduce, deliver, and use as it

deems fit all technical data covered by copyright supplied for the contract. No such copyrighted matter shall be included in technical data furnished hereunder without the written permission of the copyright owner for the Authority to use such in the manner herein described. The Contractor shall secure and deliver to the Authority the written permission for third parties claiming patent, copyright, or proprietary rights in technical data for the Authority to use such technical data in the manner herein described.

5. The Contractor shall bear all costs arising from the use of patented equipment, materials, devices, and/or processes used on and/or incorporated into the work. When use of these equipment, materials, devices, and/or processes are judged to be an infringement and their use is banned, the Contractor, at its own expense, shall, with the concurrence of the Authority, do one of the following:
 - a. Secure for the Authority the right to continue using said equipment, materials, devices, and/or processes by suspension of the injunction or by procuring a license(s);
 - b. Replace said equipment, materials, devices, and/or processes with non-infringing equipment, materials, devices, and/or processes;
 - c. Modify said equipment, materials, devices, and/or processes so that they become non-infringing; or
 - d. Remove said equipment, materials, devices, and/or processes and refund the sum paid therefore without prejudice to any other rights of the Authority.

28. EQUAL OPPORTUNITY

In connection with the execution of this contract, Contractor shall not discriminate against, or grant preferential treatment to, any individual or group, or any employee or applicant for employment because of race, age, religion, color, ethnicity, sex, national origin, ancestry, physical disability, mental condition, political affiliation, sexual orientation or marital status. Contractor shall take action to ensure that applicants and employees are treated without regard to the above.

29. NOTIFICATION OF EMPLOYMENT OF SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY BOARD MEMBERS/ALTERNATES AND EMPLOYEES

To ensure compliance with Authority's Ethics Policy, Contractor shall provide written notice to Authority disclosing the identity of any individual who Contractor desires to employ or retain under a contract, and who (1) presently serves as a Board Member/Alternate or an employee of the Authority, or (2) served as a Board Member/Alternate or an employee of the Authority within the previous 12 months of the

date of the proposed employment or retention by Contractor. Contractor's written notice shall indicate whether the individual will be an officer, principal or shareholder of the entity and/or will participate in the performance of the contract.

30. WHISTLEBLOWER REQUIREMENTS

No Contractor shall adopt any rule, regulation or policy preventing an employee from disclosing information to a government or law enforcement agency, where the employee believes the information discloses violation or noncompliance with a state or Federal regulation; nor shall an employer retaliate against an employee for taking such actions as set forth in the California Labor Code §1101 *et seq.*

31. PUBLIC RECORDS ACT

1. All records, documents, drawings, plans, specifications and other material relating to conduct of Authority's business, including materials submitted by Contractor in its bid and during the course of performing the work under this contract, shall become the exclusive property of Authority and may be deemed public records. Said materials may be subject to the provisions of the California Public Records Act. Authority's use and disclosure of its records are governed by this Act.
2. Authority will not advise as to the nature or content of documents entitled to protection from disclosure under the California Public Records Act, including interpretations of the Act or the definitions of trade secret, confidential or proprietary. Authority will accept materials clearly and prominently labeled "TRADE SECRET" or "CONFIDENTIAL" or "PROPRIETARY" as determined by Contractor. Authority will endeavor to notify Contractor of any request of the disclosure of such materials. Under no circumstances, however, will Authority be liable or responsible for the disclosure of any labeled materials whether the disclosure is required by law or a court order or occurs through inadvertence, mistakes or negligence on the part of Authority or its officers, employees and/or Contractors.
3. In the event of litigation concerning the disclosure of any material submitted by Contractor, Authority's sole involvement will be as a stakeholder, retaining the material until otherwise ordered by a court and Contractor's shall defend, indemnify and hold harmless the Authority.

32. APPLICABILITY OF FEDERAL GRANT CONTRACT

This contract may be subject to one or more financial assistance contracts between Authority and the U.S. Department of Transportation (DOT), which incorporate the current Federal Transit Administration (FTA) Master Agreement and Circular 4220.1E. The Contractor and its Subcontractors are required to comply with all terms and conditions prescribed for third party contracts in these documents. Federal laws, regulations, policies

and administrative practices may be modified or codified after the date this contract is established and may apply to this contract. To assure compliance with changing Federal requirements, acceptance of contract award indicates that the Contractor agrees to accept all changed requirements that apply to this contract.

33. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

All contractual provisions required by DOT and the Master Grant Agreement, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority request that would cause Authority to be in violation of the FTA terms and conditions.

34. FEDERAL FUNDING LIMITATION

Contractor understands that funds to pay for Contractor's performance under this contract are anticipated to be made available from the United States Department of Transportation through the FTA. All funds must be approved and administered by FTA. A portion of Authority's obligation hereunder may be payable from funds that are appropriated and allocated by FTA for the performance of this contract. If funds are not allocated, or ultimately are disapproved by FTA, Authority may terminate or suspend Contractor's services without penalty. Authority shall notify Contractor promptly in writing of the non-allocation, delay, or disapproval of funding.

35. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

1. The Contractor acknowledges and agrees that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
2. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

36. FEDERAL CHANGES

1. In the event local, state or Federal laws or regulations that were not announced or enacted at the time of the contract award are enacted before performance of the services and such laws or regulations make standards more stringent or compliance more costly under this contract, the Contractor

shall notify Authority in writing of such laws or regulations and their effects on the pricing or delivery schedule promptly after the Contractor first becomes aware of the laws and regulations and prior to incurring any such expenses.

2. Authority will make a determination as to whether the Contractor should be reimbursed for any such expenses or any time extensions should be granted.
3. The Contractor shall be deemed to have had notice of any Federal law or regulation announced or enacted at the time of contract award, even though such law or regulation did not take effect or become operative until some date after the contract award.
4. The Contractor shall, immediately upon becoming aware of any such imposition or change of requirement, provide Authority with full and detailed particulars of the changes required in the services and of cost involved therein, or shall be deemed to have waived any rights under this article. In the event any governmental requirements are removed, relaxed, or changed in any way after the date of contract award so as to make the Contractor's performance less expensive, or less difficult, then Authority shall have the option either to require the Contractor to perform pursuant to the more rigorous requirements or to receive a reduction in the price of the services affected for all savings in direct costs which may be realized by the Contractor by reason of such change and appropriate adjustments in deductions for overhead and profit made so as to reflect actual savings made by the Contractor. Authority shall give the Contractor notice of Authority's determination, and anticipated savings.

37. INTEREST OF MEMBERS OF, OR DELEGATES TO, CONGRESS

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

38. COMPLIANCE WITH LOBBYING POLICIES

Contractor has certified and disclosed in their Bid submittal, for itself and for each subcontractor, at all tiers, performing work or services on the contract, that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of the Authority, a Member Agency, any other state or Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federally-funded Contract, grant or any other award, covered by 31 USC 1352. Contractor and subcontractors at every tier must have disclosed the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contact on its behalf with non-Federal funds with respect to Federally-funded contracts, grants or awards covered under

the Lobbying Disclosure Act of 1995. Such disclosures are forwarded from tier to tier up to the Contractor, and from Contractor to the Authority.

Contractor shall file a certification and disclosure, as required by 49 CFR 20, when any of the following covered events occur:

- a. Contractor has increased, by \$25,000 or more, the amount paid or expected to be paid for influencing or attempting to influence any covered Federally-funded action;
- b. Contractor has changed the person(s) or individual(s) influencing or attempting to influence a covered Federally-funded action;
- c. A subcontract, at any tier, in an amount of \$100,000 or more is awarded by the Contractor for work or services included within the scope of this contract.
- d. An amendment to this contract, in an amount of \$100,000 or more, is approved by the Authority.

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

1. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which the services are being performed. In addition to other liquidated damages that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC §5307, the government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided

by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

40. ENERGY CONSERVATION REQUIREMENTS

Contractor shall recognize 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 (42 USC §6321 *et seq.*).

