



METRO

WATCO FREIGHT REVENUE & CONTRACT COMPLIANCE (19-04)

Terry Follmer, VP of Internal Audit

Distribution List:

Capital Metro Board of Directors
Randy Clarke, President and CEO
Elaine Timbes, Deputy Chief Executive Officer and Chief Operating Officer
Kerri Butcher, EVP, Chief Counsel & Chief of Staff
Donna Simmons, EVP, Administration & EEO Officer
Todd Hemingson, EVP, Strategic Planning & Development
Reinet Marneweck, EVP, Chief Financial Officer
Dottie Watkins, VP, Bus Operations
David Dech, VP, Rail Operations
Ken Cartwright, VP, Capital Projects
Jane Schroter, VP, Chief Information Officer
Shanea Davis, VP, Real Estate, Property & Asset Management
Chad Ballentine, VP, Paratransit & Innovative Mobility Solutions
Brian Carter, VP, Marketing and Communications
Gardner Tabon, VP, Safety, Risk Management, and Accessible Services
Muhammad Abdullah, Director Procurement
Lea Sandoz, Controller
Anita Deibert, Procurement Manager
Rafael Villarreal Jr., Director of Contract Oversight – Bus and Paratransit Services

Table of Contents

Executive Summary	1
Results.....	4
1. Freight Revenue Validation.....	4
2. CDRL’s Documents Not Received.....	5
3. Liquidated Damages for Missing CDRL Documents & Maintenance Deficiencies.....	6
4. Implement a Contract Monitoring Plan.....	7
Appendix.....	8
A. CDRL reports required – Watco Contract	8
B. Contract Management Plan.....	10
C. COTR Letter to Watco.....	14

EXECUTIVE SUMMARY

As part of our FY 2019 Internal Audit Plan approved by the Capital Metro Board, we performed an audit of the Watco Freight Revenue contract (#137737 with the effective date October 1, 2015), to ensure critical contractual obligations are being performed according to contract specifications, and to determine if the Authority's quality assurance oversight effectively monitors Watco's required activities to ensure adequate risk management and compliance with the freight revenue and rail maintenance programs. The audit results including the objective, scope, and conclusion are as follows.

Background

In 2015, Capital Metro entered a long-term 20-year contract (up to 50 years with 6 five-year renewal options) with Watco Companies (a.k.a. Austin Western Railroad (AWRR)), a short line operator for freight railroad operations for the track owned by CMTA in the Austin area. The contract provides an exclusive freight operations lease to Watco Companies in exchange for performing service property maintenance for rail, bridges, signals, etc., and sharing their freight revenues with Capital Metro. Watco Companies, located in Pittsburg, Kansas, is a transportation company which provides transportation, terminal and port, supply chain and mechanical solutions for customers throughout North America. According to the contract, Watco is supposed to share AWRR freight revenues with CMTA as follows: 16.5% of its gross freight revenue, rail territory per-car fees, tax credits, rail territory switch fees, and pay monthly together with dispatch fees to CMTA. In July 2018, the Giddings Line was opened and revenues from this new line are being deducted from the monthly freight revenue until the \$3 million paid by Watco to restore this track is recouped.

Capital Metro has a very specific and detailed freight operations contract covering Watco's required activities (i.e., Scope of Services), and compliance with the contract is critical to the success of the Service Property Maintenance and Freight Revenue Sharing Program. Rail Operations is responsible for overseeing Watco rail maintenance activities as well as the monthly Freight Revenue Sharing Program. To ensure these contractual provisions are performed adequately, Procurement has developed a Contract Management Plan to provide guidance to all CMTA persons involved with the management and administration of the contract (see Appendix B). Additionally, a draft Contract Monitoring Plan has been established which defines the oversight and quality assurance activities that CMTA performs to ensure Watco is in compliance with contractual requirements.

