



Request for Proposals #2023-1

*For Consultant Services in Support of the Development
of a Strategic Operating Plan*

Released March 13th, 2023



The San Miguel Authority for Regional Transportation (SMART) is seeking a qualified consultant or team of consultants to assist with the development of a five year strategic operating plan. The plan will include a robust public involvement process resulting in a written technical report that addresses the six identified task areas to be examined.

I. ABOUT SMART

SMART is a Regional Transportation Authority as defined under Colorado Statute. SMART was formed in November of 2016 by a vote of the residents of Telluride, Mountain Village, and the unincorporated areas of the R1 School District in San Miguel County. The residents of the Town of Rico Colorado voted into the SMART jurisdiction in November of 2019. SMART is primarily funded by a .25 cent sales tax and .75 mil levy collected in these jurisdictions.

As part of the intergovernmental agreement outlining SMARTS responsibilities an initial service plan was developed which primarily consisted of consolidating existing regional services that had previously been funded separately by the Town of Telluride, Town of Mountain Village, and San Miguel County under the SMART “umbrella” of services. In 2018 SMART commissioned outside consultants to help develop a 5 year Strategic Operating Plan to build on those initial services. This initial operating plan identified an actionable set of changes and enhancements to the SMART regional transit system, identified capital needs, and made recommendations for the overall organization of SMART in future years.

The SMART Board elected to halt service expansion projects during the height of the coronavirus pandemic from roughly February of 2020 until May of 2021. Despite hitting pause on expansion projects for that time period SMART has been able to catch up with actions that the plan recommended for years 1-3. With few exceptions, the aforementioned expansion projects have been implemented or are on schedule for implementation in the next 3 to 18 months. Over this same time SMART has increased its fleet size by 12 vehicles (4 buses and 8 vans) and made steady progress towards meeting its facility needs.

II. SCOPE OF WORK

Project Goals and Purpose

The goal and purpose of this project is to refine existing service schedules, evaluate current transit needs, evaluate SMART’s fare policies and structure, optimize and potentially reconfigure existing services, and plan for future service demand and expansion.

Expected Outcomes

The project will result in the development of an actionable strategic operating plan driven by community input. It will include a robust financial and resource analysis, recommendations for service sustainability and will identify key service expansion opportunities. The work will culminate in a final report.

Project Tasks

Task 1 - Demographic Review: This task will be a review of the latest demographic information (2020 census) and other resources for the purpose of understanding demographic shifts in our region, commuting trends and other relevant information.

Task 1 work product: Technical report on the findings of the demographic review and how that information will influence the remainder of the study.

Task 2 - Evaluate and prioritize potential service expansion projects: This task will evaluate and prioritize service expansion projects that may be warranted in the next five years with the development of more housing dispersed throughout the region, major activity center development, current demand on existing routes, etc.

Task 2 work product: Technical report summarizing the findings of this task, including a prioritized and phased list of expansion projects to be pursued, including costs, capital needs, and organizational considerations.

Task 3 - Route Optimization Analysis: This task consists of a route optimization analysis that looks at corridors where there is potential overlap of SMARTs current services that could be served more efficiently or where schedules could reasonably be consolidated.

Task 3 work product: Technical report summarizing the findings of this task, including recommendations for consolidating schedules or revising the timing of schedules.

Task 4 – Micro-Transit Suitability Analysis: This task will be an analysis of how “micro-transit” may be a suitable mode for certain parts of the SMART service area that are difficult to serve through traditional fixed route services.

Task 4 work product: Technical report summarizing the suitability of micro transit in the SMART service area, including a cost/benefit analysis, potential ridership, and capital needs.

Task 5 – SMART Fare Structure Analysis: This task will require the evaluation of the current SMART fare structure (for both fixed route services and vanpools) in relation to our peer agencies and equity across the region. This task will also include a discussion of the pros/cons of potentially making SMART a “fare free” system.

Task 5 work product: Technical report and recommendations regarding potential changes to the SMART fare structure. This work product should also address a potential move to a fare free system, where fare free services might be most appropriate (for example, should fares be waived for areas *outside* of the SMART taxing district as well as inside the district), cost/benefits, etc.