41. CLEAN WATER REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §§1251, *et seq.* The Contractor agrees to report any violation of these requirements resulting from any project implementation activity to FTA and the appropriate U.S. EPA Regional Office.

42. CLEAN AIR

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§7401, *et seq.* The Contractor agrees to report each violation to Authority and understands and agrees that Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

43. REQUIREMENTS FOR AMERICANS WITH DISABILITIES ACT

The Contractor is also required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101, *et seq.*; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; and 49 USC § 5301(d), and the following regulations and any amendments thereto:

- a. U.S. Department of Transportation regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 CFR Part 37.
- b. U.S. Department of Transportation regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 CFR Part 27.
- c. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Federal Government services," 28 CFR Part 35.
- d. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36.
- e. U.S. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 CFR Subpart 101-19.

- f. U.S. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630.
- g. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F.
- h. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR Part 609.
- i. Any implementing requirements that the FTA may issue.

44. CIVIL RIGHTS REQUIREMENTS

The following requirements apply to this contract:

1. Nondiscrimination

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

2. Equal Employment Opportunity:

a. Race, Color, Creed, National Origin, Sex

In accordance with Title VII of the Civil Rights Act, as amended, 42 USC §2000e, and Federal transit laws at 49 USC §5332, the Contractor agrees to comply with all applicable equal opportunity requirements of the U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor, 41 CFR Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity", 42 USC §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect activities undertaken in the course of the Agreement. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex or age.

Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

b. Age

In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC §§623 and Federal transit law at 49 USC §5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reasons of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

c. Disabilities

In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 USC §12112, the Contractor agrees that it will comply with the requirements of the U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

45. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Southern California Regional Rail Authority (Authority) has adopted a Disadvantaged Business Enterprise (DBE) Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs." This DOT-assisted project is subject to these stipulated regulations, which are hereby incorporated in their entirety by this reference. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.

In the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program with respect to DOT-assisted contracts, the Regulations shall prevail.

Please see **Exhibit 2** for details.

46. BUY AMERICA

The Contractor shall comply with 49 USC Section 5323(j) and 49 CFR Part 661. Contractor is bound by its original certification and is not permitted at any point during the duration of the contract to change its certification (as required by 49 CFR 661, 13(c)) and is not eligible for waiver of these requirements other than any waivers granted by FTA prior to the execution of this contract.

47. PREFERENCE FOR RECYCLED PRODUCTS

To the extent practicable and economically feasible, the Contractor agrees to provide a competitive preference for recycled products to be used in the work pursuant to the U.S. Environmental Protection Agency Guidelines at 40 DFR Part 245-253, implementing Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC §6962.

The Contractor should use both sides of paper sheets for copying and printing where practicable.

Credit for sale of scrap materials will be the actual amount, without markup or fee.

48. FLY AMERICA

The federal government will not participate in the cost of international air transportation of any persons involved in or property acquired for this Contract unless that air transportation is provided by U.S. flag air carriers to the extent service by these carriers is available, as required by the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 USC §40018, in accordance with U.S. General Accounting Office (GAO) regulations, "Uniform Standards and Procedures for Transportation Transactions," 4 CFR Part 52, and U.S. GAO guidelines for Implementation of the "Fly America Act," B-138942, 1981 US Comp. Gen LEXIS 2116, March 31, 1981.

49. CARGO PREFERENCE

Pursuant to 46 CFR part 381, the Bidder agrees:

To utilize privately owned United States flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States flag commercial vessels.

To furnish within twenty (20) days following the date of loading for shipments originating within the United States, or within thirty (30) working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, commercial ocean bill of lading in English for each shipment of cargo to Authority (through the Contractor in the case of Subcontractor bills of lading) and to the Division of National

Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, SW, Washington, D.C., 20590, marked with appropriate identification of the contract.

To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

50. EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Apart from inconsistent requirements imposed by Federal statute or regulations, Contractor agrees that it will comply with the requirement of 49 USC §5323(h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

51. MODIFICATIONS TO AGREEMENT

Unless specified otherwise in the Agreement, this Agreement may only be modified by written mutual consent evidenced by signatures of representatives authorized to enter into and modify the Agreement. In order to be effective, amendments may require prior approval by the Authority's Board of Directors, and in all instances require prior signature of an authorized representative of the Authority.

52. PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) the provisions of this Agreement, (2) Attachment A – Scope of Services, (3) provisions of IFB No. SP450B-16, and (4) Contractor's Bid.

53. CONFIDENTIALITY

Contractor agrees that for and during the entire term of this Agreement, any information, data, figures, records, findings and the like received or generated by Contractor in the performance of this Agreement, shall be considered and kept as the private and privileged records of Authority and will not be divulged to any person, firm, corporation, or other entity except on the direct written authorization of Authority. Further, upon expiration or termination of this Agreement for any reason, Contractor agrees that it will continue to treat as private and privileged any information, data, figures, records and the like, and will not release any such information to any person, firm, corporation or other entity, either by statement, deposition, or as a witness, except upon direct written authority of Authority.

54. EXCESS REPROCUREMENT LIABILITY

Contractor shall be liable to Authority for all expenses incurred by Authority in re-procuring elsewhere the same or similar items or services offered by Contractor hereunder, should Contractor fail to perform or be disqualified for failure to meet the terms and conditions set forth herein.

55. NO WAIVER

Failure of the Authority to enforce at any time, or from time to time, any provision of the contract shall not be construed as a waiver thereof.

No waiver by the Authority of any breach of any provision of the contract shall constitute a waiver of any other breach or of such provision.

Failure by the Authority to insist upon strict performance of any terms or conditions of the contract or failure to delay to exercise any rights or remedies provided herein by law shall not be deemed a waiver of any right of the Authority to insist upon strict performance of the Contractor's obligations set forth in the contract, or any of its rights or remedies as to any prior or subsequent default hereunder.

56. SEVERABILITY

In the event any article, section, subarticle, paragraph, sentence, clause, or phrase contained in the contract shall be determined, declared, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, such determination, declaration, or adjudication shall in no manner affect the other articles, sections, subarticles, paragraphs, sentences, clauses, or phrases of the contract, which shall remain in full force and effect as if the article, section, subarticle, paragraph, sentence, clause, or phrase declared, determined, or adjudged invalid, illegal, unconstitutional, or otherwise unenforceable, was not originally contained in the contract.

57. GOVERNING LAW

- A. The validity of this contract and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed by the laws of the State of California, and the proper venue of any action brought hereunder is and shall be Los Angeles County, California.
- B. Contractor shall comply with all applicable federal, state and local laws and ordinances.

58. DISPUTE RESOLUTION PROCEDURE

In the event of any dispute, claim, question, or disagreement arising from or relating to this Agreement or the breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question, or disagreement. To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties. If they do not reach such solution within a period of 60 days, then, upon notice by either party to the other, legal action may be filed to address any disputes, claims, questions or differences. Authority (or Agency or SCRRRA, etc.) may however, in its sole discretion, waive this dispute

resolution requirement upon providing written notice to Contractor (or Consultant, or Contractor, etc.) of such decision.

59. ENTIRE CONTRACT

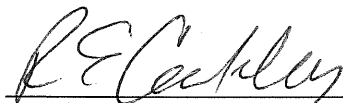
This contract, and any attachments or documents incorporated herein by inclusion or by reference, constitutes the complete and entire contract between Authority and Contractor and supersedes any prior representations, understandings, communications, commitments, contract(s), bids or proposals, oral or written.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed on the date shown below, and effective on the date first hereinabove written.