Rail Operations and Procurement has put in place various roles to help ensure the oversight, check and balances related to the monitoring of Watco's work. The critical role within the Contract Monitoring Plan is the Project Managers (PM) who are responsible for contract deliverables by Watco. These positions are responsible for defining metrics, conducting measurements, and analyzing results. There is a Contracting Officer Technical Representative (COTR) as defined in the June 8, 2018 letter (see Appendix C) sent to Watco, and this role has been assigned to the Director of Rail Operations. The Director of Rail Operations also provides oversight of all Capital Metro Rail Operations and Maintenance contracts, with a focus on contract management, schedules, estimates, costs controls, documentation control and quality assurance/quality control. As the COTR, she also evaluates contractor performance as directed by the Contracting Officer (CO) and acts as a final review official for issues concerning contractor's performance. The Contracting Officer listed in the COTR is the Director of Procurement. Also, within Procurement, a Contract Administrator (CA) has been assigned to this contract which is to "monitor contract performance" and review insurance certificates and performance bonds per the CA job description. The Director of Rail Operations (the COTR position) also has a Program Manager of

Maintenance of Way, Bridges & Structure Engineering who helps her in the oversight and monitoring of the Watco contract. The majority of the Capital Metro Rail Operations management team is new and has turned over in the last year.

Watco is required to use Capital Metro systems to plan and document the performance of their property maintenance work. The main Capital Metro systems used by Watco are as follows: Spear, Asset Management System (AMS); Railcomm System used for dispatching; Microsoft SharePoint to save all reports and documents required by the contract; Microsoft Office 365 for email, etc. Regarding the maintenance of Capital Metro's service property, the primary system used is Spear which supports the process of deploying, operating, maintaining, upgrading, and disposing of assets. Watco utilizes the AMS system to create work orders, part orders, record defects and repair information, view work performed service history, close work order, etc. The contractor uses the AMS to record the inspections and detail any conditions found during the inspections. Watco is required to record all inspection and repair part activity in the AMS, which creates monthly reports for the Federal Railroad Administration (FRA) to test compliance.

Audit Objective & Scope

The primary objective of this audit is to determine whether the monthly freight revenue sharing reported by Watco are complete and accurate. Additionally, the oversight and monitoring of contractor performance by Capital Metro was evaluated to ensure that controls are in place and operating effectively to verify that the contractor is providing the documents as required by the Contract Document Requirements List (CDRL - see Appendix A which is Exhibit F, Section 11.21 of Contract) and required Reporting (Exhibit F, section 11.8 of contract) as stated in the Scope of Services (Exhibit F of Contract). We limited our review of the service property maintenance to the annual Bridge Inspection Reports and other required CDRL documents because the Safety Department is contracting with a specialist to conduct an audit later this year.

Opinion

We identified several internal controls that require improvement and made the following recommendations:

- Develop a process to validate the completeness and accuracy of the monthly freight revenues reported by Watco.
- Follow-up on CDRL documents not received.
- Consider adding liquidated damages to future contract revisions to motivate Watco to provide required CDRL documents.
- Update and implement the Contract Monitoring Plan (CMP) and other documentation to evaluate Watco's performance.

This is the first internal audit of the Watco Freight Revenue Program and management within Rail Operations has turned over significantly in the last year which we believe is a contributing cause to the weaknesses identified. The new Rail Operations team is committed to improving internal controls and oversight of Watco.

This audit was conducted in accordance with the U.S. Government Accountability Office's Generally Accepted Government Auditing Standards (GAGAS) and the Institute of Internal

Auditor's International Standards for the Professional Practice of Internal Auditing. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit was conducted by the following staff members in the Capital Metro Internal Audit Department:

- Satish Parikh, Internal Auditor II (Project Lead)
- Terry Follmer, VP of Internal Audit

Recommendations to strengthen controls and improve accountability were provided to management. Management agrees with the internal audit recommendations and has provided target completion dates which are included in the detailed audit report below. A follow-up audit is performed semi-annually (i.e. May and November) to ensure management action plans for all issued audit reports are completed timely.

