



**REQUEST FOR PROPOSALS (RFP)
FOR CITY OF JACKSON
TRANSIT ORIENTED DEVELOPMENT (TOD)
COMPREHENSIVE WORK PLAN**



**REQUEST FOR PROPOSALS (RFP) # 2024-02 (RE-ISSUE)
ISSUE DATE: Friday, October 4, 2024
CLOSING DATE: Tuesday, October 22, 2024 @ 3:30 p.m., CDT**

CONTACT:

Marilyn Guice, Transportation Planning Manager
Department of Planning and Development
Office of Transportation
1785 U.S. Highway 80
Jackson, MS 39204
Telephone: (601) 960-1887
Fax: (601) 326-5416
Email: mguice@jacksonms.gov



REQUEST FOR PROPOSALS (RFP)
TRANSIT ORIENTED DEVELOPMENT (TOD) COMPREHENSIVE PLAN

The City of Jackson (the “City”), through its Department of Planning and Development, Office of Transportation, is soliciting proposals to retain the services of a consultant team to produce a transit-oriented development comprehensive work plan for the ONELINE corridor project. The City provides JTRAN fixed route and JTRAN ADA paratransit bus service throughout the City of Jackson.

Proposals will be received by the City of Jackson, Office of the City Clerk, at 219 South President Street, Jackson, MS 39205 until 3:30 p.m., Central Daylight Time (CDT) on Tuesday, October 22, 2024. Each proposer must submit a signed original and six (6) printed copies of its proposal, the required certifications and affidavits attached thereto. Electronic proposals and/or reverse auction proposals can be submitted at www.centralbidding.com. For any questions relating to the electronic proposal process, please call Central Bidding at 225-810-4814.

The award under this solicitation is subject to a financial assistance contract between the City of Jackson and the U.S. Department of Transportation (USDOT), Federal Transit Administration (FTA). The successful Proposer will be required to comply with all applicable federal regulations and will be required to certify that it is eligible for a federally assisted contract.

Copies of the Request for Proposals may be obtained from the City of Jackson, Department of Planning and Development, Office of Transportation, 1785 Highway 80 West, Jackson, MS 39204, by email to mguice@jacksonms.gov, by calling (601) 960-0864 or by submitting a request via facsimile to (601) 326-5416. Official proposal documents are available for download from Central Biddings at www.centralbidding.com. Please reference RFP#2024-02 (RE-ISSUE).

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2. GENERAL INFORMATION

2.1. Introduction

The City of Jackson (the “City”) is the capital of the State of Mississippi and has a 113 square mile footprint with a population of 164,422. Jackson faces the challenge of a shrinking population since 1980, when the city experienced its peak population of 203,000 residents. Around that time of population growth from 1976 to 1984, the Jackson City Council enacted a series of annexations that expanded the city’s boundary from 73 square miles to 113 square miles.

The City is known as the “City with Soul” because of her perseverance and her triumphant spirit. She has birthed many historical marks that have shaped this country and beyond, from Civil Rights to Civil War, to music, to world-class museums and exhibits, to thriving festivals and events, to award-winning attractions to James Beard Foundation chefs and restaurants.

The City is currently experiencing a renaissance in downtown redevelopment and housing development. Its experienced increases in 2019 in both construction valuations and property tax revenues. Over 200 million in new investment occurred in local hospitals alone indicating continued growth in the medical economy. Over 1,000 new housing units in the downtown area are under construction or in the permitting stage. This solid economic outlook also indicates a potential stabilization of population growth, or even slight population growth in the 2020 Census.

The Office of Transportation administers the fixed route and demand response services within the City. That system is known to the public as “JTRAN”. The ADA paratransit demand response system is known as “JTRAN Paratransit”.



Photo Credit: Visit Jackson

2.2. JTRAN System

Ridership:

Fixed Route	Paratransit
2022 Unlinked Passenger Trips – 364,210	2022 Passenger Trips – 50,219
2022 Passenger Miles Travels – 659,285	2022 Passenger Miles Travels – 303,104

Assets:

Fixed Route Buses – 13 ranging from 29-40 Feet (FTA Funded)
Demand Response Buses – 16 ranging 22-27 feet and 4 Mini Vans (FTA Funded)
Support Fleet – 6 vehicles (FTA Funded)
Service Fleet – 2 vehicles (FTA Funded)
Bus Maintenance/Operations Facility - 1785 US Highway 80 West, Jackson, MS
Transfer Station at Union Station – 300 West Capitol Street, Jackson, MS
Customer Service Office at Union Station - 300 West Capitol Street, Jackson, MS

Contracted Operator:

MV Contract Transportation

Operating Hours:

Fixed Route	Paratransit
M-F 4:21 AM – 8:15 PM	M-F 4:56 AM – 8:00 PM
SAT 5:21 AM – 8:15 PM	SAT 5:21 AM – 8:15 PM

System Information, Schedule, Fees, Routes, and Maps

<https://www.ridejtran.com>

System Picture:

2022 Services Provided Fixed Route System			
	Average Weekday	Average Saturday	Annual Total
Vehicles in Operation	14	9	
Total Actual Vehicle Miles	2,193	1,594	644,895
Total Actual VRM	2,103	1,501	614,360
Deadhead Miles	90	93	30,535
Total Actual Vehicle Hours	156	101	46,630
Total Actual VRH	139	96	40,321
Deadhead Hours	17	5	6,309

2022 Services Provided Demand Response System			
	Average Weekday	Average Saturday	Annual Total
Vehicles in Operation	14	10	
Total Actual Vehicle Miles	1,209	631	342,894
Total Actual VRM	1,082	558	301,408
Deadhead Miles	127	73	41,486
Total Actual Vehicle Hours	91	39	25,253
Total Actual VRH	74	34	20,574
Deadhead Hours	17	5	4,679

Challenges:

Funding Sustainability

Increasing Demand Response Needs

Limited Crosswalks and accessibility

Deferred Maintenance on Streets and Sidewalks

ADA Consent Decree - https://www.ada.gov/jackson_transit.htm

3. AVAILABLE DATA

NTD Reports

Fixed Route Ridership from fare box per hour/half hour (buses not equipped with counter)

Daily Rider Manifests for Paratransit

Monthly Reporting data for Paratransit (billed per ride)

Land use shape file (last update August 2019)

Revenue Data

4. PROJECT BACKGROUND

4.1. Summary

The City of Jackson seeks consulting services to produce a transit-oriented development (TOD) plan for the ONELINE corridor project. The ONELINE corridor is an urban development proposal in Jackson, MS that combines premium transit and multimodal transportation with smart infrastructure, real estate development, and pedestrian-oriented urban design along a five-mile corridor that extends from the Fondren area through Downtown to Jackson State University. Recognizing the relationship between premium transit service and higher density neighborhoods, the City is working to increase the density of development and activity in the surrounding neighborhoods to foster a more transit-supportive community.

4.2. Background

ONELINE is a five-mile multimodal corridor that aims to connect many of Jackson's key neighborhood nodes, institutions, and economic centers. The project is centered around a premium transit line that will extend from the Fondren area through Downtown to Jackson State University. This project will provide new infrastructure that prioritizes pedestrians, bicycles, bike share, car share, electric scooters, and the premium transit line. The plan also envisions the deployment of smart street infrastructure throughout the corridor including public WiFi, smart cameras, streetlights, traffic signals, and digital display panels.

The neighborhoods located within the corridor contain three universities including Jackson State University, Millsap College, Belhaven University and some of the region's largest employers such as the University of Mississippi Medical Center, Baptist Medical Center, and various state and local government offices. These neighborhoods employ a large population of young professionals and students.

ONELINE has the potential to create new waves of investment to reshape the development of the corridor and take advantage of pent-up demand for walkable urban spaces. The development of a premium transit line will catalyze development and increase employment opportunities for the residents of Jackson.

4.3. Project Objectives

The TOD plan will support the ONELINE initiative through complementary strategies for future development and walking and biking infrastructure that make it easy and convenient for people to get to the ONELINE service and use it regularly. This plan address:

- Multimodal connectivity and accessibility throughout the study area;
- TOD-appropriate land use and zoning recommendations, including policies and programs that prevent displacement and focus on an equitable approach to TOD;
- Capital Improvement Plan (CIP) recommendations for infrastructure improvements along the premium transit corridor and key connecting routes; and
- A financial plan that programs funding opportunities and collaborations to support the project.

Strategies should consider an equitable approach to planning and design, such as creating opportunities for people of all income levels to live in the study area while preventing displacement of existing residents and promoting universal design that is accessible for people of all ages and abilities.

4.4. Expected Timeline

Expected to start in October 2024 and end on or before March 2026.

5. SCOPE OF WORK

This scope of work outlines the services to be provided by the consultant team. The City proposes a 12-month schedule beginning in November 2024, with draft deliverables to be submitted by November 2025 and final deliverables to be submitted by March 2026.

Responding consultant teams are encouraged to use this outline as a starting point to create a detailed scope of work with their proposed strategies and methods for achieving the goals of this project.

5.1. Tasks

5.1.1. Project Management

At the start of the project, the consultant team will develop a Project Management Plan (PMP) outlining the project schedule, deliverables, and key milestones. The consultant will also provide monthly progress reports and invoices. The consultant will establish a file sharing site to share meeting minutes, key working files, and deliverables with the City.

It is anticipated that the following groups will be established to advise and provide oversight to the project team:

- **Project Management Team:** This plan will be led by a Project Management Team (PMT), a core group of internal City of Jackson staff and the consultant team. This group will meet regularly over the course of the project to coordinate ongoing tasks and

prepare for upcoming activities. The consultant will provide meeting agendas and minutes for these meetings.

- **Project Steering Committee:** A Project Steering Committee (PSC) comprised of key stakeholders will be utilized to guide the study process. The PSC will serve as a stakeholder task force to provide strategic advice and direction during the planning process and to build capacity and knowledge among members so that they are empowered to advance plan outcomes within their agencies/organizations. The Consultant will work with the City to identify representatives to serve on this committee.
- **Technical Advisory Committee:** The role of the Technical Advisory Committee (TAC) is to advise the PMT and the project consultants on technical issues, review deliverables, gather relevant information from their organization to further the study and provide key communications links with the staff of the organizations represented, particularly within their own department and/or agency. The Consultant will work with the City to identify representatives to serve on this committee.

Task 1 Deliverables:

- [Project Management Plan](#)
- [Project Management Team meetings, agendas, and minutes](#)
- [Monthly invoices and progress reports](#)

5.1.2. Community Engagement

The Jackson community should be actively engaged in the development of the TOD plan. At the beginning of the project, the Consultant will create an inclusive Community Engagement Plan to engage community members, policy makers, and stakeholders throughout the duration of the project. The CEP will outline the proposed outreach strategies, roles and responsibilities, and schedule. Equity should be emphasized with intentional efforts to reach traditionally underrepresented groups like people who speak languages other than English, older adults, people with disabilities, lower income residents, and other groups.

