

RESOLUTION 2020-042

PASSED: MAY 26, 2020

**AUTHORIZING THE ISSUANCE OF A REQUEST FOR PROPOSALS
FOR AN ADA COMPLEMENTARY PARATRANSIT AND DEVIATED
FLEX ROUTE TRANSIT SERVICE PROVIDER.**

WHEREAS, the provision of public transportation service is essential to the people of Illinois; and

WHEREAS, the City of DeKalb, per Federal Transit Administration's Third-Party Guidance Circular 4220.1F, must provide open competition and release a request for proposals when procurement does not lend itself to sealed bidding and more than one source will be willing and able to submit an offer or proposal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF DEKALB, ILLINOIS:

SECTION 1: That the City Manager of the City of DeKalb, Illinois, be authorized and directed to approve the issuance of ADA Complementary Paratransit and Deviated Fixed Route Transit Service Provider Request for Proposals.

SECTION 2: That the City Clerk or the Executive Assistant of the City of DeKalb, Illinois be authorized and directed to attest the Mayor's signature and shall be effective thereupon.

PASSED BY THE CITY COUNCIL of the City of DeKalb, Illinois, at a Regular meeting thereof held on the 26th day of May 2020 and approved by me as Mayor on the same day. Passed by a 6-0-2 roll call vote. Aye: Morris, Finucane, Perkins, McAdams, Verbic, Mayor Smith. Nay: None. Absent: Smith (Recused), Faivre.

ATTEST:



RUTH A. SCOTT, Executive Assistant



JERRY SMITH, Mayor



INFORMATION TO OFFERORS COVER SHEET

Release of this document, pursuant to a FOIA request, prior to approval by City of DeKalb City Council, will provide an unfair competitive advantage to the organization requesting the information.

SOLICITATION NUMBER: TRANSIT-2020-01

THE ENCLOSED SOLICITATION COVERS THE PERIOD: 1/1/2021 THRU 12/31/2025

ISSUING ENTITY: City of DeKalb
1216 Market St.
DeKalb, IL 60115

CONTACT INFORMATION FOR CITY REPRESENTATIVE:

Sabrina Kuykendall
City of DeKalb
1216 Market St.
DeKalb, IL 60115
Sabrina.kuykendall@cityofdekalb.com

ADA PARATRANSIT AND FLEX ROUTE SERVICES TO BE PURCHASED: Qualified contractors are being sought to provide Americans with Disabilities Act (ADA) paratransit and flex route services within the DeKalb Urbanized Area and under the conditions set forth herein. Service shall begin on or about January 1, 2021 and end December 31, 2023. Based on funding and mutual agreement of the City of DeKalb and the Contractor, the agreement period may be extended for up to two additional twelve-month periods: Tuesday, December 31, 2024 or Wednesday, December 31, 2025.

Website Link: www.cityofdekalb.com

RFP Release Date: Wednesday, May 27, 2020

RFP Due Date: Thursday, July 16, 2020 **Deadline:** 1:00 P.M.

**REQUEST FOR PROPOSALS
TO PROVIDE PARATRANSIT AND FLEX ROUTE SERVICES
IN THE CITY OF DEKALB AND THE DEKALB URBANIZED AREA**

**Issued by
The City of DeKalb
Issue Date
May 27, 2020**

**Proposals must be submitted
No later than 1:00 P.M.
July 16, 2020**

LATE PROPOSALS WILL BE REJECTED

This is a Request for Proposals (RFP) Procurement. There will be no public opening.

Submitting the Proposal:

Identify the outside of the proposal as "RFP Transit-2020-01." Include the pricing proposal in a separate sealed envelope identified as "RFP Transit-2020-01.5."

Offerors must submit, in a sealed package, One Original (identified as such) AND 6 copies of all materials required for acceptance of their proposal on or before 1:00 P.M., July 16, 2020 to the following address, attention to:

April Beeman
City of DeKalb Public Works
1216 Market St.
DeKalb, IL 60115

All firms desiring to submit a proposal under these Agreement Documents shall contact Sabrina Kuykendall (contact info above) and provide contact information, including email address, at which notices can be sent to and received from the proposed Contractor. This address will be used for official communications from the City, including pre-proposal communications.

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CONFIDENTIAL

**REQUEST FOR PROPOSAL
TO PROVIDE PARATRANSIT AND FLEX ROUTE SERVICES
IN THE CITY OF DEKALB AND THE DEKALB URBANIZED AREA**

May 27, 2020

GENERAL INFORMATION

The City of DeKalb (hereinafter "CITY") is seeking proposals from transportation providers (hereinafter "PROPOSER") interested in providing paratransit and flex route service within the DeKalb Urbanized Area (UZA).

Service shall begin on or about January 1, 2021 and end December 31, 2023. Based on funding and mutual agreement of the CITY and the selected PROPOSER, the agreement period may be extended for up to two (2) additional twelve-month periods.

The CITY, as the fiscal agent for all state and federal public transit funding for the DeKalb UZA, shall have direct oversight over all day-to-day operations of the selected PROPOSER.

Proposals are requested from qualified transportation service providers to furnish professional services pertinent to the scope of services outlined below for the provision of public transportation for the DeKalb UZA.

The Schedule of Events for this procurement are:

- May 26, 2020 – RFP approved by City Council
- June 12, 2020 at 1:00 P.M. – Pre-bid Meeting,
 - The meeting will be held via teleconference. Please contact Sabrina Kuykendall via e-mail to gather teleconference details.
- June 24, 2020 at 4:00 P.M. – Deadline for submitting questions
- June 26, 2020 – Answers to questions released
- July 16, 2020 at 1:00 P.M. – Proposals due
- August 4 & 5, 2020 – Interviews and Negotiation
- August 24, 2020 – Approval by City Council
- January 1, 2021 – Service begins.

Please return your proposal by **Thursday, July 16, 2020, by 1:00 P.M.** by mail or drop-off in person to April Beeman, City of DeKalb Public Works Building, 1216 Market Street, DeKalb, IL 60115 demonstrating the qualifications of your firm to meet criteria contained herein. Two jump drives with a copy of the full proposal shall be included in the packet. One original copy and six printed copies of the proposal shall also be delivered to the CITY. Proposers are responsible for all costs associated with the preparation and submission of their proposal.

Interviews of qualified PROPOSERS will be conducted **August 4 & 5, 2020**. Final agreement approval will be at the DeKalb City Council meeting, **Monday, August 24, 2020 at 6:00 P.M.**

Should you have any questions, please contact the City Representative: Sabrina Kuykendall, Sabrina.Kuykendall@cityofdekalb.com.

SCOPE OF SERVICES

The scope of services outlined below shall be required of the paratransit operator firm selected to provide paratransit and deviated fixed route services to the CITY. The purpose of this RFP is to

seek competition. Any PROPOSER shall advise the CITY if any specification, language or other requirement inadvertently restricts or limits proposals to a single source.

The purpose of this solicitation is to contract with a PROPOSER that will provide safe, reliable, and efficient paratransit and deviated fixed route service in the DeKalb Urbanized Area for paratransit trips that start and end in the urbanized area. DeKalb County and the Voluntary Action Center are responsible for Rural paratransit trips that have a trip-end outside of the urbanized service area; **those services are not part of this contract**

All service included in this contract will be funded by local funds, FTA Section 5307, and the State of Illinois Urban Downstate Operating Assistance Program (DOAP). Services funded by FTA Section 5311 and rural DOAP are not included. Rural transit; regional fixed routes; taxi; app-based demand service; school bus service; charter service; and other transportation services will not be funded by this contract.

Proposers who operate those types of services from the same facility as paratransit service of this contract will be required to submit a cost allocation plan to distinguish between service funded by this contract and other services that the PROPOSER may operate in the DeKalb Urbanized Area. Proposers who operate non-profit or for-profit services that are not transportation services will also submit a cost allocation plan to separate paratransit service from other services.

A. CURRENT CONDITIONS – PARATRANSIT SERVICES

The selected PROPOSER will be expected to provide safe, reliable, and efficient paratransit and deviated fixed route service. Customer service is expected to be at a very high level that is responsive to customer needs with safe and courteous employees.

The Transit Department is a division within the City Department of Public Works. The Transit Manager will administer the contract and will be assisted by a Transit Planning & Grants Coordinator. The Transit Manager reports to the Director of Utilities, Engineering and Transportation who reports to the City Manager. The City Council makes all final decisions on transit service in consultation with the various interest groups within the service area and with the local Metropolitan Planning Organization (MPO) known as the DeKalb-Sycamore Area Transportation Study (DSATS).

The current paratransit and deviated fixed route contractor provides all necessary operations, maintenance, administration and facilities to provide the service. All vehicles used in Urban paratransit service are FTA funded vehicles owned by the City and maintained by the current contractor

The Voluntary Action Center (VAC) is a non-profit, social service agency that currently provides Urban paratransit service in the DeKalb Urbanized Area. VAC has developed an extensive deviated fixed route and paratransit system in the City, within DeKalb County, and adjoining counties. VAC provides flex route service in DeKalb, Sycamore, and to Kishwaukee College in Malta. This RFP is limited to paratransit service within the DeKalb Urbanized Area and does not include other services provided by VAC.

There are currently 17 paratransit driver assignments (runs) per weekday; 3 on Saturdays, and 3 on Sundays. Two of the weekday runs are designed to deliver NIU students to classes in a timely manner.

2019 operational data can be found in the tables below in "Description of Service to be Provided."

B. CURRENT CONDITIONS - WAGE INFORMATION

1. The PROPOSER shall establish wage and wage progression and present information on wage structure in the separate Price Proposal.

PROPOSAL SPECIFICATIONS

A. SUBMISSION OF PROPOSALS

1. The format for proposals shall be organized around the evaluation criteria. Each proposal must be concise, avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate, and reliable presentation. The technical proposal shall be in an envelope marked **TRANSIT-2020-01 TRANSIT SERVICE PROVIDER – TECHNICAL PROPOSAL**. The price proposal shall be in a separate envelope marked **TRANSIT-2020-01.5 TRANSIT SERVICE PROVIDER - PRICE PROPOSAL**. Failure to adhere to the following format may be cause for rejection of the proposal as non-responsive.
2. All proposals shall be received by the City of DeKalb Public Works Department by no later than 1:00 P.M. on **Thursday, July 16, 2020**. Proposals received after that deadline shall not be returned or opened and shall not be considered responsive to this request.
3. The proposal shall contain an introductory letter (limit to one (1) page) and include the company name and address, and the names, telephone numbers, and e-mail addresses of the persons who shall be authorized to represent the PROPOSER regarding all matters related to the proposal and any agreement subsequently awarded to said PROPOSER. This letter shall be signed by a person authorized to bind the company to all commitments made in the proposal. All signatures above shall be original and in blue ink on at least one copy of the proposal submitted to the CITY.
4. Proposals may be mailed or hand-delivered to:

April Beeman
City of DeKalb Public Works Department
Water Division
1216 Market Street
DeKalb, IL 60115
5. All proposals shall be signed by the individual responsible for making proposals. Unsigned proposals shall not be considered.
6. Proposal shall consist of:
 - a. One (1) original and six (6) printed copies of the Technical Proposal with applicable literature and other supporting/required documents.
 - b. One (1) original and six (6) printed copies of the Price Proposal.
 - c. Two (2) electronic copies of the Technical and Price Proposals, on two (2) CDs, DVDs or USB flash drives, in Microsoft Word or Excel.
7. PROPOSER may attach separate sheets to the proposal for the purpose of explanation, exception, or alternative proposal.

8. The RFP Evaluation Committee has the right to rely on any price quotes provided by Proposers. The Proposer shall be responsible for any mathematical error in price quotes.
9. The RFP Evaluation Committee reserves the right to reject Proposals which contain errors, or any Proposals which are not deemed to be responsive or in the best interests of the contracting parties.
10. Only those Proposals that provide all the required elements will be considered responsive. If more than one completed Technical Proposal and Price Proposal is received from a PROPOSER or if alterations (other than allowed modifications) are made to a Proposal, all Proposals from that PROPOSER may be rejected as nonresponsive. Notwithstanding the foregoing, the RFP Evaluation Committee and the contracting parties reserve the right to waive any irregularities or errors, to waive competitive bidding, and to accept any Proposal deemed to be in the best interests of the contracting parties, to the fullest extent permitted under applicable laws. The provisions listed herein shall be void to the extent of any conflict with applicable federal or state law governing use of the funding sources for these services.
11. Proposals may not be modified after the submission deadline. However, PROPOSER may withdraw proposals at any time prior to the date and hours set for proposal opening.
12. All inquiries shall be directed to Sabrina Kuykendall, serving as the Procurement official for this proposal, and all such inquiries shall be submitted via e-mail on or prior to **Wednesday, June 24, 2020 at 4:00 P.M.** There shall be no written or verbal communication of any kind with any other CITY employee regarding this RFP except with designated CITY participants in attendance **ONLY DURING**:
 - a. Pre-Bid Meeting
 - b. Negotiations
 - c. Contract Signing
 - d. As otherwise specified in this Request.

Violations of this provision by Proposer personnel or their agents may result in the rejection of the Proposal.

13. Questions may be submitted via email to Sabrina Kuykendall before 4:00 P.M. on **Wednesday, June 24, 2020**. Any Proposer who seeks to have access to responses to such inquiries shall submit their email contact information to Sabrina Kuykendall on or before that deadline. The City shall provide a master response to all inquiries received, via email, to all Proposers who have so provided their email contact information. Said master response shall be provided in a timely manner.
14. By submission of its Proposal, the PROPOSER represents and warrants that it has sufficiently informed itself in all matters affecting the performance of the work or the furnishing of the labor, services, supplies, materials or equipment called for in this RFP; that it has checked its proposal for errors and omissions; that the prices stated in its proposal are correct and as intended by it; and are a complete and correct statement of its prices for providing all the labor, services, supplies, materials,

equipment and other resources required; and that it can fully comply with all federal, state and local laws, regulations, ordinances, statutes or other governing requirements.

15. At the time of the submission deadline, only the names of those who submitted a response shall be made public. No price information will be released.
16. Vendors who attend the Pre-Bid Meeting on Thursday, June 12, 2020 may request (by email) to be notified (by email) of a full list of potential PROPOSERS.
17. This is a competitive procurement for transportation services. Though price is important, the CITY will seek the best combination of quality of performance, which addresses all the work and work standards and best satisfies the needs of the CITY. City Staff will review all submissions for compliance to all requirements identified in this RFP.
18. The submittal shall be submitted in the following order:
 - a. PROPOSER Information Form shall be provided as the cover page (see *Appendix A: Contractor Information Form on page 53 below*);
 - b. Proposal Check List Form shall be provided (See *Appendix B Proposal Check List on page 54 below*)
 - c. Actual Proposal
 - d. All signed Certifications (see *Appendix C: Required Certifications 55 below*);
 - e. Additional information including brochures, technical facts, and other items PROPOSER wishes to submit; and
 - f. All forms, Check Lists, and Certifications shall be made available on the RFP website (<https://www.cityofdekalb.com/Bids.aspx>) as individual forms in Word, Excel, or fillable PDF format.
19. All questions, comments, or requests for information shall be directed to the City Representative:

Sabrina Kuykendall

Email: Sabrina.Kuykendall@cityofdekalb.com.

20. The CITY shall invite the highest scoring PROPOSERS to present their proposal to the RFP Evaluation Committee for review. The CITY may amend evaluations based on information obtained during interviews. The meeting shall be held at:

City of DeKalb Public Works Facility
1216 Market St.
DeKalb, IL 60115

B. PERIOD OF FIRM PROPOSAL

The offer in each proposal shall be held open for a period of ninety (90) days following the last day for the submission of proposals.

C. REJECTION OF PROPOSALS AND WAIVER OF IRREGULARITIES

The CITY reserves the right to reject any and all proposals, to waive any and all irregularities, and to accept that proposal which it deems to be in the best interest of the CITY. Any such decision shall be considered final.

D. AWARD OF AGREEMENT

All submittals shall be reviewed by CITY staff. Responsible and responsive submittals shall be ranked based on criteria developed by CITY staff. Any agreement awarded as a result of this Request for Proposals shall be approved by the DeKalb City Council, subject to the concurrence of IDOT.

E. FULL PRICING AND CONTINGENCIES

The CITY shall hold the successful PROPOSER to the proposal price. Additional charges for any contingency discovered by the successful PROPOSER at any time following the opening of the proposals will not be considered for payment by the CITY. The CITY reserves the right to negotiate proposal cost with any PROPOSER. This RFP and the resulting Proposals shall be used as the basis for contract negotiation.

F. CONTRACTORS AGREEMENT(S)

Any agreement that the PROPOSER shall require the CITY to sign prior to initiating any agreement shall be included in the proposal. Said agreement shall be reviewed by the CITY's legal counsel. If the PROPOSER is unwilling to delete or modify any term or condition deemed objectionable by the CITY, the proposal containing the objectionable term or condition shall be deemed a "NO PROPOSAL". No term or condition shall be incorporated into any agreement awarded unless agreed to in writing by the CITY. The CITY reserves the right to require that its form of agreement be utilized for any services provided pursuant to this RFP.

G. RENEWAL OPTION

The successful PROPOSER shall provide service for the period beginning January 1, 2021 and ending December 31, 2023. The agreement may be renewed for additional one (1) year periods up to but not exceeding two (2) additional agreement periods, at the sole discretion of the CITY, contingent on the performance of the PROPOSER, continued availability of FTA Section 5307 or IDOT Urban Downstate Operating Assistance Program (DOAP) funds, and service demand.

H. TRANSITION PERIOD

Within seven (7) business days of the awarding of the agreement, the PROPOSER shall meet with officials from the CITY, other officials representing agencies within the Urban region, and other interested parties to develop a transition plan to the requirements of the new agreement.

Any identified changes shall look to minimize any negative effects to customers who use transit services in the region.

I. MISCELLANEOUS

- i. No claim for relief shall be granted due to errors or omissions in the proposal documents.
- ii. PROPOSER shall be held strictly to their proposals as submitted.
- iii. Technical proposals shall be available for inspection at the offices of the CITY after the award of the agreement for 30 days. Post award protests shall be filed within seven (7) calendar days of a Notice of Award.
- iv. Each PROPOSER, by responding to this RFP, agrees and acknowledges that the sole source of funding for services provided under the agreement to be entered into is a combination of federal and state grant funds, and the cumulative liability of the CITY for any services received under said agreement shall under no circumstances exceed the amount of federal and state grant funding actually received by the CITY for such services. The CITY shall serve as a conduit for federal and state grant funding and shall have no direct liability for expenses or charges that exceed actually received grant funding. The agreement to be entered into shall not constitute a general obligation of either the City, but rather shall be an obligation limited to the aforesaid actually received grant funding. Any agreement entered into pursuant to this RFP shall include language acceptable to the CITY memorializing this limitation.

EVALUATION CRITERIA

The following criteria will be used to evaluate the technical and price proposals.

- Technical Proposal
 - I. Firm Qualifications (50 Points)
 - II. Organization and Staffing Plan (50 Points)
 - III. Operating Methodology (40 Points)
 - IV. Professional References (10 Points)
- Price Proposal (see RFP #: TRANSIT-2020-01.5)
 - V. Proposed Price/Costs (50 Points)

Technical Proposal

The technical portion of the proposal is the PROPOSER'S proposed Scope of Work with explanation of technical approaches and a detailed outline of the proposed program for executing the requirements of the technical scope and achieving objectives of the project. Each PROPOSER shall carefully examine the documents and take such reasonable steps as needed to understand the nature of the work, the conditions that affect the work and the cost thereof. Failure to do so shall not relieve the PROPOSER from responsibility for estimating the cost of successfully performing the work according to the CITY standards.

At its sole discretion, the CITY may also elect to conduct preliminary reference and other background checks to supplement the information submitted in response to this RFP. Any such checks shall seek to determine the following:

- ◆ Whether the PROPOSER has a satisfactory performance record.
- ◆ Whether the PROPOSER has a satisfactory record of integrity and business ethics.
- ◆ Whether the PROPOSER follows applicable licensing and tax laws and regulations.

When submitting proposal, a checklist shall be provided that identifies each item identified below, a short answer to the question, if applicable, the page number the item is addressed at in the proposal, and any additional comments. A spreadsheet form of the checklist can be downloaded on the RFP webpage (<https://www.cityofdekalb.com/Bids.aspx>).

A. FIRM QUALIFICATIONS (50 POINTS):

This section of the proposal will be independently reviewed by appropriate CITY staff participating in the evaluation assisted by outside experts as the CITY sees fit. This section will be scored to determine the responsiveness and capabilities of the PROPOSER.

- 1) Briefly describe the general character of work performed by your firm: fixed route, paratransit, charter, school bus, other transportation services, and non-transportation services.
- 2) Describe your firm's qualifications and experience to perform the work described in this RFP. Information about experience shall include direct experience with the specific subject-matter area.

- 3) Describe your firm's financial health to include the following:
- a) Indicate if any participants in the proposal have been involved in bankruptcy proceedings as a debtor. If yes, state date, court of jurisdiction, amount of liabilities and amount of assets.
 - b) Provide detailed information regarding past and pending litigation, liens, or claims arising from litigation in excess of \$100,000 in which any participant in the proposal is directly or indirectly involved.
- 4) Provide audited financial statements for the past three (3) years. If a partnership, submit financial statements for each partner. If audited statements are not available, PROPOSER may be required to submit additional financial information to establish financial responsibility. The RFP Evaluation Committee reserves the right to require the submission of additional documentation of financial responsibility or viability based upon the review of any submitted documentation, and the failure to respond to such a request shall constitute grounds for rejecting any proposal.
- a) Provide evidence of ability to obtain specified amounts of insurance from a qualified insurance company authorized to do business in Illinois. Proof shall take the form of a letter from PROPOSER's insurance agent stating that they are eligible to obtain insurance to the prescribed limits should a contractual offer be extended. Disclose intended deductible levels, if any. Disclose the total number and amount of claims paid by the PROPOSER or its insurer(s) in the last three (3) years. Demonstrate financial capability commensurate with the required insurance limits and your proposed deductible levels.
 - b) Provide financial credit references. A minimum of two (2) is required including the primary financial institution of the PROPOSER. Include name, title, and current telephone number of a contact person and the address of the financial institution.
- 5) PROPOSER will provide a list of all transit service contracts/agreement entered into or performed under at any point during the last three years. Proposer will provide detailed information on five contracts of similar size systems operating in similar operating environments, which should include:
- a) Name and address of client;
 - b) A brief description of the work performed (scope of service, number and type of vehicles, number of people employed/managed by the PROPOSER, asset ownership, maintenance responsibility, etc.);
 - c) Dates of performance (noting whether these beginning and ending dates coincided with the original Contract/Agreement term and if not why not);
 - d) Annual dollar value of contract/agreement;
 - e) If the PROPOSER is invited to interview, the PROPOSER will be requested to explain whether your firm ever requested an increase or adjustment in your contract/agreement rate. If so, at which properties were these requests made, what were the circumstances, and what were the outcomes of your requests?
- 6) Explain firm's experience with Federal and State transit and paratransit regulations to include the following:

- a) Provide evidence of familiarity with the Federal Transit Administration (FTA) Uniform System of Accounts and with National Transit Database (NTD) reporting.
 - b) If applicable, submit NTD annual reports for other clients with similar size bus operations to demonstrate familiarity with NTD reporting.
 - c) Describe your firm's experience in dealing with the FTA and their rules and regulations in providing public paratransit service. Please provide the names and titles of specific persons in PROPOSER'S organization with working knowledge of FTA transit and paratransit regulations and their years of experience in this area.
 - d) Describe your firm's experience in dealing with IDOT DOAP and its rules and regulations. Provide the names and titles of specific persons within PROPOSER'S organization with working knowledge of DOAP regulations and their years of experience in this area.
 - e) Describe your firm's experience in participating in a DOAP review.
 - f) Describe your experience with State of Illinois Grant Accountability and Transparency Act (GATA)
 - g) Describe your firm's experience in participating in FTA Triennial Reviews. Provide the names and titles of specific persons in your firm who have been involved with Triennial Reviews. Submit the FTA findings on all reviews performed in which the firm was involved that will have employees in this contract.
- 7) PROPOSER will provide a proposed schedule of liquidated damages for operating and maintenance problems.
- 8) Discuss the training drivers receive to ensure compliance with FTA and IDOT regulations, including training on safety and security.
- 9) Provide information on audits of FTA Drug and Alcohol testing programs; FTA Triennial Review findings and resolution; State (Illinois or other) performance or management audits, National Transportation Safety Board (NTSB) investigations, Department of Justice (DOJ) investigations, Equal Employment Opportunity Commission (EEOC) findings. If the Proposer has been the subject of an adverse finding, finding of non-compliance, fine, sanction or other disciplinary finding or action by the FTA, NTSB, DOJ, EEOC, or any other federal or state transit, transportation or regulatory agency within the last five years, describe and detail such finding or action.
- 10) The PROPOSER may submit additional information that will add value to the contract that will distinguish their proposal from other competitive proposals.