We appreciate the cooperation and assistance provided to us throughout this audit.

Watco Freight Revenue & Contract Compliance – Audit Report # 19-04

<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p>1. <u>FREIGHT REVENUE VALIDATION</u></p> <p>The Freight Operations contract with Watco requires that they share a portion of their monthly freight revenue (i.e. 16.5% of Gross Revenue, per car fee, etc.) with CMTA. Watco sends a monthly Excel file to Rail Operations Finance Manager, who then forwards to the Accounting Department to book the monthly freight revenue. We reviewed the internal controls related to CTMA’s approximate \$4 million in annual freight revenue and noted the following weaknesses:</p> <ul style="list-style-type: none"> • CMTA has no independent data set to validate the completeness and accuracy of the monthly freight car activity and related revenue. • CMTA has the right to audit but no audit of the books and records has been performed by CMTA. • Watco is required to share their audited financial statement with CMTA but these records have not been provided. <p>Without the controls listed above, CMTA has no assurance that the monthly freight revenues reported by Watco are complete and accurate.</p>	<p>The VP of Rail and CFO will develop the following internal control enhancements:</p> <ol style="list-style-type: none"> a) Evaluate data subscription with the rail industry clearing house (a.k.a. Railinc) and build a model to validate completeness and accuracy of monthly freight revenue reported by Watco. b) To provide additional assurance of freight revenue reporting consider either hiring an external audit firm to perform periodic audits of Watco accounting records or perform this audit using CMTA resources. c) Obtain each year a copy of Watco’s annual audited financials which is required to be provided per the contract. 	<p>Management agrees with the recommendations.</p> <p><u>Target Completion Date:</u></p> <p>9/30/2019</p>

<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p>2. CDRL DOCUMENTS NOT RECEIVED</p> <p>The Watco contract contains a Contract Data Requirement List (CDRL) that provides contractual assurance to CMTA that key risk management and freight operation activities are occurring. We reviewed the list of 46 required documents and submission period and below are some examples of missing documents:</p> <ul style="list-style-type: none"> • Annually: 14-13 Audited Financials; 14-15 Annual Track Investments; 14-16 Annual Maintenance Program; 14-28 Periodic Scale Calibration; 14-44 Condition Assessment Report. • Quarterly: Some of the 2016/17/18 (14-07) Marketing & Business Development Reports • Monthly: Some of the 2016/17/18 – 14-09 Financial Reports an 14-10 Operating Reports. • As Needed: 14-19 Incident Reports; 14-20 Claim Notice; 14-21 Inspection Notice; 14-46 Inspection Reports. <p>Missing CDRL documents represent an unknown risk to CMTA that needs to be followed-up on with Watco.</p>	<p>The Director of Rail Operations should consider the following actions:</p> <ol style="list-style-type: none"> a) Follow-up on missing CDRL documents and develop a process to ensure timely follow-up on CDRL’s going forward. b) If required CDRL documents are not provided, review with the Legal Department for other remedies. 	<p>Management agrees with the recommendations.</p> <p><u>Target Completion Date:</u></p> <p>6/30/2019</p>