One of the goals of community and stakeholder outreach will be to determine the supportive infrastructure and mix of uses that will make TOD and a walkable lifestyle work for the Jackson community. This may include desired types of new development, along with community resources like childcare facilities and greenspaces.

The Consultant should propose a comprehensive and innovative engagement strategy, inclusive of both in-person and digital/virtual methods. It is anticipated that the community engagement plan will include the following components, at a minimum:

- **Communications:** The consultant will provide graphic, easily understandable, and data-driven messaging to inform and educate the community about transit-oriented development in general, this project, and opportunities to provide input. Communications strategies will include traditional and social media, a project web page, printed materials, and direct outreach.
- **Community Education Campaign:** As Jackson embarks on strategic, transit-oriented development for the first time, it will be important to educate the community about transit-oriented development, bus rapid transit, designing to support diverse mobility

needs, and their merits and tradeoffs to the community. The consultant will create educational materials and/or programs, which may include illustrative graphics highlighting key features of a transit-oriented community, brief case studies on peer cities who have successfully implemented transit-oriented development, and other strategies suggested by the Consultant.

- **In-person and virtual meetings and pop-up engagement events:** The Community Engagement Plan should be designed to engage and capture feedback from the diverse neighborhoods within the Corridor study area. Meetings must be located in various areas throughout the Corridor and at times that are convenient for transit riders, residents and stakeholders. Potential in-person engagement events include but are not limited to community meetings, open houses, attendance at community events, and pop-up events. Virtual meetings should be utilized in addition to in-person meetings and events.
- **Listening Sessions / Focus Groups:** The consultant team will conduct a series of targeted listening sessions or focus groups to supplement broader community engagement with more in-depth conversations and insights from community members, staff, and implementation partners.
- **Outreach to stakeholders and elected officials:** The Consultant should propose strategies to further engage stakeholders in the corridor through one-on-one interviews and meetings. It is also anticipated that the Consultant will deliver briefings to the Jackson City Council and/or other key stakeholder groups (e.g., MPO meetings) at key milestones throughout the project.

Task 2 Deliverables:

- Community Engagement Plan
- Project website
- Press releases, social media posts, posters/flyers, or other outreach materials
- Engagement activity materials and summaries

5.1.3. Corridor Refinement

The consultant team will review the ONELINE BRT conceptual planning work completed to-date and develop recommendations to refine the project definition and study area. This task will evaluate the ONELINE corridor for the appropriate level of transit investment and feasibility of BRT or enhanced local bus and will include the definition of potential route alignments, guideway treatments, termini, and station locations. It will also include conceptual service plans and operating and maintenance (O&M) cost estimates, ridership projections, conceptual capital cost estimates, and ridership projections.

Task 3 Deliverables:

- Conceptual station locations, right-of-way treatments, and service plan
- Draft and final project definition report
- Conceptual operating and capital cost estimates

5.1.4. Existing Conditions

The consultant team will assess existing conditions to identify the current assets and infrastructure within the corridor that could be leveraged for TOD and what new assets and infrastructure may be necessary to foster TOD. This assessment will serve several purposes: (a) to assess existing infrastructure and public facilities and those systems' ability to meet the needs of future demand; (b) to identify any issues and challenges with these systems; (c) to identify major improvements/expansions needed to accommodate future demand; and (d) to assess and summarize the existing regulatory and development environment as it relates to land use.

The Existing Conditions report will include an analysis of transportation, land use, infrastructure and development potential, community assets and character (including amenities, facilities, historic and/or cultural assets, parks and open space). The analysis should include the full ONELINE study area to facilitate decision making on locations along the full length of the Corridor. Mapping and information for existing and planned features will be developed for roadways, transit, bicycle and pedestrian infrastructure, sidewalks, trails, land use and business activity, utilities (electrical, gas, water, sewer, storm water), redevelopment potential and community assets.

Task 4 Deliverables:

- [Draft and final existing conditions report](#)

5.1.5. Market Analysis

This market analysis will be focused on the TOD study area and will build on the *2018 Downtown Market Study*, considering changes to the local economy post-COVID and new development projects that have come online in recent years. It will help determine what kind of infill development the market can support in the near-term and where long-term approaches may be needed to achieve the City's vision for equitable transit-oriented development. Community engagement activities should include members of the real estate and business community and be used to inform the market analysis.

The market analysis report should:

- Briefly summarize relevant demographic trends in the study area.
- Identify market trends and market potential by sector. Current uses, vacancy rates, rental rates and leasing velocity, sale prices and sales velocity, and quality may be considered.
- Identify any specific types of development needed to create a complete, equitable transit-oriented community in the study area.
- Identify and analyze impediments to development in the study area, including market, structural, regulatory, and other factors.
- Identify publicly owned land in the study area that is well suited to redevelopment.

The findings from the market analysis will inform the recommendations in the TOD Work Plan (Task 7).

Task 5 Deliverables:

- Draft and final market analysis report

5.1.6. Vision, Goals, and Character Areas

Transit-oriented development and infrastructure can take many forms, and the City of Jackson is seeking a context-sensitive approach. Establishing a clear vision for what transit-oriented development will look like in Jackson will inform the recommended Work Plan strategies in Task 7.

Based on community input and the market analysis findings, a holistic vision and goals for transit-oriented development in Jackson will be established. These should address the appropriate scale of development, prevailing land uses, and unique characteristics and should be compatible with the City's comprehensive plan and neighborhood plans. A definition of equitable transit-oriented development for Jackson will also be determined as part of this task.

Character areas should be defined as part of this task to allow zoning, future land use, and place making strategies that will help realize this vision to vary by context. These character areas will be informed by the market analysis, community input, and existing land use policies. They should include the areas served by the planned ONELINE premium transit corridor (the pilot TOD area), as well as up to two other corridors well suited for future TOD.

Task 6 Deliverables:

- Draft and final character areas (narrative and map)
- Draft and final vision and goals

5.1.7. TOD Comprehensive Work Plan

Building on work completed in prior tasks, the Consultant will create a comprehensive TOD Work Plan with recommendations for TOD-supportive strategies for:

- Zoning and land use policies by character area
- Multimodal street planning and design guidelines
- Station area place making strategies

TASK 7.1: TOD SUPPORTIVE LAND USE AND ZONING RECOMMENDATIONS

This task will focus on opportunities to encourage transit-supportive development within walking distance of planned premium transit stops through land use policies and regulations. As part of this task, the consultant team should review existing policy documents, including:

- *Fabric Jackson Comprehensive Plan (2021)*
- Jackson Zoning Ordinance
- Development program for Downtown Properties Mixed Use Development (ongoing)

The Consultant will develop TOD supportive land-use and zoning recommendations that will:

- Refine character areas.

- Address potential changes to future land use classifications to encourage mixed-use, human-scale development.
- Audit the existing zoning code for compatibility with transit-supportive development and alignment with the character areas.
- Identify recommended changes to the zoning code to encourage more human-scale building facades, site plans, and public realm features.
- Recommend community-serving uses, such as childcare facilities or greenspaces.
- Provide recommendations for incentives to future developers in the corridor, including potential expedited permits, tax abatements or credits, or other strategies.
- Provide recommendations to ensure housing affordability along the corridor.
- Identify potential catalyst sites for near-term development and create sample programs and renderings for up to three model sites that reflect the recommended zoning changes.
- Provide recommendations for anti-displacement strategies.

TASK 7.2: TOD STREET DESIGN AND PLANNING GUIDELINES

This task will support the development of safe, comfortable multimodal connections to the premium transit line. As part of this task, the consultant team should review existing design guidance documents and existing infrastructure, including:

- City of Jackson Code of Ordinances
- Existing streets, sidewalks, bicycle facilities, and trails

The TOD Street design and planning guidelines will:

- Identify priority obstacles/missing links in the walking and biking network.
- Define priority routes to invest in high-quality walking and biking infrastructure connections to transit.
- Define and map street types within the study area.
- Create design guidelines that allow for safe and efficient integration of transit, pedestrian, bicycle/ shared mobility and vehicular traffic, including a set of context-sensitive typical street section graphics.
- Ensure ADA accessibility throughout the study area.
- Provide wayfinding recommendations for convenient access to all corridor amenities.

TASK 7.3: PLACEMAKING RECOMMENDATIONS

This task will focus on identifying opportunities to enhance urban design around station areas to make them inviting, memorable places, including:

- Identify locations for new or enhanced parks, plazas, or other public spaces.
- Identify opportunity sites for public art installations.

- Recommend specific urban design strategies for each character area.
- Programming recommendations and ideas for partnerships to support initial transit use and ongoing support.

Task 7 Deliverables:

- Draft and final comprehensive TOD Action Plan, including:
 - TOD Supportive Land Use and Zoning Recommendations
 - TOD Street Design and Planning Guidelines
 - Place making Recommendations
- GIS files (geodatabase or shape files) for:
 - Locations where zoning or future land use changes are recommended
 - Proposed infrastructure projects

5.1.8. Implementation and Funding Plan

The Consultant will prepare an implementation strategy that bridges the gap between current conditions and those required for a successful TOD corridor. The implementation and funding plan will ultimately serve as the City’s roadmap for delivering the ONELINE corridor and will involve substantial input from the PSC and TAC. This task will identify:

1. A phased program of capital projects that will support the ONELINE corridor and TOD workplan;
2. Potential funding sources and financing mechanisms; and
3. Short and mid-term actions and partnerships that can be taken to create the momentum needed for the TOD Corridor to become fully realized.

TASK 8.1: CAPITAL IMPROVEMENT PLAN (CIP) RECOMMENDATIONS

The consultant will develop a Capital Improvement Plan (CIP) encompassing the infrastructure improvements needed to implement the TOD workplan. The CIP will outline a comprehensive program of TOD-supportive capital projects and planning-level capital cost estimates.

TASK 8.2: PRIORITIZATION AND PHASING

The consultant will develop a phased implementation and feasibility strategy (i.e. property acquisition, infrastructure improvements, relocation, timing, entitlements, comprehensive plan and zoning amendments, etc.) that corresponds to the TOD workplan and CIP recommendations. As part of this task, the Consultant will establish a system to evaluate identified projects to determine priorities and outline a phased work program, including a proposed timeline with short-term (1-2 years), mid-term (3-5 years), and long-term (5+ years) projects.

As part of this task, the consultant team will hold implementation work sessions with the Jackson Redevelopment Authority and other key stakeholders to discuss capacity and interest in partnering on the implementation of proposed initiatives. The Consultant will also work closely with the Central Mississippi Planning & Development District (CMPDD), the region’s

Metropolitan Planning Organization (MPO), to develop a comprehensive work plan for this project that will be included in the Unified Planning Work Program (UPWP) and the Mississippi 2045 Transportation Plan.

TASK 8.3: FINANCIAL PLAN

The Financial Plan will be designed to address the challenges in identifying appropriate and sustainable funding sources to implement the identified projects. It should review funding structures of successful comparable TOD developments and recommend approaches that could be considered to increase financing opportunities.