NOTE: The Appendix also includes the major regulations and clauses that shall be required within any agreement signed between the PROPOSER and the CITY. By submitting a proposal, the PROPOSER agrees to comply with all clauses identified herein, where applicable, as well as any other FTA, IDOT or other federal, state or local requirements pertaining to the use of FTA 5307 and DOAP grant funds or otherwise governing the operations or services rendered in response to this RFP not specifically mentioned herein (see Appendix D: Federally Required and Other Model Clauses on page 68 below)

B. ORGANIZATION AND STAFFING PLAN (50 POINTS)

- 1) Provide an organizational chart and staffing plan that includes the following:

- a) Provide name(s) and resumes of the proposed General Manager and all key personnel that will be assigned to the Urban paratransit and deviated fixed route services. Please include General Manager, Operation Manager(s), Maintenance Manager, Road Supervisors, Safety & Training Manager, and Dispatch staff. The ability of these specified key personnel to respond immediately to issues relating to the service herein is a requirement of this RFP. The PROPOSER should demonstrate how this will be ensured and should indicate the percent of time each individual is dedicated to the urban paratransit service and other non-urban paratransit services, if applicable such as rural transit, school bus, charter, other transportation service or services.
- b) For the resumes provided for the positions above, please include evidence of demonstrated experience with paratransit services and maintenance equipment that the PROPOSER will operate.
- c) Indicate adequacy of labor resources utilizing a table projecting the labor-hour allocation to the project for each position category. Indicate the number of full-time and part-time employees for all operations. Wages and compensation details to be included in the separate price proposal form for operators, dispatch and reservation personnel. Refer to Price Proposal, page 9, Tables 2 & 3.
- d) PROPOSER may submit a format for hours, miles, square feet, labor time, or other similar criteria that separates urban paratransit service from other services. PROPOSER shall submit the frequency of adjusting the criteria used (monthly, quarterly, yearly) based on changes in paratransit service or the other services provided that are not funded in this contract. PROPOSER will submit monthly reports on the agreed criteria and billing shall reflect only those costs directly attributable to the urbanized paratransit and deviated fixed route service.
- e) Describe how you will guarantee that the proposed management will remain in place for at least two years. Failure to retain the management team will require liquidated damages. Explain how you have resolved this issue in other contracts.
- f) Describe your planned ratio of full time to part time drivers
- g) Describe the average weekly revenue-hours planned for part time drivers
- h) Describe the average yearly turnover rate at similar systems that you manage
- i) Describe how you will control driver turnover in this contract
- j) Describe scheduling procedures for supervisors and dispatchers.
- k) Identify any subcontractor, consultant, or corporate staff personnel, if any, who will be helping to fulfill Agreement obligations and the services they will be providing. The proposal shall certify that all subcontracted firms shall agree to comply with all FTA and IDOT rules and regulations that apply to provide the services applicable to this agreement.
- l) Identify Disadvantaged Business Enterprise (DBE) firms the PROPOSER intends to subcontract with to meet the required DBE Goals.

2) The CITY retains the right to review PROPOSER's personnel policies and the list of personnel assigned to the CITY's contract. Proposed changes in key personnel incumbents shall be subject to review and approval by CITY.

- a.) The CITY may require that any driver be removed from transporting City customers for unprofessional behavior, excessive complaints, rudeness, or other inappropriate behavior or appearance.

3) PROPOSER Dispatch personnel are to be available on a daily basis. The Contractor shall ensure that dispatch staff remains on-duty from 30 minutes prior to the time the first vehicle leaves the facility and until the last vehicle returns to the facility.

4) PROPOSER will explain how it will communicate with Limited English Proficiency customers and how Proposer will schedule rides. Expense of communicating with non-English speakers will be included in proposal.

5) PROPOSER shall explain how it will communicate phone reservation service with hearing impaired customers including access to a TDD (Telecommunication Device for the Deaf) system during the hours of service. The TDD must be compliant with the ADA regulations.

6) The PROPOSER may submit additional information that will add value to the contract and their organization and staffing plan that will distinguish their proposal from other competitive proposals.

C. OPERATING METHODOLOGY (40 POINTS)

- 1) Provide a hiring and training explanation that includes the following:
 - a) Description of hiring, training, and retraining programs for drivers and mechanics and certification processes including minimum hiring qualifications. Include a new-hire training program syllabus including time periods for each training element. Provide information on driver training procedures that will be used. Discuss how the training program will ensure compliance with FTA and IDOT regulations, including training on safety and security.
 - b) Provide a description of how the PROPOSER will remain in compliance with the Federal Transit Administration's Public Transportation Agency Safety Plan requirements throughout the duration of the contract.
 - c) Provide a description of continuing education programs for the management team.
 - d) Provide a description of the Safety and Security training that all safety-sensitive employees receive; including name of firm providing this training and any awards or recognitions that firm may have received. Provide information on safety incentives that will be used.
 - e) Provide a description of any policies and/or training, which employees have received to assist them in interactions with persons with Limited English Proficiency, people with disabilities, and passenger behaviors that may cause conflict with drivers and passengers.
 - f) Describe your employment standards for hiring drivers
 - g) Describe your employment standards for hiring management and supervisory personnel
 - h) Describe your employment standards for hiring maintenance personnel
- 2) Submit the firm's Drug and Alcohol Policy as part of the proposal.
 - a) Provide an overview of the firm which the PROPOSER intends to use to perform the drug testing required of all safety sensitive employees. This shall include a profile of the firm, the services they intend to provide, and references for the work they provide. As a subcontractor to the PROPOSER, they shall also conform to all FTA and IDOT rules and regulations.
- 3) Identify procedures to handle hiring complaints to include the following:
 - a) Disadvantaged Business Enterprise (DBE) complaints which may be received by PROPOSER.
 - b) Equal Employment Opportunity (EEO) complaints.
 - c) Describe your procedures and standards for processing passenger and citizen complaints

- 4) Provide evidence that the required service start schedule can be met, taking into consideration all existing and prospective commercial and government business commitments.
- 5) Describe your understanding of the challenges associated with operating transit services on a university campus with a pedestrian intense operating environment and in a city or university of similar size.
- 6) Provide a plan for how customer service will be managed, monitored, and sustained to help promote efficient and cost-effective paratransit service.
- 7) PROPOSER shall present its process for evaluating disruptive passengers and standards that are used to ban or suspend a person's riding privileges. Final decision will be a cooperative decision between the CITY and PROPOSER.
- 8) Describe the service performance standards you have established for this agreement and what internal (on-site) and corporate quality control programs will be used to ensure that service performance standards are met. Address the following specifics:
 - a) Describe any measures you propose to respond to vehicle breakdowns, accidents, railroad delays, and other service disruptions, including your plan for assistance for late buses and capacity constraints.
 - b) Provide your approach to liquidated damages for performance failures, such as, but not limited to: failure to have safe equipment to meet schedule requirements; consistently late buses; missed trips; vehicle cleanliness; excessive breakdowns; etc.
 - c) PROPOSER will present their normal criteria and minimum or maximum standards for evaluating performance of their drivers; call center; and overall system performance.
- 9) Describe your firm's overall safety program for this project.
 - a) Provide information on the number of NTD Reportable Events submitted by the PROPOSER and its parent company in the last five (5) years for five (5) similar size systems, including but not limited to:
 - i) A fatality confirmed within 30 days of the event
 - ii) An injury requiring immediate medical attention away from the scene for one or more persons
 - iii) Property damage equal to or exceeding \$25,000
 - iv) Collisions involving transit revenue vehicles that require towing away from the scene for a transit roadway vehicle or other non-transit roadway vehicle
 - v) An evacuation for life safety reasons
 - b) Provide the proposed General Manager's last five (5) years of NTD Reportable Events history.
 - c) Provide information on best practices used to keep passengers and general public safe during operations including an example of a System Security and Emergency Preparedness Plan or similar document.
- 10) Provide the security procedures and fare collection/monitoring program you will use for this agreement.
 - a) Describe fareboxes that will be used including fare security procedures.
- 11) Describe types of vehicles and the fleet-specific maintenance plan you will use for the City owned fleet in this agreement. Address the following specifics:

- a) Describe your strategy for maintaining overall reliability, safety, and attractive appearance for the buses.
 - b) Describe the maintenance staffing plan including the number of mechanics, differentiation of mechanic's duties, and support personnel for the maintenance program. Explain the rationale for mechanics/bus ratio and mechanics/revenue-mile ratio.
 - c) Describe the bus and equipment maintenance program and the maintenance record-keeping system will you use for this agreement.
 - d) Provide typical preventative maintenance schedules for the bus fleet that will be used in DeKalb. (Refer to page 41 for Vehicle Information.)
 - e) Describe internal and external cleaning schedules and procedures for the bus fleet.
 - f) Describe your experience maintaining vehicles purchased with Federal Transit Administration funds.
 - g) Describe your strategy for separating Urban maintenance personnel time and labor from other potential services performed on-site.
- 12) Provide a description for how communications and information management will be provided to include the following:
- a) Describe the level of technology that will be used on buses including, but not limited to, fareboxes, automated vehicle locator, cameras, tablets, etc.
 - b) Refer to Appendix X for Equipment Information.
- 13) Explain the transition plan to ensure operations can begin by the intended start date of January 1, 2021. Address the following concerns and expectations:
- a) Minimize the incidence of problems in the course of assuming the responsibilities of the existing provider.
 - b) Provide timeline and description on how you plan to have an adequate number of drivers, mechanics, and supervisors in place by January 1, 2021.
 - c) The aim is to have this transition occur seamlessly. The new agreement shall begin on January 1, 2021, but the transition period may extend before this period with agreement negotiated between the PROPOSER, the CITY, and current service provider. Proposer will identify one-time startup cost associated with the transition in the Price Proposal.
 - d) Provide assurance that the required service start schedule can be met, taking into consideration all existing and prospective commercial and government business commitments.
 - e) A PROPOSER that does not supply an adequate Transition Plan shall be deemed unresponsive.
- 14) If the Proposer has been the subject of an adverse finding, finding of non-compliance, fine, sanction or other disciplinary finding or action by the Department of Justice, the Equal Employment Opportunity Commission, a state human rights agency, a state attorney general, or any other federal or state regulatory agency having jurisdiction over disabilities or related claims within the last five years, describe and detail such finding or action.
- 15) Provide a plan for managing Rural transit; regional fixed routes; taxi; app-based demand service; school bus service; charter service; and other transportation and non-transportation services while remaining compliant with federal/state requirements. Show how the non-compliant portion of the business shall be completely separated from all transit services provided as part of this agreement. Demonstrate how any FTA capital

equipment or operating assistance purchased with FTA grant funds shall NEVER be used in the provision of Charter or other non-compliant services.

- 16) Provide a plan if PROPOSER will operate any school bus services from the DeKalb garage. It will show how the school bus portion of the business shall be completely separated from all transit provided as part of this agreement. If PROPOSER provides any school bus services, a plan shall be submitted to show it conforms to all FTA regulations as they relate to school bus services.
- 17) The PROPOSER may submit additional information that will add value to the contract and the proposed operating methodology that will distinguish their proposal from other competitive proposals.

D. PROFESSIONAL REFERENCES (10 POINTS)

- 1) The CITY intends to contact some or all of the prior clients to seek information about performance and client satisfaction including evaluations. Provide the following:
 - a) Firm References: Provide references for all current paratransit and deviated fixed route service contracts/agreements. For each contract/agreement, include a name, telephone number, and e-mail address of a person able to attest to the work performed. Provide the number of peak buses and annual budget for each reference.
 - b) Key Personnel References: Submit reference information for all key personnel proposed for this project. For each contact, include a name, telephone number, and e-mail address of a person able to attest to the work performed.
- 2) The PROPOSER may submit additional information that will add value to the contract and their proposed price that will distinguish their proposal from other competitive proposals.

E. PRICE PROPOSAL (50 POINTS)

The price portion of the proposal is provided in a separate RFP document which can be accessed from the RFP webpage (<https://www.cityofdekalb.com/Bids.aspx>). The price proposal and supporting documentation will be submitted in a separate envelope that is clearly marked **RFP TRANSIT-2020-01.5 TRANSIT SERVICE PROVIDER - PRICE PROPOSAL**.

F. DESCRIPTION OF SERVICES TO BE PROVIDED

1) Description of Existing Service -

Service Type	Description of Service
Deviated Fixed Route	The Route 21 operates seven (7) days per week, 362 days per year. Service begins at 7:00a and will end between 10:30p and 12:00a depending on the service schedule. The Route 21 operates on a one-hour headway. Additional revenue hour information can be found in Table 6 below.
Door-to-Door Paratransit Service	ADA Paratransit service that operates within the DeKalb Urbanized Area or within 3/4 of a mile a fixed route bus line. Paratransit service will operate the same schedule as the fixed route bus service. Eligibility and fare requirements for this service will be set by the City.
Door-to-Door Paratransit Service including Northern Illinois University	ADA Paratransit service that operates within the DeKalb Urbanized Area or within 3/4 of a mile a fixed route bus line with focus on the Northern Illinois University student, faculty, and staff population. Paratransit service will operate the same schedule as the fixed route bus service. Eligibility and fare requirements for this service will be set by the City.
Door-to-Door Paratransit Service for Non-Emergency Medical Transportation	Medical transportation service provided to locations outside of the DeKalb Urbanized Area. No more than two revenue vehicles to operate at a time. Hours of service, eligibility and fare requirements for this service will be set by the City.

2) Hours of Service – Table 2:

Service Type	Full Service Schedule	Break Service Schedule
Deviated Fixed Route	Monday - Friday: 7:00a - 12:00a Saturday: 7:00a - 12:00a Sunday: 7:00a - 12:00a	Monday - Friday: 7:00a - 10:30p Saturday: 7:00a - 10:30p Sunday: 7:00a - 10:00p
Door-to-Door Paratransit Service	Monday - Friday: 7:00a - 12:00a Saturday: 7:00a - 12:00a Sunday: 7:00a - 12:00a	Monday - Friday: 7:00a - 12:00a Saturday: 7:00a - 10:30p Sunday: 7:00a - 10:00p
Door-to-Door Paratransit Service including Northern Illinois University	Monday - Friday: 7:00a - 12:00a Saturday: 7:00a - 12:00a Sunday: 7:00a - 12:00a	Monday - Friday: 7:00a - 12:00a Saturday: 7:00a - 10:30p Sunday: 7:00a - 10:00p
Door-to-Door Paratransit Service for Non-Emergency Medical Transportation	Monday - Friday: 7:00a - 6:00p Saturday: No Service Sunday: No Service	Monday - Friday: 7:00a - 6:00p Saturday: No Service Sunday: No Service

3) 2020 Days of Service – Table 3

Month	Day of the Week	Full Service Schedule Days	Break Service Schedule Days
January	Monday - Friday	14	8
	Saturday	1	3
	Sunday	1	3
February	Monday - Friday	20	0
	Saturday	5	0
	Sunday	4	0
March	Monday - Friday	17	5
	Saturday	2	2
	Sunday	3	2
April	Monday - Friday	22	0
	Saturday	4	0
	Sunday	4	0
May	Monday - Friday	5	16
	Saturday	1	4
	Sunday	1	4
June	Monday - Friday	0	22
	Saturday	0	4
	Sunday	0	4
July	Monday - Friday	0	23
	Saturday	0	4
	Sunday	0	4
August	Monday - Friday	6	15
	Saturday	1	4
	Sunday	1	4
September	Monday - Friday	21	1
	Saturday	3	1
	Sunday	3	1
October	Monday - Friday	22	0
	Saturday	5	0
	Sunday	4	0
November	Monday - Friday	18	2
	Saturday	3	1
	Sunday	4	1
December	Monday - Friday	9	13
	Saturday	1	3
	Sunday	1	3

4) 2019 Ridership by Route by Month – Table 4

Month	Routes	Ridership	Month	Routes	Ridership	Month	Routes	Ridership
January	DFR	2,057	May	DFR	2,482	September	DFR	2,591
	DTDP	3,657		DTDP	3,859		DTDP	3,788
	DTDP w NIU	164		DTDP w NIU	191		DTDP w NIU	446
	DTDP w NEMT	217		DTDP w NEMT	235		DTDP w NEMT	245
February	DFR	2,031	June	DFR	2,314	October	DFR	2,581
	DTDP	4,134		DTDP	3,576		DTDP	4,785
	DTDP w NIU	471		DTDP w NIU	140		DTDP w NIU	607
	DTDP w NEMT	230		DTDP w NEMT	223		DTDP w NEMT	287
March	DFR	2,339	July	DFR	2,421	November	DFR	2,185
	DTDP	4,422		DTDP	4,213		DTDP	4,218
	DTDP w NIU	427		DTDP w NIU	60		DTDP w NIU	595
	DTDP w NEMT	252		DTDP w NEMT	259		DTDP w NEMT	258
April	DFR	2,466	August	DFR	2,700	December	DFR	2,400
	DTDP	4,578		DTDP	4,100		DTDP	4,058
	DTDP w NIU	505		DTDP w NIU	137		DTDP w NIU	325
	DTDP w NEMT	254		DTDP w NEMT	224		DTDP w NEMT	233

DFR = Deviated Fixed Route

DTDP = Door-to-Door Paratransit

DTDP w NIU = Door-to-Door Paratransit with NIU

DTDP w NEMT = Door-to-Door Paratransit with Non-Emergency Medical Transportation

5) 2019 Total Hours by Service – Table 5

2019 Service Data

Route	Service Days	Total Riders	Revenue Hours	Revenue Miles
Deviated Fixed Route	359	28,567	4,235	58,966
Door-to-Door Paratransit	360	49,388	28,056	318,604
Door-to-Door Paratransit w/NIU	305	4,068	2,466	19,624
Door-to-Door Paratransit w/NEMT	261	2,917	3,724	67,694
Total	362	84,940	38,481	464,888

6) Estimated Annual Hours of Service as of January 1, 2021 – Table 6

Estimated Annual Service as of January 1, 2021

Route	Service Days	Total Riders	Revenue Hours	Revenue Miles
Deviated Fixed Route	362	32,000	5,923	82,448
Door-to-Door Paratransit	362	50,000	28,000	305,000
Door-to-Door Paratransit w/NIU	362	5,000	2,400	40,000
Door-to-Door Paratransit w/NEMT	362	1,250	2,500	29,000
Total	362	88,250	38,823	456,448

7) Proposed Additional Deviated Fixed Route Service to Begin in 2021 – Table 7

The CITY may add a second deviated fixed route in 2021. The PROPOSER shall ensure that the proposed price reflects this service.

Estimated Proposed Service

Route	Service Days	Total Riders	Revenue Hours	Revenue Miles
Deviated Fixed Route	362	20,000	4,148	57,740

- 8) The CITY may add, subtract, or substitute routes, miles, and hours of operation. The marginal contract rate per mile, and/or per hour shall apply to any such modifications if such changes are within 15% of the estimated amounts in Table 6 and Table 7.
- 9) The service will be provided during each month of the year, with service to be managed to allow for uninterrupted service throughout the agreement year.
- 10) Commencing with the first day of the term of the Agreement and continuing through the duration thereof, the PROPOSER agrees to furnish full and complete management, supervisory and operational services and equipment that are reasonably required for the public transit services contemplated by this Agreement.

G. SERVICES

- 1) PROPOSER shall supply all Transportation Operations including:
 - a) Supervision of all transit personnel employed by the PROPOSER and ensure safe, reliable, and efficient service.
 - b) Securing all insurance coverage required and handling all matters with insurance carriers (see Insurance 49 below).

- c) Direction and supervision of all accounting, bookkeeping, auditing, and purchasing related to this agreement in compliance with all regulations set forth by the CITY, the Illinois Department of Transportation (IDOT), and the Federal Transit Administration (FTA).
 - d) All transportation operating equipment, unless included as a City owned asset, required to provide paratransit service including hardware and software.
 - e) Any Proposer using FTA funded equipment shall identify that equipment in the Price Proposal and an offset will be calculated for Proposers with FTA funded equipment.
 - f) Studying and recommending changes in operating schedules, improve the efficiency and cost-effectiveness of paratransit service while maintaining on-time performance and customer satisfaction. Gain-sharing options may be negotiated during the term of the contract that reduce revenue-hours or peak vehicle requirements.
- 2) Employee Selection, Safety and Training including:
- a) Direction and supervision of the selection of all transit personnel employed by the PROPOSER.
 - b) Direction and supervision of said employees' training, conforming, whenever possible, to the best practices set forth by IDOT and the FTA.
 - c) Direction and supervision of safety programs, safety meetings, campaigns, and use of safety equipment for the PROPOSER's personnel, conforming, whenever possible, to the best practices set forth by IDOT and the FTA.
- 3) Advertising and Promotion
- a) The CITY shall control or contract out all advertising and promotion. CITY shall provide materials for distribution that may include brochures, pamphlets, customer comment forms, periodic surveys, rider-alerts, tickets, etc.
 - b) PROPOSER shall prepare and provide materials/copies for announcements related to service changes; advisories etc. and distribute brochures and any other material as directed by the CITY.
- 4) Ownership of Records and Documents / Confidential Information:
- a) PROPOSER agrees to keep and maintain all books and records and other recorded information required to comply with any applicable laws, including but not limited to the Illinois Prevailing Wage Act.
 - b) PROPOSER agrees to keep such information confidential and not to disclose or disseminate the information to third parties without the consent of the CITY.
 - c) PROPOSER further agrees to keep as confidential any information belonging or relating to the CITY which is of a confidential nature, including without limitation information which is proprietary, personal, required by law to be confidential, or relates to the business, operations, or accounts of the CITY.
 - d) This confidentiality shall not apply to material or information, which would otherwise be subject to public disclosure through the Freedom of Information Act (FOIA) or if already previously disclosed by a third party.
 - e) PROPOSER acknowledges that the Freedom of Information Act, 5 ILCS 140/1 et seq. (the "Act") places an obligation on the CITY to produce certain records that may be in the possession of PROPOSER.
 - f) PROPOSER shall notify the city of all FOIA requests within 24 hours of receipt of the request.
 - g) PROPOSER shall comply with the record retention and documentation requirements of the Local Records Act 50 ILCS 205/1 et seq. and the Act and shall maintain all

records relating to this Agreement in compliance with the Local Records Retention Act and the Act (complying in all respects as if the PROPOSER was, in fact, the CITY).

- h) PROPOSER shall review its records promptly and produce to the CITY within two business days of contact from the CITY the required documents responsive to a request under the Act.
- i) If additional time is necessary to comply with the request, the PROPOSER may request the CITY to extend the time to do so, and the CITY will, if time and a basis for extension under the Act permits, consider such extensions.
- j) The PROPOSER shall agree to give FTA, Department of Justice, the Comptroller General of the United States, Illinois Attorney General, and IDOT, through any authorized representative, access to and the right to examine all electronic and paper records, books, papers or documents related to this agreement; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

5) Governing Law

- a) This agreement shall be governed and construed in accordance with the laws of the State of Illinois (hereinafter STATE). Venue and jurisdiction for any legal action arising out of or related to this Agreement shall be exclusively fixed in the DeKalb County Circuit Court, DeKalb County, Illinois. PROPOSER expressly waives any right to venue in any alternate jurisdiction, including but not limited to an alternate state court or any federal court.