<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p>3. <u>LIQUIDATED DAMAGES FOR MISSING CDRL DOCUMENTS & MAINTENANCE DEFICIENCIES</u></p> <p>We noted that the list of Watco required CDRL documents is similar to the Herzog contract, but unlike the Herzog contract which has a \$1,000 per day disincentive (a.k.a. Liquidated Damages) for missing CDRL documents there is no financial penalty to Watco if not provided timely. Based upon our limited testing of the Watco freight operations contract we identified multiple non-compliance issues as follows:</p> <ul style="list-style-type: none"> • Various CDRL documents not received (see issue #2 for details). • Our review of the Annual Bridge Inspections performed by American Rail Engineers in the East Subdivision for the years 2017 and 2018 identified multiple priority level 2 recommended repairs that were repeats from prior year with no repairs performed. Note, level 2 condition is defined as “Poor/Marginal” and “repairs are recommended ASAP.” • Watco contract states \$500 a day liquidated damages for “maintenance deficiencies” uncorrected more than 90 days, but there was no penalty for the bridge maintenance not performed. <p>Adding liquidated damages to the contract for missing CDRL documents and enforcing maintenance deficiencies penalties will help motivate Watco to ensure contract compliance.</p>	<p>The VP of Rail, CFO, and Director of Procurement will consider the following internal control improvements:</p> <ol style="list-style-type: none"> a) Director or Rail will obtain and review annual inspection reports from Watco and ensure progress is made based upon contract requirements or other agreed upon terms with Watco. b) Maintenance Deficiencies will be assessed for inspection defects that remain uncorrected for more than 90 days as provided in the contract. c) Consider adding liquidated damages to the contract for CDRL documents that are not provided timely. 	<p>Management agrees with the recommendations.</p> <p><u>Target Completion Date:</u></p> <p>12/31/2019</p>

<i>Issues & Risk</i>	<i>Recommendation</i>	<i>Management Action Plan</i>
<p>4. <u>IMPLEMENT A CONTRACT MONITORING PLAN</u></p> <p>CMTA has put in place Contract Monitoring Plans (CMP) for most of its major contractors to help identify the critical contractual terms and assign monitoring responsibilities, frequency, and methods to ensure satisfactory contractor performance. We noted a CMP was developed in the form of an Excel template in 2016 by the former Director of Rail Operations, but there was not any evidence to show that the CMP was ever implemented to monitor and document Watco’s performance.</p> <p>The Watco contract is fairly complex with more than 40 required CDRL’s, various inspections of rail/bridge/signals and related maintenance requirements, therefore implementing a CMP will help provide assurance related to contract performance. In the Freight Operations contract Watco is both a customer (exclusive lessee of rail track) of CMTA as well as a vendor (obligated to perform freight rail track maintenance and document activities in the CMTA asset management system). We noted various CDRL documents have not been provided by Watco and Rail Operations has not been monitoring, follow-up, and escalating as appropriate.</p>	<p>The Director of Rail Operations will develop and implement a Contract Monitoring Plan to ensure Watco’s performance in accordance with contract terms.</p>	<p>Management agrees with the recommendation.</p> <p><u>Target Completion Date:</u></p> <p>9/30/2019</p>

