

Request for Proposals On-Call Architectural/Engineering Services

RFP # 21-2119

December 11, 2020

Metropolitan Tulsa Transit Authority
510 South Rockford Avenue
Tulsa, Oklahoma 74120

Request for Proposals

On-Call Architectural/Engineering Services

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A. INTRODUCTION

Sealed proposals shall be received by the Metropolitan Tulsa Transit Authority (dba Tulsa Transit), Attention Accounting & Grants Manager, at 510 South Rockford Avenue, Tulsa, Oklahoma at or before **February 5, 2021, 4:30PM Central Standard Time, Friday**, for **On-Call Architectural/Engineering Services** as described in this Request For Proposal (RFP) document. Proposals received after the date and time specified above shall be considered late proposals and shall not be considered.

Tulsa Transit intends to make firm selections based on qualifications; more than one firm may be selected. Pricing may be negotiated after the selection or as part of a task order. Pricing information is not requested at this time. Tulsa Transit reserves the right, in its sole and exclusive discretion to accept or to reject any and all proposals, in whole or in part. All proposals shall be subject to all applicable state and federal laws. The award to be let under this solicitation is subject to financial assistance contracts between Tulsa Transit, the Federal Transit Administration, and the State of Oklahoma. Proposal documents shall be clearly marked with the RFP number and shall be mailed or delivered to:

Metropolitan Tulsa Transit Authority
ATTN: Jack Van Hooser
Accounting & Grants Manager
510 S. Rockford Avenue
Tulsa, Oklahoma 74120
Fax: 918-582-5209

The anticipated schedule for selection of a Proposer is as follows:

Request for Proposal Released	December 11, 2020
Advertisement	December 13, 2020 and December 20, 2020
Pre-proposal conference	January 5, 2021
Deadline for Questions Regarding the RFP	January 15, 2021 @ 4:30 p.m.
Response to questions	January 29, 2021
Proposals Due	February 5, 2021 @ 4:30p.m.
Interviews (if deemed necessary)	Week of February 14, 2021
Contract Award (tentative)	February 23, 2021

B. INSTRUCTIONS TO PROPOSERS

1. PROPOSAL FORMAT

Tulsa Transit requires six (6) copies of all documents, one unbound original and five copies. Further, an electronic copy on a CD or jump drive is required. Each must be clearly labeled on the front sheet. Proposals shall be prepared simply and economically on letter sized paper with tabbed or marked sections. Documents can be stapled or assembled with a plastic or wire spine. No three ring binders please. See Section E.1 for more proposal details.

2. TERMS AND CONDITIONS

All proposals are subject to the provisions specified in this RFP, including federal clauses. Terms and conditions included as a part of published price lists, catalogs, and/or other documents submitted as a part of the proposal are waived and will have no effect either on the proposal, or any contract which may be awarded as a result of the proposal. The attachment of any other terms and conditions may be grounds for rejection.

3. DUE DATE

Sealed proposals must be received by Tulsa Transit no later than **4:30 PM Central Standard Time on February 5, 2021.**

4. CONTACT INFORMATION

For questions or additional information, contact the buyer via email: Jack Van Hooser, Accounting & Grants Manager, jvanhooser@tulsatransit.org, or at (918) 560-5609. Include the RFP number on the subject line of all email correspondence.

Proposers are encouraged to contact the Accounting & Grants Manager if there is anything in the specifications that would prevent them from submitting a proposal. Electronic submissions are the preferred method of answering questions, although written submissions via mail or fax will be accepted and must be received no later than **January 15, 2021 @ 4:30 p.m.**

5. BIDDER'S NOTICE OF INTENT TO SUBMIT A PROPOSAL

Email the Accounting & Grants Manager indicating your intent to submit a proposal. Include the RFP number on the subject line of the email. You will receive an email response indicating your notice was received. The same procedure will be followed to request clarification in writing of any point in the RFP. Responses to questions are considered official only when answered in writing in an addendum.

6. AMENDMENTS TO THE REQUEST FOR PROPOSALS

Any amendments to the solicitation will be posted on the Tulsa Transit web site at <http://tulsatransit.org/about-Tulsa-Transit/procurements-and-dbe/>. In addition, any bidder that has submitted a Notice of Intent to Submit a Proposal via email will be notified of any amendment by email. The bidder will be required to acknowledge the receipt of all amendments as part of the proposal package.

7. ACCEPTANCE AND REJECTION

Tulsa Transit reserves the right to reject any and all proposals, to waive any informality in proposals, and unless otherwise specified by the offer, to accept any item in the proposal. If either a unit price or extended price is obviously in error or the other price is obviously correct, the incorrect price will be disregarded. Tulsa Transit reserves the right to make partial, progressive or multiple awards where it is advantageous to award separately by items; or where more than one supplier is needed to provide the contemplated requirements as to quantity, quality, delivery, service, geographical areas, or other factors deemed by Tulsa Transit to be pertinent or peculiar to the purchase in question.

8. TIME FOR CONSIDERATION

The offer shall be valid for a minimum of 150 days from the date of proposal opening.

9. PAYMENT TERMS

Payment terms are Net 30 days after receipt of a correct invoice or acceptance of goods, whichever is later.

10. CONDITION OF GOODS

Unless otherwise indicated in the proposal, it is understood and agreed that any item offered or shipped pursuant to this RFP or resulting contract shall be new.

11. DEVIATIONS FROM SPECIFICATIONS

Any deviation from specifications indicated herein must be clearly stated by the proposer in writing; otherwise, all items offered by proposer shall be deemed to be in strict compliance with these specifications, and the successful proposer will be held responsible thereto. Deviations must be explained in detail by proposer on an attached sheet(s). This paragraph shall not be construed as inviting or permitting any deviation whatsoever by proposer from the stated specifications or implying that any such deviation will be acceptable to Tulsa Transit.

12. INFORMATION AND DESCRIPTIVE LITERATURE

Proposers are to furnish all information requested in the spaces provided on the proposal form. Further, as may be specified elsewhere, each proposer must submit with its proposal descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous proposal does not satisfy this provision.

13. CONFIDENTIALITY OF PROPOSALS

Access to records received by or generated by Tulsa Transit is governed by Oklahoma law. Any information the proposer judges to be proprietary data should be submitted in a separate sealed envelope and clearly marked as proprietary information.

14. PRE-PROPOSAL CONFERENCE

A voluntary pre-proposal conference will be held via GoToWebinar on January 5, 2021 at 10:00 AM CST.

Please register for *Pre-proposal On-Call Architectural/Engineering Services* on Jan 5, 2021 10:00

AM CST at: <https://attendee.gotowebinar.com/register/1792699144398662928>

After registering, you will receive a confirmation email containing information about joining the webinar.

15. PRICING / QUANTITY

No pricing information is requested.

16. CONFLICTS OF INTEREST

Proposer must identify any conflicts of interest that exist related to past, present, or planned activities or interests, financial or otherwise, with regard to Tulsa Transit or organizations that may be substantially affected by Tulsa Transit activities. In the absence of any known conflict of interest, the proposer shall submit in its proposal a statement that no conflicts of interest exist.

17. POST AWARD

A post-award debriefing is provided to un-successful proposers upon written request. Tulsa Transit shall provide the following information, if applicable:

- The agency's evaluation of the proposer's proposal or bid, including any noted deficiencies or weaknesses.
- The overall evaluation summary, including rating for each evaluation criteria for the debriefed proposer.
- The overall ranking of all offers, when any ranking was developed by the agency during source selection.
- A summary of rationale for award.
- For acquisitions of commercial items, the make and model of the item to be delivered by the successful proposer.

18. PROTEST PROCEDURES

Tulsa Transit has on file a set of written protest procedures applicable to this solicitation that may be obtained by contacting Tulsa Transit's procurement officer. Any protest filed by a proposer in connection with the RFP must be submitted in accordance with Tulsa Transit's written procedures.

C. SCOPE OF WORK

1. INTRODUCTION

The Tulsa Metropolitan Statistical Area is a region with nearly 1 million residents (Census Bureau 2016 estimates). Approximately 520,000 residents live within 3/4 of a mile from the transit routes. The Metropolitan Tulsa Transit MTTA (MTTA) provides an array of public transportation options to serve residents in the City of Tulsa, with connecting services to the nearby communities of Broken Arrow, Jenks, and Sand Springs. Services include fixed bus routes, ADA complementary paratransit for people with disabilities, commuter bus service, special event, and the first of two Bus Rapid Transit (BRT) lines set to begin operations in fall 2019 and a second BRT line sometime within the next five years.

To coordinate these services and provide information to the public, Tulsa Transit operates a customer call center, which processes over 400,000 inquiries annually, and two transit stations in downtown and midtown Tulsa. MTTA operates a fleet of 62 large, heavy-duty buses (soon to be 67) in addition to 42 other vehicles associated with the Lift Program, MTTA's curb-to-curb paratransit service for persons with disabilities who have been determined ADA paratransit eligible.

MTTA provides services seven days a week to almost 8,000 daily fixed route riders and an average of 450 annual daily Lift Program riders. The fixed route service, the fleet is under a set rotation with 51 buses used daily to maintain existing levels of service for 18 local routes, 2 commuter routes, and 6 nightline routes.

Nightline and Sunday services are fixed-route deviation services. Buses run on regular routes and deviate up to 3/4 mile off the route to pick up or drop off passengers who schedule a deviation in advance.

MTTA and the City of Tulsa just last year initiated the first of two new Bus Rapid Transit (BRT) lines. Finally, in August of 2020, MTTA implemented *GoPass*, a smartphone mobility application that will enable users to buy fares, plan trips, and make intermodal connections to Transportation Network Companies, scooters, and bike share.

2. PURPOSE

MTTA is embarking on near and intermediate term capital projects needing architectural/engineering (A/E) support. These projects include the design and construction of expanded employee parking at our Rockford Avenue facility as well as the potential for a redesigned downtown transit center to replace our current Denver Avenue Station (DAS). On occasion, we may need assistance regarding planning re-configuration of office space, the rehabilitation of existing buildings, equipment, and on-street transit facilities to construction of new transit facilities and transit support facilities such as maintenance buildings.

The intent of this solicitation is to provide the MTTA with qualified firms under Indefinite Delivery/Indefinite Quantity (IDIQ) contracts to provide “on-call” architectural, engineering, design, and related professional services in each of five categories. MTTA has no history of this type of work but estimates the average value for IDIQ work orders to be under \$25,000. With a maximum value of \$500,000, annually no more than \$750,000.