6) Independent Contractor

- a) PROPOSER shall have sole control over the manner and means of providing the work, equipment and services performed under this agreement.
- b) The CITY's relationship to the PROPOSER under this agreement shall be that of an independent contractor.
- c) PROPOSER will not be considered an employee to the CITY for any purpose. The parties agree that the PROPOSER is exclusively responsible for the determination of what work is required to complete the tasks outlined in the Scope of Services, beginning on page 7 above, and for the means and methods of completing such work.
- d) The CITY's compensation to PROPOSER shall be limited to the agreed upon amount and the CITY shall not reimburse any expenses, provide any benefits, withhold any employment taxes or otherwise have a financial relationship with the PROPOSER other than payment of the stated compensation in a timely manner.
- e) The PROPOSER shall be solely responsible for withholding of taxes, providing employee benefits, or otherwise complying with applicable laws relating to its employees or contractors.
- f) In the event that the CITY determines, in its sole discretion, that it is economically advantageous for the CITY to provide certain supplies, tools, or equipment for use by PROPOSER in lieu of paying PROPOSER to provide the same, the CITY and PROPOSER agree that PROPOSER shall then utilize the CITY's supplies, tools, or equipment according to its own determination of their best and appropriate use.
- g) PROPOSER shall be responsible for its own personnel, training, instruction and related matters.
- h) PROPOSER shall be responsible for determining its sequence of performance for required work.

- i) PROPOSER shall be responsible to provide all equipment other than CITY owned revenue vehicles and vehicle equipment as defined on page 40.
 - j) PROPOSER's work shall be evaluated by the CITY based upon the end result of such work.
 - k) PROPOSER shall be responsible for any expenses incurred by PROPOSER in the performance of its work, and shall not be authorized, expressly or impliedly, to obligate the CITY on any debt, contract, or other agreement whatsoever.
 - l) The PROPOSER acknowledges that neither it nor its personnel shall be acting as an employee or official representative of the CITY for purposes of being offered any protection or coverage under CITY insurance policies for tort immunity or other legal purposes.
- 7) Coordination of Services: As there are multiple transit service providers in the region, the selected PROPOSER shall be expected to coordinate services between all transit providers in the region to every extent possible.

H. PERSONS WITH DISABILITIES

- 1) The PROPOSER shall conform to all requirements of the Americans with Disabilities Act (hereinafter ADA) and the U.S. Department of Transportation regulations pursuant thereto in the provision of service.
- 2) The PROPOSER shall ensure that no person, on the basis of disability, is denied reasonable access to transit services or any reasonable accommodation with respect thereto.
- 3) The PROPOSER shall transport all special needs clients, including persons with disabilities, provided the client uses a "common wheelchair" pursuant to the definition contained in the U.S. Department of Transportation (hereinafter USDOT) regulations (49 CFR part 37.3) and any subsequent modification to those regulations that may be promulgated during this contract.
- 4) The PROPOSER shall use securement systems and any other safety means necessary to ensure that all common wheelchairs transported are properly secured.
- 5) The PROPOSER may contact the passenger or their representative and request to provide technical advice as to whether the device conforms to ADA guidelines.
- 6) If a mobility device does not meet common wheelchair guidelines, the PROPOSER may refuse to transport the device. The PROPOSER shall immediately notify the CITY Transit Manager in the event of a refusal of service due to non-common chair, and in its monthly report to the CITY, identify the passenger and non-conforming specification. The CITY and PROPOSER will work cooperatively to provide transportation to people with non-common mobility devices.
- 7) Pursuant to 49 CFR part 37, the PROPOSER may request, but cannot require, the passenger transfer from a non-common chair, to a chair provided by the PROPOSER for boarding/alighting. The PROPOSER may request, but cannot require, the passenger transfer from non-common or common wheelchair to a regular passenger seat for transit.
- 8) Paratransit service shall be available at all times that fixed route service operates.

- 9) Eligibility requirements and process for approval of the paratransit service is determined by the CITY in accordance with ADA standards. A State of Illinois identification card, issued by IDOT, that clearly states the person has a disability or is 65 years of age or older will confirm eligibility. The general public who currently use the service and do not qualify based on age or disability will be charged a premium fare as defined in *Operations, C2*.
- 10) The PROPOSER shall provide accessible information to all passengers at a level equal or better than the NIU policy at: https://doit.niu.edu/doit/policies_root/accessible-technology.shtml and in no circumstance shall the selected PROPOSER's minimum level of service fall below the minimum threshold required under applicable federal, state or local laws.

I. OPERATIONS

- 1) All Urban paratransit and flex route services shall start AND end within the **DeKalb Urbanized Area**; paratransit services requested to begin or end outside of the defined service area shall be considered as Rural paratransit operations with the exception of the Door-to-Door Paratransit with NEMT service; a map of the Urban service area can be found in Table 11 on page 33.
- 2) The fare for each service type can be found in Table 9:

Fare Category	Deviated Fixed Route	Door-to-Door Paratransit	Door-to-Door Paratransit w/Northern Illinois University	Door-to-Door Paratransit for Non-Emergency Medical Transportation
General Public	\$0.50	\$5.00	\$5.00	\$15.00
Individual w/ Disability	\$0.25	\$1.00	\$1.00	\$7.50
Senior Citizen (65+)	\$0.25	\$1.00	\$1.00	\$7.50
K - 12 Student	\$0.25	\$5.00	\$5.00	\$15.00
NIU Student	Free	Free	Free	\$15.00
Children 5 and Under	Free	Free	Free	Free

- 3) All passenger fares collected by the PROPOSER shall be property of the CITY. The PROPOSER shall track fare type for each service and each day of operation. Fares shall be deposited in a separate account from other accounts of the PROPOSER in a financial institution in the DeKalb Urbanized Area that is acceptable to the CITY. Fares will be stored in a secure location in the garage or office and will be deposited in the financial institution at least once per week.
- 4) The PROPOSER shall maintain a base of operations at a CITY approved location in the service area for project administration, operations, and maintenance of system vehicles within five (5) miles of the City of DeKalb city limits
- 5) The PROPOSER must also provide a toll-free phone number for customers for general information, problem solving, complaints, commendations, and other categories of interaction. The telephone information line shall remain open during all hours of operation. Other modes of communication such as email may be proposed to augment the telephone information system.

- 6) PROPOSER may use app-based reservation systems and email reservations, but not required. PROPOSER should clearly identify in its proposal if methodology other than phone-based reservations will be implemented as part of this contract and what date that implementation will occur
- 7) The days and hours of the service may be altered by the CITY by giving the PROPOSER a minimum of seven (7) days written notice of the revised days.
- 8) Any change in the service level shall be deemed "substantial" if the cumulative total of CITY service changes measured over a period of one (1) year results in a service level either more than 15% above or below the established bid service level.
- 9) Number and hours of vehicles in service may vary according to demand. The CITY shall approve the actual number of vehicles used and hours of service provided. There is seasonal fluctuation in demand for paratransit service in the DeKalb Urbanized Area. Table 4 shows monthly paratransit ridership in 2019.
- 10) The PROPOSER shall enforce rules and regulations for passengers that ensure a safe and comfortable ride for all passengers. Passenger removals and ride privilege suspensions will be in accordance with the PROPOSER'S rules and regulations and applicable laws. PROPOSER shall provide written standards for processes for removal of passengers that are non-discriminatory. The CITY will work collaboratively with the PROPOSER to establish mutually satisfactory rules and regulations. Any complaints, lawsuits, or legal action regarding removal of passengers shall be the responsibility of the PROPOSER.
- 11) The CITY will make the final determination of suspension of a passenger.
- 12) The PROPOSER will maintain two-way communication with all employees operating revenue and non-revenue vehicles.
- 13) A driver's handbook shall be provided by the PROPOSER to each driver indicating operating policies, safe driving techniques, passenger relation protocols and other information to provide a safe, efficient, and reliable bus system with an emphasis on a high level of customer service. The PROPOSER will provide a copy to the CITY with changes to the manual as it is revised throughout this agreement.
- 14) The PROPOSER shall retain all written and electronic driver logs throughout the period of performance under this contract and for five years after the end of the contract and shall permit the CITY to inspect these logs at any time.
- 15) The PROPOSER shall, in consultation with the CITY, make available the use of transit vehicles for emergency preparedness exercises upon request by the CITY. The CITY in coordination with emergency preparedness organizations and police and fire, may utilize transit vehicles and equipment for area emergency first responder training, so that they can properly respond to emergency incidents involving public transportation vehicles.
- 16) In the event of a major natural emergency such as tornado, flood, earthquake, or man-made catastrophe, the PROPOSER shall make labor, management, transportation, and communication resources available to the degree possible for emergency assistance. If

the normal line of direct authority from the CITY is intact, the PROPOSER shall follow instructions of the CITY. If the normal line of direct authority is broken, and for the period it is broken, the PROPOSER shall provide such emergency assistance following instruction from the City of DeKalb Police Department or Fire Department. The CITY and PROPOSER shall work together to develop an emergency response plan. Upon the cessation of an emergency, as determined by the CITY the PROPOSER shall immediately resume normal transit operations as required under the Contract.

- 17) The PROPOSER shall maintain detailed records of all costs, including hours, fuel, other materials, and personnel associated with the emergency assistance during man-made or natural disasters.
- 18) The PROPOSER shall provide up to 50 hours per year of staff time participating in emergency preparedness drills and exercises, and emergency assistance included in the base bid set forth in the Contract. Any billing for emergency assistance during a man-made or natural disaster shall be separate.
- 19) The PROPOSER'S General Manager or designate shall attend meetings as requested by the CITY where transportation issues are discussed, such as: DSATS Policy and Transit Sub-Committee meetings and City Council meetings. Compensation for attendance at these meetings shall be included in the base bid.
- 20) The General Manager shall have experience as a General Manager or Assistant General Manager in a similar bus operation. The CITY reserves the right to approve the PROPOSER'S proposed and successive management personnel. The persons serving in management shall not perform any other duties for PROPOSER, being solely dedicated to management of CITY transit operations unless CITY provides written authorization to work on other projects. The PROPOSER must receive approval for the transfer of management personnel from this project to another.
- 21) The PROPOSER shall have adequate management staff to provide supervision of employees to ensure a safe, efficient, and reliable bus service.
- 22) The Maintenance Manager shall have successful experience managing the maintenance of a transit or truck fleet of similar size and complexity.
- 23) Any management personnel assigned to this project must remain in that position for a period of one (2) years unless the CITY asks the PROPOSER to remove such manager(s). If for reasons other than a personal termination (voluntary resignation of employment with the PROPOSER) or emergency, any managers that leave prior to this date, the CITY at its sole discretion, may immediately assess a penalty equal to one and a half (1½) times the manager's monthly salary for all remaining months in the contract, collected through a reduction in payment owed the PROPOSER in the next invoice cycle, or as otherwise agreed upon. All voluntary terminated management personnel shall not be re-employed with the PROPOSER or its parent or subsidiary companies or organizations. Any personnel assigned to fill open management positions on a temporary basis must meet the qualifications as stated in the scope of work for a permanent manager or have similar experience as determined by the CITY.
- 24) If for any reason a management position is left open or not permanently filled with a qualified full-time manager approved by the CITY for more than sixty (60) days, a penalty

equal to the manager's monthly salary may be immediately assessed by the CITY and collected through a reduction in payment owed the PROPOSER in the next invoice cycle, or as otherwise agreed to at the CITY's discretion. Such liquidated damages may continue to be assessed for each subsequent month in which no permanent manager is designated.

25) It is the intention of the CITY to develop a cooperative relationship with the PROPOSER. If problems occur, the CITY, and PROPOSER will work together to resolve them quickly and in a manner that provides the best service for our passengers. In general, liquidated damages will only be imposed after the PROPOSER has had opportunities to make corrections and failed to meet the needs of the CITY.

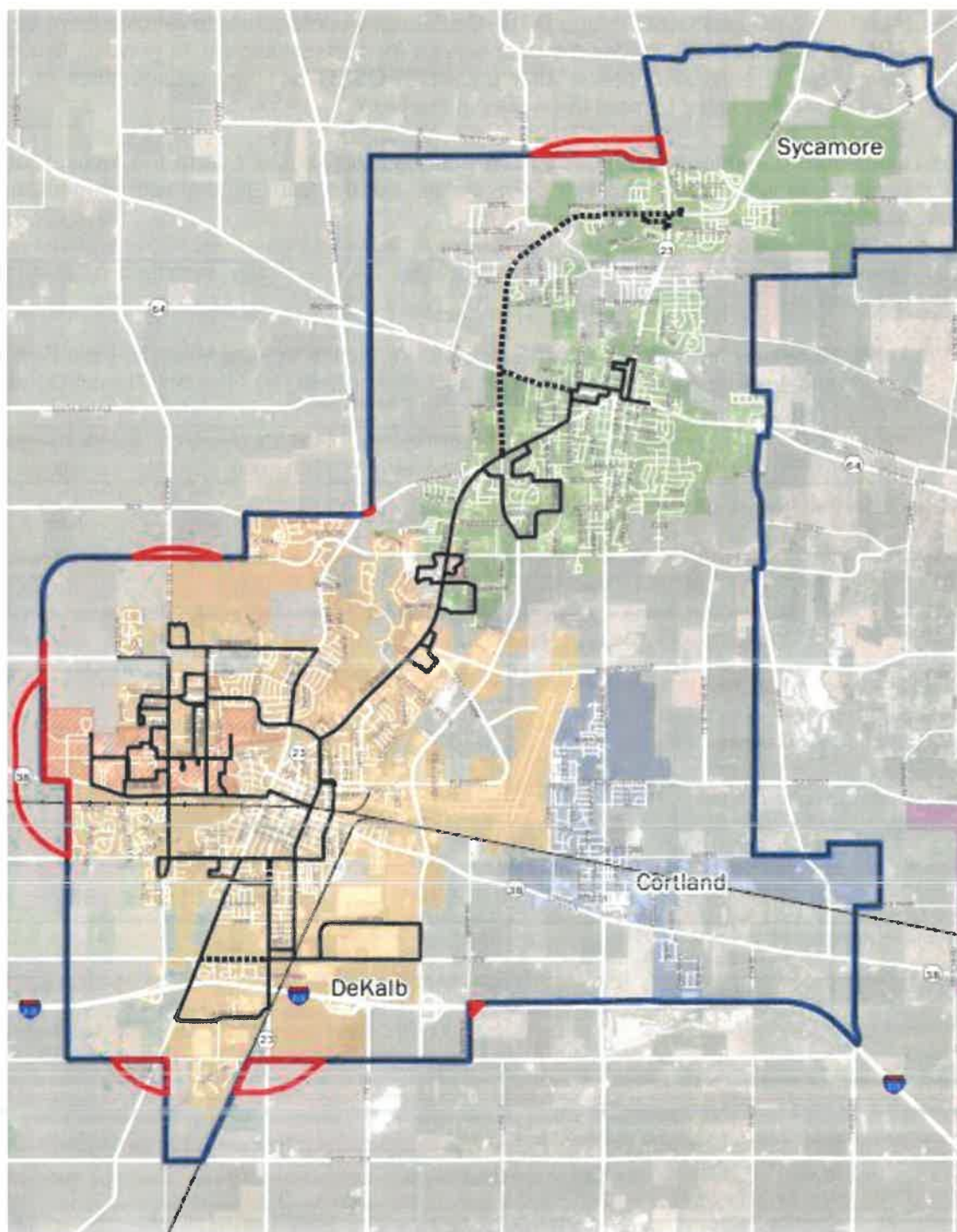
26) Liquidated damages shall be deducted automatically by CITY from the invoice for the period(s) in which they occurred. The decision of the CITY is final with respect to any assessment of liquidated damages.

27) Liquidated damages and the formula therefor shall be specifically described in the contract between the CITY and PROPOSER.

28) Table 10 below shall clarify Actual Vehicle Hours, Actual Vehicle Miles, Vehicle Revenue Hours and Vehicle Revenue Miles as in accordance with the National Transit Database Policy Manual:

Activity	Actual Vehicle Hours	Actual Vehicle Miles	Vehicle Revenue Hour	Vehicle Revenue Mile
Vehicle idles at the dispatching point.	No	N/A	No	N/A
Vehicle departs dispatching point to pick up a passenger.	Yes	Yes	No	No
Vehicle waits for a passenger at the pick-up point.	Yes	N/A	Yes	N/A
After a passenger drop-off, the vehicle departs to pick up another passenger with no passengers onboard.	Yes	Yes	Yes	Yes
Driver travels to a restaurant for lunch after the last passenger drop-off.	No	No	No	No
Driver eats their lunch at a restaurant.	No	N/A	No	N/A
Driver leaves restaurant to pick up passengers	No	No	No	No
Vehicle transports passengers from a community center to a shopping mall.	Yes	Yes	Yes	Yes
Vehicle waits at the shopping mall until it is time to bring passengers back to the community center.	Yes	N/A	Yes	N/A
Vehicle returns to the dispatching point with no passengers onboard.	Yes	Yes	No	No

Table 11 – Urban paratransit service area. Blue line represents the DeKalb Urbanized Area boundary. Red lines represent areas outside of the Urbanized Area that are eligible for paratransit service because they are within $\frac{3}{4}$ of a mile of a fixed route. All Urban Paratransit service must **BEGIN AND END** within the Urbanized Area.



J. CUSTOMER SERVICE/COMPLAINTS

- 1) The PROPOSER shall submit a plan for managing and monitoring customer service performance for all aspects of the operations. The plan shall be updated on a regular basis. A significant component of the plan will involve managing complaints and should consider the following requirements:
 - a) The PROPOSER and CITY staff shall implement a complaint/incident monitoring system within first month of the implementation of this agreement. This system should monitor all complaints, including but not limited to on-time performance, service delivery, Title VI, ADA, and Disadvantaged Business Enterprise complaints and any Civil Rights complaints. The monitoring process should clearly identify the required monitoring duties of both the CITY and PROPOSER staffs. Civil Rights complaints shall be relayed to the Transit Manager by the next business day after receipt by the PROPOSER.
 - b) Civil Rights complaints, Title VI complaints, grievances, or other complaints relating to the employment relationship between the PROPOSER and its employees are the responsibility of the PROPOSER.
 - c) In order for complaints to be most useful, the name, address, and telephone number (or email address) of the complaining party shall be provided. For customers who have intellectual, emotional, or physical limitations that inhibit their ability to provide such information, a contact person familiar with the complainant shall be an acceptable reporter of the complaint.
 - d) Anonymous complaints will be received and logged into the overall complaint process reporting system. While anonymous complaints will be of limited value for evaluating an issue, investigations may be warranted based upon the content of anonymous complaints. Some complaints may be received through social media and, if lacking contact information about the complaining party, should still be evaluated appropriately based on the nature of the complaint. The CITY and PROPOSER's staff shall hold all complaints received in strict confidence except to the extent required by applicable laws.
 - e) The PROPOSER's staff will investigate and resolve all complaints for which the PROPOSER is identified as the responsible investigator within five (5) working days. A written response (email or letter) will be provided to the complainant. The written response will contain the following information as appropriate:
 - i) A copy of the initial complaint;
 - ii) If the problem has been resolved, a description of the resolution;
 - iii) If the issue is still being investigated, an estimate of the additional time needed for further investigation;
 - iv) If the issue cannot be resolved, documentation shall be provided as to why the issue cannot be resolved;
 - v) If the investigation reveals that the complaint has no merit, documentation shall be provided.
 - f) A record of complaints shall be maintained and submitted to the CITY staff on a monthly basis and on demand as needed.

K. CONTRACTOR STAFF

- 1) General Manager
 - a) The selected PROPOSER shall designate a General Manager who shall oversee the day-to-day operation of the service. The PROPOSER shall state if the General

Manager is a shared position with other transportation services provided at the DeKalb site, or with other corporate responsibilities. The PROPOSER will state what percentage of time the General Manager will spend on service in DeKalb. The General Manager submitted by the PROPOSER must be the individual who will actually serve as the on-site General Manager should the contract be awarded to that firm. Should the firm propose to provide a General Manager other than the individual named in the proposal after contract award, the CITY retains the right to disqualify that PROPOSER and offer the contract to another qualified proposer.

- b) The selected PROPOSER shall be free to assign other non-project related duties to the General Manager during the person's tenure on the project. These duties, however, shall be secondary to the principal role of managing this service and shall not interfere in any manner with the duties of managing the scope of services described herein.
 - c) During periods of personal leave (e.g., vacation leave, sick leave, etc.), the selected PROPOSER shall designate other personnel who will perform the duties of the General Manager in the person's absence.
- 2) Dispatch and office staff
- a) The selected PROPOSER shall supply a sufficient number of employees to staff the office at all required times and perform all necessary tasks associated with the provision of safe, efficient, and reliable service. The selected PROPOSER will be responsible for training these employees and making sure that all program policies and procedures are understood and followed. PROPOSER will present an organization chart with the number of full and part time people planned for this contract.
- 3) Driver Qualifications and Training
- a) The selected PROPOSER agrees that it will not allow any person to drive a vehicle whose character and abilities to safely operate the vehicle are not of the highest level, or whose conduct might in any way expose any passenger to any impropriety of work or conduct whatsoever, nor shall the selected PROPOSER allow any person to drive a vehicle who is not at the time in a condition of mental, physical, and emotional stability.
 - b) The responsibility for hiring and discharging personnel in respect to this contract shall rest entirely upon the selected PROPOSER, and the selected PROPOSER agrees that it shall not enter into agreement or arrangement with any employees, persons, groups or organizations which may in any way interfere with the selected PROPOSER's ability to comply with this requirement.
 - c) The selected PROPOSER shall screen all driver candidates to ensure that the selected PROPOSER'S standards are applied. Under no condition will an applicant be accepted as a driver for this program if the person has been convicted of any felony, any sex crime or crime involving any sexual misconduct, any hate crime, any crime targeting any person based on their demographics or any protected classification (including but not limited to any crime which was charged with any aggravating factors based upon the demographics or protected classification of any victim thereof including but not limited to race, age or gender), any crime resulting in a requirement of registration as a registered sex offender, any felony or misdemeanor involving the driving or operation of a motor vehicle, any crime relating to the operation of any form of motorized vehicle while under the influence of any intoxicant, or any felony or misdemeanor involving the possession or consumption of any illegal drug, cannabis, or alcohol. The selected PROPOSER shall be responsible for undertaking a full and

comprehensive background check to confirm compliance with the foregoing standards, at its sole expense. In no event shall selected PROPOSER permit any person to operate any of its vehicles with passengers therein if such person has not completed a full background screening and demonstrated compliance with the foregoing requirements.

- d) Nothing in these Contract Documents shall inhibit the selected PROPOSER'S right to negotiate more stringent employment conditions.
 - e) All drivers shall receive initial driver training through appropriate training programs and show proof of successful completion of training.
 - f) Drivers will receive continuing education and ongoing training in areas such as defensive driving, rider satisfaction, sensitivity training, etc. on a recurring basis and selected PROPOSER will maintain records of the programs and driver attendance and understanding of the continuing education programs.
 - g) All drivers and supervisors are required to possess and maintain the following:
 - i) Valid Illinois Driver's License with appropriate class recognition and endorsements necessary to operate public transit vehicles.
 - ii) United States Department of Transportation Medical Card.
- 4) All staff employed by the selected PROPOSER in fulfilling this agreement shall be considered employees of the selected PROPOSER and not the agents, servants or employees of the CITY.

L. REPORTING REQUIREMENTS

- 1) The selected PROPOSER will be responsible for implementing a record keeping and reporting system. This system will be compliant with National Transit Database and IDOT reporting requirements and will submit required reports in a timely basis. The PROPOSER will be responsible for providing any information required to the CITY. With permission of the CITY, the PROPOSER may file reports directly with the oversight agency but will still need to provide copies to the CITY.
- 2) PROPOSER shall submit various reports as requested by the CITY. Format of reports shall be defined upon agreement approval. The statistics maintained shall include, but not limited to:
 - a) Operating Statistics: operating days; one-way trips; daily driver assignment passenger totals; total passengers; revenue hours, deadhead, and non-revenue hours; revenue miles, deadhead, and non-revenue miles; passengers per revenue-hour, revenue miles per revenue hour, and passengers per revenue mile.
 - b) Other Reporting Statistics that may be required by IDOT; NTD; and the FTA.
 - c) The PROPOSER can submit additional reports, developed by the PROPOSER, that will enhance the CITY's understanding of the efficiency and effectiveness of the bus service.
- 3) The PROPOSER shall submit driver training schedules and preventative maintenance schedules when requested by the CITY.
 - a) PROPOSER may be required to register with the National Transit Database. The PROPOSER shall also coordinate with the CITY staff to submit the CITY annual NTD reports. The City of DeKalb is a full reporter to NTD. Information shall be reported to NTD through the City of DeKalb and PROPOSER may not have an NTD Reporter ID for urban paratransit service in the DeKalb, Illinois Urbanized Area.

