



**REGIONAL TRANSPORTATION AUTHORITY**

## **Northwest Corridor Transit Study**

**REQUEST FOR QUALIFICATION  
RFQ NO. 2014471**

**ISSUED: April 21, 2014  
PROPOSALS DUE: May 19, 2014**

## REQUEST FOR QUALIFICATION

PROPOSALS MUST BE RECEIVED  
PRIOR TO 3:00 P.M. CST

**May 19, 2014**  
Proposal Number  
2014471

### INSTRUCTIONS:

1. SUBMIT (1) ORIGINAL, (15) ADDITIONAL, AND (1) ELECTRONIC COPIES OF YOUR PROPOSAL.
2. RETURN THIS PAGE SIGNED TO RECEIVE ANY ADDENDA.
3. ALL PROPOSALS ARE TO BE IDENTIFIED WITH RFQ#, RFQ NAME, AND RETURNED IN A SEALED ENVELOPE OR PACKAGE.
4. DURING THE RFQ PROCESS VERBAL COMMUNICATION MUST BE DIRECTED TO PROCUREMENT DEPARTMENT.

## ADDENDA REQUEST

RTA is soliciting proposals from firms qualified to provide **Northwest Corridor Transit Study**. This REQUEST FOR QUALIFICATION(s) (hereinafter RFQ) is set out in the following format:

- SECTION I. Introduction
- SECTION II. Instructions to Proposers
- SECTION III. Scope
- SECTION IV. Proposal Response Requirements
- SECTION V. Required Forms
- SECTION VI. Proposed Contract

Proposals will be accepted, at RTA offices located at 430 Myatt Drive, Nashville, TN 37115, until 3:00 p.m., Central Savings Time (CST), Monday, May 19, 2014. Proposals received after this date and time will not be accepted. Proposals are not opened with regular mail.

All questions and inquiries related to this RFQ must be directed to: Monica Dobson, Procurement and Project Administration, until 3:00 p.m. (CST), Friday, May 7, 2014 to address above, e-mail [monica.dobson@nashville.gov](mailto:monica.dobson@nashville.gov) or phone 615-880-2469. We do not recommend requests by fax (fax # 615-862-6208), because we cannot guarantee receipt of or response to these requests.

Proposers are not to contact other RTA personnel with any questions or clarifications concerning this RFQ. The Procurement Department will provide all official communication concerning this RFQ. Contacting other RTA personnel regarding this procurement could result in proposer disqualification.

I HAVE READ AND UNDERSTOOD THIS REQUEST FOR QUALIFICATION (RFQ) and our company desires to receive copies or notices of addenda. You must provide the information requested below no later than, 3:00 p.m. (CST), Friday, May 7, 2014.

Company Name

Phone Number

Fax Number

Address

Name of person to contact in reference to this Proposal

Title

E-mail Address

RTA Web site – [www.rtarelayandride.com](http://www.rtarelayandride.com)

MTA Web site – [www.nashvillemta.org](http://www.nashvillemta.org)

Transit Intelligence – May 19, 2014

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## **I. INTRODUCTION**

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**The mission of the Regional Transportation Authority is:**

**To provide public transportation services to our community and its visitors so they can achieve greater mobility and experience a cleaner, healthier environment with less traffic congestion.**

### **1. GENERAL**

The Regional Transportation Authority (RTA) is supported by member communities in Middle Tennessee. Created in 1988, RTA provides ridesharing opportunities in order to promote the economic growth of our membership and improve the air quality of our community. RTA operates nine regional bus routes between downtown Nashville and the following cities: Brentwood, Clarksville, Franklin, Gallatin, Hendersonville, Joelton, La Vergne, Murfreesboro, Smyrna, Springfield, Spring Hill, and Thompson's Station. RTA works closely with the Metropolitan Transit Authority linking riders with 46 routes provided throughout Davidson County. In addition, RTA's rideshare program organizes vanpools and carpools for commuters throughout Middle Tennessee.

The RTA also oversees the Music City Star regional rail which provides commuter rail service on a 32 mile corridor connecting Downtown Nashville and the City of Lebanon in Wilson County.

For additional history and services of RTA please visit our website [www.rtarelayandride.com](http://www.rtarelayandride.com).

### **2. OVERVIEW**

The Regional Transportation Authority (RTA) intends to award a Contract to the successful Proposer who shall provide Consultant Services. Refer to Section III of this RFQ for an expanded description of the Scope.

These instructions provide detailed legal and consultants requirements for the acquisition of these services. Section VI, Proposed Contract, provides a more detailed description of the legal requirements.