The financial plan will identify potential funding sources for public investments and evaluate and recommend financial tools and partners to implement the ONELINE work program. It will take the following categories, models, and mechanisms into consideration:

Categories	Models	Mechanisms
<ul style="list-style-type: none"> • Station and Station-Area Infrastructure • District and Downtown Infrastructure • Transit Corridor Infrastructure 	<ul style="list-style-type: none"> • Anchor institution partnerships • Corridor-level parking management • Land banking • District energy systems • Community improvement districts 	<ul style="list-style-type: none"> • Direct feed • Debt tools • Credit assistance • Equity • Value capture • Grants • Impact fees

Task 8 Deliverables:

- Draft and final Funding and Implementation Plan, including:
 - Draft and Final Capital Improvement Plan
 - Draft and Final Financial Plan

5.2. Deliverables

- Project Management Plan
- Project Management Team meetings, agenda, and minutes
- Progress reports with monthly invoicing
- Conceptual station locations, right-of-way treatments, and service plan
- Draft and final project definition report
- Conceptual operating and capital cost estimates
- Community Engagement Plan
- Project website
- Press releases, social media posts, posters, flyers
- Engagement activity materials and summaries
- Draft and final existing conditions report
- Draft and final market analysis report
- Draft and final Financial Plan
- Draft and final TOD Comprehensive Work Plan

6. SUBMITTAL INSTRUCTIONS

6.1. Schedule

The City intends to adhere to the schedule provided in the table below for the procurement of services. This schedule may change at the City’s sole discretion.

Procurement Schedule

Activity	Date
Released Date	Friday, October 4, 2024
Last Day for Written Inquiry	Wednesday, October 9, 2024 @3:30 PM CST
City Response to Clarification/Questions	Friday, October 11, 2024 @5:00 PM CST
Addenda Posted (if required)***	Friday, October 11, 2024 @5:00 PM CST
Closing Date	Tuesday, October 22, 2024 @3:30 PM CST
Finalist in Person Interviews*	TBA
Final Selection (Best & Final Offer) *	TBA
Notice of Intent to Award**	TBA

* City of Jackson reserves the right to award a contract(s) without demonstrations or a Best and Final Offer.

**Issuance of a Notice of Intent to Award is not a substitute for a contract and can be revoked.

***City of Jackson reserves the right to modify the Procurement Schedule through written addenda.

6.2. Submission

Proposers shall remit one (1) original and six (6) signed copies of their proposal including required certifications and affidavits.

Any alterations to the forms contained in the RFP may be cause for the proposal to be declared as nonresponsive. For this Request for Proposals (“RFP”), all Proposals will be received by the City of Jackson, Office of the City Clerk at 219 South President Street, Jackson, MS 39205 until 3:30 p.m., Central Daylight Time (CDT) on Tuesday, October 22, 2024. Electronic proposal and/or reverse auction proposal can be submitted at www.centralbidding.com. For any questions relating to the electronic bidding process, please call Central Bidding at 225-810-4814.

6.3. General Condition

6.3.1. Limitations

This RFP does not commit the City to award a contract, to pay any costs incurred in the preparation of the proposal in response to this request, or to procure or contract for services or supplies. The City expressly reserves the right to reject any and all proposals or to waive any irregularity or information in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any proposer and of the suitability of the materials and/or services to be rendered. The City reserves the right to withdraw this RFP at any time without prior notice. Further, the City reserves the right to modify the RFP schedule described herein.

6.3.2. Award

The City may ask RFP finalists to present oral presentations regarding their firms and any special expertise in the necessary areas. The Committee will make all decisions regarding the evaluations, determination of responsible Proposers and the competitive range, negotiations and the selection of the Proposer, if any, that may be awarded the contract. The City also reserves the right to award the contract without discussion or interviews, based upon the initial proposals. Selection will be based upon demonstrated competence and professional qualifications necessary for the satisfactory performance of the services required. The primary desire of City for this procurement is to ensure an award will be made based on the highest quality of service proposed that best matches City requirements using the FTA approved Third Party Contracting Guidance (FTA C 4220.1F) "Best Value" methodology. Per FTA's Third-Party Contracting Guidance, Best Practices Procurement Manual, "Best Value" is defined as follows:

"Best Value" is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include experience of the management team, creativity of proposal, quality and comprehensiveness of required Plans. The award selection is based upon consideration of a combination of technical and price factors to determine the offer deemed most advantageous and of the greatest value to the CITY OF JACKSON.

6.3.3. Written Inquiries and Responses

All questions pertaining to this RFP shall be submitted in writing to the Transportation Planning Manager at mguice@jacksonms.gov. The deadline for submitting questions is stated in the procurement schedule. **QUESTIONS OR COMMENTS WILL NOT BE RESPONDED TO OVER THE TELEPHONE.** A response to questions and comments will be emailed to all solicitors after receipt of said questions or request for an interpretation or comments pursuant to the procurement schedule. Proposers shall rely only on written addenda provided by the City in submitting or revising Proposals.

Proposer are specifically directed not to contact any City personnel for meetings, conferences, or technical discussions related to this Request for Proposals. Failure to adhere to this policy may be grounds for rejection of proposal.

The City of Jackson will not be responsible for oral interpretations given by any City employee, representative, or others. Proposer are cautioned that any statements made that materially change any portion of the proposal documents shall not be relied upon unless subsequently ratified by a formal written amendment to the proposal document. The issuance of a written addenda is the only official method whereby interpretation, clarification, or additional information can be given. Any changes, additions, or deletions to this Request for Proposal will be in the form of written addenda issued by the City. Addenda will be posted on the City's website where the RFP is posted and www.centralbidding.com. Prospective proposers must check the website for addenda or other relevant new information during the response period. The

City is not responsible for the failure of any prospective proposer to receive such addenda. All addenda so issued shall become a part of this Request for Proposal.

6.3.4. Proprietary Information

The proposals received shall become the property of the City of Jackson and are subject to public disclosure. Proposers are to indicate any restrictions on the use of data contained in their responses. Those parts of a proposal which are defined by the proposer as business or trade secrets, as that term is defined in State of Mississippi Government Code and are reasonably marked as "Trade Secrets", "Confidential" or "Proprietary" shall only be disclosed to the public if such disclosure is required or permitted under the State of Mississippi Public Records Act or otherwise by law. Proposers who indiscriminately and without justification identify most or all, of their proposal as exempt from disclosure may be deemed non-responsive.

7. PROPOSAL CONTENT

The organization of the proposal should follow the general outline below. Each proposal should consist of a Technical Proposal (7.1) and a Cost Proposal (7.2) in sealed package.

7.1. Technical Proposal

7.1.1. Letter of Transmittal:

The transmittal letter should include the name, title, address, phone number, and original signature of an individual with authority to negotiate on behalf of and to contractually bind the consultant(s) firm, and who may be contacted during the period of proposal evaluation. Only one transmittal letter need be prepared to accompany all copies of the technical and cost proposals.

7.1.2. Executive Summary

Describe your understanding of the project and a description of the process/approach to be used. The proposer should demonstrate an adequate understanding of the role and relationships of the City and an awareness of issues specific to expectations outlined in the RFP.

7.1.3. Project Management

The proposer must prepare an explanation of the project management system and practices to be used to assure that the proposed services are completed timely and that the quality of the products will meet the City's requirements.

7.1.4. Project Approach

Proposer must include the following:

- a complete description of the Proposer's technical approach to the Scope of Work and Deliverables.
- An itemized description of the proposed project schedule and the end products to be produced.

7.1.5. Company Profile and Qualifications

Proposer must include the following:

- a brief description of the firm or firms, including the year the firm was established, type of organization of firm (partnership, corporation, etc.), and any variation in size over the last five years, along with a statement of the firm's qualifications for performing the subject consulting services
- a brief description of the firm's experience with similar projects
- description of the qualifications and experience of each professional who will participate in the project, including a resume for each member of the project team
- designated project manager and an organizational chart showing the manager and all project staff who will provide services

7.1.6. References

The proposal must include a list of (at least 3) references for similar projects. References should include client contact names, addresses, phone numbers, description of the type of work performed, approximate dates on which the work was completed, and professional staff who performed the work. If a subcontractor is proposed, two to three similar qualifications and references should be provided for the subcontractor.

7.1.7. Compliance Statement

The proposal must include:

- Discussion of the Proposer's affirmative action policy, use of Disadvantaged Business Enterprises (DBEs) in the performance of this work, and disclosure of any actual, apparent, or potential conflicts of interest
- Statement of compliance with state and federal requirements in conducting the Scope of Work

7.1.8. Disadvantaged Business Enterprise (DBE)

The DBE requirements of 49 CFR Part 26 applies to this contract. There is a 3.00% minimum DBE participation goal for this contract. Contractors are required to use race-neutral and, if necessary, race-conscious Good Faith efforts to meet this DBE participation goal. The selected Contractor will report its race-neutral and race-conscious measures quarterly along with its DBE(s). The DBE Compliance Officer, provided through the City of Jackson, will perform regular site visits to ensure that all DBE obligations are fulfilled and that the work performed by each DBE meets specifications. The DBE Compliance Officer will review the Contractor's daily field reports to verify that the work is being performed by the contracted DBE and not by the prime Contractor's own workforce. If the Contractor does not meet the minimum DBE goal or if the paid amount differs from the amount submitted, the prime Contractor must provide a written explanation.

7.2. Cost Proposal

The proposer shall prepare a detailed cost proposal for the work to be performed. The cost proposal shall itemize the direct hourly rates, fringe benefit rate, indirect cost rate, travel, materials and supplies. Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 Contract Cost Principles and Procedures and 2 CFR, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards shall be used to determine the allow ability of individual project cost items. The same cost proposal detail is required for sub-consultants. Include a total "not-to-exceed" amount for this proposal.

7.3. Required Forms and Certifications

- General Information Acknowledgement of Receipt of Addenda (submit whether or not any addenda are issued)
- Federal Clauses Checklist & Certification
- Disadvantaged Business Enterprise Certification
- Suspension & Debarment Certification
- Lobbying Certification
- Non-collusion Certification
- Disclosure of Potential Conflict of Interest Certification
- City of Jackson's Equal Business Opportunity (EBO) Application Plan
- City of Jackson's Vendor Application

7.4. Clarification/Interviews

Proposer may be asked to clarify proposal information through writing or interviews. The clarification period will begin when the Proposals are submitted. Proposer may be required and shall be prepared to attend an interview with the Evaluation Committee. The City may choose, at its sole option, not to interview all proposing Proposers. The City may reject any or all Proposals submitted, or at its sole discretion, award the Agreement to the best Proposal without any interviews.

7.5. Accuracy in Reporting Requested Information

Information submitted as part of the RFP will be subject to verification. Inaccurate information or information that is misleading will be, at the City's sole discretion grounds for removal of a proposal from further consideration. In the event a Proposer is awarded an Agreement because of this RFP, any inaccurate or misleading information subsequently discovered by City to be a part of the proposal will be, at the City's sole discretion, grounds for Proposer's termination by default under the terms of the Agreement.