- 4) PROPOSER will warrant the accuracy of this information; any discrepancies shall be at the PROPOSER's expense. All data collected by the PROPOSER shall be available upon request for audit and inspection by the City. Failure to provide data and information upon request may result in liquidated damages.
- 5) PROPOSER will provide daily passenger counts by fare type including passengers with disabilities, seniors age 65 and older, and general public by day. Data will be presented in the monthly report.
- 6) The city standard for "on-time" is a 10-minute window before and after the scheduled pick up time. PROPOSER shall have sufficient resources so that 95% of all paratransit trips are picked up within the 20-minute window. On-time performance can be waived in adverse weather conditions and natural or man-made disasters as determined by the CITY.
- 7) The PROPOSER shall provide a quality control plan that demonstrates a strategy for managing and monitoring overall operational performance in preparation of submitting a Monthly Data Report to the City. The plan shall include tracking of key performance metrics, such as on-time performance, and other metrics that the PROPOSER currently uses.
- 8) On a monthly basis, the PROPOSER shall prepare a Monthly Data Report which shall be submitted to the City with the monthly invoice on or before 5 p.m. of the seventh calendar day of the following month. The Monthly Data Report shall include the monthly operating data indicated below and, at a minimum, the following additional reports:
 - Total driver hours by service type
 - Total vehicle hours by service type
 - Total vehicle miles by service type
 - Revenue hours by service type
 - Revenue mileage by service type
 - Deadhead miles by service type
 - Deadhead hours by service type
 - Total passengers by service type, by fare type
 - Missed service by run with reason for missed service
 - Missed trips (when the vehicle arrives outside of the pickup window and the rider does not accept the ride)
 - Trip Denials for Paratransit Services
 - No-Shows for Paratransit Services
 - Cash fares by Service
 - On-Time Performance by Service Type
 - Preventive Maintenance Inspections
 - Vehicle Failures by Route/Service (road calls while in revenue service)
 - Other operating data as requested

Telecommunications:

- Calls Received
- Calls Answered (Number and % of total received)
- Calls Abandoned (Number and % of total received)
- Average wait time for answered calls (Total, peak/off peak)
- Average wait time for abandoned calls (Total, peak/off-peak)

- Maximum wait time for answered calls
- Maximum wait time for abandoned calls
- Average call time (duration)

The PROPOSER shall complete and keep records (for the duration of this agreement) of the following reports:

- Daily Vehicle Inspection Report (DVIR) including wheelchair lift/ramp failures.
 - Preventive Maintenance Inspection (PMI) Reports
 - Road Call Report Card (while in Revenue Service; to include miles between mechanical road calls by category per NTD requirements)
 - Fuel usage per month per vehicle
 - Miles traveled per vehicle, per month
 - All information must be complete and accurate.
- 9) PROPOSER shall perform NTD Surveys of sample trips as directed by the City. Unlinked Passenger Trips Sampling and Average Trip Length shall be conducted as prescribed by applicable NTD Sampling manual or Regulation that is applicable.
- 10) PROPOSER may include additional reporting information that is standard in other paratransit systems they operate and will include that criteria in their submittal as an enhancement.
- 11) Payment to the PROPOSER may be delayed if the required monthly reporting data is not submitted in a timely manner.

M.AGENCY OVERSIGHT AND MANAGEMENT

PROPOSER performance pursuant to this procurement will be managed by the CITY staff and PROPOSER staff as necessary. CITY personnel will, among other responsibilities, conduct unannounced audits of PMI performance, monitor the adequacy and conduct of repairs, approve major rebuilds, monitor warranty administration and repairs, and conduct unannounced pull-out inspections at least once per quarter.

N. CITY OWNED VEHICLES AND EQUIPMENT

- 1) The PROPOSER will provide all equipment to provide the services defined in this contract with the exception of equipment and vehicles listed on Pages 40 & 41 below.
- 2) A Lease Agreement shall be prepared and executed for all City owned equipment and vehicles leased to the PROPOSER for the provision of public transit. The Lease Agreement shall include:
 - a) Listing of all available equipment being leased;
 - b) Date of purchase of each leased item;
 - c) Original cost of each leased item;
 - d) Cost of the lease for each leased item;
 - e) Estimated useful life of each item;
 - f) Estimated replacement date of each item;
 - g) Policy of disposition once each leased item has surpassed its useful life; and
 - h) Any additional information required by FEDERAL, STATE, and CITY officials.

- 3) PROPOSER shall have access to city vehicles after July 8, 2020 for inspection and review of maintenance records.
- 4) All revenue vehicles used by PROPOSER in the performance of services under the contract pursuant to this RFP shall be provided by the CITY. Support vehicles will be provided by the PROPOSER. All vehicles shall be maintained in good, safe and workmanlike condition at all times, in accordance with all applicable legal standards and regulations applicable to vehicles (and transit vehicles) operated on public roadways. PROPOSER shall provide a written preventative maintenance policy and program for the bus fleet used in the performance of services under this RFP. In addition, PROPOSER shall provide a written policy outlining the daily cleaning and disinfection protocol for the interior and exterior of the bus fleet, as well as a policy for addressing mid-route cleanup due to any hazardous conditions, bodily substance discharges or other unexpected conditions. Such written policy shall specify a bloodborne pathogens protocol in compliance with applicable federal and state laws.
- 5) Separately, without regard to the contents of the policies, PROPOSER shall be obligated to maintain the bus fleet in top mechanical condition, in full compliance with legal standards and best management practices, at all times, and shall similarly be required to keep the interior and exterior of the bus fleet clean, sanitary and attractive at all times. The failure to maintain the bus fleet shall be grounds for imposition of liquidated damages as a violation of the minimum standards of the Agreement.
- 6) Buses still in warranty will be processed by the PROPOSER to recover any eligible warranty claims. Any monies received from warranties will be collected and utilized by the CITY for transit expenses.
- 7) Damaged vehicles due to accidents shall be promptly repaired by the PROPOSER or sub-contractors. A daily vehicle repair log must be kept by PROPOSER. All body and glass damages are the sole responsibility of the PROPOSER and shall be repaired within thirty (30) days from the date of the accident or the date when the damage was first identified. If an extension of time is necessary, requests must be submitted in writing to the CITY contact that will make the determination. Consistent with CITY standards, vehicles with body damage other than minor scratches shall not be released for operation until repairs have been completed. If a vehicle is destroyed and the PROPOSER is at fault, the PROPOSER shall be required to pay the remaining federal share of the vehicle to the CITY. All and any damage caused by PROPOSER shall be repaired by PROPOSER at the PROPOSER's cost.
- 8) The PROPOSER will provide a facility that is adequate to maintain the bus fleet, including an operational diesel and gasoline fueling station and related equipment, within five miles of the City limits of the City of DeKalb. PROPOSER shall assume all liability for fuel storage (CITY purchased fuel) and dispensing procedures and shall engage in all fuel related activities in a fashion compliant with applicable laws. If the PROPOSER is unable to provide onsite fuel storage, fuel can be purchased at an off-site location. All fuel purchases made at an off-site location must be reconciled with a copy of a receipt to the CITY. Fuel purchases submitted to the CITY without receipts will be non-reimbursable.
- 9) The PROPOSER will submit required information for FTA Transit Asset Management.

- 10) Vehicles shall be painted in a paint scheme designed by the CITY at the time requested by the CITY. PROPOSER identification will be in an acceptable size and location as determined by the CITY.
- 11) No commercial advertising will be allowed on the exterior or interior of any vehicle without prior CITY approval. PROPOSER may be required to post CITY approved flyers inside the buses. Any revenues received from advertising will be collected by the CITY.
- 12) PROPOSER must post any fliers or notifications on every bus which are mandated by federal and state public transit regulations and shall be provided by the CITY.
- 13) All maintenance and repairs of vehicles shall be in accordance with City specified standards (i.e., in accordance with original manufacturer's specifications), whether performed by the Contractor or authorized subcontractors. Maintenance of City equipment shall be done at a time that will ensure maximum availability of vehicles for service. It is not the intent of this requirement to preclude necessary maintenance during normal hours; it is only to ensure that the maximum number of vehicles will be available for service during the service day.
- 14) The PROPOSER shall maintain vehicles in such a way as to, at all times, protect the City's investment. This requires prompt response to ensure that repairs are done at the point where they will require the least expenditure. The PROPOSER shall consult with the CITY prior to performing significant repairs on any vehicle within 12 months of the end of their useful life.
- 15) The PROPOSER and CITY staff shall perform an annual inspection of all CITY owned vehicles and equipment.

City of DeKalb
Equipment and Vehicle List as of May 1st, 2020

Item	Year Purchased	Make and Model	Owner	Total Number
Drill Press	Unknown	Clarke Metalworker BTA	City of DeKalb	1
Wheel Dolly	Unknown	Wesco Industrial Products	City of DeKalb	1
Hydraulic Press	Unknown	20 Ton NAPA Hein-Werner	City of DeKalb	1
Engine Crane	Unknown	2 Ton ATD-7484	City of DeKalb	1
Vehicle Radios	2011	HDM 150	City of DeKalb	21
Radio Base	2011	Astron	City of DeKalb	1
Handheld Radio	2011	HDP 150	City of DeKalb	2
Fare Boxes	2012	Diamond (installed in Eldorado Heavy Duty Buses)	City of DeKalb	2
Wireless Mobile Column Lifts	2013	Stertil-Koni 18,000 Pound Capacity	City of DeKalb	4
Vehicle Cameras (Set of 7 Cameras)	2016	Angel Trax	City of DeKalb	21
Vehicle Camera Hard Drive	2016	Angel Trax 1TB SATA 3 SS1TB-3D	City of DeKalb	42
A/C Machine	2016	Robinair 17800B	City of DeKalb	1
Wheel Balancer	2017	Coats 1500	City of DeKalb	1
Salt Spreader	2018	Western Tornado Poly Hopper Spreader	City of DeKalb	1
Server	2018	Dell T330	City of DeKalb	1
Desktop Computer	2019	Dell 5060	City of DeKalb	15
Mouse and Keyboard	2019	Dell KM714 Wireless Mouse and Keyboard	City of DeKalb	15
Computer Monitor	2019	Dell 24 Inch Monitor	City of DeKalb	30
Laptop Computer	2019	Dell 5590	City of DeKalb	2

Count	Fleet Number	Year	Make	Model	Mileage	Vehicle Identification Number	Purchase Cost	Non-Revenue/Revenue	Useful Life (Yrs)	Estimated Replacement Year
1	502	2007	Ford	F-350	59,809	1FTWX315X7EA51682	\$59,052	Non-Revenue	8	Will not be Replaced
2	MV6	2008	Chevrolet	Uplander Minivan	222,092	1G8DV13W98D209559	\$33,916	Revenue	5	Has been replaced
3	28	2009	Ford	Cutaway Light Duty	232,584	1FDEE5189DA29775	\$50,145	Revenue	7	Has been replaced
4	31	2009	Chevrolet	Super Medium Duty	182,408	1GBE5V1969FA03481	\$92,396	Revenue	9	Has been replaced
5	33	2009	Ford	Cutaway Light Duty	197,452	1FDEE31X9DA29776	\$50,145	Revenue	7	Has been replaced
6	49	2009	Ford	Cutaway Light Duty	273,067	1FDEE31X9DA29779	\$50,145	Revenue	7	Has been replaced
7	46	2009	Ford	Cutaway Medium Duty	222,759	1FDFE45S99DA29771	\$57,244	Revenue	8	Has been replaced
8	25	2012	Eldorado	Heavy Duty Bus	208,452	1N9APAC16CC084074	\$412,130	Revenue	12	FY-2024
9	51	2012	Eldorado	Heavy Duty Bus	155,426	1N9APAC15CC084072	\$428,245	Revenue	12	FY-2024
10	MV16	2017	Dodge	Braun Minivan	52,112	2C7WDG8G83HR797933	\$38,034	Revenue	5	FY-2022
11	MV17*	-	-	Minivan	-	-	-	Revenue	5	FY-2021
12	MV18	2017	Dodge	Braun Minivan	53,003	2C7WDG8G83HR797928	\$38,034	Revenue	5	FY-2022
13	53	2017	Ford	Cutaway Medium Duty	54,464	1FDFE4F58HDC71009	\$58,167	Revenue	8	FY-2026
14	54	2017	Ford	Cutaway Medium Duty	45,571	1FDFE4F58HDC71011	\$58,167	Revenue	8	FY-2017
15	55	2017	Ford	Cutaway Medium Duty	63,634	1FDFE4F58HDC71017	\$58,167	Revenue	8	FY-2025
16	56	2017	Ford	Cutaway Medium Duty	48,383	1FDFE4F58HDC70992	\$58,167	Revenue	8	FY-2026
17	57	2017	Ford	Cutaway Medium Duty	52,218	1FDFE4F58HDC71003	\$58,167	Revenue	8	FY-2025
18	58	2017	Ford	Cutaway Medium Duty	45,562	1FDFE4F58HDC70970	\$58,167	Revenue	8	FY-2027
19	61	2017	Ford	Cutaway Light Duty	40,270	1FDEE3F58HDC77825	\$54,708	Revenue	7	FY-2026
20	62	2017	Ford	Cutaway Light Duty	44,490	1FDEE3F58HDC77810	\$54,708	Revenue	7	FY-2026
21	63	2017	Ford	Cutaway Light Duty	45,016	1FDEE3F58HDC77815	\$54,708	Revenue	7	FY-2025
22	64	2017	Ford	Cutaway Light Duty	49,447	1FDEE3F58HDC77817	\$54,708	Revenue	7	FY-2025
23	65	2017	Ford	Cutaway Light Duty	55,964	1FDEE3F58HDC77823	\$54,708	Revenue	7	FY-2024
24	66	2019	Ford	Super Medium Duty	1,078	1FDAF5GY5KDA16150	\$97,945	Revenue	9	FY-2027
25	67	2019	Ford	Super Medium Duty	780	1FDAF5GY5KDA11384	\$97,945	Revenue	9	FY-2027
26	68	2019	Ford	Super Medium Duty	810	1FDAF5GY5KDA13856	\$97,945	Revenue	9	FY-2027

* Not Currently in Service	
Estimated Replacement by Year	
FY-2021	1
FY-2022	2
FY-2023	0
FY-2024	3
FY-2025	4
FY-2026	4
FY-2027	5

Revenue Vehicles	
Minivans:	Amount
Light Duty Vehicles:	3
Medium Duty Vehicles:	8
Super Medium Duty Vehicles:	7
Heavy Duty Vehicles:	4
TOTAL	24
Minivans do not have camera system or radios installed.	

O. FEDERAL AND STATE REGULATIONS

- 1) Incorporation of FTA terms: The following provisions include, in part, certain Standard Terms and Conditions required by IDOT, whether or not expressly set forth in the agreement provisions found herein. All contractual provisions required by IDOT and the FTA and as set forth in the most current FTA Circular C 4220.1F (<https://www.transit.dot.gov/regulations-and-guidance/fta-circulars/third-party-contracting-guidance>), are hereby incorporated by reference. Anything to the contrary notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The selected PROPOSER shall not perform any act, fail to perform any act, or refuse to comply with any CITY request that would cause the CITY to be in violation of the FTA terms and conditions. The PROPOSER shall always comply with all applicable FTA regulations, policies, procedures and directives, including without limitation to those listed directly or by reference herein, as they may be amended or promulgated from this time during the term of this agreement. The PROPOSER's failure to so comply shall constitute a material breach of this agreement.
- 2) In addition, the PROPOSER and any subcontractors shall adopt a drug-free policy as outlined in FTA and IDOT regulations. The purpose of this policy is to assure worker fitness for duty and to protect our employees, passengers, and the public from the risks posted by the misuse of alcohol, cannabis, and use of prohibited drugs. The PROPOSER shall also follow best practices for prescription and over the counter drug use by employees that may impair their ability to perform their duties in a safe and courteous manner.
- 3) This policy is also intended to comply with all applicable FEDERAL and STATE regulations governing workplace anti-drug and alcohol programs (see (A24) on page 102 below) in the transit industry. The FTA of the USDOT has published 49 CFR Part 653 and part 654, as amended, that mandate urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result. The USDOT has also published 49 CFR Part 40, as amended that sets standards for the collection and testing of urine and breath specimens. In addition, the FEDERAL government published 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which requires the establishment of drug-free workplace policies and the reporting of certain drug-related offenses to the FTA. This policy incorporates those requirements for safety-sensitive employees and others when so noted.
- 4) The PROPOSER and all subcontractors shall acknowledge and affirm that they shall comply with the provision of all applicable state and federal laws, including but not limited to Section 2-105A of the Illinois Human Rights Act (see <http://www.illinois.gov/dhr/Pages/default.aspx>).
- 5) The PROPOSER shall comply with all other appropriate FEDERAL and FTA requirements as noted or inferred.
- 6) The PROPOSER shall comply with all STATE, IDOT, and DOAP requirements as noted or inferred.

- 7) The PROPOSER shall be an active participant in the FTA Triennial Review to ensure both the PROPOSER and the CITY are complying with all active regulations implemented by both the FTA and the STATE. The PROPOSER shall also be an active participant in any specialized program reviews which the FTA or STATE may conduct to ensure more in-depth compliance with all required regulations.
- 8) The PROPOSER shall adopt the CITY Title VI Plan (effective May 31, 2019) and adhere to all its regulations. This plan includes service standards, policies to handle all Title VI complaints, and a Limited English Proficiency plan as required by FTA regulations.
- 9) The PROPOSER shall adhere to the DeKalb Sycamore Area Transportation Study's current and future Public Participation Plan (<https://dekalbcounty.org/wp-content/uploads/2018/12/dsats-publicparticipationplan-2013.pdf>) for public comment on fare increases, and major services reductions or modifications.
- 10) The PROPOSER shall provide a plan for managing any Rural transit; regional fixed routes; taxi; app-based demand service; school bus service; charter service; and other transportation services that **will not** be funded by this contract. The plan shall show how those services shall be completely separated from all transit service provided as part of this agreement. The PROPOSER shall prove that any capital equipment or operating assistance purchased with FTA grant funds shall NEVER be used in the provision of Charter or other ineligible services. The plan shall also show conformity to all FTA regulations as they relate to school bus and charter bus service. If school bus service is operated from the selected PROPOSER's facility, the PROPOSER shall develop a cost model that separates transit from charter or school bus cost. The cost model shall be approved by FTA and IDOT.
- 11) PROPOSER shall have a policy on how it handles Equal Employment Opportunity (EEO) complaints.
- 12) All subcontractor contracts and agreements entered into by PROPOSER in support of the CITY agreement are subject to all FTA rules and regulations and must include all applicable clauses as identified in the FTA Best Practices Procurement Manual (hereinafter BPPM) (<https://www.transit.dot.gov/funding/procurement/best-practices-procurement-manual>) and in the BPPM Federally Required and Other Model Clauses on the FTA website at: <https://www.transit.dot.gov/funding/procurement/bppm-federally-required-and-other-model-clauses>.

P. SAFETY AND SECURITY

- 1) PROPOSER shall provide CITY staff with all necessary documentation supporting security expenditures. PROPOSER will provide minimum or greater security expenditures in accordance with FTA regulations.
- 2) PROPOSER will comply with all Federal Transit Administration and Illinois Department of Transportation safety requirements for the implementation of the Public Transportation Agency Safety Plan.
- 3) PROPOSER shall submit comprehensive Safety and Security plans to the City demonstrating compliance with applicable regulations and incorporating best practices to

safeguard customers, employees, and resources. Plans should be updated on a regular basis.

Q. DISADVANTAGED BUSINESS ENTERPRISES

- 1) This agreement shall have an initial subcontractor Disadvantaged Business Enterprise (DBE) goal of 0.49%.
- 2) The PROPOSER shall conform to all FTA DBE requirements (*see(A9) Disadvantaged Business enterprise (DBE) on page 79 below*).
- 3) Procedures to handle any Disadvantaged Business Enterprise (DBE) complaints which may be received by PROPOSER (until new DBE plan is approved, the existing DBE plan developed by the CITY shall be in effect);
- 4) The current CITY overall DBE Goal is 0.49% and shall be renewed in 2021. PROPOSER shall conform to all FEDERAL, STATE, and local regulations as they pertain to DBE payments. In order to comply with DBE regulations PROPOSER shall provide the following:
 - a) Identification of all DBE Subcontractors and contact information;
 - b) Copy of any relevant contracts or agreements with DBE Subcontractor firms;
 - c) Estimated annual payments to DBE Subcontractor; and
 - d) Submittal of DBE Subcontractor Invoices and proof of payment by selected PROPOSER.

R. OTHER REQUIREMENTS

Certifications

Required Certifications on page 55 below shall be transferred to the agreement and provided as Exhibit 3.

Additionally, the PROPOSER shall be responsible for identifying all such applicable regulations and certifications, and for compliance with the same, including but not limited to:

- 1) *Sexual Harassment:* The PROPOSER certifies that it is in compliance with the Illinois Human Rights Act 775 ILCS 5/1.101, et seq. including establishment and maintenance of sexual harassment policies and program (see Civil Rights Certification on page 61 below).
- 2) *Tax Delinquency:* The PROPOSER certifies that it is not delinquent in payment of any taxes to the Illinois Department of Revenue in accordance with 65 ILCS 5/11-42.1, and is not delinquent in the payment of any tax, charge or obligation to the CITY.
- 3) *Employment Status:* The PROPOSER certifies that if any of its personnel are an employee of the State of Illinois, Northern Illinois University or a DSATS member community, they have permission from their employer to perform the service.
- 4) *Anti-Bribery:* The PROPOSER certifies it is not barred under 30 Illinois Compiled Statutes 500/50-5(a) - (d) from contracting as a result of a conviction for or admission of bribery or attempted bribery of an officer or employee of the State of Illinois or any other state.
- 5) *Loan Default:* If the PROPOSER is an individual, the PROPOSER certifies that he/she is not in default for a period of six months or more in an amount of \$600 or more on the repayment of any educational loan guaranteed by the Illinois State Scholarship Commission made by an Illinois institution of higher education or any other loan made from public funds for the purpose of financing higher education (5 ILCS 385/3).
- 6) *Felony Certification:* The PROPOSER certifies that it is not barred pursuant to 30 ILCS 500/50-10 from conducting business with the State of Illinois or any agency as a result of being convicted of a felony.
- 7) *Barred from Contracting:* The PROPOSER certifies that it has not been barred from contracting as a result of a conviction for bid-rigging or bid rotating under 720 ILCS 5/33E-3 (Bid Rigging) or 720 ILCS 5/33-4 (Bid Rotating) or a similar law of another state or of the federal government. (see on page 56 below.)
- 8) *Prevailing Wage:* The PROPOSER certifies that it shall comply with all applicable provisions of the Illinois Prevailing Wage Act, and further certifies that it is not in violation of said Act and has not been barred from submitting on this proposal by virtue of a past violation of the Act. The PROPOSER is responsible for regularly updating said list as new prevailing wage rates are made available by the CITY or by the Illinois Department of Labor. The Illinois Department of Labor posts regular updates to prevailing wage rates on its official website, which is currently <https://www2.illinois.gov/idol/Laws-Rules/CONMED/Pages/Rates.aspx>. This notice is given pursuant to 820 ILCS 130/4 and the balance of the Illinois Prevailing Wage Act, which is incorporated herein by reference as if fully restated. In the event that this is a public works project as defined under the Prevailing Wage Act, Proposer agrees to comply with the Substance Abuse Prevention on Public Works Projects Acts, 820 ILCS 265/1 et. seq., and further agrees that all of its subcontractors shall comply with such

Act. As required by the Act, PROPOSER agrees that it will file with the CITY, prior to commencing work, its written substance abuse prevention program and/or that of its subcontractor(s) which meet or exceed the requirements of the Act. Prevailing Wage Act compliance shall include, but shall not be limited to, application to maintenance or repair work performed on any public facility or other public works by or through PROPOSER or its agents or assignees.