CONTRACTOR

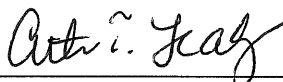
Name of Firm

Nardco Rail Services, LLC



Name ROBERT COAKLEY
Title Director, Sales + Mkt

**SOUTHERN CALIFORNIA REGIONAL
RAIL AUTHORITY**



Arthur T. Leahy
Chief Executive Officer

17-FEB-2016

Date

Name
Title

Date

Tax I.D. No. 06-1609484

APPROVED AS TO FORM:

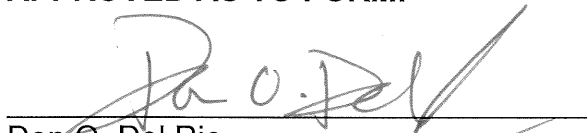

Don O. Del Rio
General Counsel

EXHIBIT 1
SCHEDULE OF QUANTITIES AND PRICES

EXHIBIT I
Schedule of Quantities and Prices

BASE TERM (YEAR 1)

**EXHIBIT I
Schedule of Quantities and Prices**

Bid Item	Description	Location	Est. Qty.	Unit	Unit Price	Total Price	Ref. Spec/Standards	Comment
1	Mobilization	SCRRA Service Area	3	Each	\$2,500	\$7500.00	3	Mobilization + Demobilization
2	Service Equipment Testing Hours	SCRRA Service Area	300	Hour	\$340	\$102,000	18D	Rail testing hourly
3	In Track Hand testing hours	SCRRA Service Area	120	Hour	\$170	\$20,400	18D	Rail testing hourly
4	Out of Track Hand testing hours	SCRRA Service Area	40	Hour	\$170	\$6800	18D	Rail testing hourly
5	Travel Hours	SCRRA Service Area	50	Hour	\$340	\$17,000	18D	On track SCRRA movements
6	Non-Billable Hours	SCRRA Service Area	0	Hour			18	No charge for work delays
7	Delay Hours	SCRRA Service Area	27	Hour	\$340	\$9,180	18D	
						SUBTOTAL (YEAR 1)	\$162,880	

BASE TERM (YEAR 2)

Bid Item	Description	Location	Est. Qty.	Unit	Unit Price	Total Price	Ref. Spec/Standards	Comment
1	Mobilization	SCRRA Service Area	3	Each	\$2,500	\$7,500	3	Mobilization + Demobilization
2	Service Equipment Testing Hours	SCRRA Service Area	300	Hour	\$347	\$104,100	18D	Rail testing hourly
3	In Track Hand Testing Hours	SCRRA Service Area	120	Hour	\$170	\$20,400	18D	Rail testing hourly
4	Out of Track Hand Testing Hours	SCRRA Service Area	40	Hour	\$170	\$6,800	18D	Rail testing hourly
5	Travel Hours	SCRRA Service Area	50	Hour	\$347	\$17,350	18D	On track SCRRA movements
6	Non-Billable Hours	SCRRA Service Area	0	Hour			18	No charge for work delays
7	Delay Hours	SCRRA Service Area	27	Hour	\$347	\$9,369	18D	
						SUBTOTAL (YEAR 2)	\$165,519	

EXHIBIT I
Schedule of Quantities and Prices

BASE TERM (YEAR 3)

Bid Item	Description	Location	Est. Qty.	Unit	Unit Price	Total Price	Ref. Spec/Standards	Comment
1	Mobilization	SCRRA Service Area	3	Each	\$3000	\$9,000	3	Mobilization + Demobilization
2	Service Equipment Testing Hours	SCRRA Service Area	300	Hour	\$354	\$106,200	18D	Rail testing hourly
3	In Track Hand Testing Hours	SCRRA Service Area	120	Hour	\$175	\$21,000	18D	Rail testing hourly
4	Out of Track Hand Testing Hours	SCRRA Service Area	40	Hour	\$175	\$7000	18D	Rail testing hourly
5	Travel Hours	SCRRA Service Area	50	Hour	\$354	\$17,700	18D	On track SCRRA movements
6	Non-Billable Hours	SCRRA Service Area	0	Hour			18	No charge for work delays
7	Delay Hours	SCRRA Service Area	27	Hour	\$354	\$9,558	18D	

SUBTOTAL (YEAR 3) \$170,458

OPTION (YEAR 4)

Bid Item	Description	Location	Est. Qty.	Unit	Unit Price	Total Price	Ref. Spec/Standards	Comment
1	Mobilization	SCRRA Service Area	3	Each	\$3000	\$9,000	3	Mobilization + Demobilization
2	Service Equipment Testing Hours	SCRRA Service Area	300	Hour	\$361	\$108,300	18D	Rail testing hourly
3	In Track Hand Testing Hours	SCRRA Service Area	120	Hour	\$180	\$21,600	18D	Rail testing hourly
4	Out of Track Hand Testing Hours	SCRRA Service Area	40	Hour	\$180	\$7,200	18D	Rail testing hourly
5	Travel Hours	SCRRA Service Area	50	Hour	\$361	\$18,050	18D	On track SCRRA movements
6	Non-Billable Hours	SCRRA Service Area	0	Hour			18	No charge for work delays
7	Delay Hours	SCRRA Service Area	27	Hour	\$361	\$9,747	18D	

SUBTOTAL (YEAR 4) \$173,897

EXHIBIT I
Schedule of Quantities and Prices

OPTION (YEAR 5)

Bid Item	Description	Location	Est. Qty.	Unit	Unit Price	Total Price	Ref. Spec/Standards	Comment
1	Mobilization	SCRRA Service Area	3	Each	\$3,000	\$9,000	3	Mobilization + Demobilization
2	Service Equipment Testing Hours	SCRRA Service Area	300	Hour	\$368	\$110,4000	18D	Rail testing hourly
3	In Track Hand Testing Hours	SCRRA Service Area	120	Hour	\$180	\$21,600	18D	Rail testing hourly
4	Out of Track Hand Testing Hours	SCRRA Service Area	40	Hour	\$180	\$7,200	18D	Rail testing hourly
4	Travel Hours	SCRRA Service Area	50	Hour	\$368	\$18,400	18D	On track SCRRA movements
5	Non-Billable Hours	SCRRA Service Area	0	Hour			18	No charge for work delays
6	Delay Hours	SCRRA Service Area	27	Hour	\$368	\$9,936	18D	

SUBTOTAL (YEAR 5) \$176,536

EXHIBIT I
Schedule of Quantities and Prices

SUMMARY	
INITIAL TERM (YEAR 1)	\$162,880
INITIAL TERM (YEAR 2)	\$165,519
INITIAL TERM (YEAR 3)	\$170,458
OPTION (YEAR 4)	\$173,897
OPTION (YEAR 5)	\$176,536
TOTAL PRICE:	\$ 849,290

**EXHIBIT 2 – DISADVANTAGED BUSINESS ENTERPRISE
(DBE) PROGRAM AND FORMS**

EXHIBIT 2

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

In accordance with federal financial assistance agreements with the U.S. Department of Transportation (U.S. DOT), the Southern California Regional Rail Authority (Authority) has adopted a Disadvantaged Business Enterprise (DBE) Program, in conformance with Title 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs." This DOT-assisted project is subject to these stipulated regulations, which are hereby incorporated in their entirety by this reference.

In the event of any conflicts or inconsistencies between the Regulations and the Authority's DBE Program with respect to DOT-assisted contracts, the Regulations shall prevail.

The Authority has recently received DOT/FTA and Authority Board approval to re-instate race-conscious DBE Program measures, including contract-specific DBE goals, to assist the Authority in meeting its nine percent (9%) overall DBE goal. Although a DBE goal has not been established for this Contract, the Authority strongly encourages Contractors to utilize DBEs to the maximum extent possible, to assist the Authority in meeting its overall DBE goal.