The MTTA intends to award contracts for the following:

1. Architectural/Engineering (A/E) Services.
2. Mechanical/Electrical/Plumbing (MEP) Engineering Services.
3. Civil/Structural Engineering and Landscape Architect (CSL) Services.
4. Construction Management, Testing and Inspection (CMTI) Services.
5. Environmental Engineering.

Respondents may submit qualifications in any category or multiple categories. Firms may be selected in one or more categories providing they meet the required qualifications for each. While it is MTTA’s intention to make awards in these categories, there is no guarantee that services will be sought in any of them. MTTA reserves the right to procure these services outside this IDIQ solicitation.

In addition, MTTA is seeking proposals for an initial assignment involving the design and construction of expanded employee parking.

3. DESCRIPTION OF CATEGORY SERVICES

Category A – Architectural/Engineering (A/E) Services

The MTTA may select multiple qualified firms in this category.

Firms submitting for A/E services should possess a full range of design disciplines or assemble a team of professional sub-consultants capable of providing all the necessary disciplines that may be required in major building contracts. As a minimum this firm or team should be capable of providing:

- Basic as well as complex project management services.
- Architectural services.
- Interior design.
- Structural and civil engineering services.
- Mechanical & electrical engineering services.
- Landscape architecture services.
- Public involvement services.
- Surveying services.
- Permitting (federal, state & local).

- Construction cost estimating.

Additional professional services seen as beneficial, but not required for selection, may include:

- Environmental/Green design.
- Historical preservation design.
- Security design.
- Instrumentation & Controls.

Firms should be willing to accept both multi-million-dollar projects as well as very small job assignments. Firms submitting in this category should clearly indicate a commitment to accept both large and small dollar value assignments, or alternatively, whether their submittal is limited only to projects with a certain minimum value.

The MTTA retains the option to select firms in this category that provide the greatest flexibility to the MTTA in accepting both large and small dollar value assignments. Accordingly, more than three firms may be selected. Every firm responding in this category must indicate a commitment to retain the services of additional design firms as subcontractors, should project assignments so require. All such subcontractors would be subject to MTTA approval.

Category B – Mechanical/Electrical/Plumbing (MEP) Engineering Services

The MTTA may select multiple firms in this category.

Firms are not required to have in-house expertise in all three disciplines. The MTTA will select firms that have expertise in one or more disciplines. To provide the MTTA with flexibility in this category, more than one firm may be selected for each discipline.

Firms submitting for MEP services should identify the discipline(s) they are submitting for and possess the ability to assist the MTTA with design and maintenance of building systems and equipment including but not limited to:

Mechanical	Electrical	Plumbing
Large scale boiler systems	Mgt. of MTTA campus electrical systems	Oil Separators
Large scale chiller systems	Standby & emergency power systems	Domestic water systems
Air handling systems	Lighting design	Fire protection systems
HVAC instrumentation & controls	Low voltage systems	Wastewater systems

Vehicle fluid distribution systems	Solar power systems	
Elevator/escalator systems	Fire/Life Safety communications	
Hydraulic & Mechanical vehicle lifts	Systems commissioning	
Systems commissioning		
Cost estimating	Cost estimating	Cost estimating

Firms to be considered for selection in this category should be capable of managing both large and small job assignments. Firms submitting qualifications in this category must possess the required skills in-house.

Firms submitting in this category should clearly indicate a commitment to accept both large and small dollar value assignments, or alternatively, whether their submittal is limited only to projects with a certain minimum value.

Category C – Civil/Structural Engineering and Landscape Architectural (CSL) Services

The MTTA may select multiple firms in this category.

Firms are not required to have in-house expertise in all three disciplines. The MTTA will select firms that have expertise in one or more disciplines. To provide the MTTA with flexibility in this category, more than one firm may be selected for each discipline.

Firms submitting for CSL services should identify the discipline(s) they are submitting for and possess the ability to assist the MTTA with design and maintenance of building systems and site improvements including but not limited to:

Civil	Structural	Landscape Architecture
Project management	Foundation design	Street facilities & circulation design
Surveying (boundary & topographic)	Building structures (steel, concrete, wood)	Irrigation systems
Preparation of legal descriptions	Retaining walls (concrete, CMU)	ADA compliance
Site development / parking lots	Free standing structures and signs	Environmental / green design
Roadway / Street improvements	Structural analysis	Site planting design

Exterior water systems	Floors & roofs	Screening & buffer design
Sanitary sewer systems		
Storm water systems		
Permitting (federal, state & local)		
Traffic engineering		
Cost estimating	Cost estimating	Cost estimating

Firms to be considered for selection in this category should be capable of managing both large and small job assignments. Firms submitting in these disciplines should be able to perform all the work identified above with the exception of Traffic Engineering. Civil firms should include a traffic engineering sub-consultant in their submittal if they do not possess the ability in-house.

Firms submitting in this category should clearly indicate a commitment to accept both large and small dollar value assignments, or alternatively, whether their submittal is limited only to projects with a certain minimum value.

Category D – Construction Management, Testing, and Inspection (CMTI) Services

The MTTA may select multiple firms in this category.

Firms submitting for CMTI services should possess a full range of construction management, inspection, and testing services. As a minimum, firms should be capable of providing:

- Special inspection services.
- Materials lab testing (soils, concrete, asphalt).
- Subgrade compaction testing.
- Concrete/mortar field sampling & testing.
- Asphalt field testing.
- Construction Management.
- Owners’ Representation.

Firms to be considered for selection in this category should be capable of managing both large and small job assignments. Firms submitting in these disciplines should be able to perform all the work identified above.

The MTTA retains the option to select firms in this category that provide the greatest flexibility to the MTTA in accepting both large and small dollar value assignments. Accordingly, more than two firms may be selected.

Firms submitting in this category should clearly indicate a commitment to accept both large and small dollar value assignments, or alternatively, whether their submittal is limited only to projects with a certain minimum value.

Category E – Environmental Engineering

The MTTA may select multiple firms in this category.

Firms submitting for Environmental services should possess a full range of design disciplines or assemble a team of professional sub-consultants capable of providing all the necessary disciplines that may be required in major building contracts. As a minimum this firm or team should be capable of providing:

- Monitoring.
- Compliance.
- Wastewater/Stormwater.
- Waste management.
- Site assessment & remediation.
- Indoor air quality.
- Air emissions.
- Pollution prevention & response planning.
- Underground storage tanks design & monitoring.
- Aboveground storage tanks design & monitoring.

Firms submitting in this category should clearly indicate a commitment to accept both large and small dollar value assignments, or alternatively, whether their submittal is limited only to projects with a certain minimum value.

4. SYNOPSIS OF SELECTION AND AGREEMENT NEGOTIATION PROCEDURES

It is the intent of the MTTA to establish agreements with the consultants selected in each of the five categories for a three-year period with options to renew the agreements annually for two one-year periods. One of the selected firms in each category may be a DBE firm. The agreement will be a negotiated instrument establishing the consultant's relationship with the MTTA, hourly rate schedule, DBE participation by contractor and/or subcontractor, and conditions of the agreement.

The agreements will be for on-call Indefinite Delivery/Indefinite Quantity (IDIQ) services, using a negotiated Task Order (TO) for defining the scope of work, to determine person hours, establish the levels of professional skills and technicians required to perform the work, and the work schedule.

5. POTENTIAL INITIAL ASSIGNMENT

MTTA is acquiring about 0.74 acres of land to build expanded employee parking adjacent to its Rockford campus to contain approximately 100 surface parking spaces. By mid-2021, MTTA wants to initiate design and construction of this facility. Further, MTTA will need a parking plan that determines which employees park at the new facility and elsewhere on and around the campus. MTTA will expect the selected firm provide or oversee all aspects of the design and

construction of the facility including facility design, lead construction procurement, and oversee construction on behalf of MTTA. We would also like the facility to possibly achieve a LEED-certification, contain at least the capability of electric vehicle charging, arched roof shade canopies, as well as accommodating future deck parking.

Firms interested in this project should submit qualifications as part of all or one of the appropriate categories above. As part of this proposal:

- Outline of proposed scope of services should be prepared, including a proposed project schedule.
- Key staff to be assigned including resumes.
- Firm/team experience in similar projects.

The proposal for this initial assignment will be contained in a separate, delineated section of the overall proposal. Only firms/teams selected for the on-call contract will be considered for this assignment.

No price information is requested at this time.

D. PROPOSAL SUBMISSION, EVALUATION AND AWARD

1. PROPOSAL FORMAT

Proposals shall be submitted as follows.

- a. The proposal package consists of two (2) volumes.
- b. The originals of volumes 1 and 2 shall be unbound. All copies of volumes 1 and 2 shall be separately bound and all copies and originals shall have the RFP number and name, the offerors identity, volume number and volume title printed on the cover page.
- c. Volumes shall be submitted in the following order:
 - Volume I – Technical Proposal
 - a. One (1) unbound original and five (5) copies
 - Volume II – Contractual
 - b. One (1) unbound original of the completed signed solicitation documents to include DBE & subcontractor documents, Receipt of Addenda form (if issued) and the documents listed below.

Volume I—Technical Proposal

The technical proposal page limit is 30 pages. If a Proposer submits a proposal exceeding this limit, MTTA will consider the pages up to the allowable number and discard all subsequent pages.

The following are excluded from the page count:

- Title Page
- Table of Contents
- Letter of Transmittal
- Tabs or Indices
- Additional lists of references
- Résumé/background information (please restrict to a maximum of three (3) pages per individual)
- Section addressing the potential initial assignment (this section is optional and not to exceed 10 pages)

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

Each technical proposal should enable the evaluation committee to make a thorough evaluation and arrive at a sound determination as to whether the proposal will meet MTTA's requirements.

Each technical proposal must be so specific, detailed, and complete as to clearly and fully demonstrate that the Proposer has a thorough knowledge and understanding of the requirements and has valid and practical solutions for technical problems. Statements which paraphrase the requirements or state that “standard procedures will be employed” are inadequate to demonstrate how the Proposer will comply with the requirements of this procurement.

To achieve a uniform review process and obtain the maximum degree of compatibility, technical proposals must be organized as follows:

Title Page

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

Letter of Transmittal

The letter should be addressed to Jack Van Hooser, Accounting and Grants Manager and signed by a corporate officer with authority to bind the firm. The letter must contain the following:

- Identification of proposing firm(s), including name, address, telephone number(s) and email addresses of each subcontractor.
- Proposed working relationship among proposing firms (e.g., prime, subcontractor), if applicable.
- Name, title, address, telephone number and email address of the contact person for the project.
- Briefly state the firm’s understanding of the services to be performed and make a positive commitment to provide the services as specified.