Appendix A

Contract Document Requirements List (CDRL) from Watco Contract

Watco Scope of Services (Exhibit F) – Section 11.21

Contract Document Requirements List (CDRL) for Section 11.21

Reference	Section	Description	Submission
14-01	Ex E, Sect. 7	Proof of Insurance	10 days after NOA
14-02	11.4.3	Change in Management Notice	As Needed
14-03	11.4.3	Management Corrective Action Response	As Needed
14-04	11.4.4, 11.8.3.2	Organizational Profile and Chart	60 days after NTP, Annually
14-05	11.6.1	Business and Marketing Collateral Materials	As Needed
14-06	11.6.2	Business Development and Marketing Plan Initial Update	60 days after NTP
14-07	11.6.3, 11.8.2	Quarterly Marketing and Business Development Report	Quarterly
14-08	14.7.4, 11.8.3.2	Business Development and Marketing Plan Annual Update and Annual Report	Annually
14-09	11.8.1	Monthly Financial Report	Monthly
14-10	11.8.1	Monthly Operating Report	Monthly
14-11	11.8.1	Monthly Claims Report	Monthly, as needed
14-12	11.8.1	Monthly FRA Reportables and Corrective Actions	Monthly, as needed
14-13	11.8.3.1	Annual Report	Annually
14-14	11.8.3.2, 11.14.5	Annual Bridge Inspection Report	Annually
14-15	11.8.3.2, 11.14.4	Annual Track Investments	Annually
14-16	11.8.3.2, 11.14.8	Annual Maintenance Program	Annually
14-17	11.8.3.2, 11.9.6	Annual Proposed Timetable	Annually
14-18	14.9.3.2, 11.9.5	Safety and Security Plan and Program	60 days after NTP, Annually
14-19	11.8.4	Incident Report	As Needed
14-20	11.8.4	Claim Notice	As Needed
14-21	Ex. E Sect. 20, 11.8.4	Inspection Notice	As Needed
14-22	11.9.3	Additional Axle Request	As Needed
14-23	11.9.5	Safety and Security Correction Action Plan	As Needed
14-24	11.9.6	Timetable Changes (during year)	As Needed
14-25	11.9.7	Training and Examination Program	60 days after NTP, As Needed
14-26	11.10	PTC Compliance Plan	90 days after Commencement Date
14-27	11.10	PTC Acceptance Test Reports	As Needed
14-28	11.11	Periodic Scale Calibration	6 months after Commencement Date, Annually
14-29	11.12	Overload Operating Procedures	60 days after Commencement Date
14-30	11.12	Overload Corrective Measures	As Needed
14-31	11.14.3.1, 11.14.3.4	Modification of Grade Crossing Warning System	As Needed
14-32	11.14.3.2	Signal System Maintenance Plan	90 days after NTP
14-33	11.14.3.2	Signal System Maintenance Procedures	90 days after NTP
14-34	11.14.3.2	Signal System Inspection and Test Plan	90 days after NTP
14-35	11.14.3.2	Signal Systems Inspection and Test Procedures	90 days after NTP
14-36	11.14.3.2	Signal System Inspection and Test Data Sheets	90 days after NTP
14-37	11.14.3.2	Failure Reduction Plan	90 days after NTP
14-38	11.14.3.3	Post Accident Crossing Inspection & Test Report	As Needed

Reference	Section	Description	Submission
14-39	11.14.3.4	Signal System Plan Discrepancy	As Needed
14-40	11.14.6.3	Vegetation Control Plan	60 days after NTP
14-41	11.14.6.3	Off-Premise Vegetation Obstruction Notice	
14-42	11.14.8	Initial Annual Maintenance Program	30 days after acceptance of Day One Conditions Assessment report
14-43	11.15.1	Day One Conditions Assessment Report	10 days after completion of Condition Assessment Activities, including revisions
14-44	11.15.7	Annual Condition Assessment Report	Annually
14-45	11.15.7	Final Condition Assessment	Prior to Termination
14-46	Ex. E, Sect. 20	Inspection Report	As Needed

Appendix B

Contract Management Plan (CMP) for Watco



**CONTRACT MANAGEMENT PLAN FOR
WATCO COMPANIES (AUSTIN WESTERN RAILROAD)
Contract #137737
RAIL FREIGHT OPERATIONS**

Purpose of Plan

The purpose of this Contract Management Plan (CMP) is to provide guidance to all CMTA persons involved with the management and administration of the contract. This guidance will be a useful tool to ensure that CMTA and Watco (AWRR) each comply with the terms and conditions that govern the subject contract and that each party achieves maximum value from the contract.

This LMP was developed with the guiding principles that it shall:

- Provide an overview of the Contract and its features.
- Identify key Contract management team members, including authorities and limitations.
- Identify the processes for managing the Contract.
- Identify the strategy and performance metrics to determine Lessee's progress and if required, interface with other Contractors, subcontractors and/or contracts.

As a tool for Contract management, the CMP sets forth the higher-level requirements, deliverables, and tasks necessary to successfully execute the contract, and describes the overall process with which the tasks are performed. It does not, however, include every action that Capital Metro will need to complete to make the Contract successful. Successful execution of the Contract requires that the Project Manager and the Lessee clearly understand the terms and conditions as defined in the Contract.