A. DBE Certification and Eligibility

- The Authority requires all DBEs listed by the Contractor for participation to be DBE certified by a California Unified Certification Program (CUCP) certifying member agency. The Authority is a non-certifying member agency of the CUCP. Therefore, the Authority will accept DBE certifications from member agencies which certify the eligibility of DBEs in accordance with 49 CFR Part 26.81, under the CUCP. Listings of DBEs certified by the CUCP are available at www.dot.ca.gov/hq/bep/find_certified.htm.
- It is the responsibility of the Contractor to verify the DBE certification status of all listed DBEs prior to listing the firm as a DBE participant.
- It is also the responsibility of the Contractor to ensure that each DBE is certified in the NAICS code that corresponds to the DBE's contract scope of work.
- A DBE may participate as a prime Contractor, subcontractor, joint venture partner with a prime or subcontractor, vendor of material or supplies, or trucking company.
- A DBE joint venture partner must be responsible for specific contract items of work, or clearly defined portions thereof. Responsibility means actually performing, managing and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.

B. Commercially Useful Function Standards

- A DBE must perform a commercially useful function in accordance with 49 CFR 26.55.
- A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.
- A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce to presume that it is performing a commercially useful function.
- A DBE does not perform a commercially useful function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation.

C. DBE “Frauds” and “Fronts.” Only legitimate DBEs are eligible to participate in federally funded contracts. Therefore, Contractors are hereby cautioned against knowingly and willfully using “fronts.” The use of “fronts” and “pass through” subcontracts to non-DBEs constitutes criminal violations. Further, any indication of fraud, waste, abuse, or mismanagement of federal funds should be immediately reported to the Office of Inspector General, U.S. Department of Transportation via telephone at the toll-free hotline 800-424-9071, email at hotline@oig.dot.gov, online complaint form at <https://www.oig.dot.gov/dot-oighotline-complaint-form> or U.S. mail at DOT Inspector General, 1200 New Jersey Ave. SE, West Bld. 7th Floor, Washington, DC 20590. The hotline is open 24 hours per day, seven days per week. Additional information can be found on www.oig.dot.gov/hotline.

D. Authority Form 103 – “Monthly DBE and SBE Utilization and Payment Report.” If the Contractor is a DBE and/or has proposed to utilize DBEs, the Contractor will be required to complete and submit Form 103 to the Authority on a monthly basis until completion of the Contract, to facilitate reporting of race-neutral DBE participation, following the first month of contract activity. The Contractor shall show the total dollar figure paid to DBEs utilized on the Contract through the applicable reporting period, including the scope of work/services performed/provided and the corresponding subcontract dollar value of work. The Contractor is advised not to credit the participation of DBEs until the amount being credited has been paid to the DBE. Upon completion of the Contract, the Contractor will be required to prepare and submit a “Monthly DBE and SBE Utilization and Payment Report” clearly marked “Final.”

E. DBE Crediting Provisions. Credit for DBE participation is determined according to the following provisions:

- When a DBE is proposed to participate in the Contract, either as a prime Contractor or subcontractor, only the value of the work proposed to be performed by the DBE with its own forces may be counted toward race-neutral DBE participation.
- If the Contractor is a DBE joint venture participant, only the DBE proportionate interest in the joint venture shall be counted.
- If a DBE intends to subcontract part of the work of its subcontract to a lower tier subcontractor, the value of the subcontracted work may be counted toward race-neutral DBE participation only if the DBE subcontractor is a certified DBE and actually performs the work with its own forces. Services subcontracted to a non-DBE firm may not be credited toward the prime Contractor's race-neutral DBE attainment.
- Contractor is to calculate and credit participation by eligible DBE vendors of equipment, materials, and suppliers toward race-neutral DBE attainment, as follows:
 1. Sixty percent (60%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a regular dealer; or
 2. One hundred percent (100%) of expenditure(s) for equipment, materials, and supplies required under the Contract, obtained from a DBE manufacturer.
- The following types of fees or commissions paid to DBE subcontractors, brokers, and packagers may be credited toward race-neutral DBE attainment, provided that the fee or commission is reasonable, and not excessive, as compared with fees or commissions customarily allowed for similar work, including:
 1. Fees and commissions charged for providing bona fide professional or technical services, or procurement of essential personnel, facilities, equipment, materials, or supplies required in the performance of the Contract;
 2. Fees charged for delivery of material and supplies (excluding the cost of materials or supplies themselves) when the licensed hauler, trucker, or delivery service is not also the manufacturer of, or a regular dealer in, the material and supplies;
 3. Fees and commissions charged for providing any insurance specifically required in the performance of the Contract.
- Contractor may count the participation of DBE trucking companies toward race-neutral DBE attainment, as follows:
 1. The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular Contract.

2. The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the Contract.
 3. The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
 4. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
 5. The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.
 6. For purposes of this paragraph, a lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.
- If the Contractor listed a non-certified DBE 1st tier subcontractor to perform work on this Contract, and the non-certified DBE subcontractor subcontracts a part of its work or purchases materials and/or supplies from a lower-tier DBE certified subcontractor or Vendor, the value of work performed by the lower-tier DBE firm's own forces can be counted toward race-neutral DBE participation on the Contract.
 - The Contractor is advised not to count the participation of DBEs toward the Contractor's race-neutral DBE attainment until the amount being counted has been paid to the DBE.

F. Performance of DBE Subcontractors. The following requirements govern the performance of DBE subcontractors:

- DBEs listed by the Contractor in its "DBE Race-Neutral Participation Listing" Form submitted with the executed Contract documents shall perform the work and supply the materials for which they are listed, unless the Contractor has received prior written authorization from the Authority to perform the work with other forces or to obtain the materials from other sources.
- Contractor shall provide written notification to the Authority in a timely manner of any changes to its anticipated race-neutral DBE participation. This notice should be provided prior to the commencement of that portion of the work.

- G. Additional DBE Subcontractors.** In the event that the Contractor identifies additional DBE subcontractors or suppliers not previously identified for DBE participation under the Contract, Contractor shall notify the Authority by completing and submitting a **“DBE Addition/Substitution/Termination Request” form** to enable Contractor to capture all race-neutral DBE participation. Contractor shall also submit, for each DBE identified after Contract execution, a written confirmation from the DBE acknowledging that it is participating in the Contract for a specified value, including the corresponding scope of work (a subcontract agreement can serve in lieu of the written confirmation).
- H. DBE Certification Status.** If a listed DBE is decertified during the life of the project, the decertified DBE shall notify the Contractor in writing with the date of decertification. If a non-DBE becomes a certified DBE during the life of the project, the DBE shall notify the Contractor in writing with the date of certification. The Contractor shall furnish the written documentation to the Authority in a timely manner.
- I. DBE Substitutions and Terminations.** Contractor shall be required to comply with 49 CFR § 26.53 regarding DBE subcontractor terminations, including the following:
- A Contractor shall not terminate a listed DBE subcontractor without the Authority’s prior written consent.
 - Prior to the termination request, the prime Contractor must notify the DBE, in writing, of the intent to terminate, allowing for five days of response time in opposition of the rejection.
 - A Contractor may only terminate a DBE subcontractor for “good cause,” as defined in 49 CFR § 26.53.
 - Good cause does NOT exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor (e.g., failure of the Contractor to make timely payments or the unnecessary placing of obstacles in the path of the DBE’s work). Good cause also does NOT exist if the Contractor seeks to terminate a DBE so that it can self-perform the work of the terminated DBE.
 - In the event that the Contractor needs to substitute or terminate a DBE firm AND if the substitution/termination request meets the definition of “good cause,” the Contractor shall notify the Authority by completing and submitting a **“DBE Addition/Substitution/Termination Request” form** for the Authority’s prior written approval.
 - The Contractor must make a Good Faith Effort (GFE) to replace the terminated DBE with another DBE. The Contractor’s GFE shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the Contractor’s DBE participation commitment approved by the Authority prior to award of the Contract.

- Failure by the Contractor to adhere to these requirements may constitute a material breach of contract, which may result in the termination of the contract or such other remedy as the Authority deems appropriate.