Key Personnel Experience and Qualifications

Provide a brief synopsis of the firm, including when and where incorporated, major business activities, and a listing of officers of the company. State whether the firm is local, regional, or national and how long the firm has been in existence under current ownership/management.

This section should demonstrate the Proposer’s architect/engineering planning experience, skills, and qualifications of the key personnel in the areas of architect/engineering requested in this RFP. Describe direct experience of architect/engineering planning and all staff to be assigned to MTTA’s account. Detail any plans on services the Proposer will provide that are not specifically required in this RFP.

Provide resumes and references for the key personnel and discuss the unique qualifications these individuals bring to the project. Indicate whether each has worked for entities like MTTA and what is requested in the RFP.

The offeror shall demonstrate past performance related to the scope of work. The offeror shall provide three (3) contract references both for itself and for any major subcontractor to enable MTTA to assess the quality of the offeror’s major subcontractor’s past performance. The referenced contracts shall be similar in scope, magnitude, and complexity to that contemplated in this RFP. The following information shall be included for each contract:

- Name and address of contracting activity, state or local governments agency or commercial customer.
- Contract type.
- Contract value.
- Brief description of services required under the contract, including performance location(s) and performance period.
- Name, telephone number, and e-mail address of individual able to provide information about offeror's past performance.

Provide an organizational chart showing how the account will be staffed. Indicate how the local staff will be supported by other regional or national staff and the reporting relationships between local staff and other firm management staff, if applicable.

Exceptions, and Omissions

- Exceptions. The proposal should clearly identify any exceptions to the requirements set forth in this RFP.
- Omissions. The Contractor will be responsible for providing all services, which are necessary within the general parameters described in this RFP, and consistent with established industry practices, regardless of whether those services are specifically mentioned in this RFP or not. The Proposer should clearly identify any omissions to the requirements set forth in the RFP.

Subcontractor Utilization Plan

Subcontractors must be approved by MTTA prior to contract award. If applicable, Proposers shall provide the following information regarding unaffiliated firms that will perform a portion of the work.

- Company Name
- Address
- Contact person and title
- Telephone number, facsimile number and email address
- Indicate if an affiliate or subsidiary of another firm and provide details
- Date business was established and number of years under present ownership/management
- Services to be performed on this project
- Resumes indicating experience, education, licenses and certifications of key personnel that will be involved in this project
- Provide up to five (5) current, relevant references for contracts performing similar work. Included contract amount, contract start/end dates, type of services performed, assigned Project Manager and other key personnel.

- If a DBE, a copy of the firm's current verification of certification must be submitted with the proposal.

Include the following signed and dated certification statement:

"I certify that each subcontractor has been notified that it has been listed in this proposal and that each subcontractor has consented, in writing, to its name being submitted for this RFP. Additionally, I certify that I shall notify each subcontractor in writing if the award is granted to my firm, and I will make all documentation available to MTTA upon request."

Volume II – Contractual

Financial Condition of the Firm

Financial data will be held in confidence and will not become part of the procurement file or the awarded contract file. In this section the Proposer must submit information demonstrating that it is financially sound and has the necessary financial resources to perform the contract in a satisfactory manner. The Proposer is required to permit MTTA to inspect and examine its financial statements. The Proposer shall submit the firm's most recent unaudited financial statements as well as two (2) years of its most recent audited annual financial statements. These statements consist of Statement of Financial Position (Balance Sheet), Results of Operations (Income Statement), Statement of Cash Flow, and Statement of Retained Earnings, and applicable footnotes. Supplementary financial information may be requested, as necessary.

Disclosure of Investigations/Actions

Proposer must provide a detailed description of any investigation or litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, the disposition.

2. TECHNICAL PROPOSAL EVALUATION CRITERIA

The evaluation committee will evaluate on the following criteria which is listed in order of importance.

- Performance Record
- Experience & Qualifications
- Program Management
- Proposal Merit
- Other Relevant Matters for example:
 - Key Personnel – Availability of Key Personnel
 - Logic of Project Plan – Technical Approach
 - Community Benefits

As this is a qualifications-based solicitation, pricing is not requested and should not be submitted.

3. PRESENTATIONS/INTERVIEWS/Written Responses

After the closing date, selected Proposers with the highest evaluation ranking(s) may be invited to interview with the evaluation committee concerning its technical proposal. The evaluation committee may also require a Proposer(s) to submit written responses to questions regarding its proposal. Proposers selected for interview will be notified.

4. CONSULTANT SELECTION

Firms that are considered responsive, based on the written proposal, may be invited to present their proposal, at their own expense, to the MTTA's Selection Committee. Interviews are tentatively scheduled for the week of February 14, 2021 and Proposers will be informed as to the exact time of the interview. MTTA reserves the right only on initial proposals and to not interview all firms.

After the selection and ranking of firms, MTTA will enter negotiated with the top ranked firm(s). If the MTTA fails to reach an agreement with the best firm(s), the MTTA will enter negotiations with the next best Proposer and will continue to negotiate with firms until Consultants are under contract.

Consultants in agreement with the negotiated terms and conditions of the contract will be recommended to MTTA's Board of Trustees for final authorization.

Appendix A: Required Forms and Certifications

In addition to the federal certifications and representations that are required to be submitted with the proposal. The following additional forms shall be included.

1. DBE Qualification Form
2. Statement of bidder's/Proposer's Qualifications
3. Authorization for Information
4. Customer Reference Listing

1.0 DBE QUALIFICATION FORM

Is your firm certified as a DBE with the Oklahoma Department of Transportation (ODOT)?

Does your firm meet the following requirements to qualify as a DBE under the DOT DBE program?

Disadvantaged owners are U. S. citizens or legal permanent residents.

Firm's annual gross income does NOT exceed \$17,20 million (averaged over 3 years).

Firm is at least 51% owned and controlled by socially and economically disadvantaged individuals.

Firm meets SBA small business size in the primary industry group (13 CFR part 121).

Firms owned by ANC's Indian Tribes, and Native Hawaiian Organizations, meet the small business size requirements and are controlled by socially and economically disadvantaged individuals.

Firms and owners meet the requirements of part 26 concerning licenses and credentials.

Firms must be for profit.

Please check here if this does not apply to your company.

Contact Liann Alfaro at lalfaro@tulsatransit.org should you need information regarding DBE Certification.

Please print the following information:

Firm Name _____

Authorized Signature _____

Title _____

Date _____

2.0 STATEMENT OF BIDDER'S/ PROPOSER'S QUALIFICATIONS (Page 1 of 2)

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. Should this page not be part of the bid/proposal packet, you're bid will be classified as not in compliance and may be disqualified. The questions may be answered on separate attached sheets. Bidder/Proposer may submit additional information he/she desires.

1. Name of Bid/Proposer _____
2. Permanent Main Office Address _____
3. Office Phone _____ Cell Phone _____
4. Fax Number _____ E-mail Address _____
5. When Organized _____
6. If a Corporation, where Incorporated _____
7. How many years have you been engaged in business under your present firm or trade name? _____
8. List previous business names, if any _____
9. Have you ever failed to complete any work awarded to you? _____
10. Have you ever defaulted on a Contract Agreement? _____
11. If you answered yes to 9 or 10 above attach explanation.
12. Attach background and experience of the principal members of your organization, including the officers.
13. DUNS # _____ Provide D&B report or other statement of credit.

Bidder/Proposer may submit any additional information he/she desires.

Dated this _____ day of _____, 20__

Being duly sworn deposes and says that he/she is _____ (Title)
and that the answers to the foregoing questions and all statements therein contained are true
and correct.

By: _____

Name of Corporation or Firm: _____

Authorized Signature: _____

State of _____

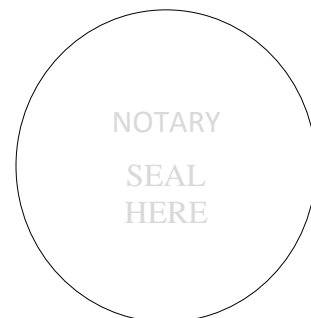
County of _____

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public _____

Notary Number _____

My Commission Expires _____



3.0 AUTHORIZATION FOR INFORMATION

The undersigned hereby authorized and requests any person, firm, or corporation to furnish any information requested by Tulsa Transit in verification of the recitals comprising this Statement of Proposer's Qualifications that I, being duly sworn deposes and says that the answers to the foregoing questions and all statements contained and true and correct.

Dated this _____ day of _____, 20__

By: _____

Name of Corporation or Firm: _____

Authorized Signature: _____

State of _____

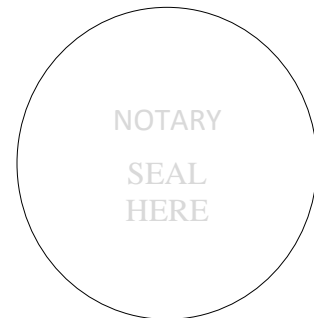
County of _____

Subscribed and sworn to before me this _____ day of _____, 20__

Notary Public _____

Notary Number _____

My Commission Expires _____



4.0 CUSTOMER REFERENCE LISTING

Vendor shall furnish the names, addresses, agreement, telephone numbers, and length of services and size of property of a minimum of five (5) firms or government organizations for which the vendor is currently furnishing or has in the past furnished service for.

1. COMPANY NAME _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____
MONTH/YEAR COMPLETED _____
VALUE OF CONTRACT _____

2. COMPANY NAME _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____
MONTH/YEAR COMPLETED _____
VALUE OF CONTRACT _____

3. COMPANY NAME _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____
MONTH/YEAR COMPLETED _____
VALUE OF CONTRACT _____

4. COMPANY NAME _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____
MONTH/YEAR COMPLETED _____
VALUE OF CONTRACT _____

5. COMPANY NAME _____
ADDRESS _____
CONTACT PERSON _____
TELEPHONE NUMBER _____
MONTH/YEAR COMPLETED _____
VALUE OF CONTRACT _____

Appendix A: Required Forms and Certifications

Attachment #1

**CERTIFICATION OF PRIMARY PARTICIPANT
REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY
MATTERS**

The Primary Participant _____, certifies to the best of its knowledge and belief, that it an its principles:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicated for or otherwise criminally or civil charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(If the primary participant is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.

THE PRIMARY PARTICIPANT _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

The undersigned chief legal counsel for the _____ hereby certifies that the _____ has the authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature and Applicant's Attorney

Date

Attachment #2

**CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING
DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY
EXCLUSION**

The Lower Tier Participant _____, certifies, by submission of this proposal, that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the Lower Tier Participant is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.)