Contract Identification

Contractor name:	Watco (Austin Western Railroad (AWRR))
Contract number:	137737
Contract title:	Freight Operations
Contract term:	October 1, 2015 through September 30, 2035
Total Contract value:	Contractor shall pay Capital Metro in accordance with Exhibit A Revised-1 Schedule - 16.5% revenue sharing, no capital improvements funds
Contract type:	Fixed price/percentage revenue contract
Watco key contact	Carla Ewing, VP, Sales & Marketing Austin Western Railroad 315 W. 3 rd Street Pittsburg, Kansas 66762 phone: 620-687-3769 Email: cewing@watcocompanies.com
Principle Watco Contact	John Anderson, AWRR General Manager Office: 512-246-0738 Cell: 620-330-7413 Email: janderson@watcocompanies.com
CMTA Project Manager	Muriel Friday Phone: (512) 852-7286 Email: muriel.Friday@capmetro.org
Contracts Administrator	Kirk Perry, CPSM Phone: (512) 389-7528 Email: kirk.perry@capmetro.org

Contract #137737

Freight Operations



Contract Agreement Overview

The contract is for the operation, management, marketing and maintenance of the Service Property, exclusive of the commuter rail territory, for rail freight service. The freight contract operator services begins October 1, 2015 for a base period of twenty (20) years with six (6), five (5) year renewal options.

Identification of Key Contract Management Team Members, Including Authorities and Limitations

Capital Metro key Contract management team members include the designated Contracting Officer (CO); Contracts Administrator (CA) and Project Manager (PM).

Contracting Officer (CO)

The President and CEO of Capital Metro has designated the Procurement Director as the Contracting Officer (CO) by delegating authority to award and administer contracts, and to exercise the overall responsibility for managing the contracting activity. The Procurement Director has full contracting officer authority. Contracts may be entered into and signed only by the CO or an appointed Contracting Officer with the requisite authority. Although contracts are exempt from going through the normal procurement process the CO will provide administrative support and guidance as necessary. Support may be provided in the areas of assisting with negotiating changes or revisions, processing disputes, periodic oversight when required, and interpreting the contract provisions.

Contracts Administrator (CA)

The CA's role is to prepare, execute, and administer assigned contracts in accordance with the warranted authority. The CA's responsibilities are to: find legal acquisition methodology to meet program/project needs; solicit, award, administer, and close out contract; ensure Contractor compliance with Contract requirements; interpret procurement policy and requirements; comply with procurement laws, regulations, and policy; direct and authorize the Contractor to accomplish Contract objectives. The CA has the authority to enter into, administer, and/or terminate contracts, and document related determinations and findings, waivers, and deviations. The CA will provide administrative oversight on this contract as required.

Project Manager (PM)

The PM has primary responsibility for providing technical direction to the Lessee. The PM provides performance oversight to ensure the products and services for which the Lessee is responsible are delivered by the Lessee in accordance with the terms and conditions of the contract, including quality. The PM interfaces closely with the Lessee to perform inspection and acceptance of work, as required; conducts periodic reviews, audits, and surveillances of the Lessee to ensure compliance with the contract, as required; provides performance oversight to ensure the products and services for which the PM is responsible are delivered by the Lessee in accordance with the terms and conditions of the contract, including quality.

The PM will consult with the CO or CA before issuing any instruction which might constitute a contract change. Specific examples include:

1. Assignment of additional work outside the terms of the Contract or actions that go beyond enforcing the terms of the contract;
2. Causing a decrease in the total estimated Contract payment, or the time required for Contract performance;
3. Changing any of the expressed terms, conditions or specifications of the contract; or
4. Interferes with the Lessee's right to perform the terms and conditions of the contract.

Only the CA through delegation by the CO has the authority to modify the terms of the contract. In no event will any understanding, agreement, modification, change order, or other matter deviating from the terms of the basic Contract be effective or binding on CMTA unless the CA has issued in writing a contract change. If in the opinion of the Lessee an effort outside the scope of the Contract is requested, the Lessee shall promptly notify the PM and the CA in writing.