7.6. Proposal Guidelines

7.6.1. Willingness to Accept Proposed Arrangements

Proposers should fully inform themselves of the conditions, requirements, and specifications before submitting a proposal. The submission of a proposal constitutes Proposers' acceptance of the terms and conditions of this solicitation request, In addition, Proposers will be expected to accept the standard City contract language for professional services agreements.

The Proposer is responsible for all costs related to the preparation of the proposal, demonstrations or interviews. Any costs associated with the project not specifically set forth in this Request for Proposal will be the responsibility of the Proposer and will be deemed included in the fees and charges proposed.

City of Jackson reserves the right to:

- Award to one or more vendors
- Accept or reject any or all proposals
- Reject any or all proposals until a contract is signed with the Proposer

- Reject this solicitation and issue a new one for any reason
- Waive deviations from the requirements
- Waive any informality or minor irregularity in proposals received
- Issue changes to the solicitation in the form of written addenda
- Request additional information to fully evaluate a proposal

A proposal will be rejected when:

- It is late
- Not in the required format
- The Proposer fails to meet the minimum qualifications listed
- The Proposer is determined to be not responsible as described in the RFP
- Any required form is not signed
- Vendor information, references, or any other form is incomplete or incorrect
- Any other reason determined to be in the best interest of the City of Jackson
- It does not meet required terms and conditions
- The details of the proposal have been altered
- A Proposer fails to timely respond to a request for additional information
- It fails to contain any of the required information
- A conflict of interest is not properly disclosed
- Proposer fails to acknowledge in writing addenda

Proposals may not be modified after opening unless requested by City of Jackson. Prior to opening, proposals may be withdrawn at any time.

City of Jackson may request that information be displayed differently than presented (for example, request a bundled pricing structure be itemized).

Proposal pricing shall be valid for a period of 120 calendar days from proposal or Best and Final Offer (BAFO) deadline, if a BAFO occurs.

City of Jackson may request clarification or additional information, including, but not limited to, financial statements.

Submission of a response constitutes an offer to enter into a binding legal Agreement with the City on all the terms specified in this RFP including all Appendices.

7.6.2. Minimum Proposer Qualifications

At the time of award of proposal, Proposers and any sub-consultants must meet the following minimum qualifications. Proposers may not substitute qualifications of a sub for their own:

- Have a State of Mississippi and all required local government business license(s) and endorsements.
- Be registered with SAM.gov and not be suspended or debarred.
- Demonstrate there are no outstanding and/or repetitive violations with Labor and Industries, Department of Revenue, or Employment Security.
- Is skilled and regularly engaged in the general class or type of work called for under the contract.
- Has performed satisfactorily on other contracts of like nature, magnitude and comparable difficulty, and at comparable rates of progress.
- Have experience with transit agencies similar in size to City of Jackson.

- Ability to attend meetings on-site at City of Jackson or other area locations.
- Offer a fixed cost for project services.
- Demonstrate the ability to maintain adequate files and records to meet project reporting requirements.

7.6.3. Submission Standards

Proposals will have:

- Pages of the proposal should be numbered
- Sections should be clearly labeled.
- Sections should follow order and organization of the proposal content section.

7.6.4. Conflict

City of Jackson officers, employees, agents, or Council members will not solicit or accept gifts, favors, or anything of monetary value from Proposers. Any City of Jackson officer, agent, employee, or Jackson City Council member with a perceived or actual financial or other interest in the award of this proposed contract will recuse himself/herself from any evaluation or decision on any proposal.

Proposers and their staff must declare any perceived or actual conflict of interest. For example, a conflict of interest would arise if a Proposer or staff did the following:

- Assists in the creation of the scope of work. This includes, but is not limited to, reviewing and commenting on the preliminary scope in whole or part, assisting staff in specification writing, or recommending the use of a particular brand or supplier/distributor in the specification or evaluation of proposals.
- Has access to nonpublic information during the performance of an earlier contract or has been provided with information other contractors have not during procurement.
- Assists in the creation of a project budget.
- Has a personal or professional relationship or affiliation (past or present) with a member of the evaluation or project team.
- Has a financial gain from the recommendation and/or purchase of a particular good or service relating to a contract or potential contract. (e.g. distributor/manufacturer relationship).

City of Jackson will review all conflict-of-interest statements and notify the Proposer of its decision to allow or reject a proposal as it pertains to the conflict.

If a conflict of interest is discovered post-award, this will be considered a breach of contract and the contract will be terminated under the terms and conditions provided. The Proposer must pay any additional costs incurred by the City of Jackson to engage another contractor to finish the work.

7.6.5. Addenda

Addenda will be issued to all known respondents, posted at the City of Jackson's website, and on WEBS should questions or clarifications be deemed significant enough to affect received proposals. Proposers must ensure they receive all issued addenda prior to the submission

deadline, and acknowledge each addendum on Appendix C – General Information & Acknowledgement of Receipt of Addenda.

7.6.6. Contact with City of Jackson

Unauthorized contact regarding this RFP with City of Jackson employees or agents may result in disqualification. Any oral communications will be considered unofficial and non-binding on the City of Jackson. Proposers should rely only on written statements issued by the Procurement Officers listed on the cover page.

8. EVALUATION AND SELECTION

8.1. Evaluation and Selection Process

Proposals submitted in response to this RFP will be evaluated in accordance with the criteria established in RFP. The Evaluation Committee shall score the Proposals and make a recommendation to the Director of Planning and Development as to which Proposers are within the competitive range. The Director of Planning and Development will notify Proposers in writing whether or not they are in competitive range. Oral presentations and interviews may be requested by the Deputy Director of Transportation, Department of Planning and Development and/or his/her representatives with all Proposers determined to be in the competitive range. The Deputy Director of Transportation, Department of Planning and Development and/or his/her representatives shall have the right to conduct a cost/price analysis, to review and audit all business records and related documents of any and all Proposers (including any affiliate or parent company, partner, or joint venture member) to determine the fairness and reasonableness of the proposal, to contact any and all client references, and to conduct site visits and investigations.

After the review and scoring, the Director of Planning and Development shall submit a recommendation for award of the Agreement to the City Council. After review and consideration of this recommendation, the City Council shall have the discretion to:

- 1) award the Agreement to the Proposer whose proposal is most advantageous to the City, qualification and other evaluation factors specified in Section 8.2 of this RFP considered, or
- 2) reject any and all Proposals. The City Council is not bound by the recommendation of the Evaluation Committee.

8.2. Selection Evaluation Criteria

Each of the major sections of the proposal will be reviewed and evaluated with criteria designed to help judge the quality of the proposal. The proposals will be evaluated based on the firm's or team's qualifications and related project experience, specifically of those assigned to the City Transportation Study project. An understanding of the work to be performed, the proposed project approach, and the qualifications, experience, ability and capacity of the firm and/or team to complete the project in the time and with competitive pricing, is paramount in the selection process.

EVALUATION CRITERIA	Weight
Understanding of Work to Be Performed	15%
Project Approach to Scope of Work and Deliverables	30%
Team Qualifications and Experience	10%
Timeline and Capacity	20%
Competitive Pricing	25%
TOTAL:	100%

8.3. Selection Committee

The proceedings of the Selection Committee are confidential, and members of the Selection Committee are not to be contacted by the proposers. The Selection Committee, comprised of a minimum of several individuals, will evaluate Proposals and other submitted documentation based on the criteria above. Firms may be invited to oral interviews before the Selection Committee. If oral interviews are conducted, only the specifically identified project team members, led by the designated project manager, will be asked to appear. Finalists will be notified and informed of specific interview requirements and procedures.

8.4. Cost and Contract Negotiations

Once the selection process (written proposal review and oral interviews, if held) is complete, the top-ranking firm will be invited to enter into contract negotiations with the City. At the conclusion of the interview process, Proposers in the competitive range must submit a BAFO, if requested. The BAFO must respond to and fully address all issues, concerns, deficiencies, and questions that arose during the interview process, and should submit the most cost-effective Price Proposal feasible.

In addition, Proposers will be expected to accept the standard City contract language for professional services agreements. If negotiations are unsuccessful, discussions with the highest ranked firm will be terminated and the second highest ranked firm may be contacted for negotiations.

8.5. Final Selection

Final selection of the Proposer will be made by the Director of Planning and Development and/or Deputy Director of Transportation, based on the Selection Committee's evaluation of proposals, the results of the oral interview (if applicable), and terms of the contract language negotiated with the City.

8.6. Notification to Unsuccessful Proposers

Unsuccessful Proposers shall be notified of the City's award of the Agreement to the successful Proposer within five (5) working days of said decision.

8.7. Protests

Procedures for protests are outlined in Appendix A. Protests must be submitted in writing via mail, email or fax to:

Christine Welch, Deputy Director of Transportation
Department of Planning and Development
Office of Transportation
1785 U.S. Highway 80
Jackson, MS 39204
Fax: (601) 948-3840
Email: cwelch@jacksonms.gov

8.7.1. Pre-Bid or Solicitation Phase Protest

A Pre-Bid or Solicitation Phase Protest must be received in writing by the City's Procurement Officer a minimum of five (5) full work days prior to the bid opening or proposal due date. If the written protest is not received in the time specified, the award may be made following normal procedures, unless the City's Procurement Officer, upon investigation, determines that remedial action is required on the grounds of fraud, gross abuse of the procurement process, or otherwise indicates substantial prejudice to the integrity of the procurement system, and said action should be taken. Within three (3) working days from the time the protest is received, the City's Procurement officer will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The City's Procurement Officer will respond to the protest in writing within five (5) working days from the time the protest was received. If the City's Procurement Officer decides to withhold the award pending the resolution of the protest, the City's Procurement Officer may request a time extension for award acceptance from those bidders, contractors, or proposers whose bids or proposal might become eligible for award. This extension for award acceptance must be with the consent of sureties, if any, in order to avoid the need for re-advertising.

The City will not make an award prior to five (5) working days after the protest is resolved, or if the protest has been filed with FTA during the protest negotiation period, unless the City determines that:

- The items or services to be procured are urgently required;
- Delivery or performance will be unduly delayed by failure to make the award promptly; or
- Failure to make the award will otherwise cause undue harm to the City or the federal government.

The City's Procurement Officer will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.

8.7.2. Pre-Award Protest

Protests may be lodged after the Bid Opening or Close of Request for Proposal deadline and prior to Notice of Award. Within three (3) working days from the time the protest is received, the City's Procurement Officer will notify all potential bidders, contractors, or proposers that a protest has been lodged and the nature of the protest. The City's Procurement Officer will respond to the protest in writing within five (5) working days from the time the protest was received. If the City's Procurement Officer decides to withhold the award pending the resolution of the protest, the City's Procurement Officer may request a time extension for award acceptance from those bidders,

contractors, or proposers whose bids or proposal might become eligible for award. The extension for award acceptance must be with the consent of sureties, if any, in order to avoid the need to re-advertise.

The City will not make an award prior to five (5) working days after the protest is resolved, or if the protest has been filed with FTA during the protest negotiation process, unless the City determines that:

- The items of services to be procured are urgently required;
- Delivery or performance will be unduly delayed by failure to make the award; or
- Failure to make the award will otherwise cause undue harm to the City or the Federal Government.