THE LOWER-TIER PARTICIPANT _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature and Title of Authorized Official

The undersigned chief legal counsel for the _____ hereby certifies that the _____ has authority under State and local law to comply with the subject assurances and that the certification above has been legally made.

Signature of Applicant's Attorney

Date

Attachment #3

AFFIDAVIT
CERTIFICATION OF ELIGIBILITY

"The undersigned swears that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of _____ (Name of Firm) as well as the ownership thereof. Further, the undersigned agrees to provide through the prime contractor or, if no prime, directly to the Metropolitan Tulsa Transit Authority, complete and accurate information regarding actual work performed on the project, the payment therefor and any proposed changes, if any, of the foregoing arrangements and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal and State laws concerning false statements." NOTE: If, after filing this Schedule A and before the work of this firm is completed on the contract covered by this regulation, there is any significant change in the information submitted, you must inform Tulsa Transit of the change through the prime contractor, if no prime contractor, inform Tulsa Transit directly.

Signature

Name

Title
Corporate Seal (where appropriate)

Date

Date

State of

County of

On this _____ day of _____, 20____, before me appeared _____, to me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that he/she was properly authorized by _____ (Name of firm) to execute the affidavit and did so as his/her free act and deed.

Notary Public

Commission Expires

Attachment #4

**CERTIFICATION OF
RESTRICTIONS ON LOBBYING**

I, _____, hereby certify on
(name and title of grantee official)

behalf of _____ that:
(name of grantee)

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Executed this _____ day of _____, 20____.

By _____
(signature of authorized official)

(title of authorized official)

Attachment #5

ANTI-COLLUSION AFFIDAVIT

This Proposal will not be considered unless this form has been fully completed and signed by the Proposer or Proposer's Authorized Agent, and notarized, dated and completed by a Notary Public. The following affidavit is submitted by or on behalf of the Proposer as a part of this Proposal:

The undersigned of lawful age, being first duly sworn on oath, says:

The undersigned is the Proposer or the duly authorized agent of the Proposer submitting the Proposal which is attached to this statement, for the purpose of certifying the facts pertaining to the non-existence of collusion among Proposer and between Proposer and City, or Trust officials or employees, as well as facts pertaining to the giving or offering of things of value to government personnel in return for special consideration in the letting of any Contract Agreement pursuant to the Proposal to which this statement is attached;

The undersigned is fully aware of the facts and circumstances surrounding the making of the Proposal to which this statement is attached and has been personally and directly involved in the proceedings leading to the submission of such Proposal; and

Neither the Proposer nor anyone subject to the Proposer's direction or control has been a party:

- a. to any collusion among Proposer in restraint of freedom of competition by agreement to Proposal at a fixed price, or to refrain from Proposing;
- b. to any collusion with any City, or Trust official, agent, or employee as to quantity, quality or price in the prospective Contract Agreement, or as to any other terms of such prospective Contract Agreement; nor in any discussion between Proposer and any City or Trust official, agent or employee concerning exchange of money or other thing(s) of value for special consideration in the letting of a Contract Agreement.

Name of Individual, Partnership or Corporation

Signature of Proposer or Proposer's Authorized Agent

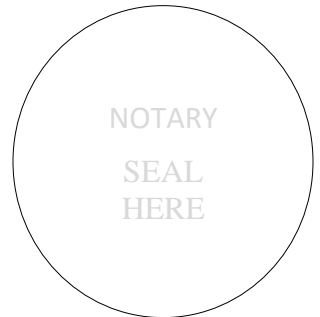
State of _____ County of _____

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public _____

Notary Number _____

My Commission expires _____



Attachment #6

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

(1) The Proposer 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 proposal, the Proposer 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 Proposer 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 Proposer to the extent the Federal Government deems appropriate.

(2) The Proposer 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 Tulsa Transit of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 16 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Proposer, to the extent the Federal Government deems appropriate.

(3) The Proposer 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 Sub-Contractor who will be subject to the provisions.

The Proposer certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of the above regulations and apply to this certification and disclosure, if any.

Company Name

Signature

Title

Date

Attachment #7

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(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) 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 Sub-Contractor who will be subject to its provisions.

Company Name

Signature

Title

Date

Attachment #8

FEDERAL CHANGES
49 CFR Part 18

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.

Company Name

Signature

Title

Date

Attachment #9

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1F

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 4220.1F, 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 Tulsa Transit requests, which would cause Tulsa Transit to be in violation of the FTA terms and conditions.

Company Name

Signature

Title

Date

Attachment #10

CERTIFICATE OF NON-DISCRIMINATION

In connection with the performance of work under this Contract Agreement, the proposer agrees as follows:

A. The proposer agrees not to discriminate against any employee or applicant for employment because of race, creed, color, sex, age, national origin, ancestry or disability. The proposer shall take affirmative action to ensure that employees are treated without regard to their race, creed, color, sex, age, national origin, ancestry or disability, as defined by the Americans with Disabilities Act of 1990, Section 3(2). Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer, or pay or other forms of compensation and selection for training, including apprenticeship. The proposer and any Sub-Contractor shall agree to post in a conspicuous place, available to employees and applicants for employment, notices to be provided by the City Clerk of The City of Tulsa setting forth the provisions of this section.

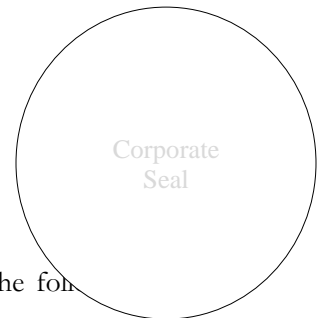
B. In the event of the proposer's non-compliance with this Non-discrimination Clause, the Contract Agreement may be canceled or terminated by the Metropolitan Tulsa Transit Authority (Tulsa Transit) Board of Trustees. The proposer may be declared ineligible by the Board of Trustees for further contracts with Tulsa Transit until satisfactory proof of intent to comply shall be made by the proposer and/or Sub-Contractor(s).

C. The proposer agrees to include the requirements of this Non-Discrimination Certificate in any subcontracts connected with the performance of this Contract Agreement.

I have read the above clause and agree to Proposal by its requirements.

_____ Attest:(Corporate Seal)
Name of Corporation or Firm

Signature of Proposer or Proposer's Authorized Agent



If Proposer's company is not incorporated, no corporate seal is required; however, the following statement must be executed.

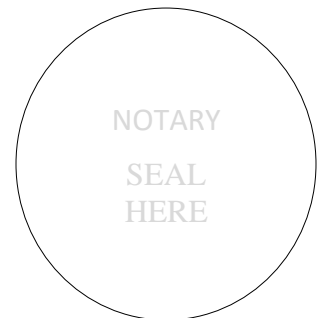
State of _____ County of _____

Subscribed and sworn to before me this _____ day of _____, 20____

Notary Public _____

Notary Number _____

My Commission Expires _____



Attachment #11

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.

(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.

Company Name

Signature

Title

Date

Appendix b: SAMPLE PROPOSAL/PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT is between the **METROPOLITAN TULSA TRANSIT AUTHORITY**, a public trust located at 510 S. Rockford, Tulsa, Oklahoma, 74120 (“Tulsa Transit”) and:

XYZ and Associates

WITNESSETH:

WHEREAS, the Tulsa Transit has approved certain specifications and advertised for or solicited proposal on the following goods and/or services:

Description of Goods and/or Services: On-Call Architectural/Engineering Services

Issued: [DATE]

WHEREAS, Seller desires to provide such Goods and/or Services to Tulsa Transit and this document constitutes Seller’s offer to provide the Goods and/or Services specified below, and if executed by the Tulsa Transit’s CEO/General Manager or his/her designee as authorized by the Tulsa Transit Board of Trustees will become the Purchase Agreement for such Goods and/or Services.

NOW, THEREFORE, for and in consideration of the terms, covenants and conditions hereinafter set forth, the parties hereto agree as follows:

1. Purchase and Sale. Seller agrees to sell Tulsa Transit the Goods and/or Services described in the proposal submitted by Seller at the price and for the quantities stated therein. Payment shall not be made until after delivery of the Goods and/or Services to Tulsa Transit, Tulsa Transit’s acceptance thereof, and Seller’s submission and Tulsa Transit’s approval of a verified claim for the amount due. Tulsa Transit shall not pay any late charges or fees.

2. Irrevocable Offer. Seller understands and acknowledges that its signature on this Agreement constitutes an irrevocable firm offer to provide the Goods and/or Services. There is no contract between the parties, however, unless and until Tulsa Transit’s CEO/General Manager or his/her designee as authorized by the Tulsa Transit Board of Trustees signs this Agreement accepting Seller’s Offer. No Tulsa Transit officer, employee or agent except the CEO/General Manager or his/her designee as authorized by the Tulsa Transit Board of Trustees has the authority to award contracts or legally obligate the Tulsa Transit to any contract. Any Goods and/or Services Seller provides to Tulsa Transit before this Agreement is executed by Tulsa Transit shall be at Seller’s

risk, and Tulsa Transit shall have no obligation to pay for any such Goods and/or Services provided before this Agreement is executed by Tulsa Transit.

3. Documents Incorporated into the Agreement. In addition to the terms set forth herein, the following described documents, which are attached hereto, are incorporated into the Agreement by reference:

- a. Tulsa Transit Request for Proposals for On Call Legal Services (“RFP”) and addendum
- b. Response by XYZ and Associates to RFP (“Response”)

In the event of a conflict between the terms set forth herein and the terms in any of the documents described above, the terms set forth herein shall prevail. Terms in the RFP shall prevail over the Response, unless otherwise indicated in Section 3.

4. Term. The term of this agreement shall be effective _____, and shall terminate _____. Tulsa Transit may terminate the Agreement for any reason deemed appropriate by Tulsa Transit by mailing a notice of termination to Seller at least two weeks in advance. Seller understands and acknowledges that any future contracts or renewals are neither automatic nor implied by this Agreement. The continuing purchase by Tulsa Transit of the Goods and/or Services set forth in this Agreement is subject to Tulsa Transit’s needs and to Tulsa Transit’s annual appropriation of sufficient funds in Tulsa Transit’s fiscal year (July 1st to June 30th) in which such Goods and/or Services are purchased. In the event Tulsa Transit does not appropriate or budget sufficient funds to perform this Agreement, this Agreement shall be null and void without further action by Tulsa Transit.