- 9) *Drug Free Workplace:* The PROPOSER certifies that it is in compliance with the Drug Free Workplace Act (30 Illinois Compiled Statutes 580) as of the effective date of this agreement. The Drug Free Workplace Act requires, in part, that PROPOSERs, with 25 or more employees certify and agree to take steps to ensure a drug free workplace by informing employees of the dangers of drug abuse, of the availability of any treatment or assistance program, of prohibited activities and of sanctions that will be imposed for violations; and that individuals with contracts certify that they will not engage in the manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the agreement. The PROPOSER further certifies that it maintains a substance-abuse program and provide drug testing in accordance with 820 ILCS 130/11G, Public Act 095-0635. The PROPOSER shall also comply with the Federal Highway Administrative Rules on Controlled Substances and Alcohol Use and Testing, 49 CFR Parts 40 and 382 and that all of PROPOSER's drivers are currently participating in a drug and alcohol testing program pursuant to the Rules.
- 10) *Responsible CONTRACTOR Requirements:* The PROPOSER certifies that it complies with the Illinois Procurement Code and the provisions of Section 30-22 thereof relating to apprenticeship and training, if applicable. The PROPOSER further certifies for work that will be performed by subcontract that each of its subcontractors submitted for approval either is in compliance or will begin participation in an approved apprenticeship and training program prior to commencing any Work. The Illinois Department of Labor, at any time before or after award, may require production of a copy of each applicable Certificate of Registration issued by the United States Department of Labor evidencing such participation by the PROPOSER and all of its Subcontractors. Applicable apprenticeship and training programs are those that have been approved or registered with the United States Department of Labor. The PROPOSER shall provide to the CITY, upon request, copies of all Certificates of Registration, and copies of all work or craft job category included in the Work, along with such other records as the CITY may require. Any records or logs required to be provided by law shall be provided by the PROPOSER, without requiring a request from the CITY.
- 11) *Non-Discrimination, Certification, and Equal Employment Opportunity:* The PROPOSER agrees to comply with applicable provisions of the Illinois Human Rights Act (775 Illinois Compiled Statutes 5), the U.S. Civil Rights Act, the Americans with Disabilities Act, Section 504 of the U.S. Rehabilitation Act and the rules applicable to each. The equal opportunity clause of Section 750.10 of the Illinois Department of Human Rights Rules is specifically incorporated herein. The PROPOSER shall comply with Executive Order 11246, entitled Equal Employment Opportunity, as amended by Executive Order 11375, and as supplemented by U.S. Department of Labor regulations (41 C.F.R. Chapter 60). The PROPOSER agrees to incorporate this clause into all subcontracts under this Agreement. The PROPOSER acknowledges

that neither it nor the CITY shall discriminate on the basis of any protected classification.

- 12) *Record Retention and Audits:* If 30 ILCS 500/20-65 requires the PROPOSER (and any subcontractors) to maintain, for a period of 3 years after the later of the date of completion of this Agreement or the date of final payment under the Agreement, all books and records relating to the performance of the Agreement and necessary to support amounts charged to the CITY under the Agreement. The Agreement and all books and records related to the Agreement shall be available for review and audit by the CITY and the Illinois Auditor General. If this Agreement is funded from grant funds provided by the U.S. Government, the Agreement, books, and records shall be available for review and audit by the Comptroller General of the U.S. and/or the Inspector General of the federal sponsoring agency. The PROPOSER agrees to cooperate fully with any audit and to provide full access to all relevant materials.
- 13) *United States Resident Certification:* (This certification shall be included in all contracts or agreements involving personal services by non-resident aliens and foreign entities in accordance with requirements imposed by the Internal Revenue Services for withholding and reporting federal income taxes.) The PROPOSER certifies that he/she/it is a: ☐ United States Citizen or Corporation ☐ Resident Alien ☐ Non-Resident Alien. The Internal Revenue Service requires that taxes be withheld on payments made to non-resident aliens for the performance of personal services at the rate of 30%.
- 14) *Tax Payer Certification (to be provided prior to approval of agreement):* Under penalties of perjury, the PROPOSER certifies that its Federal Tax Payer Identification Number or Social Security Number is _____ and is doing business as a (check one): ☐ Individual ☐ Real Estate Agent ☐ Sole Proprietorship ☐ Government Entity ☐ Partnership ☐ Tax Exempt Organization (IRC 501(a) only) ☐ Corporation ☐ Not for Profit Corporation ☐ Trust or Estate ☐ Medical and Health Care Services Provider Corp.
- 15) *Authorized in Illinois:* The PROPOSER that it is authorized to lawfully transact business in the State of Illinois, under all applicable Illinois laws and regulations. The PROPOSER certifies that it shall comply with the Corporate Accountability for Tax Administration Act, 20 ILCS 715/1, *et. seq.* Where applicable, the PROPOSER certifies that it is not barred from proposing by virtue of having been adjudicated to have committed a willing or knowing violation of Section 42 of the Environmental Protection Act within the five years preceding this proposal, pursuant to 415 ILCS 5/1, *et. seq.* The PROPOSER further certifies that it is in compliance with all applicable requirements of the Business Enterprise for Minorities, Females and Persons with Disabilities Act, 30 ILCS 575/1, *et. seq.*
- 16) *Export Administration, Supplies, Labor:* The PROPOSER certifies that neither it nor any substantially owned affiliate is participating, nor shall participate, in an international boycott which is in violation of the provisions of the US Export Administration Act of 1979 or the regulations of the US Department of Commerce promulgated under the Act, including but not limited to the requirements of 30 ILCS 582/5. The PROPOSER further certifies that no foreign made equipment, materials or supplies furnished under the proposal or agreement have been or will be produced in whole or in part by forced labor, convict labor, or indentured labor, nor made in whole

or in part by the labor of any child under the age of 12, under penal sanction pursuant to 30 ILCS 583/1 and 30 ILCS 584/1. The PROPOSER certifies that steel products used or supplied in the performance of an agreement for public works shall be manufactured or produced in the United States, unless the CITY Manager grants an exception to said requirement, pursuant to 30 ILCS 565/1, *et. seq.*

- 17) *General Compliance and Certification:* The PROPOSER certifies that it has and will comply with all other applicable laws, regulations, ordinances or restrictions applicable to any component of the proposing process, agreement, or any services or materials provided in connection therewith. The PROPOSER acknowledges that it is responsible for identifying and complying with all applicable laws, ordinances, rules and regulations, and that it shall indemnify and hold harmless the CITY from any claim, liability or damages arising out of the failure to identify or comply with any such applicable legal restriction. The CITY reserves the right to reject any proposal, cancel any agreement or pursue any other legal remedy deemed necessary should it become aware of any violation of any laws, ordinances, rules or regulations on the part of the PROPOSER or any subcontractor.
- 18) *OSHA Standards:* The PROPOSER certifies that it will identify and comply with all requirements and standards imposed by the Occupational Safety and Health Act. All guards and protectors, all appropriate markings, and all other protections shall be in place prior to delivery of any item, and at all times during performance of any Work.
- 19) *CERCLA Indemnification:* The PROPOSER certifies that it shall, to the maximum extent permitted by law, indemnify, defend and hold harmless the CITY, CITY Indemnitees, and Northern Illinois University and its Indemnitees from and against any and all liability, including without limitation, costs of response, removal, remediation, investigation, property damage, personal injury, damage to natural resources, health assessments, health settlements, attorneys' fees, and other related transaction costs arising under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC 9601, *et. seq.*, as amended from time to time, and all other applicable statutes, regulations, ordinances, and under common law for any release or threatened release of the waste material collected by the PROPOSER both before and after its disposal.
- 20) *Buy America:* The PROPOSER certifies that shall conform to all FEDERAL (A4) that apply to FTA assisted contracts on page 72 below. Privately owned buses are not required to be purchased in the U.S.A. if they will be removed by the selected PROPOSER at the end of the contract.
- 21) *Collusion:* The PROPOSER certifies that it is not colluding with any other party or person in the preparation or submittal of this Agreement.
- 22) *New Legislation:* PROPOSER and CITY will work cooperatively to resolve any additional financial burdens placed on the PROPOSER by new state or federal legislation that will affect the cost of operation.

Indemnification

- 1) PROPOSER shall indemnify and hold harmless the IDOT, FTA, CITY and CITY's agents, servants, attorneys, and employees, all DSATS member agencies and their

representatives on the DSATS committees, except representatives on the committees which are staff of the PROPOSER, against any and all loss, damage, taxes, liabilities, judgments, fees, penalties, fines, charges or other expense whatsoever, including but not limited to attorney's fees and court costs, which the any of the foregoing parties (including but not limited to the CITY) may sustain or for which it may become liable in any way arising out of or relating to this agreement, the PROPOSER's performance of services hereunder, on account of injury to or death of persons, or on account of damage to or destruction of property resulting from the performance of work under this agreement by PROPOSER or its Subcontractors, due to or arising in any manner from the intentional or wrongful act or negligence of PROPSEER or its Subcontractors of any employee of any of them, or otherwise arising out of this Agreement or the PROPOSER's performance of services on behalf of the CITY. PROPOSER shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the City, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. PROPOSER shall assume all restitution and repair costs arising out of an error, omission and/or negligence. PROPOSER further agrees to indemnify and save harmless the City, including its elected or appointed officials, employees, attorneys and agents (collectively, the "City Indemnitees") against any and all claims, loss damage, injury, liability, and court costs and attorney's fees incident thereto, made by employees of the Proposer or any of their subcontractors, as well as all other persons, resulting directly or indirectly from the work covered by this contract or the equipment used in connection therewith. The PROPOSER is solely responsible for determining the accuracy and validity of any information provided to the Proposer by the City or its representatives. This indemnification shall apply to the fullest extent of the law, and in the event that any provision hereof is determined to be unenforceable, the indemnification obligations shall be severable and the fullest extent of indemnification that may lawfully apply shall remain in full force and effect. This indemnification shall include any claims arising out of the erection, construction, placement or operation of any scaffold, hoist, crane, stay, ladders, support or other mechanical contrivance in connection with such work including but not limited to losses, claims, damages and expenses arising pursuant to claims asserted against the CITY pursuant to theories premised upon Section 414 or Section 343 of the Restatement (Second) of Torts. This indemnification shall not be limited in any way by limitations on the amount or type of damages, compensation, or benefits payable by or for the Proposer under Workers' Compensation Acts, disability benefit acts, or other employee benefit acts, and serves as an express agreement to waive the protection of *Kotecki v. Cyclops Welding Corp*, 146 Ill.2d 155 (1991) in Illinois.

- 2) The PROPOSER shall be responsible for any and all damages to property or persons arising out of an error, omission, and/or negligent act in the prosecution of the work or failure to prosecute the work and shall indemnify and hold harmless the CITY, its officers, agents, and employees from all suits, claims, actions or damages of any nature whatsoever resulting therefrom. The PROPOSER shall assume all restitution and repair costs arising out of an error, omission, and/or negligence.
- 3) The PROPOSER shall purchase and maintain continuously, throughout the term of the agreement, insurance coverage meeting all the following requirements.

- 4) The PROPOSER acknowledges that while the CITY has implemented minimum standards of performance in this agreement, the CITY shall not be obligated to serve as a guarantor of compliance with any such requirements. PROPOSER shall be fully responsible for identifying and complying with all applicable legal requirements whether federal, state or local, and the CITY shall have the right, but not the obligation to identify deficiencies and insist on compliance. The PROPOSER shall indemnify, defend and hold harmless the CITY from any claim arising out of an alleged failure by the CITY to identify deficiencies or require PROPOSER compliance therewith.

Insurance

The PROPOSER shall purchase and maintain continuously, throughout the term of the agreement, insurance coverage meeting all the following requirements.

1) All PROPOSER and All Contracts/AGREEMENTS:

- a) PROPOSER shall provide any and all insurance required under any applicable law, regulation, statute, or ordinance, including but not limited to workers' compensation insurance, unemployment insurance, automobile liability insurance, and other legally required insurance.
- b) PROPOSER shall produce a certificate evidencing current coverage, upon request from the CITY. PROPOSER shall indemnify and hold harmless the CITY and the Board of Trustees of Northern Illinois University (UNIVERSITY) from any and all liability, damage, cost or expense which the CITY or University may incur or be liable to pay as a result of any and all accidental injuries or damages suffered by the Consultant or its employees (in addition to any other required indemnification or insurance from Consultant).
- c) Certificates and General Conditions:
 - i) Unless otherwise indicated herein, any certificate of insurance shall further indicate that the CITY and Board of Trustees of Northern Illinois University are additional primary and non-contributory insured on the Comprehensive General Liability and Automobile policies of insurance, shall indicate that such policies shall not have any right of subrogation against the CITY or the CITY's insurers and the University or the University's insurers, and shall indicate that said policy shall not be cancelled or revoked except after the provision of not less than 30-day notice to the CITY. Additional insured status shall not be required on workers compensation insurance policies.
 - ii) PROPOSER shall maintain said policy in full force and effect for the duration of this Agreement and shall periodically provide updated certificates of insurance to evidence continuing coverage in compliance herewith.
 - iii) For purposes of this Agreement and insurance provided hereunder, the "CITY" shall include the City of DeKalb, its employees, appointed and elected officers, its committees, its attorneys, and all corporate bodies that exist as a subsidiary to the CITY, DSATS Staff, DSATS TAC Members, DSATS PC members, and DSATS subcommittee members. The "UNIVERSITY" shall include Northern Illinois University and its Board, officers, employees, and agents.

2) Comprehensive General Liability Coverage Requirements.

- a) PROPOSER shall also be required to provide the CITY with a Certificate of Insurance, in a form and from an issuer acceptable to the CITY, indicating that the PROPOSER

has obtained and maintains comprehensive general liability insurance with policy limits of not less than:

- i) Two Million Dollars (\$2,000,000.) per person; and
- ii) Five Million Dollars (\$5,000,000.) per occurrence.
- iii) This insurance shall include independent contractors' protective liability, products and completed operations broad form property damage coverage. The completed operations and products liability coverage shall be maintained for at least two years after final payment. The coverage shall also include contractual liability insurance coverage for the PROPOSER's obligations to indemnify and hold harmless the CITY, the CITY Indemnites, the UNIVERSITY, and UNIVERSITY indemnitees.
- iv) Per occurrence is appropriate.
- v) Liability insurance limits that are required can be met by any combination of primary and excess insurance.

3) Vehicle Insurance Coverage:

- a) PROPOSER shall also be required to provide the CITY with a Certificate of Insurance, in a form and from an issuer acceptable to the CITY, indicating that the PROPOSER has obtained and maintains comprehensive automobile liability insurance with policy limits of not less than:
 - i) Two Million Dollars (\$2,000,000.) per person; and
 - ii) Five Million Dollars (\$5,000,000.) per occurrence.
 - iii) This policy shall include coverage for all owned, hired, and non-owned vehicles used in furtherance of this Agreement.
 - iv) Certificate with appropriate riders demonstrating primary and non-contributory additional insured status is acceptable.
- b) The Provider agrees that it shall maintain or cause to be maintained, for the duration of the Agreement, such policies of insurance as shall protect the Provider, the CITY, the UNIVERSITY, the Department, the FEDERAL Government, and the FTA. The Provider shall be responsible for the payment of any deductibles required by the insurance policies.
- c) The CITY reserves the right to increase vehicle coverages at any time it deems the coverage necessary.

4) Umbrella Coverage: The policy limits outlined above may be accomplished through primary coverage (e.g. vehicle insurance coverage with minimum limits as indicated) or through a combination of primary and umbrella coverage (e.g. vehicle insurance with specified limits, and umbrella coverage with supplemental limits to meet the minimum policy limits outlined herein), provided that any policy utilized to meet the minimum coverage limits shall identify the CITY (as defined herein relative to additional insured status) as additional primary and non-contributory insured, with a waiver of any right of subrogation against the CITY and UNIVERSITY or its insurance.

5) Indemnification.

- a) The policy limits, availability or unavailability of insurance coverage or the applicability of claims, defenses or limitations based upon applicable law (including but not limited to the Illinois Worker's Compensation Act or similar laws or statutes) shall in no way limit the PROPOSER's obligation to indemnify and hold harmless the CITY from any claims for damage, liabilities or other costs arising out of or relating to the PROPOSER's work or this Agreement.

6) Additional Insurance Requirements.

- a) EACH CERTIFICATE OF LIABILITY INSURANCE SHALL REFERENCE THE SPECIFIC RFP NUMBER **TRANSIT-2020-01** AND PROJECT DESCRIPTION IN THE ADDITIONAL INSURED FIELD AND SHALL BE PROVIDED DIRECTLY TO THE CITY REPRESENTATIVE.
- b) Each of the above coverages shall be written by a company with a minimum rating of "A" by the Best's Insurance Rating Guide. All coverages shall be written by companies that are admitted, license carriers in the STATE.
- c) The CITY, the STATE, and the FEDERAL governments, its agents, the Board of Trustees of Northern Illinois University, DSATS staff, DSATS members, DSATS Policy Committee members, and other DSATS subcommittee members shall be named as an Additional Insured on each of the above policies.
- d) A Certificate of Insurance evidencing the required coverages and this Additional Insured Endorsement shall be furnished to the CITY prior to the first day of service. Such insurance shall be cancelable or modifiable only on written notice by registered mail to the CITY at least thirty (30) days in advance of any changes. The CITY reserves the right to require the PROPOSER to furnish a copy of its insurance policy for examination prior to the first day of service.

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Appendix A. Contractor Information Form

The City of DeKalb compiles information on all contractors and subcontractors who submit business with the City for transportation projects. This form should be filled out and included as the first page of the submitted application. Prime contractors and consultants shall provide this information for themselves and all their subcontractors. Items 1-8 are required, and 9-13 are requested.

1) Firm Name: _____

2) Firm Address: _____

3) Phone Number: _____

4) E-mail address: _____

5) DUNS #: _____

(Please note – all firms doing business with US-DOT funded Contracts/Agreements shall have DUNS #)

6) Registered on SAM.GOV? ☐

(Please note – all firms doing business with US-DOT funded Contracts/Agreements shall be registered on SAM.gov)

7) Registered on SAM.GOV as a small business? ☐ (Will be verified)

8) NAICS Codes registered to do business under:

9) Illinois DBE Status: ☐ DBE ☐ Non-DBE; Status Verified? ☐

10) If registered as DBE in another State or on SAM.gov, please identify where registered:

11) Year Firm Established: _____

12) Type of Work: _____

13) Annual Gross Receipts: ☐ < \$500,000 ☐ \$500,000-\$1,000,000 ☐ \$1,000,000 -

\$2,000,000 ☐ \$2,000,000 - \$5,000,000 ☐ Above \$5,000,000

Appendix B. Proposal Check List

An RFP Checklist shall be made available on the RFP webpage in Excel Spreadsheet format for easier input. This shall be a checklist to assist PROPOSER'S in addressing all points identified in the RFP. For brevity, this check list is not included in the published RFP.

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Appendix C. Required Certifications

All Certifications below shall be filled out and signed by the PROPOSER and included in the firm's submittal.

Each Certification shall be made available on the RFP website in Excel Spreadsheet format for easier input.

CONFIDENTIAL

A. NON-COLLUSION CERTIFICATION

TO: City of DeKalb, DeKalb, IL

I hereby certify that I am the person responsible within my firm for the final decision as to the price(s) and amount of this proposal or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set forth below on his or her behalf and on behalf of my firm.

I further attest that:

- 1) The price(s) and amount of this proposal have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition with any other contractor, proposer, or potential proposer.
- 2) Neither the price(s) nor the amount of this proposal has been disclosed to any other firm or person who is a proposer or potential proposer on this project and will not be so disclosed prior to proposal opening.
- 3) No attempt has been made or will be made to solicit, cause, or induce any firm or person to refrain from proposing on this project, or to submit a proposal higher than the proposal of this firm, or any intentionally high or non-competitive proposal or other form or complementary proposal.
- 4) This proposal of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary proposal.
- 5) My firm has not offered or entered into a subcontract or agreement regarding the purchase of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from proposing or to submit a complementary proposal on this project.
- 6) My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting a complementary proposal, or agreeing to do so, on this project.
- 7) I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's proposal on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this affidavit.

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Business Name: _____

Doing business as: () Individual () Partnership () Corporation () other

B. ANTI-LOBBYING CERTIFICATION

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

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

- 1) 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.*)
- 2) 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/Agreements under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.
- 3) 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

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

Date: _____

Signature: _____

Printed Name: _____

Title: _____

Business Name: _____

C. BUY AMERICA CERTIFICATION

The PROPOSER agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

The [bidder or offeror] must submit to [CITY] the appropriate Buy America certification below with its [bid or offer]. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

In accordance with 49 C.F.R. § 661.6, for the procurement of steel, iron or manufactured products, use the certifications below.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

In accordance with 49 C.F.R. § 661.12, for the procurement of rolling stock (including train control, communication, and traction power equipment) use the following certifications:

Certificate of Compliance with Buy America Rolling Stock Requirements

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

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

Certificate of Non-Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 C.F.R. § 661.7.

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

D. CERTIFICATION OF PARTICIPANTS REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

The Participant (a potential sub-grantee or sub-recipient under an FTA project, a potential third-party PROPOSER, or a potential subcontractor under a major third-party PROPOSER), certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any FEDERAL department or agency.

If the Participant (a potential sub-grantee or sub-recipient under an FTA project, a potential third-party PROPOSER, or a potential subcontractor under a major third-party contract/agreement) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.

THE PARTICIPANT (A POTENTIAL SUB-GRANTEE OR SUB-RECIPIENT UNDER AN FTA PROJECT, A POTENTIAL THIRD PARTY PROPOSER, OR A POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD-PARTY CONTRACT/AGREEMENT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature of Authorized Official

Title of Authorized Official

Date

E. CIVIL RIGHTS CERTIFICATION

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

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

- 1) *Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and FEDERAL transit law at 49 U.S.C. § 5332, the PROPOSER agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the PROPOSER agrees to comply with applicable FEDERAL implementing regulations and other implementing requirements FTA may issue.*
- 2) *Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:*
 - a) *Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and FEDERAL transit laws at 49 U.S.C. § 5332, the PROPOSER agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable FEDERAL statutes, executive orders, regulations, and FEDERAL policies that may in the future affect construction activities undertaken in the course of the Project. The PROPOSER agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the PROPOSER agrees to comply with any implementing requirements FTA may issue.*
 - b) *Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and FEDERAL transit law at 49 U.S.C. § 5332, the PROPOSER agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the PROPOSER agrees to comply with any implementing requirements FTA may issue.*
 - c) *Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the PROPOSER agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the PROPOSER agrees to comply with any implementing requirements FTA may issue.*
- 3) *The PROPOSER also agrees to include these requirements in each subcontract financed in whole or in part with FEDERAL assistance provided by FTA, modified only if necessary to identify the affected parties.*

Signature of Authorized Official

Title of Authorized Official

Date

F. CERTIFICATION AS A DISADVANTAGED BUSINESS ENTERPRISE (DBE) AND/OR SMALL BUSINESS

The CITY highly encourages DBE and small business firms to participate in all federal and state funded transportation projects in the DSATS planning region either as a Prime selected PROPOSER or Subcontractor. Any firm participating in the RFP claiming DBE or Small Business Status shall provide documentation to verify their status.

CONFIDENTIAL

G. DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION FORM

The undersigned Bidder/Offeror has satisfied the requirements of the solicitation in the following manner (please check the appropriate space):

_____ The Bidder/Offer is committed to a minimum of _____ % DBE utilization on this contract.

_____ The Bidder/Offeror (if unable to meet the DBE goal of %) is committed to a minimum of _____ % DBE utilization on this contract and submits documentation demonstrating good faith efforts.

DBE PARTICIPATION SCHEDULE

The Bidder/Offeror shall complete the following information for all DBE's participating in the contract that comprises the DBE Utilization percent stated in the DBE Utilization Form. The Bidder/Offeror shall also furnish the name and telephone number of the appropriate contact person should the Authority have any questions in relation to the information furnished herein.