Task 6 – Implications of incorporating the Mountain Village – Telluride Gondola into the SMART suite of services: This task will require an analysis and consideration of the implications of a growing role in gondola funding and operations over the next five years.

Task 6 work product: Report consisting of a high level summary of what organizational changes may need to be pursued over the next five years to best position SMART to support capital investments and operations/maintenance of the gondola system in future years.

III. TIMELINE, SCHEDULE AND BUDGET

SMART RFP 2023-1 Selection Process Timeline

Milestone	Date
RFP released	March 13th, 2023
Questions/Inquiries Due	March 27th, 2023
Responses to Questions released	March 31 st , 2023
Proposals Due	April 24 th , 2023
Complete Proposal Evaluations	May 4 th , 2023
Recommendation of Contract Award to SMART Board of Directors	May 11th, 2023
Final Award Notification	May 12 th , 2023



PROJECT SCHEDULE

SMART Strategic Operating Plan - Timeline*

Milestone	Estimated Date
Consultant work begins with reception of CDOT Notice to Proceed	TBD depending on CDOT contract execution
Consultant Research and Background Work	Early summer 2023
Creation of detailed work plan and public input process	Summer 2023
Consultant Site Visit for Project Launch (Conditions assessment review)	Summer 2023
Update Board of Directors on draft findings and public input	Fall/Winter 2023/24
Final strategic operating plan completed and published	Early Spring 2024
Final plan presentation to Board of Directors	Spring 2024

**timeline is subject to CDOT approvals and contract negotiations with successful bidder*

BUDGET

This project will have a total budget of \$40,000 with 80% State and 20% Local split. \$32,000 will be provided from CDOT administered FTA section 5304 grant funds and \$8,000 will come from SMART.

IV. PROPOSAL PREPARATION AND SUBMISSION INSTRUCTIONS

REVIEW AND REQUEST FOR CLARIFICATIONS

Inquiries, questions and requests for clarification on this RFP are to be directed in writing (email preferred) by 5pm on March 27th, 2023 to:

David Averill, Executive Director, SMART
 Email: david.averill@smarttelluride.com
 Mail: PO Box 3140, Telluride CO 81435

All questions and answers, as well as any addenda pursuant to these requests will be sent by email to the bidder’s list by 5:00pm on March 31st, 2023.



PROPOSAL FORMAT

Proposals that omit any information or do not use the format requested may result in disqualification. At a minimum, all submittals should include the following:

- a. Cover Letter
A cover letter expressing the firm's interest in working with SMART and general information on the firm to include identification of the principal individual(s) that will provide the requested service.
- b. Introduction
Introduce company and staff, including awards, certifications, education.
- c. Qualifications
Explain the expertise of the consulting team, including roles or experience of key personnel to be assigned to this project. Also include examples of comparable projects completed in the past 5 years, with references for each project. References must include a contact name, current telephone number, and email address. Please outline any specific experience related to rural-resort and regional transit systems. Also include any knowledge or applicable experience with regional transportation authorities.
- d. Statement of Work
Provide a description of the understanding and approach to the project and anticipated project deliverables. Describe the type and level of support required / expected from SMART throughout the project. Include an explanation of any variances to the proposed scope of work as outlined in the RFP, which could be accepted if they will result in a more effective, innovative or accurate final product.
- e. Timeline
Outline the proposed phasing and completion schedule. Explain any significant deviations from the timeline outlined in Section III "Timeline and Schedule."
- f. Travel Proposal
Outline any proposed travel, including suggested dates and costs.
- g. Costs
Outline the estimated total budget based on the proposed scope of services. Include a summary of estimated labor hours and fee schedule by task. Identify project team members and number of hours performed by each team member by task.
- h. Completed Appendix A – Federal Transit Administration and Colorado Department of Transportation Required Contract Clauses

Appendix A contains federal requirements that must be agreed to and included with all proposals submitted.