The Procurement Officer will document this action and give written notice of the decision to proceed with the award to the Protester, and to other parties where deemed necessary.

8.7.3. Post-Award Protest

The City's Procurement Officer will receive protest in writing within three (3) working days after the Notice of Award and letters of notification should have been received by bidders or proposers. Upon receipt of a protest, the City's Procurement Officer shall notify the bidder or proposer awarded the contract. The City's Procurement Officer will render a determination to proceed with the contract or suspend the project until the protest is resolved. The City's Procurement Officer will respond to the protest in writing within five (5) working days after receipt of the protest.

8.7.4. Disputes Policy

The City's Procurement Officer will notify the Protestor upon timely receipt of a Protest and may, where appropriate, request additional information from the protestor. The City may, at its discretion, meet with the protestor to review the matters raised by the Protest.

Where a timely Protest has been filed prior to opening of Bids and unless the Protest is resolved by the City prior thereto, the date for receipt of Bids will be extended to accommodate the time needed to resolve the Protest and institute any necessary remedial measures, unless otherwise authorized to proceed under the circumstances set forth in Appendix A.

When a Protest against the making of an award is received and the award will be withheld pending disposition of the Protest, the Proposers whose offers might be eligible for award should be informed of the Protest. If appropriate, those Proposers should be requested, before expiration of the time for acceptance of their offer, to extend the time for acceptance.

The City may suspend the procurement process upon receipt of a bona fide Bid Protest. However, the City reserves the right, notwithstanding the pendency of a Protest, to proceed with the appropriate action in the procurement process or under the contract in the following circumstances:

- Where the item to be procured is urgently required;
- Where the City determines that the Protest is vexatious or frivolous; or
- Where delivery or performance will be unduly delayed, or other undue harm will occur by failure to make the award promptly.

Except in extraordinary circumstances, the City's Procurement Officer shall issue a written decision on the Protest based on the information provided by the protestor, the results of any meetings with the protestor, and the City's own investigation. The City's decision is final except where:

- New data becomes available which was not previously known, and which is a basis for Protest.

8.7.5. Appeals

The City's Procurement Officer has the authority to settle any dispute and resolve the protest. The City's Procurement Officer may solicit written responses regarding the protest from other parties. If the course of action does not result in a satisfactory resolution, the Protester may appeal, in writing, to the Deputy Director of Transportation within three (3) working days after the Procurement Officer issues a final decision. The City's Deputy Director of Transportation in consultation with the Director of Planning & Development will issue a decision within five (5) working days after receipt of the appeal.

The Protester has the right to appeal in writing to the FTA if:

- The Protester has exhausted all administrative remedies with the City and
- The City has failed to follow its protest procedures or failed to review a complaint or protest.

The Protester's appeal must be received by the FTA Region IV Office within five (5) working days of the date the Protester knew or should have known of the violation.

Office of Operations and Program Management
U.S. Department of Transportation
Federal Transit Administration Region IV
230 Peachtree NW, Suite 800
Atlanta, Georgia 30303
Phone: (404) 865-5600

When the Protester sends an appeal to FTA, the Protester must also send a copy of the appeal to the City's Procurement Officer within the same timeframe. In the event of a protest, the City's Procurement Officer will contact FTA to determine whether an appeal has been filed.

Violations of Federal law or regulation will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of state or local authorities.

If data becomes available that was not previously known, or there has been an error of law or regulation, the City will grant an allowance for request for reconsideration.

8.7.6. Notification to FTA in Dispute Matters

The FTA Master Agreement MA (21), October 1, 2019, Section 41 – *Disputes, Breaches, Defaults, or Other Litigation*, states that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

Notification to FTA – The Recipient agrees to notify FTA of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Recipient seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Recipient agrees to inform the FTA before doing so.

Federal Interest in Recovery – The Federal Government retains the right to a proportionate share, based on the percentage of the Federal Share awarded for the Project, of any proceeds derived from any third-party recovery, except that the Recipient may return any liquidated damages recovered to the Project Account in lieu of returning the Federal share to the Federal Government.

Enforcement – The Recipient agrees to pursue all legal rights available under any third-party contract.

FTA Concurrence – FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Recipient.

Alternative Dispute Resolution – FTA encourages the Recipient to use alternative dispute resolution procedures, as may be appropriate.

FTA Circular 5010.1E, Chapter I, Section 7b(1)(d) requires grantees to notify FTA of any current or prospective litigation or major disputed claim in excess of \$100,000 relating to any third-party contract. This Circular also requires grantees to provide a list of all outstanding claims exceeding \$100,000 and a list of all claims settled during the reporting period as part of each quarterly progress report. A brief description and reasons for each claim should accompany this list.

For information on circumstances where the City is required to secure FTA review and concurrence in a proposed claim settlement before using Federal funds, refer to the *Best Practices Procurement Manual* Sec. 11.2.

9. RESERVATION OF RIGHTS

9.1. City's Rights

The City's rights include, but are not limited to, the following:

- Issuing addenda to the RFP, including extending or revising the time line for submittals.
- Withdrawing, reissuing, or modifying the RFP.
- Requesting clarification and/or additional information from any Proposer at any point in the procurement process.
- Executing an Agreement with a Proposer based on the original proposal and/or any other information submitted by the Proposer during the procurement process.
- Rejecting any or all Proposals, waiving irregularities in any Proposals, accepting or rejecting all or any part of any Proposals, waiving any requirement of the RFP, as may be deemed to be in the best interest of the City.
- The City may, but is not bound to, commence negotiations with a selected Proposer.
- Discontinuing its negotiations after commencing negotiations with a selected Proposer, if progress is unsatisfactory in the sole judgment of the City and commencing discussions with another qualified Proposer.
- City reserves the right to audio and video record all live meetings, including conference and interviews, with potential and actual Proposers and staff during all phases of this RFP process. Except for open public meetings, all recordings shall be deemed confidential until after the award of the contract by the Jackson City Council.

9.2. Proposer's Responsibilities

It is the responsibility of each PROPOSER to:

- Examine this RFP, including all appendices and attachments thoroughly.
- Become familiar with local conditions that may affect cost, permitting, progress, performance, or services described in this RFP, including inspection of the City's terrain and streets.
- Consider all federal, state and local laws, statutes, ordinances, regulations and other applicable laws that may affect costs, permitting, progress, performance, or services.
- Clarify with the City any conflicts, errors, or discrepancies in this RFP in accordance with the deadlines specified herein.
- Agree not to collaborate or discuss with other Proposers the content of the service fees proposed.
- Prior to submitting a response, each Proposer will, at his/her own expense, make or obtain any additional examinations, investigations, and studies; and obtain any additional information and data that may affect costs, permitting, progress, performance or furnishing of the project and that Proposer deems necessary to determine its response to RFP.
- Each Proposer shall use mail, fax, email or other delivery mechanism at its own risk, and the City shall not be obligated to accept or respond to any submission that is delayed due to delivery failures.

9.3. Consequence of Submission

The submission of a response to this RFP will constitute a binding representation and warranty by the Proposer that the Proposer has investigated all aspects of the RFP and its own proposal; that the Proposer is aware of the applicable facts pertaining to the RFP process, its procedures and requirement; that the Proposer has read and understands the RFP and has complied with every requirement; that without exception the proposal is premised upon performing and furnishing the services and equipment required by this RFP and the attached Agreement and such means, methods, techniques, sequences of procedures as may be indicated in or required by this RFP and the Agreement; and that the RFP is sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance and furnishing of the requested services.

The submission of a proposal shall not be deemed an agreement between the Proposer and the City. The proposal is a contractual offer by the Proposer to provide equipment in accordance with the proposal. Specifically, the following provisions apply:

- The City shall not be obligated to respond to any proposal submitted nor be bound in any manner by the submission of a proposal.
- Acceptance of a proposal by the City obligates the Proposer to enter into any Agreement with the City for the equipment needed by the City at its sole discretion.
- The Agreement shall not be binding or valid against the City unless and until it is executed by the City and the selected Proposer, and the Proposer's insurance, and/or other surety guarantee have been accepted by the City.

The Proposals received shall become the exclusive property of the City. Once the Agreement award is recommended to the Jackson City Council, all Proposals submitted in response to this RFP shall become a matter of public record and shall be regarded as public records.

9.4. Cost of Submitting Proposals

The cost of investigations, preparing, and submitting a proposal is the sole responsibility of the Proposer and shall not be chargeable in any manner to the City. The City will not reimburse any Proposer for any costs associated with the preparation and submission of a proposal, including but not limited to, expenses incurred in making an oral presentation, participating in an interview, or negotiating an Agreement with the City.

9.5. Tax Exemption

The City of Jackson is exempt from payment of all Federal, State, and local taxes in connection with this Project. Said taxes shall not be included in the proposal or proposal prices. The City will provide necessary tax exemption certificates. This provision does not relieve the Proposer from the responsibility to pay all applicable taxes for goods, services, and labor acquired in the performance of this Project.

APPENDIX A– OFFICE OF TRANSPORTATION PROTEST PROCEDURES

According to FTA Circular 4200.1F, Chapter VII (page VII-1, par. 2), “In general, FTA will not substitute its judgment for that of the recipient or sub-recipient unless the matter is primarily a Federal concern. Examples of “Federal concerns” include, but are not limited to, situations “where a special Federal interest is declared because of program management concerns, possible mismanagement, impropriety, waste, or fraud.” Nevertheless, FTA can become involved in the recipient’s administrative decisions when assistance to support the costs of settlements or other resolutions of protests, disputes, claims, or litigation.” In all instances, City of Jackson, Department of Planning and Development, Office of Transportation (City) shall disclose information regarding protests to FTA via memorandum.

Potential bidders, contractors, or proposers can lodge written protests as a remedy to correct a perceived wrong that may have occurred during the procurement process. The City will accept and review the protest with the understanding that the integrity of the procurement process may be at stake. The City will use the following procedures to resolve disputes in the attempt to avoid FTA involvement or litigation.

All protest lodged by potential or actual bidders, contractors, or proposers must be made in writing and contain the following information:

1. Name, address, and telephone number of the protester.
2. Identification of the solicitation or contract number and title.
3. A detailed statement of the protest’s legal and factual grounds, including copies of relevant documents.
4. Identification of the issue(s) to be resolved and statement of what relief is requested.
5. Argument and authorities in support of the protest.
6. A statement that copies of the protest have been mailed or delivered to all interested parties in the Invitation for Bid or Request for Proposal process. In the case of Request for Proposals, the City Procurement Officer shall direct the protester to mail or deliver the protest to relevant parties.

Mail or hand deliver the protest to:

Procurement Officer
City of Jackson, Department of Planning and Development
Office of Transportation
200 South President Street
Jackson, MS 39201-0017

(Faxed or emailed protests will not be accepted.)