J. Non-Compliance and Administrative Sanctions. A Contractor determined to be non-compliant with DBE Program requirements may be subject to administrative sanctions as outlined below:

- A non-compliant Contractor may be notified by the DBELO or designee, that administrative remedies shall be imposed for failure to: (a) meet the contractor's DBE commitment by contract end, (b) submit documentation of Good Faith Efforts, (c) submit required DBE utilization reports, (d) submit verification of prompt payment to DBE subcontractors, and/or (e) comply with proper DBE termination procedures. The notice shall state the specific administrative remedies to be imposed.
- The Contractor shall be given ten (10) working days from the date of the notice to file a written appeal to the Authority's Executive Director. Failure to respond within the ten (10) day period shall constitute a waiver of appeal.
- The Executive Director or his designee may schedule a hearing to gather additional facts and evidence, and shall issue a final written determination on the matter within thirty (30) working days following receipt of the written appeal. The written decision of the Executive Director or designee is final and there is no further appeal.
- Administrative remedies shall be determined by the DBELO and/or designee and may include, but will not be limited to:
 1. Suspension of progress payments to the Contractor or of any monies held by the Authority as retention on the contract until the Contractor is brought into compliance; and/or
 2. Termination of the contract in part or in whole.

K. Contractor's Assurance Clause Regarding Non-Discrimination. Contractor shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts. Contractor shall ensure that the following clause is placed in every Subcontract agreement: "The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract." The Contractor shall carry out applicable requirements of federal law. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the Authority deems appropriate.

**MONTHLY DBE AND SBE UTILIZATION AND PAYMENT REPORT FORM
(SCRRRA FORM 103)**

MONTHLY DBE AND SBE UTILIZATION AND PAYMENT REPORT (SCRRA FORM 103)

Reporting Period (Mo/Yr): _____	Contract Award Date: _____	Report prepared by: _____
Report Number: _____	Original Contract Award Amount: _____	Report reviewed by: _____
SCRRA Contract Number: _____	Current Contract Value: _____	Signature: _____
Prime Contractor/Consultant: _____	Total Dollars Paid to Prime to date: \$ _____	Title: _____
Contact Name: _____	SCRRA's Overall DBE Goal (%): <u>9%</u>	SCRRA's SBE Contract Goal (%): <u>n/a</u>
Telephone #: _____	Prime's DBE Commitment (%): _____	Prime's SBE Commitment (%): _____
Email Address: _____	\$ Paid to DBEs this Reporting Period: \$ _____	\$ Paid to SBEs this Reporting Period: \$ _____
	Total \$ Paid to DBEs to date: \$ _____	Total \$ Paid to SBEs to date: \$ _____
	Race-Neutral DBE Participation % to date: _____ %	SBE Participation % to date: _____ %

DBE/SBE	List DBE, SBE or Both *	\$ Paid to DBE/SBE this Reporting Period	Total \$ Paid to DBE/SBE to Date	Type of Work Performed (Scope)	Original \$ Committed to DBE/SBE at Contract Award	% of Work Completed	List Reason(s) for Any Under-Utilization of DBEs/SBEs
Name: _____ Address: _____ City, State, Zip Code: _____ Phone #: _____ Email: _____ Please select: Subcontractor Broker Trucker Supplier/Regular Dealer Manufacturer Verification of Payment Attached? YES NO							
Name: _____ Address: _____ City, State, Zip Code: _____ Phone #: _____ Email: _____ Please select: Subcontractor Broker Trucker Supplier/Regular Dealer Manufacturer Verification of Payment Attached? YES NO							
Name: _____ Address: _____ Phone #: _____ Email: _____ Please select: Subcontractor Broker Trucker Supplier/Regular Dealer Manufacturer Verification of Payment Attached? YES NO							

Comments and/or Good Faith Efforts performed during this reporting period: _____

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DBE ADDITION/SUBSTITUTION/TERMINATION REQUEST FORM

DBE ADDITION/SUBSTITUTION/TERMINATION REQUEST FORM

INSTRUCTIONS TO PRIME CONTRACTOR

1. Prime Contractor shall provide the Authority with the information requested below upon identification of an additional DBE not previously listed to perform under this Contract.
2. Prime Contractor shall provide written confirmation from the DBE, that it is participating in this Contract for a specified dollar value and specified work item(s) (a signed subcontract agreement may serve as written confirmation).
3. Any DBE substitutions or terminations require written justification from the prime Contractor and shall only be permitted for "good cause," as defined in the Authority's Contract provisions.
4. All requests for DBE additions/substitutions/terminations shall be in accordance with the Contract provisions and are subject to prior written approval by the Authority.

SCRRA Contract #:	Contract Name/Title:		
Prime Contractor:	Date of Contract Award:	Initial Contract \$ Value:	Current Contract \$ Value:
Name of Person Completing this Form:	Phone #:	Email Address:	
Business Address, City, State and Zip:			
Please provide the following information for each proposed ADDITIONAL DBE:			
DBE Firm Name:		Proof of DBE certification attached? (REQUIRED) <input type="checkbox"/> YES	
Business Address, City, State and Zip:		Phone #:	
Contact Name:	Email Address:	Is the Additional DBE Replacing Another DBE? <input type="checkbox"/> YES <input type="checkbox"/> NO	
Summary of Proposed Scope of Work:			
Proposed DBE Subcontract Amount:	% of Current Prime Contract Value:	Type of Firm: <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker <input type="checkbox"/> Regular Dealer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Trucker	
Please provide the following information for any DBE SUBSTITUTIONS/TERMINATIONS:			
Name of DBE to be Substituted/Terminated:		Type of Firm: <input type="checkbox"/> Subcontractor <input type="checkbox"/> Supplier <input type="checkbox"/> Broker <input type="checkbox"/> Regular Dealer <input type="checkbox"/> Manufacturer <input type="checkbox"/> Trucker	
State Reason(s) for Substitution/Termination (attach all supporting documentation):			
Prime Contractor Signature:			Date:

FOR SCRRA USE ONLY:

If NOT approved, state reason(s):			
Reviewed by (PM):	Name: _____	Signature: _____	Date: _____
Reviewed by (CA):	Name: _____	Signature: _____	Date: _____
Approved by (DBELO):	Name: _____	Signature: _____	Date: _____

CONTRACT NO. SP450-16
ULTRASONIC RAIL TESTING
ATTACHMENT A
SCOPE OF SERVICES

**SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY
METROLINK COMMUTER RAIL SYSTEM**

CONTRACT NO. SP450-16

ATTACHMENT A

SCOPE OF SERVICES

1. GENERAL

The Southern California Regional Rail Authority (SCRRA) is a Joint Powers Authority (hereafter referred to as the "Authority") created in 1991 to operate a five county commuter rail system known as Metrolink. The five system member county agencies are: Los Angeles County Metropolitan Transportation Authority (LACMTA), Orange County Transportation Authority (OCTA), Riverside County Transportation Commission (RCTC), San Bernardino Associated Governments (SANBAG), and the Ventura County Transportation Commission (VCTC).

SCRRA has maintenance responsibility for the following routes that accommodate the freight and passenger operations (2015 numbers) listed below:

<u>Route</u>	<u>SCRRA</u>	<u>Weekday Trains, Amtrak</u>	<u>Freight</u>
Los Angeles – Burbank	60	12	11
Burbank – Moorpark	20	12	8
Burbank – Lancaster	26	0	7
Los Angeles – San Bernardino River Corridor	40	0	17
Union Station	140	37	26
Atwood – Orange	140	37	0
Fullerton – Orange	19	0	5
Orange – San Clemente	37	22	4
Perris Valley Line	53	22	10
	6	0	2

Saturday, Sunday and holiday train counts are less than the weekday train counts shown above.