PROPOSAL SUBMISSION INSTRUCTIONS

Proposals are due by 5 p.m. on April 24th, 2023.
Proposals must be submitted by email or surface mail to:

David Averill, Executive Director, SMART
Email: david.averill@smarttelluride.com
USPS only to this address: PO Box 3140, Telluride CO 81435
FedEx/UPS only to this address: 302 Adams Ranch Rd, Unit 8, Telluride CO 81435

If submitting proposals electronically and the submittal was received successfully, you will receive a confirmation from Mr. Averill. If you do not receive a confirmation email upon submittal or the file size of attachments is too large for submission by email, please contact Mr. Averill at the above email address to receive alternative submittal instructions.

V. EVALUATION CRITERIA

A selection committee will convene to review all proposals and select a firm. The following is a list of weighted criteria that will be used to evaluate proposals:

1. Project understanding and ability to meet or exceed requirements within the stated budget	25%
2. Creativity and clarity of suggested approach in the proposed scope of services	25%
3. Related experience and staff qualifications	20%
4. Cost*	20%
5. Completion Timeline	10%

**Proposal award will not be based solely on low price or meeting the stated project budget, but rather the overall best value to SMART in conjunction with all evaluation criteria.*

The evaluation committee may determine that interviews by phone are required to make a final decision. If so, phone interviews will be completed by May 4th, 2023.

VI. RESPONDENT CERTIFICATION

By submitting a response to this RFP, the respondent affirms and certifies its awareness and agreement to the content of this RFP and all provisions contained herein. Each respondent further certifies that its proposal has been properly executed by an authorized company officer, and that the respondent is bound by the content of its proposal.

SMART RFP #2023-1 APPENDIX A:
FEDERAL TRANSIT ADMINISTRATION AND COLORADO DEPARTMENT OF TRANSPORTATION REQUIRED
CONTRACT CLAUSES

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES No Obligation by the Federal Government.

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

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

(31 U.S.C. 3801 et seq. 49 CFR Part 31 18 U.S.C. 1001 49 U.S.C. 5307)

Program Fraud and False or Fraudulent Statements or Related Acts.

- (1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. 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 this contract work is being performed. In addition to other penalties 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 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- (3) 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.

3. ACCESS TO RECORDS AND REPORTS

(49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17)

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance

with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration 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 same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

4. FEDERAL CHANGES

(49 CFR Part 18)

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

5. CIVIL RIGHTS REQUIREMENTS

(29 U.S.C. § 623, 42 U.S.C. § 2000 42 U.S.C. § 6102, 42 U.S.C. § 12112 42 U.S.C. § 12132, 49 U.S.C. § 5332 29 CFR Part 1630, 41 CFR Parts 60 et seq.)

Civil Rights - The following requirements apply to the underlying contract:

- (1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:
 - (a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are

treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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

6. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

(FTA Circular 4220.1E)

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

7. ENERGY CONSERVATION REQUIREMENTS

(42 U.S.C. 6321 et seq. 49 CFR Part 18)

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act

8. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(49 CFR Part 26)

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR *Part 26* in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as San Miguel Authority for Regional Transportation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see 49 CFR 26.13(b)*).

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

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from San Miguel Authority for Regional Transportation. In addition, the contractor may not hold retainage from its subcontractors and is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

e. The contractor must promptly notify San Miguel Authority for Regional Transportation whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same *amount* of work.

9. TERMINATION

(49 U.S.C. Part 18 FTA Circular 4220.1E)

- a. **Termination for Convenience (General Provision)** The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.
- b. **Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- c. **Opportunity to Cure (General Provision)** The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions
If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.
- d. **Waiver of Remedies for any Breach** In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. **Termination for Convenience (Professional or Transit Service Contracts)** The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. **Termination for Default (Supplies and Service)** If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.
If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.
- g. **Termination for Default (Transportation Services)** If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.
If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work. The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) The (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor. If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

10. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) Suspension and Debarment

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

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

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by San Miguel Authority for Regional Transportation. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to San Miguel Authority for Regional Transportation, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Acknowledgment

Signature_____

Date_____