The City’s Procurement Officer will respond, in written detail, with counterclaims to each substantive issue raised in the protest. The Procurement Officer will also perform the following analysis:

- Price Analysis or Cost Analysis for each claim.
- Technical Analysis to determine the validity of the claim(s) and determine the appropriate response(s).
- Legal Analysis to consider all the factors available after the price, cost and technical analyses have been conducted to determine the contractor’s, City, and FTA’s legal positions.

(For more information on developing a position and how to handle liquidated damages, refer to the *Best Practices Procurement Manual* (Sec. 11.2).

APPENDIX B – FEDERAL CLAUSES

	Federal Clauses	Yes
1	Fly America Requirements	
2	Buy America Requirements (Rolling Stock)	
3	Cargo Preference	
4	Energy Conservation	
5	Clean Water	
6	Bus Testing	
7	Pre-Award & Post Delivery Audit Requirements	
8	Lobbying	
9	Access to Records and Reports	
10	Federal Changes	
11	Clean Air	
12	Contract Work Hours and Safety Standards Act	
13	No Government Obligation to Third Parties	
14	Program Fraud and False or Fraudulent Statement or Related Acts	
15	Termination	
16	Government Wide Debarment and Suspension (Non-Procurement)	
17	Contracts Involving Federal Privacy Act Requirements	
18	Civil Rights Requirements	
19	Breaches and Dispute Resolution	
20	Disadvantaged Business Enterprise	
21	Prompt Payment	
22	Incorporation of Federal Transit Administration (FTA) Terms	
23	Other Federal Requirements	
24	Full and Open Competition	
25	Prohibition Against Exclusionary or Discriminatory Specifications	
26	Conformance with ITS National Architecture	
27	Access Requirements for Persons with Disabilities	
28	Notification of Federal Participation	
29	Interest of Members or Delegates to Congress	
30	Ineligible Contractors and Subcontractors	
31	Other Contract Requirements	
32	Compliance with Federal Regulations	
33	Real Property	
34	Access to Services for Persons with Limited English Proficiency	
35	Environmental Justice	
36	Environmental Protections	
37	Geographic Information and Related Spatial Data	
38	Geographic Preference	
39	Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only	
40	Catalog of Federal Domestic Assistance (CFDA) Identification Number	
41	CFDA Number for the Federal Transportation Administration	
42	Recycled Products Contract Work Hours & Safety Standards Act	
43	Charter Bus Requirements	
44	School Bus Requirements	
45	Transit Employee Protective Provisions	
46	Drug and Alcohol Abuse and Testing	
47	Patent and Rights in Data	
48	Davis Bacon and Copeland Anti-Kickback Acts	
49	Privacy Act	
50	Veterans Preferences	
51	Safe Operation of Motor Vehicles	
52	Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment	
53	Severability	
54	Trafficking in Persons	
	I hereby certify by my signature below that I have read and understand the Federal Clauses referenced above and listed below.	
	Signature _____ Date _____	

1. Fly America Requirements

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall comply with 49 USC 40118 (the “Fly America” Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US 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. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

2. Buy America Requirements (Rolling Stock)

Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000) Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$100,000) made with capital, operating or planning funds. Separate requirements for rolling stock are stated at 5323(j) (2) (C) and 49 CFR 661.11 and as amended by Map-21 (5325). Rolling stock must be manufactured in the US and have a minimum 60% domestic content and adhere to contract term limitations. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

3. Cargo Preference

Contracts involving equipment, materials or commodities which may be transported by ocean vessels: These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% 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 US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.); c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

4. Energy Conservation

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

5. Clean Water

All Contracts and Subcontracts over \$100,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

6. Bus Testing

Contractor [manufacturer] shall comply with 49 USC A5323(c) and FTA's implementing regulation 49 CFR 665, to the extent they are consistent with 49 U.S.C. § 5318(e), as amended; and shall perform the following:

- a. A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient prior to the recipient's final acceptance of the first vehicle.
- b. A manufacturer who releases a report under para. 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
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- c. If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to the recipient's final acceptance of the first vehicle. If configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- d. If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the US before Oct. 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

7. Pre-Award & Post Delivery Audit Requirements

Pre-Award & Post-Delivery Audit Requirements - Applicability – Rolling Stock/Turnkey

Contractor shall comply with 49 USC 5323(l) and FTA's implementing regulation 49 CFR 663 and submit the following certifications:

Buy America Requirements: Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If contractor certifies compliance with Buy America, it shall submit documentation listing:

- a. Component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and
 - b. The location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
 - c. Solicitation Specification Requirements: Contractor shall submit evidence that it will be capable of meeting the bid specifications.
 - d. Federal Motor Vehicle Safety Standards (FMVSS): Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the buses will not be subject to FMVSS regulations.
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8. Lobbying

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000 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 \$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 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.

9. Access to Records and Reports

Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). The following access to records requirements applies to this Contract:

- a. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
- b. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a) 1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- c. 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 an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, 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.
- d. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a) 1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- e. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- f. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) 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 recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i) (11). FTA does not require the inclusion of these requirements in subcontracts.

10. Federal Changes

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

11. Clean Air

- a. Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- b. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

12. Contract Work Hours & Safety Standards Act

Applicability – Contracts over \$100,000

- a. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
- b. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.
- c. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para (2) of this section.
- d. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

13. No Government Obligation to Third Parties

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

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

14. Program Fraud and False or Fraudulent Statements or Related Acts

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

- a. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, 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 FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.
- b. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n) (1) on contractor, to the extent the US Government deems appropriate.
- c. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

15. Termination

Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000.

- a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.
- b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be affected by serving a notice of termination to contractor setting forth the manner in which contractor is in default.

Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that 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 contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

- c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the 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 the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.
- d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. Termination for Default (Supplies and Service) If 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 contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- g. Termination for Default (Transportation Services) If 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 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 contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if 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 contractor a notice of termination specifying the nature of 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. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

- i. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of 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
- j. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.
- k. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and 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 contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- l. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract closeout 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 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 contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

16. Government Wide Debarment and Suspension (Non-Procurement)

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:

- a. Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and
- b. If the Recipient suspends, debar, or takes any similar action against a Third-Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

17. Contracts Involving Federal Privacy Act Requirements

When a grantee maintains files on drug and alcohol enforcement activities for FTA and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- a. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- b. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

18. Civil Rights Requirements

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

- a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or

- business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,
- b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,
 - c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,
 - d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third-Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third-party contracts exceeding

\$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

- e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49

- C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,
- h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,
 - i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,
 - j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.
 - k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

19. Breaches and Dispute Resolution

All contracts over \$100,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the 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 therefore shall be made in writing to such other party within ten days 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 recipient and 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 residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and

remedies available there under 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 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 there under, except as may be specifically agreed in writing.

20. Disadvantaged Business Enterprise

Contracts over \$3,000 awarded on the basis of a bid or proposal offering to use DBEs

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, anticipation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.
- b. The contractor shall not discriminate on the basis of race, color, religion, 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 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 the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
- d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
- f. The contractor must promptly notify the recipient 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 the recipient.

21. Prompt payment

Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors' work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

22. Incorporation of Federal Transit Administration (FTA) Terms

All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated 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 request that would cause the recipient to be in violation of FTA terms and conditions.

23. Full and Open Competition

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

24. Prohibition Against Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

25. Conformance with ITS National Architecture

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

26. Access Requirements for Persons with Disabilities

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

27. Notification of Federal Participation

To the extent required by law, in the announcement of any third-party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third-party contract.

28. Interest of Members or Delegates to Congress

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

29. Ineligible Contractors and Subcontractors

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

30. Other Contract Requirements

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

31. Compliance with Federal Regulations

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as 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.

32. Real Property

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

33. Access to Services for Persons with Limited English Proficiency

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

34. Environmental Justice

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

35. Environmental Protections

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

36. Geographic Information and Related Spatial Data

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

37. Geographic Preference

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201).

38. Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only

Non-Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non-Profit Organizations. Non-Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non-Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

39. Catalog of Federal Domestic Assistance (CFDA) Identification Number

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass-through entity.

40. CFDA number for the Federal Transportation Administration

A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

41. Recycled Products

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 current or previous fiscal year using Federal funds. 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.

42. Charter Bus Requirements

These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

43. School Bus Requirements

Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). Pursuant to 69 USC 5323(f) or (g) as amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities. Violations. If a Recipient or any Third-Party Participant that has operated school bus service in violation of FTA's School Bus laws and regulations, FTA may: (1) Require the Recipient or Third-Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third-Party Participant from receiving Federal transit funds.

44. Transit Employee Protective Provisions

Contracts for transit operations except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

- a. Contractor shall comply with applicable transit employee protective requirements as follows:
 - i. Transit Employee Protective Requirements for Projects Authorized by 49 USC 5311 in Nonurbanized Areas – If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5311, the contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program that is most current, and any alternative comparable arrangement specified by U.S. DOL for application to the project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revision thereto. [New amendments to U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, were published at 73 Fed. Reg. 47046 et. Seq., August 13, 2008.]
- b. Contractor shall also include any applicable requirements in each subcontract involving transit Operations financed in whole or in part with FTA assistance.

45. Drug and Alcohol Abuse and Testing

Operational service contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000). The Contractor agrees to comply with the following Federal substance abuse regulations:

- a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182,
- b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

46. Patent and Rights in Data

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK (\$3,000 or less, except for construction contracts over \$2,000).

- a. Patent Rights
 1. General. The Recipient agrees that:
- b. Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third-Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery,
- c. The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,

1. Federal Rights. The Recipient agrees that:
 - d. Its rights and responsibilities, and the rights and responsibilities of each Third-Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing.
 - a. Rights in Data and Copyrights
 - i. Definition of "Subject Data." means recorded information: (1) Copyright. Whether or not copyrighted, and (2) Delivery. That is delivered or specified to be delivered under the Underlying Agreement,
 - ii. Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to:
 - i. Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but (2) Do not include: (a) Financial reports, (b) Cost analyses, or (c) Other similar information used for Project administration,
 - iii. General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) Permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C(1) do not apply to: (a) Publications or reproductions for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release,
 - iv. Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Nonexclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and
 - v. Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third-Party

Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third-Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception. Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding,

1. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,
2. Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section G(1) if: (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law,
3. Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent, I. Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and
4. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as

required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

47. Davis-Bacon Act and Copeland Anti-Kickback Act

The Contractor agrees to comply with the employee protection requirements of the Davis-Bacon Act. For construction activities exceeding \$2,000 performed in connection with an FTA-funded Project, the Recipient of those funds agrees to comply with, and assure compliance with, the requirements of 49 U.S.C. §5333(a), the Davis-Bacon Act , **3** and the implementing regulations of the Department of Labor at 29 CFR Part 5. In addition to the requirements of the statute and regulations, the Recipient also agrees to report to the FTA every suspected or reported violation of the Davis-Bacon Act or its Federal implementing Regulations.

The Contractor agrees to comply with The Copeland "Anti Kickback" Act (Copeland Act). Section 1 of the Copeland, 18 U.S.C. § 874, is a criminal statute prohibiting anyone from inducing, by any means, any person employed on construction, prosecution, completion, or repair of a federally assisted building or work, to give up any part of his or her compensation to which he or she is otherwise entitled. Section 1 applies to all construction contracts irrespective of amount. Section 2 of the Copeland Act, 40 U.S.C. § 3145, is a civil statute requiring certain employment records to be maintained. Section 2 is administered under U.S. Department of Labor regulations and applies to construction contracts exceeding \$2,000.