These joint transportation corridors are considered a part of SCRRA's general railroad system. The size, weight and length of freight trains, and the speed of passenger trains, are similar to other railroad properties throughout North America. Maximum annual tonnage is approximately 20 million gross tons (mgt), maximum speed is 90 miles-per-hour (mph) and the maximum main line curvature is 12 degrees.

2. DEFINITIONS

Ultrasonic - Ultrasonic testing uses high frequency, highly directional sound waves to measure material thickness, find hidden internal flaws or analyze material properties in metals, plastics, composites, ceramics, rubber and glass. Using frequencies beyond the limit of human hearing, ultrasonic instruments generate short bursts of sound energy that are coupled into the test piece. The instrument monitors and analyzes the detected reflected or transmitted wave patterns to generate test results.

Induction - Induction testing utilizes principles of electromagnetic induction to locate cracks, measure thickness and categorize certain material properties in metals. An eddy current probe generates a magnetic field that induces currents that flow in a circular path in the test material. Changes in the integrity or thickness of the test piece will in turn affect current flow, the magnetic field and ultimately the magnitude and phase of the voltage in the coil. The instrument monitors the probe output and displays information for analysis.

"A" Scan – A data presentation method that displays the amount of received ultrasonic energy as a function of time.

"B" Scan - A data presentation method applied to pulse echo techniques. It produces a two-dimensional view of a cross-sectional plane through the test object. The horizontal sweep is proportional to the distance along the test object while the vertical sweep is proportional to depth, showing the front and back surfaces and discontinuities between.

Hi-Rail Testing – Testing of rail by vehicle carried test equipment. Rail flaw detection using an automated test method on on-track equipment.

Hand Testing – Testing of rail in track, and rail out of track using a portable, hand carried unit.

3. SCOPE

The Contractor is to conduct Internal Rail Flaw Detection along the Authority's Service Property as required under 49 CFR 213.237 and 49 CFR 213.239 and in accordance with the Authority's Track Maintenance, Right-of-Way and Structures, and Engineering Instructions using the best available level of inspection equipment. Inspection equipment must be capable of detecting rail defects in accordance with FRA CFR Part 213.237 and 213.339.

The Contractor is to provide an internal rail testing system, inclusive of all required nondestructive testing equipment as defined herein, personnel and consumables (including fuel) required for the detection of traffic-induced and manufacturing discontinuities and defects in the rail head. The Contractor shall charge one lump-sum fee for mobilization, which shall include de-mobilization. The Contractor shall provide all necessary labor, supervision, equipment, materials, consumables, systems, hardware, software, planning and communications to detect, identify and report on rail defects by Ultrasonic Non Destructive detection methods.

Testing is to be performed with induction and ultrasonic test equipment which will detect internal defects in rails while traveling at a minimum rate of six miles-per-hour. In addition, Ultrasonic hand testing equipment must be available on the rail testing unit to verify defects located by the rail testing unit and the hand testing equipment will be used to test out of track rail and in track rail between crossover turnouts. Each defect must be marked with a highly visible paint on both sides of the web and base.

“Testing of all main lines, sidings, turnouts, crossovers, agency designated out of track rail, and railroad crossing and selected branch line turnouts shall be in accordance with guidelines listed below:

- A. **Passenger Routes:** Two times per year, with at least six months, but no more than nine months, between tests.
- B. **Freight Only Routes:** Once a year, or as directed.

Rail out of Track: Once a year, or as directed.

The rail testing vehicle must be able to travel at a minimum of 25 mph. Additionally, the vehicle must be capable of shunting the track (non-insulated). The equipment provided must operate within the approved working envelope identified on the Authority’s clearance diagram.

To expedite testing, crossovers and turnouts may be tested using a hand testing method.

4. CALIBRATION OF EQUIPMENT ON RAIL TEST CAR

An equipment calibration check must be performed at the beginning of each work shift, and throughout the shift as needed. This calibration must be logged and documented in order to verify that the unit is functioning properly. On a daily basis, all ultrasonic hand test instruments must be calibrated to the equipment minimum certification block. This is done to comply with a known and valid relationship to nationally recognized standards. The calibration status of the test equipment must be maintained at all times. Spare items/tools such as transducers, probe wheels and hand test scopes must be identified as being in compliance with standards. The date of calibration must be visible on the instrument either through use of a tag or a sticker. Upon request from the Authority, the Contractor shall provide a calibration procedure for the Authority’s review and approval together with a copy of the documented calibration check provided to the Manager, Track and Structures Maintenance.

5. COMMUNICATIONS

The Contractor will be required to operate across several different subdivisions and must have proper radio equipment and training to communicate with the Authority on SCRRRA’s radio frequencies. The Contractor shall supply and install this equipment on all support vehicles and hy-rail equipment working on the Authority’s property. The Contractor must conform to Section 1.9, Use of Electronic Devices, in the SCRRRA Track Maintenance, Right-of-Way and Structures, Engineering Instructions.

6. SERVICE FAILURES

If requested by the Authority, the Contractor representative must be available the next business day to examine and evaluate service failures for determination of defect detect ability at the time of the most recent test. Service failure records associated with each test car, as well as records of the total number of rails having defects at the time of testing, will be generated by the Contractor and maintained for the Authority.

7. RAIL TEST EQUIPMENT

The Contractor's chief operator must ensure that the test vehicle is operational and that equipment functions as required in accordance with good industry practices and the Authority's Project Manager. This step is necessary to ensure an accurate test which conforms to the detection and marking out of defects as per Authority and FRA 49 CFR Part 213 procedures. Equipment that is found to be out of the aforementioned specifications in terms of performance and/or accuracy must be immediately replaced or repaired before testing is resumed. Rail tested using known or suspected malfunctioning equipment must be retested. The Contractor must provide, on an annual basis, a yearly report concerning research developments relative to the advancement in rail flaw detection technology.

8. DOCUMENTS GENERATED BY AUTHORITY

These documents must always be present upon the Contractors Test Vehicle to be referenced as needed.

- A. Authority's Track Maintenance, Right-of-Way, and Structures, Engineering Instructions.
- B. FRA 49 CFR Part 213 Track Safety Standards - FRA Classes 1 thru 5, A-F and subpart G.
- C. Authority's General Code of Operating Rules and timetable (current editions).
- D. FRA 49 CFR Part 214 Railroad Workplace Safety Subparts A through D.
- E. Maintenance of Way General Order (current edition).
- F. Any other documents provided by the Authority.

9. TESTING METHODS

Ultrasonic Rail Flaw Detection using an automated test method on track equipment must comply with the following:

A. Preparation for Testing

The time base for each channel (probe) shall be calibrated or checked (if memory driven calibrations are used) using A-scan. This shall be performed on rail that is representative of that to be tested. Test ranges may be set for each probe using known artifacts (e.g. foot of rail, bond holes, bolt holes, rail ends, etc). Test ranges shall be adequate to meet the scanning depths of this standard.

Gate positions shall be set or checked to ensure compliance with the scanning depth requirements of this specification. Prior to testing, a brief run may be required to set interface gate widths accurately.

B. Probes

Probe characteristics shall be known and recorded. Probe configurations shall be such that cross talk interference does not occur.

The Contractor shall submit details of any additional configurations that will be utilized.

C. Sensitivity

The specified areas of the rail shall be scanned using gain levels that, as a minimum, produce evidence of "grass" on the screen on all channels and a satisfactory back wall echo. Threshold levels within defect gates shall be set just above "grass levels". Gain should not be lowered where excessive interference occurs but rail surface, probe condition, etc, should be checked. If interference persists, threshold levels should be changed and gain maintained. Threshold levels may be set that utilize distance and amplitude corrections provided agreement has been reached and the Authority's Project Manager advised.

D. Pulse Repetition Rate (PRR)

Pulses shall be generated for every two inches of travel (maximum). Smaller increments shall be the subject of agreement between Contractor and Authority's Project Manager.