5. Warranties. The Seller agrees that the supplies and/or services furnished under this Purchase Order (i) are of merchandise quality and suitable for their intended use or purpose, (ii) comply with any and all product descriptions or specifications referenced in this Agreement, and (iii) are further covered by a warranty that the products shall be free from defects for either a minimum of one (1) year from the date of acceptance or installation by Tulsa Transit, whichever is later, or for such period beyond one (1) year as the Seller may provide in its offer and (iv) that said services will be performed in a timely, skilled, and proficient manner. The Seller further agrees that the rights and remedies provided herein are in addition to, and do not limit, any rights afforded to Tulsa Transit by any other provision of this Agreement or by law. In no event shall Seller be allowed to disclaim or otherwise limit the warranties set forth herein.

6. Warranty Remedies. Tulsa Transit shall notify Seller if any of the Goods and/or Services fail to meet the warranties set forth above, and Seller shall promptly correct, repair or replace the same at Seller’s sole expense. Notwithstanding the foregoing, if such Goods and/or Services shall be determined by Tulsa Transit to be defective or non-conforming within the first thirty (30) days after the date of acceptance by Tulsa Transit, then Tulsa Transit at its option shall be entitled to a complete refund of the purchase price and, in the case of Goods, shall promptly return such Goods to Seller. Seller shall pay all expenses related to the return of such Goods to Seller.

7. Inspection and Acceptance. Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejections, risk of loss will be on the Seller. Notwithstanding any requirements for inspection and test by Tulsa Transit, the Seller shall

perform or have performed the inspections and tests required to substantiate that the supplies, services, and construction provided under this Agreement conform to the drawings, specifications, and other requirements listed herein, including, if applicable the technical requirements for any manufacturers' part number specified herein.

8. No Indemnification by Tulsa Transit. Seller understands and acknowledges that Tulsa Transit is a public trust that is funded with public funds to operate for the benefit of the public. Accordingly, and pursuant to Oklahoma law, Tulsa Transit shall not indemnify nor hold Seller harmless for loss, damage, expense or liability arising from or related to this Agreement, including any attorneys' fees and costs. In addition, Seller shall not limit its liability to Tulsa Transit for actual loss or direct damages for any claim based on a material breach of this Agreement and the documents incorporated herein. Tulsa Transit reserves the right to pursue all legal and equitable remedies to which it may be entitled.

9. Indemnification by Seller. Seller will defend, indemnify and hold harmless Tulsa Transit and all of its board members, officers, employees and agents from and against all liabilities, damages, losses, claims, fines and judgments, including all costs and expenses incidental thereto which may be charged to or incurred by Tulsa Transit or any of its board members, officers, employees or agents by reason of any loss, damage or injury related in any way to this Agreement or arising out of or in connection with any goods, articles or services covered by this Agreement, including but not limited to, claims of patent, trademark and/or copyright infringement.

10. No Insurance by Tulsa Transit. If Tulsa Transit is leasing Goods herein, Tulsa Transit shall not be required to obtain insurance for Seller's property. Seller shall be solely responsible for any insurance it deems necessary. Tulsa Transit is self-insured for its own negligence, subject to the limits of the Governmental Tort Claims Act (51 O.S. § 151 et seq.).

11. Insurance by Seller. Seller warrants that it has adequate workers compensation insurance covering all of its employees in accordance with the requirements of any applicable local, state or federal law. Tulsa Transit may require Seller to obtain other types of insurance in coverages and amounts acceptable to Tulsa Transit if Tulsa Transit determines in its sole and exclusive judgment that such insurance is necessary or expedient.

11. No Confidentiality. Seller understands and acknowledges that Tulsa Transit is subject to the Oklahoma Open Records Act (51 O.S. §24.1 et seq.) and therefore cannot assure the confidentiality of contract terms or other information provided by Seller pursuant to this Agreement that would be inconsistent with Tulsa Transit's compliance with its statutory requirements thereunder.

12. Non-Responsive Proposals. Seller understands and acknowledges that the addition to and/or modification of any documents contained in Tulsa Transit's Request for Proposal may also result in the rejection of Seller's proposal as non-responsive. Furthermore, if Tulsa Transit accepts Seller's Offer and awards a contract herein, Tulsa Transit shall not be bound to any exceptions, changes or additions made by Seller. Any terms and conditions added by Seller and any modification of the terms set forth herein will be void and of no force and effect.

13. Compliance with Laws. During the performance of this Agreement the Seller agrees that it will afford equal opportunity to all employees and applicants for employment without regard to

race, color, religion, sex, disability, or national origin. The Seller agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the Seller's commitment to the requirements of this provision. Seller also shall take the necessary actions to ensure its facilities and employment practices are in compliance with the requirements of the Americans with Disabilities Act. Seller also shall be responsible for complying with any other applicable federal, state, and local laws. Seller is solely responsible for any costs of compliance with any law.

14. Federal, State, and Local Taxes. Tulsa Transit is exempt from state and local sales and use taxes, and any such taxes included on any invoice or voucher received from Seller by Tulsa Transit shall be deducted from the amount of the Seller's invoice or voucher for purposes of payment.

14. Termination. Tulsa Transit, upon written notice, may immediately terminate this Agreement, in whole or in part for any reason. If this Agreement is so terminated, Tulsa Transit shall be liable only for payment for Goods accepted and Services rendered prior to the effective date of termination.

15. Price Changes. The parties understand and agree that the variables in Seller's cost of performance may fluctuate during the term of this Agreement or any renewal of this Agreement. Any change in Seller's cost of performance, however, will not alter Seller's obligations under this Agreement, nor will it excuse performance or delay on Seller's part.

16. Right to Audit. The parties agree that books, records, documents, accounting procedures, practices, price lists or any other items related to the Goods and/or Services provided hereunder are subject to inspection, examination, and copying by Tulsa Transit or its designees. Seller is required to retain all records related to this Agreement for the duration of the contract term and a period of three years following completion and/or termination of the contract. If an audit, litigation or other action involving such records begins before the end of the three year period, the records shall be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later.

17. Severability Provision. If any term or provision herein is determined to be illegal or unenforceable, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible to be legal, valid and enforceable.

18. Governing Law and Venue. This Agreement is executed in and shall be governed by and construed in accordance with the laws of the State of Oklahoma without regard to its choice of law principles, which shall be the forum for any lawsuits arising under this Agreement or incident thereto. The parties stipulate that venue is proper in a court of competent jurisdiction in Tulsa County, Oklahoma and each party waives any

Objection to such venue. Tulsa Transit will not agree to binding arbitration of any disputes.

19. **No Waiver.** A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of the enforcement of such provision or any other provision.

20. **Relationship of Parties.** The relationship of Seller to Tulsa Transit is strictly that of a seller to an arms length purchaser of goods and services. Neither the Seller nor Seller's agents and employees are agents or employees of Tulsa Transit. Furthermore, no agent or employee of Seller shall be construed to be a loaned servant of Tulsa Transit or a jointly employed employee or agent of Seller and Tulsa Transit. Tulsa Transit has no responsibility or right to hire fire or supervise any of Seller's employees and agents.

20. **Time is of the Essence.** Time and rate of deliveries or performance of services are of the essence of this Agreement. Seller's failure to deliver goods or perform services at the time and rate specified shall be the basis for rejection and default termination by Tulsa Transit.

20. **Miscellaneous.** If any provision of this Agreement is declared unlawful or unenforceable by any final administrative, legislative or judicial action, this agreement shall be deemed to be amended to conform with the requirements of such action and all other provisions shall remain in full force and effect. This Agreement and any documents incorporated herein constitute the entire agreement of the parties and supersede any and all prior agreements, oral or otherwise. This Agreement may only be modified or amended in writing and signed by both parties. Seller may not assign this Agreement without Tulsa Transit's prior written consent. Seller shall not be entitled to any claim for extras of any kind or nature.

21. **Authority of Signatories.** The undersigned individual states that s/he has authority to bind Seller to this Agreement that s/he has read and understands the terms of this Agreement, and that Seller agrees to be bound by this Agreement and its incorporated documents and Seller's Offer.

IMPORTANT NOTE: This document must be signed by the proper person as set forth in Instructions, Terms and Conditions for Proposals, paragraph 4.

IN WITNESS WHEREOF, this Agreement has been executed in multiple copies on the dates set forth below to be effective during the period recited above.

Company Name: _____

By: (Sign Here) _____

Printed Name: _____

Title: _____

Date: _____

[Please Print] Company Address City State Zip Code

Telephone Number Fax Number Email Address

METROPLITAN TULSA TRANSIT AUTHORITY

By: (Sign Here) _____

Printed Name: _____

Title: _____

Date: _____

510 S. Rockford Tulsa, OK 74120

APPROVED:

Attorney: _____

Date: _____

Appendix B: Federal Clauses

1. FLY AMERICA REQUIREMENTS

49 U.S.C. §40118
41 CFR Part 301-10

Applicability to Contracts

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down Requirements

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Model Clause/Language

The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.

Fly America Requirements - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

2. BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)
49 CFR Part 661

Applicability to Contracts

The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$150,000).

Flow Down

The Buy America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance. The \$150,000 threshold applies only to the grantee contract, subcontracts under that amount are subject to Buy America.

Mandatory Clause/Language

The Buy America regulation, at 49 CFR 661.13, requires notification of the Buy America requirements in FTA-funded contracts, but does not specify the language to be used. The following language has been developed by FTA.

Buy America - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date _____

Signature _____

Company Name _____

Title _____

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

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

3. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 1241
46 CFR Part 381

Applicability to Contracts

The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

Model Clause/Language

The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees: a. *to use* privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. *to furnish within* 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo *described in the preceding paragraph* to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (*through the contractor in the case of a subcontractor's bill-of-lading*.) c. *to include these* requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

4. ENERGY CONSERVATION REQUIREMENTS

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

Applicability to Contracts

The Energy Conservation requirements are applicable to all contracts.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

Model Clause/Language

No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA.

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.

5. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Applicability to Contracts

The Clean Water requirements apply to each contract and subcontract which exceeds \$150,000.

Flow Down

The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Model Clause/Language

While no mandatory clause is contained in the Federal Water Pollution Control Act, as amended, the following language developed by FTA contains all the mandatory requirements.

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

6. LOBBYING

31 U.S.C. 1352

49 CFR Part 19

49 CFR Part 20

Applicability to Contracts

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Mandatory Clause/Language

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$150,000 or more shall file the

certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above 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 any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$150,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$150,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$150,000 for each such expenditure or failure.]

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

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

7. ACCESS TO RECORDS AND REPORTS

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

Applicability to Contracts

Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

FTA does not require the inclusion of these requirements in subcontracts.

Model Clause/Language

The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

Access to Records - The following access to records requirements apply to this Contract:

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 \$150,000.
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.