### **3. PROPOSAL SCHEDULE**

The following estimated time line should be used as a working guide for planning purposes. RTA reserves the right to adjust this time table as required during the course of the RFQ process. RTA will make good faith efforts to notify potential proposers of adjustments to the schedule; however, ultimate responsibility for obtaining notice of changes lies with the Proposer. Any changes to the proposed schedule will be listed on our Web site, [www.rtarelayandride.com](http://www.rtarelayandride.com).

|                                         |                                       |
|-----------------------------------------|---------------------------------------|
| RFQ Release Date                        | Monday, April 21, 2014                |
| Addenda Request                         | Friday, May 7, 2014 at 3:00 pm (CST)  |
| Deadline for all questions to RFQ       | Friday, May 7, 2014 at 3:00 pm (CST)  |
| Proposals Due Date                      | Monday, May 19, 2014 at 3:00 pm (CST) |
| Presentation/Interviews (if applicable) | Tuesday, June 17, 2014                |
| Contract Approval                       | To Be Determined                      |
| Contract Award/Notice to Proceed        | To Be Determined                      |

All questions must be submitted in writing, via email is recommended, to Monica Dobson, [monica.dobson@nashville.gov](mailto:monica.dobson@nashville.gov). The answers to the questions will be posted on RTA website, [www.rtarelayandride.com](http://www.rtarelayandride.com). Proposers are solely responsible for checking the website to ensure that they have the most current information regarding the RFQ. Any oral communication, explanation or instruction

provided will not be binding on RTA.

#### **4. COST INCURRED BY PROPOSER**

RTA is not liable for any costs incurred by prospective proposers in the preparation of a proposal submitted in response to this RFQ, in presentation of the proposal or any other activities related to responding to this RFQ.

#### **5. EVALUATION OF PROPOSALS**

An Evaluation Committee and/or the Procurement Department will examine proposals and the proposal process to eliminate those which are determined non-responsive to the stated requirements. The Evaluation Committee will then evaluate proposals and make recommendations of the top-ranked company for the award.

The Evaluation Committee will apply the evaluation criteria set forth in the RFQ or in any addenda issued. A detailed evaluation that follows the initial examination may result in more than one finalist. At this point, the Evaluation Committee may request additional information, request an interview, request a presentation, request revised or best and final offers.

Should interviews or presentations become necessary, RTA will contact the top-scoring firm(s) from the evaluation to schedule a date and time.

RTA reserves the right to select one or more from among the proposals submitted and to enter into negotiations with the top-ranked proposers.

RTA reserves the right to enter into negotiations with the top-ranked proposers without requesting interviews to reach final agreement on specific terms of the Services Contract.

#### **6. EVALUATION SCORING MEASURES**

The Evaluation Committee will evaluate proposals received on the following factors.

##### **Evaluation Criteria and Weights:**

| Criterion                   | Standard                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Point Value |
|-----------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------|
| Scope/Approach/Availability | Does the proposal reflect a thorough, thoughtful, creative approach to the task? Is there evidence of a clear understanding of the project objectives, methodology to be used and results that represent goals desired from the project? Can the work be completed in the necessary time? Can the target start and completion dates be met? Are other qualified personnel available to assist in meeting the project schedule if required? Is the project team available to attend meetings as required by the Scope of Work? Clients. List of staff assigned to RTA and availability of principal personnel and the extent of work that may be sub-contracted; The relationship of this program/project to | 50          |

|                                                  |                                                                                                                                                                                                                             |            |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
|                                                  | your corporate purpose, and why your firm is best suited to fulfill the requirement of the RFQ.                                                                                                                             |            |
| Firm's Experience/References on similar projects | The nature and scope of firm's previous experience in projects of this nature. Involvement and management of public meetings. Proposer's responsiveness and experience in providing all required elements of this projects. | 25         |
| Assigned Personnel                               | Do the persons who will be working on the project have the necessary skills? Are sufficient people of the requisite skills assigned to the project?                                                                         | 20         |
| Responsiveness to RFQ                            | Did Proposer address all requirements of the RFQ?                                                                                                                                                                           | 5          |
| <b>Total Points</b>                              |                                                                                                                                                                                                                             | <b>100</b> |

Proposals shall be evaluated on the basis of the responses to the questions and requirements in this RFQ.

#### **7. PROPOSAL ACCEPTED**

Each Proposer submits their proposal with the understanding that the acceptance in writing by RTA of the offer to furnish the services requested shall constitute a contract between the proposer and RTA, which shall bind the proposer to furnish the services at the rates quoted, and in accordance with conditions and requirements of RTA. A formal contract will be signed between RTA and the successful Proposer.

#### **8. DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

In connection with this project, the RTA has established a specific goal of (5%) for Disadvantaged Business Enterprise (DBE) participation. Proposers are required to make good faith effort to cooperate with RTA in meeting its commitments and goal of (2%) percent for goods and services for the fiscal year 2013-2014. DBE participation is encouraged either in the capacity of the prime contractor or subcontractor. Proposers are required to document their activities in the proposal and selection of any subcontractor(s) to ensure the process is nondiscriminatory. To be considered a certified DBE the organization must be registered with the Tennessee Uniform Certification Program (TNUCP).