E. Pulse Count

The selection of pulse count for eliminating non-significant non-destructive responses shall be the subject of agreement between the Contractor and Authority's Project Manager.

F. Test Vehicle Scanning Requirements

The 0° type probe shall be used to scan the central part of the rail head, the whole of the rail web and the central part of the rail base perpendicular to the rail. The dead zone depth shall be known and recorded.

The 70° type probe shall be used to scan the rail head and part of the upper web.

The 38° type probe shall be used to scan the central part of the rail head, the whole of the web and the central part of the rail base.

G. Evaluation

For any calibration (including PRR and pulse count) all signals above threshold shall be recorded. Individual signals or groups of signals interpreted as defects shall be evaluated by hand testing.

Rail Flaw detection utilizing a hand testing method must comply with the following:

A. Preparation for Testing

Ensure that the rail surface conditions are such that:

- Uniform probe contact is maintained during the test.
- The rail surface is smooth and free from pits on sharp irregular surfaces.

It is preferred that the time base be calibrated in accordance with best industry practices. However, the use of a rail section and accurately known reflectors may be permitted by agreement between the Contractor and the Authority's Project Manager. The test ranges selected for each probe shall be adequate to meet the scanning depth requirement of this standard.

B. Probes

Similar probe angles to those used for automated testing shall be utilized. Probe characteristics shall be known and recorded.

C. Sizing

The Contractor shall advise and recommend to the Authority which sizing method shall be used. Suppression shall not be used.

10. MINIMUM PERFORMANCE REQUIREMENTS

The inspection system provided must meet the following minimum performance requirement for rail flaw detection irrespective of the rail type tested, excluding severe surface fatigue or rusted rail. The system must comply with Authority Engineering Track Maintenance and Engineering Instructions and with FRA Track Safety Standards 49 CFR Part 213.237. The Contractor must communicate an invalid test due to rail surface conditions immediately. This confirmation will be communicated to the foreman or supervisor in charge, to include why a "NO TEST" has been issued. Once a "NO TEST" is issued, all efforts must be made by the rail test operator to ensure that a valid test can be conducted. If, after exhausting all efforts, it is deemed that a valid test cannot be conducted then the contract policy is to instruct the Contractor's chief operator to contact the Authority's Deputy Director, Track and Structures, by phone within 12 hours and to make written notification to the Authority within 24 hours. This will allow the Authority to investigate and perhaps resolve the problem(s) before the vehicle advances to the next subdivision. These instructions regarding FRA 49 CFR Part 213.237 apply to all FRA classes of track on the Service Property.

11. DEFECTIVE RAIL NUMBERING

All vehicles and hand testing crews are to use designated defect numbering as directed by the Deputy Director, Track and Structures. When performing tests for rail defects, as described in this Section 17 and in Section 18 below, the Contractor shall achieve the

reliability ratio, defined as the percentage of tests in which it discovers defects where defects actually exist in the track, as set forth in the following table. In the column headed "size", where the number or range is a percentage, the percentage refers to the portion of the piece of rail tested that is found to have a defect. Thus, for example, where the defect is a "transverse defect in the rail head", and the defect involves between 10% and 20% of the piece of rail tested, the Contractor is expected to achieve 85% accuracy in detecting the flaw in the piece of rail subject to test.

Minimum Performance Specification for Full Rail Testing		
<u>Defect Type</u>	<u>Size</u>	% of such defects properly indicated as flaws in any single test
Transverse defects in the rail head (e.g. transverse fissure, compound fissure, detail fracture from shelling, detail fracture from head check, engine burn fracture, welded burn fracture)	10% to 20%	85%
	21% to 40%	90%
	41% to 80%	95%
	81% to 100%	99%
Defective Welds	10% to 20%	85%
	21% to 40%	90%
	41% to 80%	95%
	81% to 100%	99%
Longitudinal defects in the rail head (e.g. horizontal split head, vertical split head)	Up to 2.49 inches long	85%
	2.5 inches to 36 inches long	95%
	Over 36 inches long	95%
Web Defects (e.g. head and web separation, split web)	1 to 2 inches	75%
	2 to 4 inches	95%
	More than 4 inches	99%
Web Defects in Joint Area (e.g. bold hole crack, head and web separation)	1 to 2 inches	75%
	2 to 4 inches	95%
	More than 4 inches	99%

12. CLASSIFICATION OF RAIL DEFECTS

Defects found in the rail shall be marked and noted using GPS coordinates, milepost location and high visibility spray paint. Defects shall be classified in accordance with FRA 213 standards, shown in the following table:

Defect	Length of defect (inch(es))		Percent of existing rail head cross-sectional area weakened by defect		If defective rail is not replaced or repaired., take the remedial action prescribed in note
	More than	But not more than	Less than	But not less than	
Compound fissure			70 100	5 70 100	B. A2. A.
Transverse fissure Detail fracture Engine burn fracture Defective weld Horizontal split head Vertical split head Split web Piped rail Head web separation Defective weld (Longitudinal)	1 2 4 (¹)	2 4 (¹)	25 60 100	5 25 60 100	C. D. A2, or [E and H]. A, or [E and H]. H and F. I and G. B. A.
Bolt hole crack	1/2	1			H and F.
	1	1 1/2			H and G.
	1 1/2				B.
	(¹)	(¹)			A.
Broken base	1	6			D.
	6 (²)				A, or {E and I}.
Ordinary break					A or E.
Damaged rail					C.
Flattened rail Crushed head	Depth ≥ 3/8 and Length ≥ 8				H.
¹ Break out in rail head.					
² Remedial action D applies to a moon-shaped breakout, resulting from a derailment, with length greater than 6 inches but not exceeding 12 inches and width not exceeding one-third of the rail base width.					

*refer to FRA 213 manual for notes section.

13. HIGH RESOLUTION TESTING OF RAIL JOINTS

High Resolution Testing of Rail Joints is defined as a test that, in addition to detecting defects in the rail head, detects joint defect problem areas to a resolution as defined in the following:

Minimum Performance Specification for Resolution Testing of Rail Joints

Defect Type	Size	<u>% of such defects properly indicated as flaws in any single test</u>
Web Defects in Joint Area (e.g. bolt hole crack, head and web separation)	1-2" long	75%
	2-4" long	85%
	More than 4"	99%

14. REPORTS

The daily reports will be submitted to the Authority's Deputy Director, Track and Structures or his designated representative during the testing period specifying date of inspection, mileage inspected location and nature of any internal defects.

Daily, at the completion of testing, reports must be submitted via computer and include the following information:

- A. Each and every defect is to be allocated an identification number.
- B. Actual size and length of the flaw shall be indicated.
- C. The rail in which the flaw is located shall be shown (North, South).
- D. Size of rail and its year of manufacture.
- E. The location of the defect with respect to the mileposts and GPS location shall be determined within five feet.
- F. Proper track and subdivision distinction.
- G. In the case of defective welds, the type of weld shall be indicated, i.e. Thermo (T), Flash Butt (FB) or Factory Weld.
- H. The computer files should contain all defect information, vehicle movements, vehicle delays and data requested.
- I. The computer files should be written as Microsoft Excel documents.
- J. Letters should be capitalized and right justified within each field. Decimal points for numbers should be in line for each field and contain trailing zeros (i.e., 32 should be 32.00).
- K. At the end of each tour's test, a final line should be written to the file summarizing the movements and delays.
- L. Each file should contain all of the information collected in one and only one work shift.

- M. Each file should have a unique name relating to the month, day and year of the specific test.

Required daily reports are:

1. Defective Rail Report
2. Car Movement Report
3. Rail Defect Computer Format Report

In addition to the daily reports, a summary "Rail Defect" Report for the Sub-Division will be collected. It will contain number and types of defects with a total of all defects. Also, movement, testing, running light and repairs will be noted. Days of testing within a specific subdivision will also be tested. Data for the summary reports is to be supplied in an electronic disc format or available over the Internet.