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Contract	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
I. State Grantees	a. Contracts below SAT (\$150,000)	None	Those imposed on state pass thru to Contractor	None	None	None	None
	b. Contracts above \$150,000/Capital Projects	None unless ¹ non-competitive award	Those imposed on state pass thru to Contractor	Yes, if non-competitive award or if funded thru ² 5307/5309/5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
II. Non State Grantees	a. Contracts below SAT (\$150,000)	Yes ³	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes
	b. Contracts above \$150,000/Capital Projects	Yes ³	Those imposed on non-state Grantee pass thru to Contractor	Yes	Yes	Yes	Yes

Sources of Authority

1. 49 USC 5325 (a)
2. 49 CFR 633.17
3. 18 CFR 18.36 (i)

8. FEDERAL CHANGES

49 CFR Part 18

Applicability to Contracts

The Federal Changes requirement applies to all contracts.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Model Clause/Language

No specific language is mandated. The following language has been developed by FTA.

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.

9. CLEAN AIR

42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18

Applicability to Contracts

The Clean Air requirements apply to all contracts exceeding \$150,000, including indefinite quantities where the amount is expected to exceed \$150,000 in any year.

Flow Down

The Clean Air requirements flow down to all subcontracts which exceed \$150,000.

Model Clauses/Language

No specific language is required. FTA has proposed the following language.

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

10. RECYCLED PRODUCTS

42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873

Applicability to Contracts

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

These requirements flow down to all to all contractor and subcontractor tiers.

Model Clause/Language

No specific clause is mandated, but FTA has developed the following language.

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

11. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts

Applicable to all contracts.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

Not required by statute or regulation for either primary contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

Model Clause/Language

While no specific language is required, FTA has developed the following language.

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. 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.

12. 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

Applicability to Contracts

These requirements are applicable to all contracts.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Model Clause/Language

These requirements have no specified language, so FTA proffers the following language.

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.

13. TERMINATION

49 U.S.C. Part 18 [FTA Circular 4220.1F](#)

Applicability to Contracts

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is \$150,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

Flow Down

The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

Model Clause/Language

FTA does not prescribe the form or content of such clauses. The following are suggestions of clauses to be used in different types of contracts:

1. **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.
2. **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.

3. **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.

4. **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.

5. **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.
6. **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.

7. **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).

8. **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.

9. **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.

10. **Termination for Convenience or 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.

14. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

49 CFR Part 29 Executive Order 12549

Background and Applicability

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29. 220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Clause Language

The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification.

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 **{insert agency name}**. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to **{insert agency name}**, 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.

15. 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.

Applicability to Contracts

The Civil Rights Requirements apply to all contracts.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

The Civil Rights requirements flow down to all third party contractors and their contracts at every tier.

Model Clause/Language

The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shorten the lengthy text.

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:
 1. *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.

2. *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.
 3. *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.

16. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18 **[FTA Circular 4220.1F](#)**

Applicability to Contracts

All contracts in excess of \$150,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down

The Breaches and Dispute Resolutions requirements flow down to all tiers.

Model Clauses/Language

FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury of damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

17. DISADVANTAGED BUSINESS ENTERPRISE(DBE)

49 CFR Part 26

Background and Applicability

The newest version on the Department of Transportation's Disadvantaged Business Enterprise (DBE) program became effective July 16, 2003. The rule provides guidance to grantees on the use of overall and contract goals, requirement to include DBE provisions in subcontracts, evaluating DBE participation where specific contract goals have been set, reporting requirements, and replacement of DBE subcontractors. Additionally, the DBE program dictates payment terms and conditions (including limitations on retainage) applicable to all subcontractors regardless of whether they are DBE firms or not.

The DBE program applies to all DOT-assisted contracting activities. A formal clause such as that below must be included in all contracts above the micro-purchase level. The requirements of clause subsection b flow down to subcontracts.

A substantial change to the payment provisions in this newest version of Part 26 concerns retainage (see section 26.29). Grantee choices concerning retainage should be reflected in the language choices in clause subsection d.

Clause Language

The following clause language is suggested, not mandatory. It incorporates the payment terms and conditions applicable to all subcontractors based in Part 26 as well as those related only to DBE subcontractors. The suggested language allows for the options available to grantees concerning retainage, specific contract goals, and evaluation of DBE subcontracting participation when specific contract goals have been established.

Disadvantaged Business Enterprises

1. 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%. The agency's overall goal for DBE participation is 1 %. A separate contract goal has not been established for this procurement.
2. 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 **{insert agency name}** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
3. The prime contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 15 days after the contractor's receipt of payment for that work from MITA. The prime contractor agrees further to return any retainage payments to those

subcontractors within 20 days after the subcontractor's work related to this contract is satisfactorily completed. Should payment not be rendered in a timely manner, MTTA shall hold an informal hearing, where the contractor and subcontractor, meet with representatives from MTTA. After hearing from both parties, a decision will be rendered within five days, detailing the consequences/sanctions, which shall be consistent with the non-compliant issue, which could, if warranted, include termination for default or convenience. The contractor officer shall work with the DBELO and Administrator of Grants and Procurement, and other representatives as necessary. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of MTTA. This clause applies to both DBE and non-DBE subcontracts.

4. The contractor must promptly notify MTTA, 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. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of MTTA.

18. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

[FTA Circular 4220.1F](#)

Applicability to Contracts

The incorporation of FTA terms applies to all contracts.

Applicability to Micro-Purchases

Micro-purchases are defined as those purchases under \$2,500. These requirements do not apply to micro-purchases.

Flow Down

The incorporation of FTA terms has unlimited flow down.

Model Clause/Language

FTA has developed the following incorporation of terms language:

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 4220.1F](#) 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.

19. SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

To the extent required by Federal law, the State agrees that, in administering any Federal assistance Program or Project supported by the underlying Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of Federal assistance for the Program or the Project shall indicate that FTA is the Federal agency that is providing the Federal assistance, the Catalog of Federal Domestic Assistance Number of the program from which the Federal assistance is authorized, as applicable, and the amount provided.

Appendix C: Master Agreement

AGREEMENT FOR SERVICES

THIS AGREEMENT FOR SERVICES (the “Agreement” and “Contract”), effective _____, 20__, is entered into by and between the METROPOLITAN TULSA TRANSIT AUTHORITY, a public trust located at 510 S. Rockford, Tulsa, Oklahoma, 74120 (hereinafter referred to as “MTTA”) and _____ a _____ (hereinafter referred to as the “Contractor”) for the purchase and provision of Services and/or Goods (as defined herein).

RECITALS

WHEREAS, MTTA issued Request for Proposal #21-2119 dated December 11, 2020, (hereinafter referred to collectively as the “RFP” which are hereby incorporated by reference into this Agreement) for services related to _____ as further described in the RFP (hereinafter “Services”); and

WHEREAS, the Contractor submitted a proposal on or about January 15, 2021 (hereinafter “Contractor’s Proposal”);

NOW, THEREFORE, for and in consideration of the terms, covenants and conditions hereinafter set forth and other good and valuable consideration, the parties hereto agree as follows:

SECTION I – GENERAL TERMS AND CONDITIONS

1. Scope of Work.

Contractor agrees to provide the Services as described in the RFP, as further identified in each Task Order that may be issued by MTTA from time to time pursuant to this Agreement and RFP, each of which shall become a part of this Agreement, and shall be attached hereto and set forth in Exhibit A “Task Order.” Each Task Order will be uniquely identified, dated and become a part

of Exhibit "A". Contractor acknowledges that MTTA shall be under no obligation to issue a Task Order.

2. No Extra Work.

No claims for extra work of any kind or nature or character shall be recognized by or be binding upon MTTA, unless MTTA first approves such work or service in writing.

3. Price.

MTTA agrees to pay Contractor within 30 days upon presentation of an acceptable invoice for the work called for in the Task Order. Invoices shall be itemized by Task Order and be in a format acceptable to MTTA.

4. Contract Term.

Subject to the federally required termination clause set forth herein, the term of this Agreement is from March 1, 2018 to February 28, 2021. MTTA shall have the option to renew this Agreement, in its sole and exclusive discretion, for up to two (2) additional one (1) year terms.

5. Irrevocable Offer.

Contractor understands and acknowledges that its signature on this Agreement constitutes an irrevocable firm offer to provide the Services. There is no contract between the parties, however, unless and until MTTA CEO/General Manager or his/her designee as authorized by the Tulsa Transit Board of Trustees signs this Agreement accepting Contractor's offer. Any services Contractor provides to MTTA before this Agreement is executed by MTTA shall be at Seller's risk, and Tulsa Transit shall have no obligation to pay for any such Goods and/or Services provided before this Agreement is executed by MTTA.

6. Documents Incorporated into the Agreement.

In addition to the terms set forth herein, the following described documents are incorporated into the Agreement by reference:

- a. The RFP
- b. Contractor's Proposal including rates
- c. Task Order (upon issuance)

In the event of any inconsistent or incompatible provisions, this signed Agreement shall take precedence, followed by the Task Order, then RFP and then the Contractor's Proposal. Any terms in Contractor's Proposal that are in addition to any terms stated in this Agreement or the RFP are void and unenforceable.

7. Schedule.

The Contractor shall deliver services per a mutually agreed schedule in accordance with the Task Order.

8. Warranty.

The Contractor warrants that Services will be performed in a timely, skilled, workmanlike and proficient manner, be of the best quality of its respective kind, free from defects in workmanship, quality and design, sufficient and in conformity with the requirements, specifications, terms and conditions set forth herein, in the RFP, Contractor's Proposal and Task Order. All Services will be provided by persons that are skilled, experienced and possessing the necessary qualifications, education, licenses and permits to provide the Services in a workmanlike and professional manner in accordance with general recognized industry standards and in compliance with all applicable local, state and federal laws, rules, regulations and requirements.

To the extent that any goods are provided hereunder by Contractor as a part of the Services, Contractor warrants that all goods provided hereunder shall be of new quality, free from defect in design, free from all liens and encumbrances, and fit for the uses and particular purposes of MTTA and all manufacture warranties related to such goods provided hereunder shall be assigned and conveyed to the fullest extent allowable to MTTA.

Contractor warrants that its Services and the equipment it uses to provide such Services do not infringe upon any intellectual property rights of any third party, including any patent, trademark, service mark, copyright or license.

The Warranty Period for all Services shall be twelve (12) months from the date such Services are provided by Contractor. In the event of a breach of warranty, the Warranty Period shall begin to run from the date Contractor replaces or re-performs any Services under this Agreement.

The Contractor further agrees that the rights and remedies provided herein are in addition to, and do not limit, any rights afforded to MTTA by any other provision of this Agreement or by law. In no event shall Contractor be allowed to disclaim or otherwise limit the warranties set forth herein.