Rev 10/2018



Legal Department: Provide interpretations on request of CO, CA, or PM.

Real Estate Department: Provide interpretations on request of CO, CA, or PM.

Processes for Managing the Contract:

Monitor performance through

1. Monitor and review performance of Watco in discharging CMTA's duties, rights, obligations and responsibilities as a rail carrier.
2. Review of documents from Watco
3. Meetings with freight customers (4 annually) and customer surveys
4. Observations in the field
5. Discussions with Watco personnel.
6. Adherence to Capital Metro-approved Safety and Security Plan.
7. Adherence to Capital Metro-approved Business Development and Marketing Plan.
8. Review of Watco's scheduled work (Exhibit E, Section 43)
9. Monitor for prompt payment.

Performance Metrics Used to Measure Watco's Progress:

1. Monthly contract payment amounts versus estimates
2. Average revenue per carload by customer
3. Review of Contractor reports prepared in compliance with Exhibit F item 11.21.
4. Random validation of car movements and storage through observation and then reconciling with Watco reports prepared in compliance with Exhibit F item 11.21.
5. Deaths and non-fatal injuries per employee per two-thousand person hours worked, compared to industry peers.
6. Total train accidents per million train miles operated, compared to industry peers.
7. Timely removal of wrecks and derailments, per Exhibit F item 11.9.2.
8. CMTA standards
9. Industry standards
10. Accepted railroad practices

Contract Close-out/Lessons Learned

The Contract performance and administration experience will be reviewed by the Project Manager and the Contracts Administrator to evaluate for Lessons Learned.

This CMP is intended solely to provide guidance and should not be construed to create any rights or obligations on the part of any person or entity, including the Lessee and its employees. If there is a discrepancy between this document and the Contract, the Contract takes precedence.

Rev 10/2018



RESPONSIBILITY MATRIX FOR THE CMTA/WATCO CONTRACT AGREEMENT

	Description of Function	Watco	CMTA
1	Provide staff and equipment for operation of the freight service	X	
2	Maintain track and track related structures	X	
3	Perform all common carrier railroad freight operations	X	
4	Perform/provide dispatching services	X	
5	Maintain and repair CTC, crossing gate systems and all ROW communication systems	X	
6	Construction of spur tracks, lead tracks, and turnouts necessary to serve existing/future rail freight customers.	X	
7	Maintenance of structures in item #6 after completion	X	
8	Daily operation of commuter rail service		X
9	Brush mowing, trash removal and cleaning of ROW	X	
10	Furnish all fuel supply	X	
11	Track allocation and track access		X
12	Accident investigation	X	X
13	Act as Freight Railroad of Record	X	
14	Prepare required reports	X	
15	Basic utility expenses	X	
16	Maintain established level of insurance	X	
17	Maintain copy of Watco's insurance certificate for the Authority		X
18	Maintain copy of Watco's performance bond for the Authority		X
19	Submit monthly activity report to the Authority	X	
20	Prepare monthly activity report, & provide rent remittance amount to Finance accounts receivables	X	
22	Audit of documents in the contract agreement and payments		X
23	Make rental payment to the Authority within 30 days of end of calendar month	X	
24	Provide advice and assistance as required for contract changes, interpretations, etc.	X	X
25	End of Contract close out actions	X	X

Rev 10/2018

Appendix C

Contracting Officer's Technical Representative (COTR) Letter to Watco



Capital Metropolitan Transportation Authority
2910 East Fifth Street | Austin, Texas 78702
TEL 512.389.7460 | FAX 512.389.7594 | capmetro.org

June 8, 2018

Mr. John Anderson
General Manager

email: janderson@watcocompanies.com

Watco Companies, Inc.
DBA Austin Western Railroad, LLC
14205 Burnet Road
Austin, TX 78728