DBE IDENTIFICATION AND INFORMATION FORM

Name and Address	Contact Name and Telephone Number	Participation Percent (Of Total Contract Value)	Description Of Work To Be Performed	Race and Gender of Firm

If the offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)

H. SMALL BUSINESS FORM 1: SMALL BUSINESS CERTIFICATION

The undersigned offeror has satisfied the requirements of the specification in the following manner (please check the appropriate space):

(Please Check)	The offer has an active registration in the System for Award Management (SAM) on-line registrant database for the U.S. Federal Government (note: registration on the SAM is required to be considered in this IFB/RFP).
	The SAM has determined the offer qualifies as a small business under the following NAICS codes: _____ _____
For Contracts/Agreements for which a small business participation goal has not been set (check applicable):	
<p>Please check the appropriate category (only one) for small business participation in this proposal:</p> <p><input type="checkbox"/> The offer is performing all activities identified in the scope of work in-house and IS NOT identified as a small business in the SAM.</p> <p><input type="checkbox"/> The offer is performing all activities identified in the scope of work in-house IS identified as a small business in the SAM.</p> <p><input type="checkbox"/> The offer is subcontracting some activities and there is a _____% small business utilization on this proposal.</p> <p><input type="checkbox"/> The offer is subcontracting some activities, however, there is no small business utilization on this proposal.</p>	

Name of offeror's firm: _____

DUNS No. _____

By _____
(Signature)

Title

I. SMALL BUSINESS FORM 2: LETTER OF INTENT

Name of Offeror's firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of Small Business Firm: _____

DUNS # of Small Business Firm: _____

Registered NAICS Codes: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____ Email: _____

Annual Average Gross Receipts: \$ _____

Annual Average Employment: _____

Type of Small Business Firm:

<input type="checkbox"/> SBA Certified 8A Program Participant	<input type="checkbox"/> SBA Certified HUB Zone Firm	<input type="checkbox"/> SBA Certified Small Disadvantaged Business
<input type="checkbox"/> Self-Certified Small Disadvantaged Business	<input type="checkbox"/> Service Disabled Veteran Owned	<input type="checkbox"/> AbilityOne (formerly JWOD) Non-Profit Agency
<input type="checkbox"/> Veteran Owned Business	<input type="checkbox"/> Woman Owned Business	<input type="checkbox"/> Women-Owned Small Business (WOSB)
<input type="checkbox"/> Economically Disadvantaged Women-Owned Small Business (EDWOSB)		

Description of work to be performed by small business firm:

The offeror is committed to utilizing the above-named small business firm for the work described above estimated dollar value of this work is \$ _____.

Affirmation

The above-named small business firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: _____
(Signature) Title

If the offeror does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor and for offeror also, if a registered small business.)

J. LOBBYING RESTRICTIONS

49 C.F.R. part 20, Appendices A and B provide specific language for inclusion in FTA funded third party contracts as follows:

Lobbying Restrictions

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Appendix D. Federally Required and Other Model Clauses

FTA Revision Date: **October 2016**

Appendix F contains all the FTA clauses that need to be included in all contracts for which FTA grant funds are used. Please note that any subcontractor contracts that the selected PROPOSER initiates must include all applicable clauses identified herein. Clauses not applicable to this contract have been removed for brevity sake. Please note, however, that any subcontractor contracts that are applicable to transit services for the CITY must contain all applicable FTA required clauses. The full list of clauses can be found at:

<https://www.transit.dot.gov/funding/procurement/bppm-federally-required-and-other-model-clauses>

<https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/funding/procurement/8286/fta-best-practices-procurement-and-lessons-learned-manual-2016.pdf>

A.1 - Federally Required and Other Model Contract Clauses

A. (A1) ACCESS TO RECORDS AND REPORTS

49 U.S.C. § 5325(g)
2 C.F.R. § 200.333
49 C.F.R. part 633

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT

Applicability to Contracts

The record keeping and access requirements apply to all contracts funded in whole or in part with FTA funds. Under 49 U.S.C. § 5325(g), FTA has the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

Flow Down

The record keeping, and access requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

Model Clause/Language

There is no required language for record keeping and access requirements. Recipients can draw on the following language for inclusion in their federally funded procurements.

Access to Records and Reports

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

B. (A2) BONDING REQUIREMENTS

2 C.F.R. § 200.325

31 C.F.R. part 223

THIS CLAUSE IS NOT APPLICABLE TO THIS CONTRACT

Applicability to Contracts

Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the recipient if FTA has determined that the Federal interest is adequately protected. If such a determination has not been made, the following minimum requirements apply:

- a. A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

C. (A3) BUS TESTING

49 U.S.C. § 5318(e)

49 C.F.R. part 665

THIS CLAUSE IS ONLY APPLICABLE TO BUSES WHICH ARE USED TO PROVIDE TRANSIT SERVICES IN THIS CONTRACT WHICH WERE FUNDED WITH FTA GRANT FUNDS.

Applicability to Contracts

The Bus Testing requirements pertain only to the purchase or lease of any new bus model, or any bus model with a major change in configuration or components to be acquired or leased with funds obligated by FTA. Recipients are responsible for determining whether a vehicle to be acquired requires full or partial testing or has already satisfied the bus testing requirements by achieving a passing test score in accordance with 49 C.F.R. part 665. Recipients must certify compliance with FTA's bus testing requirements in all grant applications for FTA funding for bus procurements.

Flow Down

There is no flow down requirement for Bus Testing.

Model Clause/Language

The operator of the bus testing facility is required to provide the resulting test report to the entity that submits the bus for testing. The manufacturer or dealer of a new bus model or a bus produced with a major change in component or configuration is required to provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to the recipient during the point in the procurement process specified by the recipient, but in all cases before final acceptance of the first bus by the recipient. The complete bus testing reporting requirements are provided in 49 C.F.R. § 665.11. Although no specific certification and bus testing language is required, recipients can draw on the following language for inclusion in their federally funded procurements.

Bus Testing

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.

D. (A4) BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)
49 C.F.R. part 661

THIS CLAUSE **IS** APPLICABLE TO THIS CONTRACT ONLY ON MANUFACTURED GOODS OR ROLLING STOCK USED BY THE selected PROPOSER IN WHICH FTA GRANT FUNDS ARE USED FOR THEIR PURCHASE.

Applicability to Contracts

FTA's Buy America law and regulations apply to projects that involve the purchase of more than \$150,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in an FTA assisted project. FTA cautions that its Buy America regulations are complex. Recipients can obtain detailed information on FTA's Buy America regulation at: [The Federal Transit Administration's Buy America website.](#)

Flow Down

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

Model Clause/Language

The Buy America regulation at 49 C.F.R. § 661.13 requires notification of the Buy America requirements in a recipients' bid or request for proposal for FTA funded contracts. Recipients can draw on the following language for inclusion in their federally funded procurements. Note that recipients are responsible for including the correct Buy America certification based on what they are acquiring. Recipients should not include both the rolling stock and steel, iron, or manufactured products certificates in the documents unless acquiring both in the same procurement.

E. (A5) CARGO PREFERENCE REQUIREMENTS

46 U.S.C. § 55305

46 C.F.R. part 381

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT ONLY IF CARGO IS TRANSPORTED TO SERVICE THIS CONTRACT AGREEMENT.

Applicability to Contracts

The Cargo Preference Act of 1954 requirements applies to all contracts involving equipment, materials, or commodities that may be transported by ocean vessels.

Flow Down

The Cargo Preference requirements apply to all contracts involved with the transport of equipment, material, or commodities by ocean vessel.

Model Clause/Language

The Maritime Administration (MARAD) regulations at 46 C.F.R. § 381.7 contain suggested contract clauses. Recipients can draw on the following language for inclusion in their federally funded procurements.

Cargo Preference - Use of United States-Flag Vessels

The selected PROPOSER agrees:

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

F. (A6) CHARTER SERVICE

49 U.S.C. 5323(d) and (r)

49 C.F.R. part 604

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT ONLY IF THE selected PROPOSER PROVIDES CHARTER SERVICE AS PART OF THEIR BUSINESS.

Applicability to Contracts

The Charter Bus requirements apply to contracts for operating public transportation service.

Flow Down Requirements

The Charter Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.

Model Clause/Language

The relevant statutes and regulations do not mandate any specific clause or language. Recipients can draw on the following language for inclusion in their federally funded procurements.

Charter Service

The selected PROPOSER agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(d);
2. FTA regulations, "Charter Service," 49 C.F.R. part 604;
3. Any other federal Charter Service regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

The selected PROPOSER agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
3. Any other appropriate remedy that may apply.

The selected PROPOSER should also include the substance of this clause in each subcontract that may involve operating public transit services.

G.(A7) CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

42 U.S.C. §§ 7401 – 7671q

33 U.S.C. §§ 1251-1387

2 C.F.R. part 200, Appendix II (G)

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The Clean Air and Clean Water Act requirements apply to each contract and subcontract exceeding \$150,000. Each contract and subcontract must contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251– 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

Flow Down

The Clean Air Act and Federal Water Pollution Control Act requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

Model Clause/Language

Recipients can draw on the following language for inclusion in their federally funded procurements.

The Contractor agrees:

- 1) It will not use any violating facilities;
- 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
- 3) It will report violations of use of prohibited facilities to FTA; and
- 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

H. (A8) CIVIL RIGHTS LAWS AND REGULATIONS

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The following Federal Civil Rights laws and regulations apply to all contracts.

1. Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:

a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age A-25 Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

4. Federal Protections for individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Flow Down

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

Model Clause/Language

Every federally funded contract must include an Equal Opportunity clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

Civil Rights and Equal Opportunity

The CITY is an Equal Opportunity Employer. As such, the CITY agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the CITY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621- 634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., 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, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § A-27 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees

that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. Or any other legally protected classification.

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I. (A9) DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 C.F.R. part 26

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Background and Applicability

The Disadvantaged Business Enterprise (DBE) program applies to FTA recipients receiving planning, capital and/or operating assistance that will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year. All FTA recipients above this threshold must submit a DBE program and overall triennial goal for DBE participation. The overall goal reflects the anticipated amount of DBE participation on DOT-assisted contracts. As part of its DBE program, FTA recipients must require that each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurements, certify that it has complied with the requirements of 49 C.F.R. § 26.49. Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved at the time of solicitation, are eligible to bid.

FTA recipients must meet the maximum feasible portion of their overall goal using race-neutral methods. Where appropriate, however, recipients are responsible for establishing DBE contract goals on individual DOT-assisted contracts. FTA recipients may use contract goals only on those DOT-assisted contracts that have subcontracting responsibilities. See 49 C.F.R. § 26.51(e). Furthermore, while FTA recipients are not required to set a contract goal on every DOT-assisted contract, they are responsible for achieving their overall program goals by administering their DBE program in good faith.

FTA recipients and third party contractors can obtain information about the DBE program at the following website locations:

[Federal Transit Administration website Disadvantaged Business Enterprise page click here](#)

[Department of Transportation website Disadvantaged Business Enterprise Program click here](#)

Flow Down

The DBE contracting requirements flow down to all third party contractors and their contracts at every tier. It is the recipient's and prime contractor's responsibility to ensure the DBE requirements are applied across the board to all subrecipients/contractors/subcontractors. Should a subcontractor fail to comply with the DBE regulations, FTA would look to the recipient to make sure it intervenes to monitor compliance. The onus for compliance is on the recipient.

Clause Language

For all DOT-assisted contracts, each FTA recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts:

The selected PROPOSER, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The selected PROPOSER shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the selected PROPOSER 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 recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the selected PROPOSER from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the selected PROPOSER shall utilize the specific DBEs listed unless the selected PROPOSER obtains the recipient's written consent; and that, unless the recipient's consent is provided, the selected PROPOSER shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

As an additional resource, recipients can draw on the following language for inclusion in their federally funded procurements.

Overview

It is the policy of the AGENCY and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the AGENCY to:

1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The CITY shall make all determinations with regard to whether or not a Bidder/Officer is in compliance with the requirements stated herein. In assessing compliance, the CITY may consider during its review of the Bidder/Officer's submission package, the Bidder/Officer's documented history of non-compliance with DBE requirements on previous contracts with the CITY.

Contract Assurance

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. 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 CITY deems appropriate.

DBE Participation

For the purpose of this Contract, the CITY will accept only DBE's who are:

1. Certified, at the time of bid opening or proposal evaluation, by the [certifying agency or the Unified Certification Program (UCP)]; or
2. An out-of-state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an agency whose DBE certification process has received FTA approval; or
3. Certified by another agency approved by the CITY.

DBE Participation Goal

The DBE participation goal for this Contract is set at **0.49%**. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less than 0.49%** of the total Contract price. Failure to meet the stated goal at the time of proposal submission may render the Bidder/Offeree non-responsive.

Proposed Submission

Each Bidder/Offeree, as part of its submission, shall supply the following information:

1. A completed **DBE Utilization Form** (see below) that indicates the percentage and dollar value of the total bid/contract amount to be supplied by Disadvantaged Business Enterprises under this Contract.
2. A list of those qualified DBE's with whom the Bidder/Offeree intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule** (see below). No work shall be included in the Schedule that the Bidder/Offeree has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. If awarded the Contract, the Bidder/Offeree may not deviate from the DBE Participation Schedule submitted in response to the bid. Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the CITY.
3. An original **DBE Letter of Intent** (see below) from each DBE listed in the DBE Participation Schedule.
4. An original **DBE Affidavit** (see below) from each DBE stating that there has not been any change in its status since the date of its last certification.

Good Faith Efforts

If the Bidder/Offeror is unable to meet the goal set forth above (DBE Participation Goal), the CITY will consider the Bidder/Offeror's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the CITY will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following:

1. Documented communication with the CITY's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
2. Pre-bid meeting attendance. At the pre-bid meeting, the CITY generally informs potential Bidder/Offeror's of DBE subcontracting opportunities;
3. The Bidder/Offeror's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation;
4. Written notification to DBE's encouraging participation in the proposed Contract; and
5. Efforts made to identify specific portions of the work that might be performed by DBE's.

The Bidder/Offeror shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

1. The names, addresses, and telephone numbers of DBE's that were contacted;
2. A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
3. Efforts made to assist DBE's contacted in obtaining bonding or insurance required by the Bidder or the Authority.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. 49 C.F.R. § 26.53(b) (2) (VI). In determining whether a Bidder has made good faith efforts, the Authority may take into account the performance of other Bidders in meeting the Contract goals. For example, if the apparent successful Bidder failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the Authority may view this as evidence of the Bidder having made good faith efforts.

Administrative Reconsideration

Within five (5) business days of being informed by the CITY that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Bidder/Offeror may request administrative reconsideration. The Bidder should make this request in writing to the CITY's Transit Manager. The Transit Manager will forward the Bidder/Offeror's request to a reconsideration official who will not have played any role in the original determination that the Bidder/Offeror did not document sufficient good faith efforts.

As part of this reconsideration, the Bidder/Offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the

goal or made adequate good faith efforts to do so. The Bidder/Offeror will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The CITY will send the Bidder/Offeror a written decision on its reconsideration, explaining the basis for finding that the Bidder/Offeror did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination of DBE Subcontractor

The Contractor shall not terminate the DBE subcontractor(s) listed in the **DBE Participation Schedule** (see below) without the CITY's prior written consent. The AGENCY may provide such written consent only if the Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The Contractor shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify the AGENCY in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with Section 8 below (Sanctions for Violations).

Continued Compliance

The CITY shall monitor the Contractor's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, **it will be the responsibility of the Contractor to submit quarterly written reports to the CITY that summarize the total DBE value for this Contract.** These reports shall provide the following details:

- DBE utilization established for the Contract;
- Total value of expenditures with DBE firms for the quarter;
- The value of expenditures with each DBE firm for the quarter by race and gender;
- Total value of expenditures with DBE firms from inception of the Contract; and
- The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the DBE Coordinator. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The successful Bidder/Offeror shall permit:

- The CITY to have access to necessary records to examine information as the CITY deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices,

and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.

- The authorized representative(s) of the AGENCY, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the Contractor relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.
- All data/record(s) pertaining to DBE shall be maintained as stated in Section [insert reference to record keeping requirements for the Project.]

Sanctions for Violations

If at any time the CITY has reason to believe that the Contractor is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, the AGENCY may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

- Suspension of any payment or part due the Contractor until such time as the issues concerning the Contractor's compliance are resolved; and
- Termination or cancellation of the Contract, in whole or in part, unless the successful Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

J. (A10) EMPLOYEE PROTECTIONS

49 U.S.C. § 5333(a)

40 U.S.C. §§ 3141 – 3148

29 C.F.R. part 5

18 U.S.C. § 874

29 C.F.R. part 3

40 U.S.C. §§3701-3708

29 C.F.R. part 1926

THIS CLAUSE IS NOT APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

Certain employee protections apply to all FTA funded contracts with particular emphasis on construction related projects. The recipient will ensure that each third party contractor complies with all federal laws, regulations, and requirements, including:

K. (A11) ENERGY CONSERVATION

42 U.S.C. 6321 et seq.

49 C.F.R. part 622, subpart C

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The Energy Policy and Conservation requirements are applicable to all contracts. The Recipient agrees to, and assures that its subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6201 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance as required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

Flow Down

These requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

Model Clause/Language

No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. Recipients can draw on the following language for inclusion in their federally funded procurements.

Energy Conservation

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

L. (A12) FLY AMERICA

49 U.S.C. § 40118

41 C.F.R. part 301-10

48 C.F.R. part 47.4

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the U.S. DOT has determined meets the requirements of the Fly America Act. 7

Flow Down Requirements

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

Model Clause/Language

The relevant statutes and regulations do not require any specific clause or language that recipients use in their third party contracts. A sample clause is provided for Federal contracts at 48 C.F.R. 52.247-63. Recipients can draw on the following language for inclusion in their federally funded procurements.

FTA proposes the following language, modified from the Federal clause.

Fly America Requirements

a) *Definitions.* As used in this clause—

"International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

"United States" means the 50 States, the District of Columbia, and outlying areas.

"U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [*State reasons*]:

(End of statement)

- e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

(End of Clause)

M.(A13) GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

2 C.F.R. part 180
2 C.F.R. part 1200
2 C.F.R. § 200.213
2 C.F.R. part 200 Appendix II (I)
Executive Order 12549
Executive Order 12689

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Background and Applicability

A contract award (of any tier) in an amount expected to equal or exceed \$25,000 or a contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180. The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Recipients, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person; or (c) adding a clause or condition to the contract or subcontract.

Flow Down

Recipients, contractors, and subcontractors who enter into covered transactions with a participant at the next lower level, must require that participant to: (a) comply with subpart C of 2 C.F.R. part 180, as supplemented by 2 C.F.R. part 1200; and (b) pass the requirement to comply with subpart C of 2 C.F.R. part 180 to each person with whom the participant enters into a covered transaction at the next lower tier.

Model Clause/Language

There is no required language for the Debarment and Suspension clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

Debarment, Suspension, Ineligibility and Voluntary Exclusion

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;

- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

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

The certification in this clause is a material representation of fact relied upon by the CITY. If it is later determined by the CITY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the CITY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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N. (A14) LOBBYING RESTRICTIONS

31 U.S.C. § 1352

2 C.F.R. § 200.450

2 C.F.R. part 200 appendix II (J)

49 C.F.R. part 20

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The lobbying requirements apply to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement, the payor must complete and submit the Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Flow Down

The lobbying requirements mandate the maximum flow down pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5).

Model Clause/Language

49 C.F.R. part 20, Appendices A and B provide specific language for inclusion in FTA funded third party contracts as follows:

Lobbying Restrictions

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and

cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

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O.(A15) NO GOVERNMENT OBLIGATION TO THIRD PARTIES

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The No Obligation clause applies to all third party contracts that are federally funded.

Flow Down

The No Obligation clause extends to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

Model Clause/Language

There is no required language for the No Obligations clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

No Federal Government Obligation to Third Parties.

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

P. (A16) PATENT RIGHTS AND RIGHTS IN DATA

2 C.F.R. part 200, Appendix II (F)
37 C.F.R. part 401

THIS CLAUSE **IS NOT** APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

If the recipient or subrecipient wishes to enter into a contract (or subcontract) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work under the FTA award, the recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Except in the case of an "other agreement" in which the Federal Government has agreed to take more limited rights, the Federal Government is entitled to a nonexclusive, royalty free license to use the resulting invention, or patent the invention for Federal Government purposes. The FTA has the right to:

1. Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
2. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

Q.(A17) PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES

49 U.S.C. 5323(m)

49 C.F.R. part 663

THIS CLAUSE IS NOT APPLICABLE TO THIS CONTRACT AS THE CITY MAKES ALL ITS OWN ROLLING STOCK PURCHASES WHICH USE FEDERAL FUNDING.

Applicability to Contracts

Recipients purchasing revenue service rolling stock with FTA funds must comply with the preaward and post-delivery audit requirements set forth in 49 U.S.C. 5323(m) and supplemented by 49 C.F.R. part 663. For more information about pre-award and post-delivery audit requirements, please go to FTA's Buy America page on its website.

Flow Down

There is no flow down requirement for Pre-Award and Post-Delivery Audits of Rolling Stock.

Model Clause/Language

Part 663 of Title 49, Code of Federal Regulations, does not contain specific language to be included in third party contracts but does contain requirements applicable to subrecipients and third party contractors. Recipients are advised to use the model certificates and language contained in the audit handbook. Additionally, recipients can draw on the following language for inclusion in their federally funded procurements.

Pre-Award and Post-Delivery Audit Requirements

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

R. (A18) PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

49 U.S.C. § 5323(l) (1)
31 U.S.C. §§ 3801-3812
18 U.S.C. § 1001
49 C.F.R. part 31

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The Program Fraud clause applies to all third party contracts that are federally funded.

Flow Down

The Program Fraud clause extends to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier. These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Model Clause/Language

There is no required language for the Program Fraud clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

Program Fraud and False or Fraudulent Statements or Related Acts

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

S. (A19) PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

49 U.S.C. § 5333(b) ("13(c)")
29 C.F.R. part 215

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The Public Transportation Employee Protective Arrangements apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator.

Flow Down

The employee protective arrangements clause flows down to all third party contractors and their contracts at every tier.

Model Clause/Language

There is no required language for the Public Transportation Employee Protective Arrangements clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

Public Transportation Employee Protective Arrangements

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. **U.S. DOL Certification.** Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. **Special Warranty.** When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
3. **Special Arrangements.** The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

T. (A20) RECYCLED PRODUCTS

42 U.S.C. § 6962

40 C.F.R. part 247

2 C.F.R. part § 200.322

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

Resource Conservation and Recovery Act, as amended, (42 U.S.C. § 6962 et seq.), requires States and local governmental authorities to provide a competitive preference to products and services that conserve natural resources, protect the environment, and are energy efficient. Recipients are required to procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.

Flow Down

These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier where the value of an EPA designated item exceeds \$10,000.

Model Clause/Language

There is no required language for preference for recycled products. Recipients can draw on the following language for inclusion in their federally funded procurements.

Recovered Materials

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.

U. (A21) SAFE OPERATION OF MOTOR VEHICLES

23 U.S.C. part 402

Executive Order No. 13043

Executive Order No. 13513

U.S. DOT Order No. 3902.10

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts. In compliance with Federal Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party contractor to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles, and to include this provision in each third party subcontract involving the project. Additionally, recipients are required by FTA to include a Distracted Driving clause that addresses distracted driving, including text messaging in each of its third party agreements supported with Federal assistance.

Flow Down Requirements

The Safe Operation of Motor Vehicles requirements flow down to all third party contractors at every tier.

Model Clause/Language

There is no required language for the Safe Operation of Motor Vehicles clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

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 CITY.

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 agreement.

V. (A22) SCHOOL BUS OPERATIONS

49 U.S.C. 5323(f)
49 C.F.R. part 605

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT ONLY IF THE selected PROPOSER PROVIDES SCHOOL BUS OPERATIONS AS PART OF THEIR OVERALL BUSINESS.

Applicability to Contracts

The School Bus requirements apply to contracts for operating public transportation service.

Flow Down Requirements

The School Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.

Model Clause/Language

The relevant statutes and regulations do not mandate any specific clause or language. Recipients can draw on the following language for inclusion in their federally funded procurements.

School Bus Operations

The selected PROPOSER agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the selected PROPOSER to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the selected PROPOSER may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

W. (A23) SEISMIC SAFETY

42 U.S.C. 7701 et seq.

49 C.F.R. part 41

Executive Order (E.O.) 12699

THIS CLAUSE IS NOT APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

Flow Down

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

Model Clauses/Language

The regulations do not provide suggested language for third party contract clauses. Recipients can draw on the following language for inclusion in their federally funded procurements.