9. Warranty Remedies.

MTTA shall notify Contractor if any of the Services or goods, if provided in connection with the Services, fails to meet the warranties set forth above, and Contractor shall promptly correct, repair or replace the same at Contractor's sole expense. In the event Contractor fails to correct, repair or replace any defective work or Service, or fails to remedy a breach of Warranty in a timely manner, but in no event beyond ten (10) calendar days after receipt of notice from MTTA, MTTA may terminate this Agreement and pursue all available remedies set forth in this Agreement and under the laws of the State of Oklahoma. The remedies set forth herein shall be in addition to and not a limitation of all other remedies available to MTTA.

10. Assignment.

A. The Contractor may not assign or subcontract its rights or obligations under the Contract without prior written permission of MTTA, and no such assignment or subcontract will be effective until approved in writing by MTTA.

B. MTTA reserves the right to assign all or a portion of this contract to any other agency and/or governmental entity or a Contractor of MTTA.

11. Insurance and Indemnity.

(a) Indemnity. The Contractor assumes to the fullest extent allowable by law, all risks incident to, or in connection with, its purpose to be conducted under or pursuant to the Contract, and to the fullest extent allowed by law shall indemnify, defend and save harmless MTTA, its employees, agents, and directors, from damages, losses or injuries of whatever nature or kind to persons or property arising, directly or indirectly, out of the Contractor's operations, the Goods provided by Contractor or arising from acts or omissions of its agents, employees or subcontractors. The Contractor to the fullest extent allowed by law shall indemnify, defend and save harmless MTTA, its employees, agents and directors, from any penalties for violation of any law, ordinance or regulation affecting or having application to said operations, acts and omissions, or resulting from the carelessness, negligence or improper conduct of the Contractor or any of its agents, employees or subcontractors, and from the negligence MTTA or its employees in connection with the work, work site, Goods and/or Services. The presence of, or inspections by, employees or other representatives of MTTA shall in no manner diminish or affect the duties, obligations or responsibilities of the Contractor. The obligations imposed by this paragraph shall not be limited or extinguished by any obligation to provide insurance or by the provision of insurance. This provision shall survive the termination of this Contract.

(b) Insurance. CONTRACTOR shall carry and shall ensure that its subcontractors (to the extent subcontractors are allowed pursuant to this Agreement) carry the insurance coverage with such insurance companies that are not rated below "A1" and/or "AA" of the types and with limits no less than the following:

(i) Commercial General Liability Insurance. Commercial general liability insurance against liability for personal injury (including bodily injury and death) and property damage, and against loss, damage or injury to agents, representatives, invitees or guests of the CONTRACTOR or of any subcontractor and insurance against loss, damage or injury caused by any employees, agents, representatives, invitees or guests of the CONTRACTOR or of any subcontractor of CONTRACTOR of not less than \$1,000,000.00 per occurrence, such commercial general liability insurance to specifically include but not be limited to completed operations coverage, products liability, and blanket contractual liability coverage. The foregoing coverage may be maintained in combination with excess/umbrella liability coverage.

(ii) Automobile Liability Insurance. Automobile liability insurance for motor vehicle liability for all owned and non-owned vehicles, including rented and leased vehicles with limits of \$1,000,000.00 per occurrence. The foregoing coverage may be maintained in combination with excess/umbrella liability coverage.

(iii) Worker's Compensation and Employer's Liability Insurance. Worker's compensation insurance in full compliance with all applicable State and Federal laws and employer's liability insurance against loss, damage or injury to the CONTRACTOR'S employees of not less than \$1,000,000 per occurrence.

(iv) Professional Liability Insurance. If the Services include services insurable under professional liability coverages, professional liability insurance against loss, damage or injury resulting from errors and omissions by the CONTRACTOR and by employees, agents and representatives of the CONTRACTOR and of any subcontractor related to or arising out of the performance of Services by or on behalf of the CONTRACTOR in minimum amounts of \$2,000,000 per occurrence.

All such insurance shall be maintained with insurance carriers and under policies (including through umbrella policies) acceptable to MTTA, including coverage for CONTRACTOR'S respective employees performing the Services and any motor vehicles used by such employees in the course of their duties pursuant to this Agreement. CONTRACTOR agrees to provide MTTA with copies of all applicable insurance policies providing the required coverage upon request of MTTA.

If CONTRACTOR shall fail to effect and keep in force the insurance required under the terms of this Agreement, then and in any such case MTTA may (but shall have no obligation to) effect and keep in force any such insurance and pay such premium or premiums as may be necessary for that purpose and from time to time deduct the amount so paid by MTTA as aforesaid from any monies due or which may become due to CONTRACTOR, or recover same as a debt from CONTRACTOR.

The insurance companies shall have no recourse against MTTA for the payment of any premium, deductible, or for assessments under any mutual form of policy, and CONTRACTOR shall, as soon as practicable, furnish MTTA with written confirmation from the insurance companies that they are aware of, and will abide by, this provision.

MTTA shall be named as an additional insured under each policy of insurance evidencing the above described coverage and subrogation rights shall be waived against MTTA thereunder, with the clarification that coverage for acts of MTTA's own employees is not provided under any Professional Liability Insurance Policy of CONTRACTOR and coverage for MTTA's own employees is not provided under the Worker's Compensation and Employers Liability Policy of CONTRACTOR. The fact that MTTA is named as an additional insured shall not preclude MTTA from making or asserting any claims under any such policy. Notwithstanding any "other insurance" clauses or provisions in any policy of insurance of CONTRACTOR or MTTA, CONTRACTOR'S insurance policies (including without limitation any excess or umbrella policies) shall be deemed to provide primary coverage among applicable insurance coverage. Any claims for loss or damages which are covered by the insurance policies of CONTRACTOR (including without limitation any excess or umbrella policies) shall be made against that insurance and not against MTTA or against any other insurance carried by MTTA. Each policy of insurance evidencing the above described coverage shall contain a severability of interest (or separation of insured) and an innocent insured clause.

Any failure of such insurance, or certificates evidencing such insurance, to conform to the requirements specified herein shall not result in a waiver of CONTRACTOR'S required insurance and indemnity obligations, and such obligations shall continue in full force and effect. Failure to secure the insurance coverage or failure to comply fully with any of the insurance provisions of this Agreement and all Task Orders and other written authorizations, or failure to secure such endorsements on the policies as may be necessary to carry out the terms and provisions of this Agreement and all Task Orders and other written authorizations, shall in no way act to relieve CONTRACTOR from the obligations of this Agreement and any Task Order and other written authorization, anything herein to the contrary notwithstanding. The insurance requirements hereunder are in addition to and do not replace or defeat the other obligations of this Agreement, including but not limited to those obligations set forth in the Indemnity and Warranty provisions of this Agreement.

MTTA shall have the right, but not the obligation, to contact directly the insurer(s), or the insurance agent(s) or broker(s), of the CONTRACTOR, without the prior notification to the CONTRACTOR, in order to request current, revised, or updated insurance certificates evidencing the above described insurance policies

12. Advertising.

Contractor agrees not to use the existence of this contract or the name of MTTA as a part of any commercial advertising without the prior written approval of MTTA's General Manager or designee.

13. No Confidentiality.

Contractor understands and acknowledges that MTTA is subject to the Oklahoma Open Records Act (51 O.S. §24.1 et seq.) and therefore cannot assure the confidentiality of contract terms or other information provided by Seller pursuant to this Agreement that would be inconsistent with MTTA's compliance with its statutory requirements.

14. Compliance with Laws.

During the performance of this Agreement the Contractor agrees that it will afford equal opportunity to all employees and applicants for employment without regard to race, color, religion, sex, disability, or national origin. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices setting forth the Contractor's commitment to the requirements of this provision. Contractor also shall take the necessary actions to ensure its facilities and employment practices are in compliance with the requirements of the Americans with Disabilities Act. Contractor shall comply with all existing federal, state and local laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, pertaining in any manner to the work and/or services provided by this Contract. Contractor is solely responsible for any costs of compliance with any law.

15. Compliance with Oklahoma Taxpayer and Citizen Protection Act.

The Oklahoma Taxpayer and Citizen Protection Act of 2007 ("OTCPA") prohibits MTTA from entering into a contract for the physical performance of services within Oklahoma unless the Contractor registers and participates in a Status Verification System to verify the work eligibility status of all new employees. According to the OTCPA, a Status Verification System means an electronic system operated by the federal government, through which an authorized official of an agency of the State of Oklahoma or of a political subdivision therein may make an inquiry, by exercise of authority delegated pursuant to Section 1373 of Title 8 of the United States Code, to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by Section 7 of this act. The Status Verification System shall be deemed to include:

a. the electronic verification of work authorization program of the Illegal Immigration Reform and Immigration Responsibility Act of 1996, P.L. 104-208, Division C, Section 403(a); 8 U.S.C., Section 1324a, and operated by the United States Department of Homeland Security, known as the Basic Pilot Program,

b. any equivalent federal program designated by the United States Department of Homeland Security or any other federal agency authorized to verify the work eligibility status of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603,

c. any other independent, third-party system with an equal or higher degree of reliability as the programs, systems, or processes described in this paragraph, or

d. the Social Security Number Verification Service, or such similar online verification process implemented by the United States Social Security Administration.

Contractor agrees to comply with all provisions of the OTCPA, including the requirement set forth in 25 O.S. §1313 to register and participate in the Status Verification System, as defined in that statute, to verify the work eligibility status of all new employees employed in the State of Oklahoma. Contractor agrees to defend, indemnify and hold MTTA harmless from any and all claims, penalties, fines, damages and any other liability or cost to MTTA arising from Contractor's failure to comply with this paragraph or any of the provisions of the OTCPA.

16. Federal, State, and Local Taxes.

MTTA is exempt from state and local sales and use taxes, and any such taxes included on any invoice or voucher received from Contractor by MTTA shall be deducted from the amount of the Contractor's invoice or voucher for purposes of payment.

17. Right to Audit.

The parties agree that books, records, documents, accounting procedures, practices, price lists or any other items related to the Goods and/or Services provided hereunder are subject to inspection, examination, and copying by MTTA or its designees. Contractor is required to retain all records related to this Agreement for the duration of the contract term and a period of three years following completion and/or termination of the contract. If an audit, litigation or other action involving such records begins before the end of the three year period, the records shall be maintained for three years from the date that all issues arising out of the action are resolved or until the end of the three year retention period, whichever is later.