48. Privacy Act

U. S. C. 552

49. Contracts Involving Federal Privacy Act Requirements

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- a. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U. S. C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- b. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

50. Veterans Preferences

Recipients and sub-recipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

51. Safe Operation of Motor Vehicles

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Contract.

52. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

- a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - i. Procure or obtain
 - ii. Extend or renew a contract to procure or obtain; or
 - iii. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 1. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunication equipment by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliates of such entities).
 2. Telecommunications or video surveillance services provided by such entities or using such equipment.
 3. Telecommunications or video surveillance equipment or services procured or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonable believes to be an entity owned or controlled by, otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customer is sustained.
- c. See Public Law 115-232, section 889 for additional information.
- d. See also §200.471.
 -

53. Severability

The contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provision thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

54. Trafficking in Person

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- a. Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- b. Procure a commercial sex act during the period of time that the Recipient's Award is in effect;
- c. Use forced labor in the performance of the Recipient's Award or sub agreements thereunder.

APPENDIX C – FORMS



GENERAL INFORMATION FORM
(Must be completed and submitted with Proposal)

Name of organization: _____

Telephone Number: _____

Years in Business: _____

Organization is (check one): Corporation Partnership Association Joint Venture
 Sole Proprietorship Public Agency Quasi-Public Agency

Other (Explain):

Organization's Address:

Name, Title and Telephone Number of the Organization's Authorized Representative:

Acknowledgment of received Addenda No(s): _____

The undersigned, being cognizant of the pages, documents, and Exhibits concerned herewith agrees to provide the City of Jackson, with services described in the Request for Proposal.

The stated Price Proposal shall be firm for 120 days from the due date of this RFP.

The Proposer hereby affirms that this Proposal is genuine, not a sham or collusive, and is not made in the interest of any person not therein named.

Authorized Signature

Date

Printed Name



**CERTIFICATION REGARDING DEBARMENT, SUSPENSION,
AND OTHER RESPONSIBILITY MATTERS FOR ELIGIBILITY TO BID OR PROPOSE**

_____ hereby certifies that it is not included on the U. S. Comptroller General's Debarred List.

Signature of Authorized official:

Firm:

The Proposer further certifies to the best of its knowledge and belief that it and its principals:

- a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transaction by any federal department or agency. Have not within a three (3) 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 transportation, violation of Federal or state anti-trust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making a false statement, or receiving stolen property.
- b. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, state, or local) with commission of, any of the offenses enumerated in Paragraph B of this certification.
- c. Have not within a three (3) year period preceding this Proposal had any public transactions (federal, state, or local) terminated for cause of default.

Where the Proposer is unable to certify to any of the statements in this Certification, such Proposer shall attach an explanation to this Proposal.

(Check one) _____ I DO CERTIFY _____ I DO NOT CERTIFY

DATE: _____

SIGNATURE: _____

PRINTED NAME: _____



CERTIFICATE OF NON-COLLUSION

By submission of proposal, each person signing on behalf of any consultant certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

1) The proposal is submitted without collusion, consultation, communication, or agreement for the purpose of restricting competition, with any other proposer or with any competitor;

2) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

Company Name

Authorized Signature

Date



CERTIFICATION OF RESTRICTIONS ON LOBBYING

The consultant certifies, to the best of its 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 a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.

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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE CONSULTANT, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE CONSULANT UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

_____ Signature of the consultant's Authorized Official

_____ Name and Title of the consultant's Authorized Official Date

_____ Date



Certification Disadvantaged Business Enterprise Program/Equal Employment Opportunity

In accordance with Title 49, Code of Federal Regulations, Part 23 and other applicable Disadvantaged Business Enterprise (“DBE”) and Equal Employment Opportunity (“EEO”) rules and regulations, the Consultant declares that it had made a good faith effort to comply with established DBE goals, and that it has made a good faith effort to meet established EEO goals, as evidenced below:

1. CONTRACTOR’S overall DBE participation rate: _____

2. Names/Locations of DBEs contacted by CONTRACTOR:

3. Names/Locations of DBEs selected by CONTRACTOR:

4. CONTRACTOR’S work force breakdown by race and gender:

TOTAL EMPLOYEES as of _____

JOB CATEGORY	EMPLOYEES									
	Male					Female				
	Wht	Blk	Hsp	Asn	Nat	Wht	Blk	Hsp	Asn	Nat
Officials & Managers										
Professional										
Technical										
Sales										
Office/Clerical										
Craftsmen										
Laborers										
Service										

Note: The above DBE/EEO Affidavit is part of CONTRACTOR’S Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this DBE/EEO Affidavit.

SIGNATURE _____

DATE _____

TITLE COMPANY NAME _____



DISCLOSURE OF POTENTIAL CONFLICT OF INTEREST CERTIFICATION

Consultant hereby indicates that it has, to the best of its knowledge and belief has:

_____ Determined that no potential organizational conflict of interest exists.

_____ Determined a potential organizational conflict of interest as follows:

Attach additional sheets as necessary.

1. Describe nature of the potential conflict(s):

2. Describe measures proposed to mitigate the potential conflict(s):

Signature

Date

Print Name

Company

If a potential conflict has been identified, please provide name and phone number for a contact person authorized to discuss this disclosure certification with Department of Transportation contract personnel.

Name

Phone

Company

**APPENDIX D – EQUAL BUSINESS OPPORUNITY (EBO) PLAN
APPLICATION**

CITY OF JACKSON, MISSISSIPPI

**Chokwe A. Lumumba
Mayor**

EQUAL BUSINESS OPPORTUNITY (EBO) PLAN APPLICATION

Department of Planning and Development
Division of Equal Business Opportunity

200 South President Street
Post Office Box 17
Jackson, Mississippi 39205-0017
(601) 960-1856

CITY OF JACKSON, MISSISSIPPI
EQUAL BUSINESS OPPORTUNITY EXECUTIVE ORDER

LEGAL NOTICE

The City of Jackson is committed to the principle of non-discrimination in public contracting. It is the policy of the City of Jackson to promote full and equal business opportunity for all persons doing business with the City. As a pre-condition to selection, every contractor, bidder or offeror shall submit a *completed and signed* Equal Business Opportunity (EBO) Plan Application with the bid submission, in accordance with the provisions of the City of Jackson's Equal Business Opportunity (EBO) Executive Order. Failure to comply with the City's executive order shall disqualify a contractor, bidder or offeror from being awarded an eligible contract.

For more information on the City of Jackson's Equal Business Opportunity Program, please contact the Division of Equal Business Opportunity at 960-1856. Copies of the EBO Executive Order, EBO Plan Application, EBO Program, the MBE/FBE Directory and the MBE/FBE Certification Affidavit are available at 200 South President Street, Suite 223, Jackson, Mississippi.



(EBO FORM 6-1-00)
**EQUAL BUSINESS OPPORTUNITY
SPECIAL NOTICE TO BIDDERS**

POLICY

The City of Jackson is committed to the principle of non-discrimination in public contracting. Therefore, the City of Jackson requests that prospective vendors and contractors carefully examine their method of selecting subcontractors and suppliers, to ensure that they are not either actively, or passively, discriminating against MBEs and FBEs. As a bidder seeking to do business with the City of Jackson, you are expected to adhere to a policy of non-discrimination, and to make the maximum practicable effort to ensure that historically underutilized firms are given an opportunity to participate in the performance of contracts financed in whole, or in part, with city funds.

DEFINITIONS

For purposes of this policy, the following definitions will apply:

1. **“African American Business Enterprise (AABE)”** shall mean a business that is an independent and continuing enterprise for profit, performing a commercially useful function and is owned and controlled by one or more African Americans, and certified as such by the Division of Business Development.
2. **“Asian American Business Enterprise (ABE)”** shall mean a business that is an independent and continuing enterprise for profit, performing a commercially useful function and is owned and controlled by one or more Asian Americans, and certified as such by the Division of Business Development.
3. **“Hispanic Business Enterprise (HBE)”** shall mean a business that is an independent and continuing enterprise for profit performing a commercially useful function and is owned and controlled by one or more Hispanics, as defined in section 127-4 (7), and certified as such by the Division of Business Development.
4. **“Minority Business Enterprise (MBE)”** shall mean a business which is an independent and continuing operation for profit, performing a commercially useful function, and is owned and controlled by one or more minority group members, as defined in Sections 1, 2 and 3, which group has been determined to have suffered discrimination requiring amelioration and is certified as such by the City.
5. **“Female Business Enterprise (FBE)”** shall mean a business that is an independent and continuing enterprise for profit, performing a commercially useful function and is owned and controlled by one or more females, and certified as such by the Division of Business Development.

OBLIGATION

The Contractor and any Subcontractor shall take all necessary and reasonable steps to ensure that MBEs and FBEs have a maximum opportunity to compete for and participate in the performance of any portion of the work included in this contract and shall not discriminate on the basis of race, color, national origin or sex. If it is determined that there is a significant underutilization of MBEs and FBEs, the Equal Business Opportunity Officer is empowered, pursuant to section 127-8 of the Equal Business Opportunity Executive Order, to conduct an investigation to determine the reasons for the underutilization.

GOALS

The goals for participation by MBEs and FBEs are established by the Equal Business Opportunity Executive Order of the City of Jackson. The Contractor shall exercise all necessary and reasonable steps to ensure that participation meets or exceeds the contract goals. The goals may be attained by subcontracting to, procuring materials from, and renting equipment from MBEs and FBEs. (See Subcontractor/Supplier Participation guidelines below.)

The Equal Business Opportunity participation goals are as follows:

Procurement Category	Asian (ABE)	African- American (AABE)	Hispanic (HBE)	Native American (NABE)	Female (FBE)
A/E & Professional Services	0.16	8.67	0.00	.00	1.96
Construction	0.00	12.41	0.37	0.00	4.89
Goods & Non-Professional Services	0.04	6.78	0.02	0.00	3.03

Those portions of the contract that are proposed for MBEs and FBEs in the response to this bid shall be listed on the attached Equal Business Opportunity Plan Application.

For specific information about the Equal Business Opportunity Plan, please contact the Office of Economic Development at (601) 960-1856.

*Non-white female firms cannot be utilized twice on the EBO plan even though those firms can be certified as either ABE, AABE, HBE, NABE, FBE or both. The firm can only be utilized in one category to fulfill the minority participation goals on the EBO Plan.