Seismic Safety

The selected PROPOSER agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 C.F.R. part 41 and will certify to compliance to the extent required by the regulation. The selected PROPOSER also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

X. (A24) SUBSTANCE ABUSE REQUIREMENTS

49 U.S.C. § 5331
49 C.F.R. part 655
49 C.F.R. part 40

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT. OPTION 2 IS THE METHOD WHICH SHALL BE USED IN THIS CONTRACT.

Applicability to Contracts

Third party contractors who perform safety-sensitive functions must comply with FTA's substance abuse management program under 49 C.F.R. part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations." Under 49 C.F.R. § 655.4, *Safety-sensitive function* means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

1. Operating a revenue service vehicle, including when not in revenue service;
2. Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such services;
5. Carrying a firearm for security purposes.

Additionally, third party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

Flow Down Requirements

The Substance Abuse requirements flow down to all third party contractors at every tier who perform a safety-sensitive function for the recipient or subrecipient.

Model Clause/Language

FTA's drug and alcohol rules, 49 C.F.R. part 655, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with part 655. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

How a recipient does so depends on several factors, including whether the selected PROPOSER is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipient has with the selected PROPOSER, and the financial resources available to the recipient to oversee the

selected PROPOSER's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules.

FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

Explanation of Model Contract Clauses

Option 2

The recipient relies on the selected PROPOSER to implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, but retains the ability to monitor the selected PROPOSER's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under Option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the selected PROPOSER complies with the program. The disadvantage of Option 2 is that, without adequate monitoring of the selected PROPOSER's program, the recipient may find itself out of compliance with the rules.

SUBSTANCE ABUSE TESTING

Option 2

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. parts 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of [name of State], or A-67 AGENCY, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before February 1st of each year and to submit the Management Information System (MIS) reports before March 1st of each year to the City of DeKalb Transit Manager. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the *Federal Register*.

Y. (A25) TERMINATION

2 C.F.R. § 200.339

2 C.F.R. part 200, Appendix II (B)

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

All contracts in excess of \$10,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.

Flow Down

For all contracts in excess of \$10,000, the Termination clause extends to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

Model Clause/Language

There is no required language for the Terminations clause. Recipients can draw on the following language for inclusion in their federally funded procurements.

Termination for Convenience (General Provision)

The CITY may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the CITY's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to CITY to be paid the Contractor. If the Contractor has any property in its possession belonging to CITY, the Contractor will account for the same, and dispose of it in the manner CITY directs.

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the CITY may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the CITY that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the CITY, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

The CITY, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to CITY's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from CITY setting forth the nature of said breach or default, CITY 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 CITY from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that CITY elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by CITY shall not limit CITY's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The CITY, by written notice, may terminate this contract, in whole or in part, when it is in the CITY's interest. If this contract is terminated, the CITY shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

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Z. (A26) VIOLATION AND BREACH OF CONTRACT

2 C.F.R. § 200.326

2 C.F.R. part 200, Appendix II (A)

THIS CLAUSE IS APPLICABLE TO THIS CONTRACT.

Applicability to Contracts

All contracts in excess of the Simplified Acquisition Threshold (currently set at \$150,000) shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate.

Flow Down

The Violations and Breach of Contracts clause flow down to all third party contractors and their contracts at every tier.

Model Clauses/Language

FTA does not prescribe the form or content of such provisions. The provisions developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts. Recipients can draw on these examples for inclusion in their federally funded procurements.

Rights and Remedies of the CITY

The CITY shall have the following rights in the event that the CITY deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages. For purposes of this Contract, breach shall include [CITY to define].

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the CITY, the Contractor expressly agrees that no default, act or omission of the CITY shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the CITY directs Contractor to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the CITY will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the CITY takes action contemplated herein, the CITY will provide the Contractor with sixty (60) days written notice that the CITY considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

- **Example 1:** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

- **Example 2:** The CITY and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the AGENCY and the Contractor's organization.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the CITY's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by CITY, 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 its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the CITY and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the CITY is located. Rights and Remedies The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the CITY or

Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

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Appendix E. Procurement Protest Procedure

A. SOLICITATION PROVISION

The City of DeKalb shall insert the following provision in all solicitation documents as published in the City of DeKalb / DSATS 3rd Party Procurement Manual for FEDERAL and State Transit Grants, Section 6.9:

B. PRE-PROPOSAL PROTESTS

All protests concerning solicitation specifications, criteria and/or procedures shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the designated CITY Representative as specified below not later than ten (10) business days prior to the deadline for submission of proposals.

The designated CITY Representative may, within his or her discretion, postpone the deadline for submission of proposals, but in any case, shall provide a written response to all protests not later than five (5) business days prior to the deadline for submission of proposals. If the deadline for submission of proposals is postponed by the designated CITY Representative as the result of a protest the postponement will be announced through an addendum to the solicitation.

The decision by the designated CITY Representative shall be the final agency decision on the matter but shall be subject to judicial review as set forth by FTA below.

C. PRE-AWARD PROTESTS

With respect to protests made after the deadline for submission of proposals but before contract award by the CITY, protests shall be limited to those protests alleging a violation of FEDERAL or State law, a challenge to the proposals evaluation and award process, The CITY's failure to have or follow its protest procedures or its failure to review a complaint or protest. Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the designated CITY Representative as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by the CITY.

The designated CITY Representative may, within his or her discretion, postpone the award of the contract, but in any case, shall provide a written response to all protests not later than three (3) business days prior to the date the CITY shall announce the contract award.

The decision by the designated CITY Representative shall be the final agency decision on the matter but shall be subject to judicial review as set forth or review by FTA as specified below.

D. REQUIREMENTS FOR PROTESTS

All protests shall be submitted to the CITY in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail):

- The Protest shall be submitted in writing on Official Company Letterhead;
- The name of the protestor (company or individual);
- The mailing address where the response should be mailed. The protestor may also provide a fax and email address, if they wish additional copies via these methods;
- The solicitation name, description or other identifier.
- A statement regarding the grounds for the protest.

- All supporting documentation, with sufficient documentation, evidence, and legal authority to demonstrate that the Protestor is entitled to the relief requested.
- The protest shall be certified as being true and correct to the best knowledge and information of the Protestor and be signed by the Protestor.
- Pre-award protests shall be filed in writing within seven (7) calendar days of the notification of the selected PROPOSER.
- Post award protests shall be filed within seven (7) calendar days of a Notice of Award. All protest information shall be submitted to:

Sabrina Kuykendall
City Representative
1216 Market St.
DeKalb, IL 60115

Protests received after the deadlines for receipt of protests specified above are subject to denial without any requirement for review or action by the CITY.

All protests shall be directed in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the designated CITY Representative at the address shown in the solicitation documents.

E. PROTEST RESPONSE

The designated CITY Representative shall issue written responses to all protests received by the required protest response dates. All protest responses shall be transmitted by first-class U.S. Postal Service to the address indicated in the protest letter.

For convenience, the CITY will also send a copy of the response to a protest to the Protester by facsimile and/or electronic mail if a facsimile number and/or electronic mail address are indicated in the protest letter. The protest response transmitted by U.S. Postal Service shall be the official CITY response to the protest and the CITY will not be responsible for the failure of the Protester to receive the protest response by either facsimile or electronic mail.

F. PROTEST APPEAL

The Protestor has the right to appeal the designated CITY Representative decision by filing an appeal in writing within seven (7) calendar days of the receipt of the designated CITY Representatives decision. The appeal shall be sent to:

Bill Nicklas, City Manager
164 E. Lincoln Hwy.
DeKalb, IL 60115

The Director will review the appeal and will make a ruling on the appeal based on the following criteria:

- a.) Did the designated CITY Representative follow the prescribed protest procedure; and
- b.) Was the designated CITY Representative's decision reasonable and fair? The decision of the Director is final.

The Protestor and any respondents that made submittals will be notified by certified mail of the Public Works Directors decision within seven (7) calendar days of the Committee's meeting date and the FTA will also be notified of the Committee's decision.

G. FTA OFFICIALS TO NOTIFY

When the City receives a proposal protest, FTA expects the City to inform the FTA Regional Administrator for the region administering a regional project, or the FTA Associate Administrator for the program office administering a headquarters project directly. FTA also encourages the City to keep its FTA project manager informed about protests with which it is involved. The recipient shall contact its project manager about any unusual activity.

H. REVIEW OF PROTEST BY FTA

All protests involving Contracts/Agreements financed with FEDERAL assistance shall be disclosed to the FTA. Protesters shall exhaust all administrative remedies with the City of DeKalb prior to pursuing protests with FTA. The FTA limits its reviews of protests to possible violations of federal law. If the protestor feels CITY has violated federal law, they may contact the FTA – Region 5 Program Administrator in Chicago, IL.

I. ACCESS TO INFORMATION.

FTA expects the City to disclose information about any third party procurement protest to FTA upon request. FTA reserves the right to require the City to provide copies of a protest or all protests, and any or all related supporting documents as FTA may determine necessary

Appendix F. Suggested Agreement for Services

Agreement for Services

THIS AGREEMENT, by and between the City of DeKalb, hereinafter referred to as the "CITY" and "_____" hereinafter referred to as the "CONTRACTOR", with the CITY and CONTRACTOR agreeing as follows

A. SERVICES

CONTRACTOR agrees to furnish to the CITY the outlined in the scope of services identified on Exhibit 1 of this document.

CONTRACTOR represents that it possesses the skills and knowledge necessary to provide all such services and understands that the CITY is relying upon such representation. CONTRACTOR further acknowledges that Exhibit 1 is an integral part of this Agreement and may not be modified except in accordance with a modification to the terms of this Agreement.

This document shall be read to incorporate the provisions of the underlying Request for Proposals (including all exhibits) by reference, as if set forth fully herein, and compliance with this Agreement shall also require full compliance with the Request for Proposals and its terms.

B. TERM

Services will be provided as needed and directed by the CITY beginning on the date of execution of this agreement and continuing, until a term identified below. Upon termination the CONTRACTOR shall be compensated for all work performed for the CITY prior to termination and shall provide to the CITY all work completed through the date of termination. The CITY's issuance of a notice of termination shall function as a stop work order, beyond which the CONTRACTOR shall not incur any additional costs without the CITY's express, written permission.

- 1) **EFFECTIVE DATE:** The CITY hereby grants to CONTRACTOR the right to operate a transit system on behalf of the CITY from the 1st day of January 2021 for a period through the 31th of December 2023.
- 2) **RENEWAL:** Absent of termination by either party, the agreement will automatically renew:
 - a) On January 1, 2024 for the period through December 31, 2024;
 - b) On January 1, 2025 for the period through December 31, 2025; and
- 3) **TERMINATION:**
 - a) In the event the CONTRACTOR shall default in any of the material terms and provisions of this Agreement, the attached Scope of Services (*see Exhibit 1*), or if its performance of the transit services contemplated hereunder shall be determined inadequate, insufficient or improper, the CITY shall give the CONTRACTOR thirty (30) days written notification of such default, and shall have the right to terminate and cancel this Agreement by written notice should the CONTRACTOR not cure the default within 30 days of such notification.
 - b) Standards for judging whether the CONTRACTOR's service is adequate shall not include but not limited to such specific items as: ability to meet stated schedules

of service, cleanliness of vehicles, courtesy of drivers, honesty in dealing with financial affairs, willingness to cooperate with a multi-provider system, and provision of monthly, quarterly, and annual reports in a timely manner.

- c) It is agreed that the CONTRACTOR shall have the right to terminate this Agreement upon giving one hundred twenty (120) days prior written notice to the CITY, except in the event that the CITY passes an ordinance regulating or taxing CONTRACTOR, in which case, CONTRACTOR shall have the right to terminate this Agreement upon giving five (5) days prior written notice to the CITY.

C. TERMINATION OF AGREEMENT

The CONTRACTOR shall adhere to all regulations identified in the Exhibit 5: Federally Required and other Model Clauses in Section 21 "Termination"

D. SCOPE OF SERVICES

The CONTRACTOR shall provide transit services at a level of service identified in the attached Scope of Services (see *Exhibit 1: Scope of Services*) to the DeKalb urbanized area during a period beginning January 1, 2021 through December 31, 2023.

E. COST OF SERVICES

The CONTRACTOR shall agree to be reimbursed at the rate provided in Exhibit 2: Cost & Budget Forms below. Methods and Procedures for payments, reimbursements, and changes in funding shall be governed by the rules and regulations identified in Exhibit 1: Scope of Services below.

F. CERTIFICATIONS AND INSURANCE

The CONTRACTOR certifies that it shall conform to all rules, regulations, and certifications as identified in Exhibit 3: Required Certifications and Exhibit 5: Federally Required and other Model Clauses below.

The CONTRACTOR has submitted proof of insurance as provided in Exhibit 4: Insurance Certifications below.

G. ADDITIONAL TERMS OR MODIFICATION

The terms of this agreement shall be further modified as provided on the attached Exhibits and the Agreement Documents. Except for those Exhibits, no additional terms are included as a part of this agreement. All prior understandings and agreements between the parties are merged into this agreement, and this agreement may not be modified orally or in any manner other than by an agreement in writing signed by both parties. The CITY reserves the right by written amendment to make changes in requirements, amount of work, or time schedule adjustments. The CONTRACTOR shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes. The CITY may, at any time by written order, require the CONTRACTOR to stop all or part of the services required by this Agreement. Upon receipt of such an order, the CONTRACTOR shall immediately comply with its terms.

H. NOTICES

All notices required to be given under the terms of this License shall be given mail, addressed to the parties as follows:

For the CITY:

For the CONTRACTOR:

CITY Manager
CITY of DeKalb
200 S. Fourth Street
DeKalb, IL 60115

Either of the parties may designate in writing from time to time substitute addresses or persons in connection with required notices.

I. SUBCONTRACTORS AND THIRD PARTIES

CONTRACTOR shall not assign or subcontract for the performance of any obligation under this Agreement, except with the express, written preapproval of the CITY, which consent may be withheld in the CITY's sole and absolute discretion. Should CONTRACTOR assign any obligation arising under this Agreement with the consent of the CITY, the CONTRACTOR shall remain to be primarily liable to the CITY for the performance of the obligation in question, and further shall be liable for ensuring that the subcontractor(s) comply with all obligations arising under this Agreement as if the subcontractor(s) was/were the CONTRACTOR itself. Further, should CONTRACTOR request to assign the performance of any obligation arising hereunder to a subcontractor, CONTRACTOR expressly provides its consent to the CITY contracting directly with such proposed subcontractor (or another subcontractor acceptable to the CITY) for the performance of such work, and to the amendment of this Agreement to reduce the scope and cost accordingly.

Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall it inure to the benefit of any third party.

J. DOCUMENT CORRECTION / SUPPLEMENTS

CONTRACTOR agrees and acknowledges that the terms of the Agreement Documents shall be binding upon this Work, notwithstanding the failure of this Agreement or the actions of the CITY to the contrary. No act by the CITY (other than a written amendment to these Agreement Documents), including but not limited to payment of CONTRACTOR's invoices, shall waive the CITY's ability to later insist on strict compliance with the terms of these Agreement Documents. CONTRACTOR agrees and acknowledges that it shall execute corrected documents upon request by the CITY if any error or discrepancy is identified by the CITY and shall provide certificates of insurance or other security required hereunder at any time, upon request of the CITY, notwithstanding the CITY's failure to previously demand the same.

Agreed to this _____ day of _____, 20_____.

CITY of DeKalb

CONTRACTOR

CITY Mayor/Manager

(title)

City Clerk

(attest)

K. TO BE INCLUDED AT TIME OF CONTRACT

Exhibit 1. Scope of Services

- as transferred from Scope of Services in RFP TRANSIT-2020-01

Exhibit 2. Cost & Budget Forms

- as transferred from Table 1 in RFP TRANSIT-2020-01.5

Exhibit 3. Required Certifications

- as transferred from Required Certifications in RFP TRANSIT-2020-01

Exhibit 4. Insurance Certifications

- provided by CONTRACTOR

Exhibit 5. Federally Required and other Model Clauses

- as transferred from Appendix D in RFP TRANSIT-2020-01

CONFIDENTIAL

INFORMATION TO OFFERORS COVER SHEET

Release of this document pursuant to a FOIA request, prior to approval by City of DeKalb City Council, will provide an unfair competitive advantage to the organization requesting the information.

SOLICITATION NUMBER: TRANSIT-2020-01.5

THE ENCLOSED SOLICITATION COVERS THE PERIOD: 1/1/2021 THRU 12/31/2025

ISSUING ENTITY: City of DeKalb
1216 Market St.
DeKalb, IL 60115

CONTACT INFORMATION FOR CITY REPRESENTATIVE:

Sabrina Kuykendall
City of DeKalb
1216 Market St.
DeKalb, IL 60115
Sabrina.kuykendall@cityofdekalb.com

ADA PARATRANSIT AND FLEX ROUTE SERVICES PRICE PROPOSAL: The City of DeKalb is seeking price proposals from transportation providers interested in providing paratransit and deviated fixed route services in DeKalb, IL. This is the supplemental Price Proposal RFP which shall be submitted in conjunction with RFP#: TRANSIT-2020-01.

Website Link: www.cityofdekalb.com

RFP Release Date: Wednesday, May 27, 2020

RFP Due Date: Thursday, July 16, 2020 **Deadline:** 1:00 P.M.

**REQUEST FOR PROPOSALS
PRICE PROPOSAL FOR PARATRANSIT AND FLEX ROUTE SERVICES
IN THE CITY OF DEKALB AND THE DEKALB URBANIZED AREA**

**Issued by
The City of DeKalb
Issue Date
May 27, 2020**

**Proposals must be submitted
No later than 1:00 P.M.
July 16, 2020**

LATE PROPOSALS WILL BE REJECTED

This is a Request for Proposals (RFP) Procurement. There will be no public opening.

Submitting the Proposal:

Identify the outside of the proposal as "RFP Transit-2020-01.5"

Offerors must submit, in a sealed package, One Original (identified as such) AND 6 copies of all materials required for acceptance of their proposal on or before 1:00 P.M., July 16, 2020 to the following address, attention to:

April Beeman
City of DeKalb Public Works
1216 Market St.
DeKalb, IL 60115

All firms desiring to submit a proposal under these Agreement Documents shall contact Sabrina Kuykendall (contact info above) and provide contact information, including email address, at which notices can be sent to and received from the proposed Contractor. This address will be used for official communications from the City, including pre-proposal communications.

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PRICE PROPOSAL
TO PROVIDE PARATRANSIT AND FLEX ROUTE SERVICES IN THE
CITY OF DEKALB AND THE DEKALB URBANIZED AREA

MAY 27, 2020

General Information

The City of DeKalb (hereinafter CITY) has issued a Request for Proposal (RFP) for Paratransit and Flex Route Services in the DeKalb, Illinois Urbanized Area. The RFP shall contain the comprehensive technical information on the proposal to provide public paratransit services in the DeKalb Urbanized Area (UZA). This supplemental Price Proposal (PP) must accompany the RFP in a separate envelope. This PP identifies the information which must be included within the Price Proposal as well as the financial requirements which shall be part of any transit service provider agreement issued between the transportation provider (hereinafter PROPOSER) interested in providing paratransit and flex route services within the DeKalb Urbanized Area (see **Error! Reference source not found.:Error! Reference source not found.**) including the City of DeKalb, the City of Sycamore, the Town of Cortland, and the Northern Illinois University campus. Service shall begin on January 1, 2021 extending through December 31, 2023. Based on funding and mutual agreement of the CITY and the PROPOSER, the agreement period may be extended for up to two additional twelve-month periods.

The CITY, as the fiscal agent for all state and federal public transit funding for the DeKalb Urbanized Area, shall have direct oversight over all day-to-day operations of the PROPOSER.

Price Proposals are requested from qualified transportation service providers to furnish professional services pertinent to the Scope of Services outlined below for the provision of public transportation for the DeKalb Urbanized Area.

The Schedule of Events for this procurement are:

- May 26, 2020 – RFP approved by City Council
- June 12, 2020 at 1:00 P.M. – Pre-bid Meeting,
 - The meeting will be held via teleconference. Please contact Sabrina Kuykendall via e-mail to gather teleconference details.
- June 24, 2020 at 4:00 P.M. – Deadline for submitting questions
- June 26, 2020 – Answers to questions released
- July 16, 2020 at 1:00 P.M. – Proposals due
- August 4 & 5, 2020 – Interviews and Negotiation
- August 24, 2020 – Approval by City Council
- January 1, 2021 – Service begins.

Please return your proposal by **Thursday, July 16, 2020, by 1:00 P.M.** by mail or drop-off in person to April Beeman, City of DeKalb Public Works Building, 1216 Market Street, DeKalb, IL 60115 demonstrating the qualifications of your firm to meet criteria contained herein. Two jump drives with a copy of the full proposal shall be included in the packet. One original copy and six printed copies of the proposal shall also be delivered to the CITY. PROPOSERS are responsible for all costs associated with the preparation and submission of their proposal.

Interviews of qualified PROPOSERS will be conducted **August 4 & 5, 2020**. Final agreement approval will be at the DeKalb City Council meeting, **Monday, August 24, 2020 at 6:00 P.M.**

Should you have any questions, please contact the City Representative: Sabrina Kuykendall, Sabrina.Kuykendall@cityofdekalb.com.

Scope of Services

The Scope of Services is provided within the Paratransit and Flex Route Services in the City of DeKalb and the DeKalb Urbanized Area RFP# TRANSIT-2020-01 (<https://www.cityofdekalb.com/Bids.aspx>).

Proposal Specifications

Submission of Price Proposals

1. All Price Proposals shall be received by the City of DeKalb Public Works Department by no later than 1:00 P.M. on **Thursday, July 16, 2020**. Proposals received after that deadline shall not be returned or opened and shall not be considered responsive to this request.
2. Price Proposals may be mailed or hand-delivered to:

April Beeman
City of DeKalb Public Works Department
Water Division
1216 Market Street
DeKalb, IL 60115
3. All Price Proposals shall be signed by the individual responsible for making proposals. Unsigned proposals shall not be considered.
4. Price Proposal shall consist of:
 - a. One (1) original and six (6) printed copies of the Technical Proposal with applicable literature and other supporting/required documents.
 - b. One (1) original and six (6) printed copies of the Price Proposal.
 - c. Two (2) electronic copies of the Technical and Price Proposals, on two (2) CDs, DVDs or USB flash drives, in Microsoft Word or Excel.
5. All questions, comments, or requests for information shall be directed to the City Representative:

Sabrina Kuykendall

Email: Sabrina.Kuykendall@cityofdekalb.com.

Evaluation Criteria

The following criteria will be used to evaluate the Technical and Price Proposals.