RE: Contracting Officer's Technical Representative (COTR) on Contract 137737

Dear Mr. Anderson:

The letter shall serve as notice that will Ms. Muriel Friday will replace Mr. Darvy Bailey as the Contracting Officer's Technical Representative for Contract 137737 effective today. Ms. Friday's duties and responsibilities are as follows:

- Acts as the Authority's focal point for all correspondence and discussions with Watco, referred to hereafter as the Contractor, concerning technical direction; issues all technical directions that provide specific details and milestones.
- Ensures that all technical directions are properly documented to avoid misunderstandings and disagreements, avoid unnecessary costs, and generally to maintain proper control of the contract.
- Ensures that appropriate action is taken on technical correspondence pertaining to the contract and maintaining adequate files.
- Ensures that changes in the scope of work and any impact to delivery schedules are executed by contract modifications signed by the Contracting Officer (CO) before the Contractor proceeds with the changes.
- Ensures prompt review of draft and final reports so distribution of the reports can be made within the specified completion date of the contract, and assures prompt inspection and acceptance or rejection of other deliverable items or services.
- Informs the CO immediately of any indications that Contractor is behind schedule and coordinates corrective actions with the CO.
- Provides suggestions to the CO for improvements and changes that would facilitate better work performance or streamline processes to the advantage of the Authority and/or the Contractor.
- Furnishes to the CO a copy of Authority-Contractor conference reports and correspondence, including coordinating with the CO on the content of any contractually significant correspondence addressed to the Contractor in order to prevent possible misunderstanding or the creation of a condition that may be the basis of a later claim.
- Reviews the Contractor's invoices to ensure that they accurately reflect the work completed in accordance with the requirements of the contract, including validating and certifying acceptance of deliverables.
- Negotiates changes for the Authority and presents the negotiated settlement to the CO for final approval and issuance of a Contract Modification.
- Furnishes the CO a notice of satisfactory or unsatisfactory completion of delivery or performance of the contract or any modification thereto.
- Tracks and reports equipment and system downtime to the CO.



Capital Metropolitan Transportation Authority
2910 East Fifth Street | Austin, Texas 78702
TEL 512.389.7460 | FAX 512.389.7594 | capmetro.org

- Reports promptly and directly to the Authority's Ethics Officer and the CO, any suspected procurement fraud, bribery, conflicts of interest, and other improper conduct.
- Reviews and submits recommendations to the CO on subcontracts, considers the privities of the contract that exists between the prime contractor and subcontractor.
- Recommends to the CO approval/disapproval of the Contractor's requests for public release of information regarding work being performed under the contract.
- Notifies the CO of inventions made by the Contractor during the performance of the contract.
- Furnishes the CO a formal request for contract termination, when required.
- Evaluates Contractor performance as directed by the CO and provides support to the CO and acts as final review official in subsequent issues concerning the Contractor's performance.
- Notifies the security office at contract completion for the timely collection of security badges.

Ms. Friday is prohibited from taking the following actions:

- Making commitments or promises to any Contractor relating to a contract.
- Writing contract requirements around the product or capacity of one source.
- Soliciting proposals.
- Modifying any of the stated terms of the contract.
- Issuing instructions (oral or written) to Contractor to start or stop work.
- Approving items of cost not specifically authorized by the contract.
- Directing changes (oral or written).
- Signing supplemental agreements.
- Taking any action with respect to termination, except to notify the CO that the action is desired and to assist with the process as requested.
- Authorizing delivery or disposition of Authority-furnished property.
- Giving guidance, either orally or in writing, that might be interpreted as a change in scope or terms of the contract.

Ms. Friday can be reached at Muriel.Friday@capmetro.org. If you have any questions concerning any of the elements of this letter please contact me.

Respectfully,

Kirk Perry

Kirk Perry, C.P.S.M.
Contracts Administrator

Cc: Mr. David Dech
Mr. Danny Bailey
Ms. Muriel Friday