18. Severability Provision.

If any term or provision herein is determined to be illegal or unenforceable, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any provision is held to be illegal, invalid or unenforceable, there will be added in lieu thereof a provision as similar in terms to such provision as is possible to be legal, valid and enforceable.

19. Governing Law and Venue.

This Agreement is executed in and shall be governed by and construed in accordance with the laws of the State of Oklahoma without regard to its choice of law principles, which shall be the forum for any lawsuits arising under this Agreement or incident thereto. The parties agree that if any legal action is brought pursuant to this Contract, such action shall be instituted exclusively in the district court of Tulsa County or the United States District Court for the Northern District of Oklahoma and each party waives any objection to such venue. MTTA will not agree to binding arbitration of any disputes.

20. No Waiver.

A waiver of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other provision, nor shall any failure to enforce any provision hereof operate as a waiver of the enforcement of such provision or any other provision.

21. Relationship of Parties.

The relationship of Contractor to MTTA is strictly that of a seller to an arms length purchaser of goods and services. Neither the Contractor nor Contractor's agents and employees are agents or employees of MTTA. Furthermore, no agent or employee of Contractor shall be construed to be a loaned servant of MTTA or a jointly employed employee or agent of Contractor and MTTA. MTTA has no responsibility or right to hire, fire or supervise any of Contractor's employees and agents.

22. Time is of the Essence.

Time and performance of services are of the essence of this Agreement and task orders. Contractor's failure to perform services at the time and rate specified shall be the basis for rejection and default termination by MTTA. Any failure on the part of the MTTA to timely object to the time of performance shall not waive any right of the MTTA to object at a later time.

23. No Damage for Delay. No payment, compensation or adjustment of any kind (other than an approved extension of time) shall be made to the Contractor for damages because of hindrances or delays from any cause in the progress of the work, whether such hindrances or delays are avoidable or unavoidable. The Contractor agrees that it will make no claim for compensation or damages for any such delays and will accept as full satisfaction for such delays the extensions of time.

24. Conflicts of Interest.

Contractor shall certify by signing this Agreement that no conflicts of interest exist related to past, present or planned activities or interests, financial or otherwise with regard to MTTA or organizations that may be substantially affected by MTTA activities

25. Entire Agreement.

If any provision of this Agreement is declared unlawful or unenforceable by any final administrative, legislative or judicial action, this agreement shall be deemed to be amended to conform with the requirements of such action and all other provisions shall remain in full force and effect. This Agreement and any documents incorporated herein constitute the entire agreement of the parties and supersede any and all prior agreements, oral or otherwise. This Agreement may only be modified or amended in writing and signed by both parties. Seller may not assign this

Agreement without MTTA prior written consent. Contractor shall not be entitled to any claim for extras of any kind or nature.

26. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

27. Descriptive Headings. The descriptive headings of the sections of this Agreement are inserted or annexed for convenience of reference only and shall not affect the meaning, construction, interpretation or effect of this Agreement.

28. Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State of Oklahoma. In the event of ambiguity in any of the terms of this Agreement, it shall not be construed for or against any party on the basis that such party did or did not author the same.

29. Survival of Representations. All representations and covenants of the parties shall survive the expiration of the Agreement.

30. Parties Bound. This Agreement shall be binding upon and inure to the benefit of all parties. This Agreement is solely for the benefit of the parties and their successors in interest, and none of the provisions hereof are intended to benefit third parties.

SECTION II – FEDERAL REQUIREMENTS
The following terms and conditions apply to this Contract:

1. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

Access to Records - The following access to records requirements apply to this Contract:

(1) To the extent MTTA is not a State but a local government and is the FTA Recipient or a sub grantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the MTTA, 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) To the extent MTTA has entered 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 sub grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide MTTA, the 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.

(3) 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.

(4) 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, MTTA, 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).

(5) FTA does not require the inclusion of these requirements in subcontracts.

2. 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.

3. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

No Obligation by the Federal Government.

(1) MTTA 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 MTTA, 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.

**4. 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.

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.

(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. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

FTA Circular 4220.1F

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the MTTA Administrator of Grants and Procurement, or designee. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Grant and Procurement Administrator, or designee. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Grants and Procurement Administrator shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by MTTA, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the MTTA and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State of Oklahoma.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the MTTA or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing.

7. 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%. The agency's overall goal for DBE participation is 1%. A separate contract goal has not been established for this procurement.

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 MTTA deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

Contractor 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 15 days after the Contractor's receipt of payment for that work from MTTA. In addition, the Contractor may not hold retainage from its subcontractors. The prime contractor agrees further to return any retainage payments to each subcontractor within 20 days after the subcontractor's work is satisfactorily completed. Should payment not be rendered in a timely manner, MTTA shall hold an informal hearing, where the contractor and subcontractor, meet with representatives from MTTA. After hearing from both parties, a decision will be rendered within five days, detailing the consequences/sanctions, which shall be consistent with the non-compliant issue, which could, if warranted, include termination for default or convenience. The contractor officer shall work with the DBELO and Administrator of Grants and Procurement, and other representatives as necessary. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of MTTA. This clause applies to both DBE and non-DBE subcontracts.

e. The Contractor must promptly notify MTTA, 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. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of MTTA.

8. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

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.

9. 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.

10. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to MTTA and understands and agrees that MTTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

11. RECYCLED PRODUCTS

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

12. LOBBYING

31 U.S.C. 1352, 49 CFR Part 19, 49 CFR Part 20 Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1401, et seq.]

Proposer who apply or Proposal for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above 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 any COTPA, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

13. 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 MTTA. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to MTTA, 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.

14. CLEAN AIR

42 U.S.C. 7401 et seq 40 CFR 15.61 49 CFR Part 18

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to MTTA and understands and agrees that MTTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

15. TERMINATION

49 U.S.C. Part 18 FTA Circular 4220.1F

a. Termination for Convenience (General Provision) MTTA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in MTTA'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 MTTA to be paid the Contractor. If the Contractor has any property in its possession belonging to MTTA, the Contractor will account for the same, and dispose of it in the manner the MTTA directs.

b. Termination for Default, Breach or Cause . 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, MTTA 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 MTTA 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, MTTA, 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. MTTA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 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 MTTA'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 MTTA setting forth the nature of said breach or default, MTTA 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 MTTA 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 MTTA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by MTTA shall not limit MTTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

MTTA may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in MTTA's best interest as determined by MTTA. 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 MTTA to be paid the Contractor. If the Contractor has any property in its possession belonging to MTTA, the Contractor will account for the same, and dispose of it in the manner MTTA directs.

IN WITNESS WHEREOF, this Agreement has been executed in multiple copies on the dates set forth below to be effective during the period recited above.

_____ <<<

By: (Sign Here) _____

Printed Name: _____

Title: _____

Date: _____

METROPLITAN TULSA TRANSIT AUTHORITY

By: (Sign Here) _____

Printed Name: _Ted J. Rieck

Title: General Manager

Date: _____

EXHIBIT A: TASK ORDER

Task order #

Introduction: Task order specifies the scope of work, schedule, and pricing, etc..

Section 1: reference to master agreement

Section 2: Identify firms involved in the Task Order

Section 2: Scope of Work (reference attachment A of the Task Order)

Section 3: Schedule (contained in attachment A)

Section 4: Budget (attachment B)

Section 5: Point of contact for MTTA and Contractor

See separate document; incorporate here.

Appendix D: Task Order Agreement

MTTA TASK ORDER

MTTA Task Order Number: _____

Date of issuance: _____

This Task Order is issued pursuant to the AGREEMENT FOR SERVICES dated _____ (hereinafter the "Agreement") between Metropolitan Tulsa Transit Authority, a public trust ("MTTA") and _____ ("Contractor"). All terms set forth in the Agreement are hereby incorporated by reference.

Scope of Work:

The Scope of Work, contained in Attachment A of this Task Order, shall be performed in compliance with all requirements of the Agreement. MTTA reserves the right to adjust the Scope of Work at any time prior to or after commencement of performance. No extra services (beyond the Scope of Work) or change in the service described in the Scope of Work shall be valid unless presented to and approved by MTTA in writing.

Time of Performance. Time is of the essence. Contractor shall commence performance of the services described in the Scope of Work on: _____ and shall complete such services by _____, in accordance with the schedule contained in Attachment A unless otherwise agreed to in writing by MTTA. Contractor shall immediately notify MTTA in event of any delay or circumstance which in Contractor's opinion may cause a delay in performance.

Inspection. MTTA shall have the right to inspect all services and goods provided by Contractor pursuant to this Task Order. Inspection of such services, work and/or goods or failure to inspect such services, work and/or goods shall not relieve or release Contractor from any applicable warranty or indemnity obligation as forth in the Agreement. Payment for the services, work and/or goods shall not constitute a waiver of warranty or acceptance of any defective service, work and/or goods.

Warranty. All services, work and/or goods provided by Contractor pursuant to this Task Order shall comply with the warranty provisions set forth in the Agreement.

Payment Terms. Payment shall be made in accordance with the schedules set forth in the RFP.

Payment amount: Contractor shall be compensated for the services as described in the Scope of Work (Attachment A) pursuant to this Task Order in the amount of ____ \$_____, subject to deductions, offsets, and chargebacks, if any. Payment shall be made pursuant to the terms of the Agreement and RFP.

Assignment. Contractor may not assign, transfer, sell or pledge this Task Order or any right hereunder without written approval of MTTA.

Acceptance of Task Order. Contractor warrants and represents that by acceptance of this Task Order, Contractor agrees to comply with the terms set forth in the Agreement, RFP and this Task Order. Contractor shall not attempt to vary, limit, disclaim, alter, amend, restrict or contradict the terms of this Task Order, RFP or Agreement through any means, either written or oral. Any such written or oral acceptance or attempt to vary, limit, disclaim, alter, amend, restrict or contradict the terms of this Task Order, RFP or Agreement is hereby expressly rejected by MTTA.

Insurance. Contractor shall at all times maintain insurance as required by the Agreement.

Governing Law. This Task Order and all matters related to this Task Order shall be decided in accordance with the laws of the State of Oklahoma. Any action, claim, suit, or proceeding between the Contractor and MTTA shall be initiated and maintained solely and exclusively in the District Court of Tulsa County, State of Oklahoma or in the United States District Court for the Northern District of Oklahoma. Each party irrevocably submits to the general jurisdiction of such courts and waives any objection to the venue of any such court. Each party further waives trial by jury in any such action.

Agreed to and accepted by:

Contractor

By: _____ [Printed Name: _____]

Title: _____

Date: _____
MTTA

By: _____

Name: _____

Title: _____

Date: _____

Attachment A

Scope of Work, Schedule, and Budget