- Technical Proposal
 - I. Firm Qualifications (50 Points)
 - II. Organization and Staffing Plan (50 Points)
 - III. Operating Methodology (40 Points)

IV. Professional References (10 Points)

- Price Proposal

V. Proposed Price/Costs (50 Points)

V. PROPOSED PRICE (50 POINTS)

- 1) Prices/costs shall be provided on a total operating cost per revenue-hour of service with an identification of the anticipated annual number of service hours to provide the proposed services (complete Table 1 On Page 9 below). The Price Proposal shall be submitted in a separate envelope.
- 2) A marginal cost model to add or subtract minor service changes up to 15% of the estimated 38,823 service hours per year shall be included in the Price Proposal.
- 3) First year startup costs will be identified and will not be used in the basis for cost increases in subsequent years. Cost of buses shall not be included as a one-time startup cost. Cost of support vehicles and equipment shall be included as a one-time startup cost. Each vehicle and major piece of equipment shall be identified.
- 4) Cost increases in the following years shall be based on the rules identified in the Financial Requirements.
- 5) The CITY shall purchase and provide fuel for all revenue vehicles included within the Lease Agreement for the duration of the contract. The PROPOSER will provide a facility that is adequate to maintain the bus fleet, including an operational diesel and gasoline fueling station and related equipment, within five miles of the City limits of the City of DeKalb. PROPOSER shall assume all liability for fuel storage and dispensing procedures and shall engage in all fuel related activities in a fashion compliant with applicable laws. If the PROPOSER is unable to provide onsite fuel storage, fuel can be purchased at an off-site location. All fuel purchases made at an off-site location must be reconciled with a copy of a receipt to the CITY. Fuel purchases submitted to the CITY without receipts will be non-reimbursable. Non-revenue vehicle fuel costs shall be the responsibility of the PROPOSER.
- 6) The Cost and Budget Forms shall be reviewed. The lowest PROPOSER shall receive the full points, with other PROPOSERS points prorated. The submitted budget shall be reviewed to ensure that all PROPOSERS are reasonably identifying their costs to support the contract. The review of the cost shall be based on the initial year of the contract. Cost increases in the following years shall be based on the rules identified in the Financial Requirements.
- 7) The PROPOSER may submit additional information that will add value to the contract and their proposed price that will distinguish their proposal from other competitive proposals and exceeds the minimum requirements of this section

Operational Services

A. FINANCIAL REQUIREMENTS

- 1) The CITY shall reimburse the selected PROPOSER at a single rate for actual services provided based upon the number of revenue hours provided during the invoice period. The PROPOSER is expected to identify this reimbursement rate based on the selected PROPOSER'S operating costs.
- 2) The CITY reserves the right to review and negotiate the proposed rate during agreement negotiations with the selected PROPOSER. If the CITY exercises its option to renew the agreement for a subsequent year(s), selected PROPOSER's charges shall be allowed to increase yearly based on the following requirements:
 - a) Rate shall not to exceed the Consumer Price Index (CPI) increase for the previous twelve (12) months;
 - b) CPI shall be based on Index for the Midwest Region for Urban Wage Earners and Clerical Workers (CPI-W) for the portion of the consumer Price Index for all items, as determined by the U.S. Department of Labor, Bureau of Labor Statistics (<http://www.bls.gov/news.release/cpi.t06.htm>);
 - c) The rate of increase per year shall not exceed 5% (five percent) unless explicitly approved by the CITY in writing; and
 - d) As required by state regulation, use of fuel containing ethanol gasoline is required in gasoline-powered vehicles.
- 2) The award of any agreement is contingent upon availability of actual funds received by the CITY pursuant to grants under FTA Section 5307 and the IDOT Downstate Operating Assistance Program (DOAP). A portion of those funds will be used for CITY administrative expenses. Reductions in the funding levels of those programs will result in a reduction in bus service provided and a subsequent reduction in selected PROPOSER compensation.
- 3) Any changes in services or fares shall be approved by the CITY and include a public hearing conforming to the DSATS Public Participation Plan <https://dekalbcounty.org/wp-content/uploads/2018/12/dsats-publicparticipationplan-2013.pdf>, advertised in the local newspaper, with all required FTA clauses included.
- 4) The City Manager will set an estimate of the maximum agreement amount as of July 1 each year. The selected PROPOSER will be notified quarterly as to the balance of the agreement.
- 5) Should the FTA or IDOT identify any findings related to this agreement during the Triennial Review or any other reviews or audits, both the CITY and selected PROPOSER shall agree to modify this agreement to address any findings.
- 6) The selected PROPOSER and CITY staff shall work collaboratively to develop and update a three (3) year Capital and Operating Financial Plan.
- 7) The selected PROPOSER shall be reimbursed monthly based on the number of Vehicle Revenue Hours provided that month. The selected PROPOSER shall submit the Vehicle Revenue Hour rate (see

- 8) *Table 1. Paratransit and Flex Route Price Summary on page 9 below*) for which the selected PROPOSER expects to be reimbursed as of January 1 of current year. In order to receive reimbursement, the selected PROPOSER and CITY agree to the following:
- a) The selected PROPOSER agrees to submit all required information needed to submit the DOAP required quarterly and yearly reports to CITY staff.
 - b) The selected PROPOSER shall hire an Auditor to perform their annual audit of their organization as it relates to this agreement and provide a copy to the CITY;
- 9) The selected PROPOSER shall collect fares, tickets, vouchers, transfers and/or other authorized tender for travel. Fares, tickets, vouchers, transfers or other authorized tender will be collected by CITY staff.
- 10) Fare box revenue shall be deposited in a CITY bank account each week. The selected PROPOSER shall provide adequate information on fares collected and passengers carried each week showing number of fares collected by fare type. The selected PROPOSER shall implement the Fare Structure as defined by the CITY. All such deposits shall be accompanied by a detailed log of all revenues received and in form and content acceptable to the City. The selected PROPOSER shall generate and maintain records of all revenues received from each route, again in form and content acceptable to the CITY.
- 11) The CITY shall agree to provide payment to the selected PROPOSER following the end of each calendar month. Upon receipt of an itemized bill, including documented vehicle service hours provided.
- a) The CITY will reimburse the selected PROPOSER for revenue hours provided during the monthly invoice period.
 - b) All payments will occur within five (5) business days after the payment is approved at a CITY council meeting. The selected PROPOSER will be provided a list of check payment dates and the date an invoice shall be submitted in order to be paid on a certain date.
 - c) From date of submission of invoices to the date of a check mailed to the PROPOSER will not exceed 45 days.
 - d) The PROPOSER may be requested to provide information necessary to complete state and federal forms.
 - e) The CITY must submit an annual DOAP grant application each year, prior to the next State Fiscal Year (SFY) (which operates from July 1 to June 30). The grant application is typically due in late March to early April each year. As part of the annual budget process, the selected PROPOSER may be requested submit information to complete the application.
- 12) The CITY shall only provide payment upon receipt of DOAP and FTA 5307 grant fund payments received from the STATE and FEDERAL GOVERNMENT to cover invoice requests and all financial obligations of the CITY shall be limited to payment of grant funds actually received.
- a) The selected PROPOSER, in collaboration with the CITY, may seek to reduce levels of service in order to continue services. The selected PROPOSER shall provide a written request and justification for the service reductions to the CITY. The City Council shall have final approval of the request.

- b) Upon receipt of funds, the CITY agrees to pay all remaining invoices, up to the amount received from the STATE or FEDERAL GOVERNMENT, within five (5) business days of receipt of funds.
- c) Any reduction in services or other cost cutting measures shall be approved by affected communities and Northern Illinois University subject to the public involvement procedures for changes in service that satisfy the program-of-project requirements of the FTA Section 5307 Program and subject to the DSATS Public Involvement Participation Plan regulations (<https://dekalbcounty.org/wp-content/uploads/2018/12/dsats-publicparticipationplan-2013.pdf>). The City Council makes the final decision on service and/or fare adjustments.
- d) The selected PROPOSER expressly acknowledges that the payments due to it are subject to the CITY's receipt of grant funds, as well as a requirement of prior City Council approval of each invoice. Accordingly, the selected PROPOSER waives any requirement of strict compliance with the Local Government Prompt Payment Act and acknowledges that the requirement of prior grant funding receipt and Council approval shall supersede any other timeline imposed by law or by the terms of this RFP (or the final agreement awarded).

13) **TAXES:** The CITY is exempt from Federal Excise Tax and the Illinois Retailer's Occupation Tax. Accordingly, by submitting a proposal, the selected PROPOSER acknowledges and affirms that the proposal does not include any amounts designated for those taxes. The CITY shall not assume any liability for any FEDERAL, STATE, or municipal taxes. The CITY shall provide such documentation as shall be required to evidence this tax exemption; should the selected PROPOSER fail to make appropriate (lawful) use of such exemption, the selected PROPOSER shall be responsible for payment of all such taxes and they shall not be billable to the CITY.

14) **TAX RECOVERY:** The selected PROPOSER will provide invoices for fuel that show any state or federal fuel taxes that are paid.

Table 1. Paratransit and Flex Route Price Summary

RFP #: TRANSIT-2020-01.5

YEAR	Hourly Rate (Marginal Cost)	Fixed (Monthly Fee)	One-Time Start Up Cost	Price (38,823 Hours)
01/01/21 – 12/31/21				
01/01/22 – 12/31/22			X	
01/01/23 – 12/31/23			X	

Table 2. Proposed Flex Route Price Summary

YEAR	Hourly Rate (Marginal Cost)	Fixed (Monthly Fee)	One-Time Start Up Cost	Price (4,148 Hours)
01/01/21 – 12/31/21				
01/01/22 – 12/31/22			X	
01/01/23 – 12/31/23			X	

Table 3. Bus Operator Wage Table

Job Type	Number of Operators	Average Hourly Wages	Operators Overtime	Annual Total Wages
Full Time				
Part Time				
Total				

Table 4. Labor Table

Job Title	Number of Employees in Position	Percentage of time dedicated to Urban Paratransit Services	Total Salary	Total Salary for this Proposal
<i>Ex: Rail Director</i>	1	85%	\$100,000.00	\$85,000.00
<i>Ex: Rail Maintenance Worker</i>	2	60%	\$110,000.00	\$66,000.00

TRANSIT VEHICLES AND EQUIPMENT LEASE AGREEMENT

This Lease Agreement is entered into this 1st day of January 2021, by and between, the City of DeKalb, hereinafter referred to as, LESSEE, and the PROPOSER, hereinafter referred to as the TRANSIT PROVIDER. TRANSIT PROVIDER shall have access to a portion of the LESSEE fleet vehicles on December 31, 2020 to prepare vehicles to begin service on January 2, 2021.

In consideration of the mutual covenants, promises and representations herein, the parties agree as follows:

1. **TRANSIT VEHICLES AND EQUIPMENT LEASE AGREEMENT.** LESSEE hereby provides to the TRANSIT PROVIDER Vehicles and Equipment for use in TRANSIT PROVIDER's Urban public transit systems to provide transportation services to senior citizens and individuals with disabilities, as well as the general public, as outlined in the Transit Services Provider Agreement ("TSPA").
2. **VEHICLE AND EQUIPMENT LISTING:** A listing of all transit vehicles and equipment as of January 1, 2021 is provided as Exhibit A. A Master List of all vehicles and equipment leased by the LESSEE to the TRANSIT PROVIDER shall be maintained under the following provisions:
 - a. Any vehicles or equipment purchased by the LESSEE for use by the TRANSIT PROVIDER to provide Urban public transit during the period of the TSPA shall be added to the Master List.
 - b. Any vehicles or equipment removed from service due to mechanical failure or removal due to expiration of its useful life shall be identified as removed from active service in the Master List.
 - c. All additions and removals from the Master List shall be automatically included into the Transit Vehicles and Equipment Lease Agreement identified herein.
3. **TERM.** This lease shall correspond to the TSPA.
 - a. **EFFECTIVE DATE:** The LESSEE hereby grants to TRANSIT PROVIDER the right to operate all leased transit vehicles and equipment on behalf of the LESSEE. The term of this Agreement shall be coterminous with the TSPA; any extension, modification or termination of said TSPA shall similarly extend, modify or terminate this lease.
4. **RENT.** The TRANSIT PROVIDER agrees to pay One Dollar (\$1.00) per year for each year of the TSPA with the said rental amount being due upon effective date of this Lease Agreement. Fee may be waived at the discretion of the City Manager. Rent is payable at the office of Finance located at 126 E. Lincoln Hwy., DeKalb, IL 60115. The Parties agree and acknowledge that the primary consideration for this lease is the TRANSIT PROVIDER's performance of services under the TSPA.
5. **FEDERAL STATUTES.** All vehicles and equipment purchased with Federal Transit Administration (FTA) funds shall be subject to all FTA rules and regulations. The LESSEE and TRANSIT PROVIDER shall agree to comply with all real property regulations identified in FTA Circular 5010.1D Chapter IV Project Management or its current iteration.
6. **MAINTENANCE AND REPAIRS.** The TRANSIT PROVIDER shall pay for and furnish all maintenance and repairs to keep vehicles and equipment in good working order and condition and shall repair all damage that occurs to such vehicles while subject to this lease. At the expiration or termination of this Lease, the vehicles and all equipment in the vehicles will be returned to the LESSEE in good condition, reasonable wear and tear expected.

- a. Any new transit vehicle leased to the TRANSIT PROVIDER may be equipped with; first-aid kit, fire extinguisher, visual warning devices, bio-hazard kit, spare tire and wheel and may also be equipped with; wheelchair securements and occupant restraints. It is the responsibility of the TRANSIT PROVIDER to replace these items as necessary throughout the period of the Lease Agreement, and to provide any other equipment that shall be necessary, required or appropriate for use of the leased vehicles in a safe fashion and in compliance with applicable laws, rules and regulations. Upon termination of the TSPA all of the said items will be in proper working condition and shall be transferred to the LESSEE.
7. REGISTRATION, LICENSE, TAXES, INSPECTION, FEES, EXPENSES. The TRANSIT PROVIDER shall pay all expenses incurred in the use and operation of the Vehicles, including but not limited to, insurance, license, registration, title fees, gasoline, oil, anti-freeze, repairs, maintenance, tires, storage, fines, inspections, assessments, sales or use taxes, if any, and all other taxes as may be imposed by law from time to time arising from TRANSIT PROVIDER'S use and operation of the Vehicles. The TRANSIT PROVIDER will reimburse and hold the LESSEE harmless for any and all amounts the LESSEE may pay in satisfaction, release, or discharge thereof. The TRANSIT PROVIDER shall permit the LESSEE and/or its designees, the Illinois Department of Transportation (IDOT), or the Federal Transit Administration (FTA) to inspect the Vehicles at reasonable times, places, and intervals. Each vehicle listed in the Master List, shall bear Illinois Municipal vehicle license plates.
8. USE AND OPERATION. The TRANSIT PROVIDER acknowledges receipt of Vehicles and Equipment, and that the same is in condition satisfactory to TRANSIT PROVIDER'S purposes. Vehicles shall not be altered, marked, or additional equipment installed without the prior written consent of the LESSEE in which case the TRANSIT PROVIDER will bear the expense thereof as well as the restoration expenses. The TRANSIT PROVIDER shall keep Vehicles free of all taxes, liens, and encumbrances and any sum of money that may be paid by the LESSEE in release or discharge thereof, including legal costs, shall be paid on demand by the LESSEE. The TRANSIT PROVIDER shall not use or permit the use of Vehicles in violation of any Federal, State, County or City laws, ordinances, rules or regulations, or contrary to the provisions of the insurance policy coverage. The TRANSIT PROVIDER, by acceptance of this Lease Agreement, agrees to abide by the terms hereof and to indemnify the LESSEE for any losses occurring as a result of such use in violation of said terms, laws, rules and ordinances.
9. REMOVAL FROM SERVICE. Any vehicle or piece of equipment which is deemed beyond its useful life by agreement of the Parties may be retired from service and returned to the LESSEE for reuse or disposal. The Useful Life for transit vehicles and equipment shall use the definition defined in FTA Circular 5010.1D, Chapter IV, Section f. Useful Life of Project Property. The LESSEE and TRANSIT PROVIDER shall dispose of all FTA funded property according to the regulations in FTA Circular 5010.1D, Chapter IV, Section J Real Estate Disposition. All vehicles and equipment removed from service shall be identified as removed in the Master List.
10. INDEMNIFICATION AND INSURANCE. The TRANSIT PROVIDER agrees and will protect, indemnify and hold harmless the LESSEE and its assignees and agents from and against any and all losses, damages, injuries, claims, demands and expenses occasioned by, or arising out of, the condition, maintenance, use or operation of the Vehicles including any accident or other occurrence causing or inflicting injury and/or damage to any person or property, happening or done, in, upon, or about the Lease Agreement Vehicles, or due directly or indirectly to this Lease, or the condition, maintenance, use or operation of the Vehicles by the TRANSIT PROVIDER or any person claiming through or under the TRANSIT PROVIDER.
 - a. The TRANSIT PROVIDER agrees that it will at all times provide general liability and vehicle insurance policies which provide coverage for all LESSEE owned vehicles and

equipment. The insurance coverage levels are identified in the TSPA. All vehicles shall be insured at full present-day new vehicle replacement value.

- b. The TRANSIT PROVIDER shall provide and pay for any other insurance or bond that may be required by any governmental authority as a condition to, or in connection with, the TRANSIT PROVIDER'S use of the Vehicles.
- c. In the event Vehicles are involved in an accident, damaged, stolen or destroyed by fire, the TRANSIT PROVIDER shall promptly notify the LESSEE, in writing, within 24 hours and will also comply with all terms and conditions entered in the insurance policies. The TRANSIT PROVIDER agrees to cooperate with the LESSEE, and the insurance companies in defending against any claims or actions resulting from the TRANSIT PROVIDER'S operation or use of the Vehicles or Equipment.
- d. Vehicles shall not be used by any person or entity, in any manner or for any purpose that would cause any insurance herein specified to be suspended, canceled, or rendered inapplicable.
- e. TRANSIT PROVIDER shall implement a risk management program in accordance with the recommendations of its insurer and shall implement all best management practices identified or recommended through such program.

11. **DAMAGE TO VEHICLES.** Should Vehicles or any part thereof be so damaged as to preclude usage for the purpose intended and should the TRANSIT PROVIDER be indemnified therefor pursuant to any insurance coverage required pursuant to paragraph 10 hereof in an amount not less than the full amount of the insurance coverage provided by the TRANSIT PROVIDER, the obligation of LESSEE to provide said vehicle(s) to TRANSIT PROVIDER under this Lease Agreement shall terminate, but TRANSIT PROVIDER's obligation to provide insurance and indemnification to the LESSEE shall continue in full force and effect. However, should the TRANSIT PROVIDER be indemnified in an amount less than the full amount of the insurance coverage provided by the TRANSIT PROVIDER, the TRANSIT PROVIDER will repair or replace Vehicles or the damaged part thereof and the proceeds of the insurance recovery shall be applied to such repair or replacement. Should vehicles or any part thereof be damaged by any cause for which the TRANSIT PROVIDER makes no insurance recovery and should Vehicles or the damaged part thereof be capable of repairs, this Lease Agreement shall terminate and the TRANSIT PROVIDER shall immediately pay the LESSEE the reasonable value of Vehicles, regardless of rentals paid or accrued.

12. **TITLE.** The TRANSIT PROVIDER acknowledges that this is an agreement to use only and that the TRANSIT PROVIDER does not in any way acquire title to Vehicles, under this agreement. Without the prior written consent of the LESSEE, the TRANSIT PROVIDER agrees not to do any act to encumber, convert, pledge, sell, assign, re-hire, lease, lend, conceal, abandon, give up possession of, or destroy Vehicles.

13. **WARRANTIES AND WAIVER.** The TRANSIT PROVIDER uses Vehicles and Equipment herein described in "as is" condition and agrees that the LESSEE has not made, and does not hereby make any representation, warranty or covenant expressed or implied with respect to the condition, quality, durability, capability, or suitability of Vehicles or against any patent or latent defects therein. The TRANSIT PROVIDER agrees that the LESSEE shall not be liable to the TRANSIT PROVIDER for any liability, claim, loss, damage or expense of any kind or nature caused directly or indirectly by Vehicles or the inadequacy thereof for any purpose, or for any deficiency or defect therein, or for the use or maintenance thereof, or for any repairs, servicing, adjustments, or expenses thereto or for any loss of business or for any damage whatsoever and howsoever caused. TRANSIT PROVIDER shall engage in a full and detailed inspection of each vehicle, shall repair any damage or unsafe condition, and shall take all actions necessary to

render such vehicles in compliance with all applicable laws, rules or regulations prior to operation of such vehicles.

14. ASSIGNMENT. Without the prior written consent of the LESSEE or any assignee of the LESSEE, the TRANSIT PROVIDER agrees not to sublet, mortgage, pledge, sell, assign, or otherwise transfer or dispose of this Lease Agreement. The TRANSIT PROVIDER acknowledges and understands that the LESSEE may assign this Lease Agreement and that such assignee shall be entitled to all of the benefits of this Lease Agreement in the place of the LESSEE. In connection therewith, the TRANSIT PROVIDER agrees this Lease Agreement, Vehicles, and Equipment used there under will be subjected to any rights and interest in and to said Vehicles and Equipment under any contract the LESSEE has with another regarding title or interests in title; to accept the directions, demands or consents of such assignee in place of those of the LESSEE; to surrender Vehicles only to such assignee; to pay all rent hereunder as directed by such assignee.

15. DEFAULT. In any of the following default events:

- a. failure to pay any rent or sum herein provided when the same are due and payable and such default continues for a period of ten (10) days after receipt of notice thereof of TRANSIT PROVIDER;
- b. Failure to comply with any terms or conditions hereof;
- c. A proceeding in insolvency or receivership by or against the TRANSIT PROVIDER or its property, or in the event LESSEE suspends business, makes an assignment for the benefit of creditors, or if an attachment be levied or tax lien filed against the Vehicle, or
- d. the TRANSIT PROVIDER fails for any reason to comply with the repair, insurance or indemnification requirements of the Lease Agreement, then and in those events, or any of them, the LESSEE may, at its option and without prejudice to any other rights it may have:
 - i. Take possession of Vehicles and/or Equipment and for the purpose thereof may enter the premises on which Vehicles and/or Equipment are located and remove them without court order or other process of law (damages occasioned by such taking being expressly waived by the TRANSIT PROVIDER), and thereupon the TRANSIT PROVIDER'S right to possession and use of Vehicles shall terminate;
 - ii. May (but need not) use Vehicles or any portion thereof for such period, rental, and to such persons or entities as the LESSEE shall elect and shall apply the net proceeds of any such renting in payment of the rent and other obligations due from TRANSIT PROVIDER to the LESSEE hereunder by acceleration or otherwise;
 - iii. May (but need not) sell Vehicles or any part thereof at public or private sale without demand or notice of intention to sell or of sale and shall apply the net proceeds of any such disposition against the total obligations owed the LESSEE;
 - iv. May deduct all costs and expenses in connection with such retaking, including insurance, repairs, storage, renting or sale of Vehicles from the proceeds derived from such renting or sale;
 - v. Terminate TRANSIT PROVIDER'S rights hereunder as to Vehicles and terminate the TSPA;
- e. No right or remedy conferred upon or reserved to the LESSEE by this Lease Agreement shall be exclusive of any other right or remedy herein or by law provided; all rights and remedies conferred upon the LESSEE by this Lease Agreement or by law shall be cumulative and in addition to every other right and remedy to.
- f. If it is necessary to employ the services of an attorney or incur expenses in enforcing this Lease, the TRANSIT PROVIDER shall pay to the LESSEE all such expenses and court costs, in addition to all sums due the LESSEE, including reasonable attorney's fees.

16. CONSTRUCTION. This Lease Agreement shall be construed and determined in accordance with the laws of the State of Illinois. Any provision herein prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remaining provisions of the Lease Agreement.

Jurisdiction and venue for any dispute arising out of this Agreement shall be exclusively fixed in the DeKalb County Circuit Court.

17. **TIME IS OF THE ESSENCE.** Time is of the essence of this Lease. However, the LESSEE's failure at any time to require strict performance by the TRANSIT PROVIDER of any provisions herein shall not waive or diminish the LESSEE's right to thereafter demand strict compliance therewith or with other provisions of this Lease Agreement and written waiver by the LESSEE of any default hereunder shall not constitute a waiver of any other default.
18. **ENTIRE AGREEMENT.** This Lease Agreement contains the whole agreement of the parties. None of the covenants, provisions, terms, or conditions of this Lease Agreement shall be in any manner modified, waived, abandoned, or amended except by a written instrument duly signed by the parties or their assignee and delivered to the LESSEE and the TRANSIT PROVIDER or their assignee.
19. **MASTER LIST.** The Master List of Vehicles and Equipment shall be amended each time any vehicles or equipment are added or removed from active service. Amendments to the Master List shall not require an amendment to this Lease Agreement and shall be approved by the LESSEE staff person identified as the City's Transit Manager and the General Manager of the TRANSIT PROVIDER.
20. **BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assignees of the parties hereto except as may be modified in paragraph 14 or 22 hereof.
21. **NOTICE.** Notices as provided for in this Lease Agreement shall be given to the respective parties or their assignees at their respective addresses designated herein unless there is notification of the parties to the other, in writing, of a different address. Such notice shall be deemed to be given and received when deposited in the United States mail, postage prepaid, addressed as herein designated.
22. **INFORMATION TO BE FURNISHED BY TRANSIT PROVIDER TO THE LESSEE.** The TRANSIT PROVIDER shall furnish the requested information to the LESSEE during the term of this Lease Agreement. Please refer to the Request for Proposal document for information requested by the LESSEE.

IN WITNESS WHEREOF, the parties have duly executed this Lease Agreement on the day and year first written above.

LESSEE

TRANSIT PROVIDER

By: _____

By: _____

Print: _____

Print: _____

Date: _____

Date: _____