Contractors may employ AABEs, HBES, ABEs or FBEs to meet the applicable project goals through various methods, as follows:

A. Subcontractor Participation

- i. Where a prime contractor utilizes one or more subcontractors to satisfy its equal business opportunity commitment, the prime contractor may count toward its EBO Plan only expenditures to MBE (AABE, HBE, or ABE) or FBE contractors that perform a commercially useful function in the work of the contract.
- ii. An MBE or FBE subcontractor is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing and supervising the work involved. In determining whether an MBE or FBE subcontractor, is performing a commercially useful function, factors, including but not limited to the following, will be considered:
 - a. the amount of work subcontracted;
 - b. the type of prime contract
 - c. whether the business has the skill and expertise to perform work for which it is being/has been certified;
 - d. whether the business actually performs, manages and supervises the work for which it is being/has been certified; and
 - e. whether the business purchases goods and/or services from a non-minority/women business enterprise and simply resells goods to the city, city contractor, or other person doing business with the city for the purpose of allowing those goods to be counted towards fulfillment of minority/women*s business enterprise utilization goals.
 - f. standard industry practices.
- iii. Consistent with standard industry practices, an MBE or FBE subcontractor may enter into second tier subcontracts. If an MBE or FBE subcontractor subcontracts a significantly greater portion of the work of its subcontract to a non-minority, non-female owned firm than would be expected on the basis of standard industry practices, it shall be presumed that the MBE or FBE subcontractor is not performing a commercially useful function.

B. Suppliers Participation

- i. Where a prime contractor utilizes one or more suppliers to satisfy its EBO commitment, in whole or in part, the MBE or FBE supplier participation may be credited towards the applicable goal as follows:
- ii. 100 percent of the contract amount for MBE or FBE suppliers who manufacture the goods supplied.
- iii. 100 percent of the contract amount for MBE and FBE suppliers who are wholesalers warehousing the goods supplied or who are manufacturers' representatives, provided that only 25 percent of the applicable MBE or FBE goal may be attained by non-manufacturing supplier contracts to MBEs or FBEs.

- iv. For those contracts where an extraordinarily large proportion of the contract price is for equipment or supplies, a lower project goal may be set than otherwise would be required, or the 25 percent limit for suppliers may be increased, or a combination of these two methods may be utilized.

C. Joint Ventures and Mentor-Protégé Programs

- i. The Division of Equal Business Opportunity shall encourage, where economically feasible, the establishment of joint ventures and mentor protégé programs to ensure prime contracting opportunities for African American, Hispanic, Asian American, Native American and Female Business Enterprises on all eligible projects over \$3,000,000.00. Even if the prime itself is a MBE, joint venture between prime contractors and MBEs shall be required on all projects exceeding three million dollars (\$3,000,000.00).
- ii. Where a contractor engages in a joint venture to satisfy its Equal Business Opportunity Commitment, the Equal Business Opportunity Officer shall review and approve all contractual agreements regarding:
 - a. The initial capital investment of each venture partner;
 - b. The proportional allocation of profits and losses to each venture partner;
 - c. The sharing of the right to control the ownership and management of the joint venture;
 - d. Actual participation of the venture partners in the performance of the contract;
 - e. The method of and responsibility for accounting;
 - f. The methods by which disputes are resolved; and
 - g. Other pertinent factors of the joint venture
- iii. On the basis of these factors, the Equal Business Opportunity Officer shall determine the degree of AABE, HBE, ABE, or FBE participation resulting from the joint venture that may be credited towards the applicable EBO goals of the project.

The bidder or offeror shall provide the Equal Business Opportunity Officer access to review all records pertaining to joint venture agreements before and after the award of a contract reasonably necessary to assess compliance with this policy.

The Equal Business Opportunity Program also encourages Mentor-Protégé programs to assist African American, Hispanic, Asian American, and Female business enterprises in financing, bonding, construction management and technical assistance. Mentor-Protégé agreements will be reviewed by the Equal Business Opportunity Officer for final approval of the following terms of each agreement:

- a. type of technical assistance to be provided by mentor;
- b. rights and responsibilities of each mentor and protégé contracting activity;
- c. the specific duration of the agreement;
- d. the amount of participation by the protégé that may be credited toward the applicable EBO goal.

EQUAL BUSINESS OPPORTUNITY PLAN

In accordance with Section IV of the City of Jackson's Equal Opportunity Executive Order No. 2015-3, each contractor, bidder or offeror shall submit a completed and signed Equal Business Opportunity Plan with bid submission. Such plan should be titled Equal Business Opportunity Plan (EBO Plan)@ and should include the following:

- a. Names, addresses and contact persons of each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise to be used in the contract.
- b. The type of work or service each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise will perform.
- c. The dollar value of the work or service to be performed by each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise.
- d. Scope of the work to be performed by each African American Business Enterprise, Asian Business Enterprise, Hispanic Business Enterprise, and Female Business Enterprise.

WAIVER

If the EBO Plan does not meet the project goals, the bidder or offeror must seek a partial or total waiver of the project goals. The application for waiver of all or part of the project goals must include full documentary evidence of the bidder*s or offeror*s good faith efforts (*see EBO Plan Application*) to meet the project goals and why the request for waiver should be granted. The application shall be in writing and submitted as a part of the bid or offer. It should include a narrative, affidavits and/or exhibits which verify the actions taken by the bidder or offeror to meet the goals.

Replacement

If a MBE/FBE Subcontractor cannot perform satisfactorily, the Contractor shall take all necessary reasonable steps to replace the Subcontractor with another MBE/FBE Contractor. All MBE/FBE replacements must be approved by the EBO Review Committee and the Department. (See *EBO Plan Application*)

To demonstrate necessary reasonable efforts to replace any Subcontractor that is unable to perform successfully, the Contractor must document steps taken to subcontract with another MBE/FBE Contractor.

CITY OF JACKSON, MISSISSIPPI
EQUAL BUSINESS OPPORTUNITY PLAN
APPLICATION

Company Name: _____

Address: _____

City: _____ State: _____ ZIP Code: _____

Telephone: _____

E-mail: _____

Bid Name and Number: _____

Proposed Minority and/or Female Subcontractors: *(See Attachments)*

If a prime contractor utilizes one or more suppliers to satisfy its EBO commitment, all MBE or FBE supplier participation will be credited in accordance to Section VI of the EBO Executive Order No. 2014-3.

Total Bid Amount: \$ _____

WAIVER REQUESTED:

If you fail to meet either or all of the EBO Participation Goals, check this box and follow the directions below to provide the required *WAIVER STATEMENT*.

The "Waiver Statement" should be submitted on company letterhead to the EBO Officer.

*The bidder/offeror shall provide the following as evidence of its good faith efforts and will be evaluated on the same:

- (a) Copies of written notification to MBEs and FBEs soliciting their participation as a subcontractor.
- (b) Evidence of efforts made to divide the work into economically feasible units in order to increase the likelihood of meeting the EBO participation goals.
- (c) Evidence of efforts made to negotiate with MBEs and/or FBE, including, at a minimum:
 - 1. The names, addresses, and telephone numbers of the MBE and FBEs who were contacted.
 - 2. A description of the information provided to MBEs and FBEs regarding the plans and specifications for portions of the work to be performed.
 - 3. A statement of reasons why additional agreements with MBEs and FBEs, if needed to meet the stated goals, were not reached.

4. Evidence of efforts made to assist the MBEs and FBEs contacted who need assistance in obtaining bonding and insurance which the bidder or offeror requires.
5. For each MBE and FBE contacted which the bidder or offeror considered to be not qualified, include a written statement of the reasons for the bidder's or offeror's conclusion.
6. Written proposals solicited from all MBEs and FBEs seeking subcontract work with Prime Contractors at the time of the bidding.
7. A statement with supporting documentation and affidavits indicating whether the offeror has used MBEs and/or FBEs as joint venture partners or subcontractors in past or present private sector contracts in Jackson.

*If you are unable to locate an MBE/FBE, please contact the Business Development Division at (601) 960-1856.

Minority and Female Business Enterprise Actual Participation for this Bid/Offer/Quote:

(* Please list your MBE and FBE Project Participation percentages (%) in the Table below.)

Procurement Category	Asian (ABE)	African-American (AABE)	Hispanic (HBE)	Native American (NABE)	Female (FBE)
A/E & Professional Services					
Construction					
Goods & Non-Professional Services					

REPLACEMENT OF MBE/FBE

If an MBE or FBE is not performing satisfactorily, it is the responsibility of the Prime Contractor to notify the EBO Office immediately both in writing and by phone. All MBE/FBE replacements must be approved by the Equal Business Opportunity Review Committee (EBORC). If these steps are not taken this will result in penalties as outlined in Section XI of the EBO Executive Order No. 2015-3.

CERTIFICATION

I certify, under penalties of perjury, that the information contained in this Equal Business Opportunity Plan Application is true and accurate to the best of my knowledge, and that my company fully intends to utilize all MBEs and FBEs listed if awarded the proposed project and/or service and abide by all EBO guidelines.

 Authorized Signature and Title

 Date

PRINT "AUTHORIZED" NAME HERE: _____

**EQUAL BUSINESS OPPORTUNITY PLAN APPLICATION --
ATTACHMENT
Proposed Minority/Female Business Enterprise Firms**

Company Name: _____ Type Trade/Business: _____

Address: _____

Type Minority Business (MBE/FBE):

City, State, ZIP: _____

- _____ Female (FBE)
- _____ African-American (AABE)
- _____ Asian (ABE)
- _____ Hispanic (HBE)
- _____ Native American (NABE)

Contact Person: _____

Telephone Number: _____

Type Minority Business (MBE/FBE) Involvement:

_____ Subcontractor	_____ Supplier
_____ Joint Venture	_____ Mentor-Protégé

Type Work or Service to be Performed: _____

Scope of Work to be Performed: _____

Dollar Value of the Work to Be Performed by the Minority Business (MBE and/or FBE): \$ _____

Percentage of MBE and/or FBE Participation: _____ %

Company Name: _____ Type Trade/Business: _____

Address: _____

Type Minority Business (MBE/FBE):

City, State, ZIP: _____

- _____ Female (FBE)
- _____ African-American (AABE)
- _____ Asian (ABE)
- _____ Hispanic (HBE)
- _____ Native American (NABE)

Contact Person: _____

Telephone Number: _____

Type Minority Business (MBE/FBE) Involvement:

_____ Subcontractor	_____ Supplier
_____ Joint Venture	_____ Mentor-Protégé

Scope of Work to be Performed: _____

Dollar Value of the Work to Be Performed by the Minority Business (MBE and/or FBE): \$ _____

Percentage of MBE and/or FBE Participation: _____ %

Company

Name: _____ Type Trade/Business: _____

Address: _____

Type Minority Business (MBE/FBE):

City, State, ZIP: _____

- _____ Female (FBE)
- _____ African-American (AABE)
- _____ Asian (ABE)
- _____ Hispanic (HBE)
- _____ Native American (NABE)

Contact Person: _____

Telephone Number: _____

Type Minority Business (MBE/FBE) Involvement:

_____ Subcontractor	_____ Supplier
_____ Joint Venture	_____ Mentor-Protégé

Type Work or Service to be Performed: _____

Scope of Work to be Performed: _____

Dollar Value of the Work to Be Performed by the Minority Business (MBE and/or FBE): \$ _____

Percentage of MBE and/or FBE Participation: _____ %