15. TESTING LOCATIONS

Testing will be conducted on Authority Service Properties at various locations, including, but not limited to, the following:

- A. Ventura Subdivision
- B. Montalvo Subdivision
- C. Valley Subdivision
- D. Orange Subdivision
- E. San Gabriel Subdivision
- F. Rialto Subdivision
- G. Olive Subdivision
- H. River East Subdivision
- I. River West Subdivision
- J. LA Union Station Terminal
- K. Pasadena Subdivision
- L. Perris Valley Line
- M. Future service properties;
 - San Jacinto Branch (Riverside County Transportation Commission)
 - Redlands Branch
 - Santa Paula Branch

16. SCHEDULING

Rail testing shall be scheduled to occur at night when train traffic is significantly reduced and there are more opportunities for track possession. Authority reserves the right to modify this schedule with 48 hours notice to the Contractor. The normal work week will consist of weekend and weekday nights as determined by the Authority's operational requirements, based on considerations of safety and accessibility during the Authority's non-peak hours of

operation. Work on holidays will only be by mutual agreement. Each test cycle shall be of approximately 390 miles of main track including sidings.

- A. The Schedule for testing will begin with the initiation of testing under this contract starting in March 2016 and will call for two tests per year from that date and be no less than six months and no more than nine months between subsequent tests.

- B. Any request to change the Testing Schedule must be provided at least 30 days prior to the original start date. The Testing Schedule shall only be adjusted by the written authorization of the Authority.

17. WORK SAFETY AND SAFETY EQUIPMENT

The personal protective equipment (PPE) must be on the test vehicle and used as follows:

- A. Provide Contractors Detector Vehicle Safety Manual.

- B. All Contractor employees must have attended classes and successfully passed the written examination, and conduct work in compliance with the Contractors "On Track Safety Manual."

- C. All Contractor employees must have attended the Authority's Roadway Worker Protection (RWP) classes and successfully passed the written examination prior to commencing work on Authority Service Properties.

- D. All Contractor employees must conduct work in compliance with Authority's Track Maintenance, Right-of-Way and Structures, Engineering Instructions.

- E. The Contractor must maintain a formal safety program that complies with Authority requirements. The Contractor must furnish the Authority with a copy of their safety program for review and approval. Contractor shall maintain a safety program officer and furnish that person's name and phone number to the Authority.

18. WORK DELAYS - NO CHARGE

- A. The Authority shall not be liable for any Contractor's costs where working time is lost on scheduled days through acts or omissions of the Contractor or breakdown of Contractor's equipment.

- B. Reasonable replacement of consumables or cleaning of roller search units, etc. is not classified as loss of working time. However, if in the opinion of the Authority's Project Manager or local maintenance representative, it is considered that excessive time is taken in the execution of these functions, the excessive time may be deemed as loss of working time. Accordingly, the Contractor will be subject to a reduction in payments for any excessive time taken in such replacement of consumables as determined by the Authority's Project Manager. Time taken to supply fuel, water, and routine maintenance is not considered

working time. The Contractor will supply details of daily maintenance requirements in their bid documents.

- C. The Authority Assistant Deputy Director, Track and Structures will work with the Contractor to determine allowable weather delays. This plan will also trigger a lost day due to sustained winds of 40 mph or above. These delays would constitute a joint test delay and will be defined as neither the Authority's nor the Contractor's fault. The period of delay will remain in effect until Authority's Deputy Director, Track and Structures so designates.
- D. On invoices submitted to the Agency, the Contractor must show the itemized cost for the test car by the day. Routine maintenance, calibration and fueling is to be done at the beginning of the shift before track time and work windows are scheduled. Hourly on track charges must be defined as "TESTING HRS", "DELAY HRS", "TRAVEL HRS" and "NON BILLABLE HRS". Testing hours include only the time when testing is performed. Delay hours must be identified with only time identified as Authority delays. Example: involving SCRRRA provided Employee in Charge (EIC) availability, train movements and operation restrictions and other delays contributed to by SCRRRA. Authority involved safety meetings, training, investigation and safety audits are all non-billable time. Travel hours are for on track travel to and from test locations and for on track travel between Authority subdivisions. Non-billable hours are for and not limited to on track non- testing hours that may include service or equipment failure time, safety briefing, predicted weather conditions and other Contractor delays.
- E. The following would be considered a delay day that is not weather related:
 - No Authority Pilot
 - No Authority Track Time
 - Access Track Blocked

19. QUALITY AUDITS / QUALITY CONTROL

The Authority's Assistant Deputy Director, Track and Structures or designated personnel will be conducting audits on various contractor detector vehicles and hand testing crews while performing work on Authority Service Properties. The obvious purpose is to ensure that all personnel are conducting operations in accordance with the Authority, FRA Track Safety Standards CFR Part 213, FRA Railroad Workplace Safety CFR Part 213 and Contractor standards. Conversely, the Contractor's chief operators and crew must review all Authority and Contractor standard procedures and special instructions to ensure compliance. This includes safety as well as testing standards. During these Authority audits, the Contractor must make requested documentation available to the Authority personnel to review. The documentation may include but is not limited to:

- A. Detector Vehicle Safety Manual
- B. Operators Manual
- C. Operators Hand Test Manual (Rail Flaw Detector Manual)
- D. Peaking Fixture Manual
- E. File of Supervisor Audits - EWR Book

- F. Log with Operator and Assistant Operator Tape Time
- G. Daily Checklist - Detection Cabinet - Hand Test Scope
- H. Daily - weekly checklists - Monthly Maintenance checklists
- I. Authority RWP certification and photo ID
- J. Contractors vehicle's "shutting" qualification, certification including location, date, and test details
- K. Information relative to Contractor technical crew training
 - 1. Tape Time recorded
 - 2. Tests for assistant Operators
 - 3. Driver's Certifications, {license, CDL, registration, insurance, etc}
 - 4. Ultrasonic Levels - 1 or 2
 - 5. Length of Service with the Contractor's corp.
- L. Copies of all internal audits must be kept on file and will be reviewed for the following:
 - 1. Supervisor cabinet checklist
 - 2. Q.A./Q.C. and safety audits both Authority and Contractor.
 - 3. Corrective actions as detailed in Audits (resolve all safety issues)
 - 4. Monthly rail current reading report
- M. Equipment identification will be required on the following:
 - 1. Calibration of Textronics/scopes and cabinets.
 - 2. Roller Search Units tagged (Accept or Reject).
 - 3. Hand Testing Search Units tagged (Accept or Reject).
 - 4. Induction Search Units tagged (Accept or Reject).

20. TRACK COMPONENT ASSET - UT (NDE) INVENTORY LIBRARY

The Contractor's hand testing crews will provide the following data concurrent with the Authority's Ultrasonic (UT) hand testing system wide:

- A. All Track components UT tested by Contractor Hand Crews will be digitally photographed.
- B. All RBM Frogs will have three views, one at toe, one at heel and one overall showing the manganese insert.
- C. All spring Frogs will have three views, one at toe, one at heel and one overall showing the spring nose section.
- D. All Switch Points and Stock Rails will be photographed in pairs, denoting views where the marriage of a switch point and stock rail takes place and one overall showing entire length of steel tested.

- E. All Expansion Joints {Steel type} will have two views, one at marriage point and one overall showing entire length of steel tested.
- F. All Field welds {any type} will have two views only when surface shelling is present to the naked eye.

All locations must be cataloged as follows:

- A. Location information will be added to the photo itself.
- B. Track, Date, Subdivision, Track, N, S, E, or W rail, switch/frog/bridge number when and if applicable.
- C. All photos of track assets must be sent directly to Authority's Deputy Director, Track and Structures within 25 work days following test completion by subdivision.