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## II. INSTRUCTIONS TO PROPOSERS

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### 1. REQUESTS FOR CLARIFICATION

If any person submitting a proposal is in doubt as to the true meaning of any part of the Scope of Services, other RFQ documents, finds discrepancies in or omissions from the specifications; may submit to Monica Dobson, a written request for an interpretation or correction by 3:00 p.m. (CST), Friday, May 7, 2014. Only written requests will be accepted. E-mailed questions to the Procurement Department are acceptable. The person submitting the request will be responsible for its prompt delivery and verification of delivery.

The request must be fully supported with detailed information and reference to a section of the RFQ, if applicable, to assist RTA in determining whether the request is or is not valid. Any corrections or changes to this RFQ will be distributed to recipients who submitted the "Addenda Request" at the address provided. Verbal questions will not be answered, thus preventing an unfair advantage to any proposer.

### 2. DELIVERY OF PROPOSALS

The proposer must submit one (1) original paper and fifteen (15) additional paper copies and one (1) electronic copy of the proposal with all required forms by Monday, May 19, 2014 3:00 p.m. CST to the following address:

Monica Dobson, Procurement and Project Administrator  
RTA  
430 Myatt Drive  
Nashville, TN 37115

The sealed envelope, box, or appropriate package must be clearly marked with "**PROPOSAL FOR RTA NORTHWEST CORRIDOR TRANSIT STUDY RFQ 2014471**" on the lower left side and "**DO NOT OPEN WITH REGULAR MAIL.**" RTA will not consider proposals received after the time and date specified. All Proposals will be logged upon receipt indicating the date and time by the Procurement Staff member.

Proposers are solely responsible for delivery of their proposal on time. Proposers who rely on overnight delivery services, local couriers, or other delivery services remain solely responsible for timely delivery of the proposal and assume all risk of late delivery or no delivery.

Proposals will not be opened publicly.

RTA reserves the right to cancel this RFQ in writing or postpone, or extend the date and time for submitting proposals at any time. RTA reserves the right to reject any or all proposals, to waive any or all informalities or irregularities in the proposals received, to investigate the qualifications and experience of any Proposer, to reject any provisions in any proposal, to modify RFQ contents, to obtain new proposals, to negotiate the requested services and contract terms with any proposer. RTA reserves the right to award the RFQ requested goods & services in full, in part and/or a single item to one or more proposer. RTA will determine the most responsive proposer whose proposal is most advantageous. The Board of Directors will give final approval for the award of goods and services.

The submission of a proposal shall constitute an acknowledgement that the proposer has thoroughly examined and is familiar with the RFQ, including the Scope of Services, the addenda if any, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions dealing with or related to the services requested.

Proposals must indicate that the firm is prepared to enter into a contract with RTA in accordance with the terms and conditions set forth in this RFQ, any addenda, and proposed contract. Proposals shall be valid for a minimum period of one hundred and twenty days (120) from the proposed closing date for acceptance by RTA.

### **3. PROPOSAL WITHDRAWAL**

Proposers will be given permission to withdraw their proposal after it has been delivered to RTA provided proposer makes their request by e-mail, on organizations letterhead, twenty four (24) hours prior to the proposal due date and time. Requests pertaining to withdrawal by telephone or e-mail must be confirmed in writing by the proposer and must reach the office of Monica Dobson, not later than one (1) hour prior to the time fixed for submission of proposals. Proposals which are timely withdrawn shall be returned to the proposer unopened, at proposer's expense.

### **4. UNACCEPTABLE PROPOSAL**

RTA will not accept proposals or award any contract to any person, firm or corporation that is in arrears or is in default to RTA upon any debt or contract, has defaulted on other obligation(s) or has failed to perform faithfully any previous contract for RTA.

### **5. REJECTION OR ACCEPTANCE OF PROPOSAL**

The Chief Executive Officer and the Board of Directors reserve the right to accept or reject any or all or any part of any proposals. Any proposal which is incomplete, conditional, obscure, or which contains additions not called for, or irregularities of any kind, may be cause for rejection of the proposal.

### **6. PUBLIC RECORDS/CONFIDENTIALITY**

The proposals received become the exclusive property of RTA. When a contract award is approved by RTA, all proposals submitted in response to this RFQ shall become a matter of public record and shall be regarded as public records, with the exception of those elements of each proposal that are marked as **"TRADE SECRET," "CONFIDENTIAL" or "PROPRIETARY."** If required by law or by an order of a court, RTA may be required to disclose such records or portions thereof, including without limitation those so marked. Proposals that indiscriminately identify all or most of the proposal as exempt from disclosure without justification may be found to be technically unacceptable.

### **7. FORMS PROVIDED**

Proposers must submit their proposal on the forms provided or copies thereof. The proposer or an authorized representative of the firm must sign the proposal. Any erasures, corrections or other changes appearing on the proposal form must be initialed and dated by the person signing the proposal.

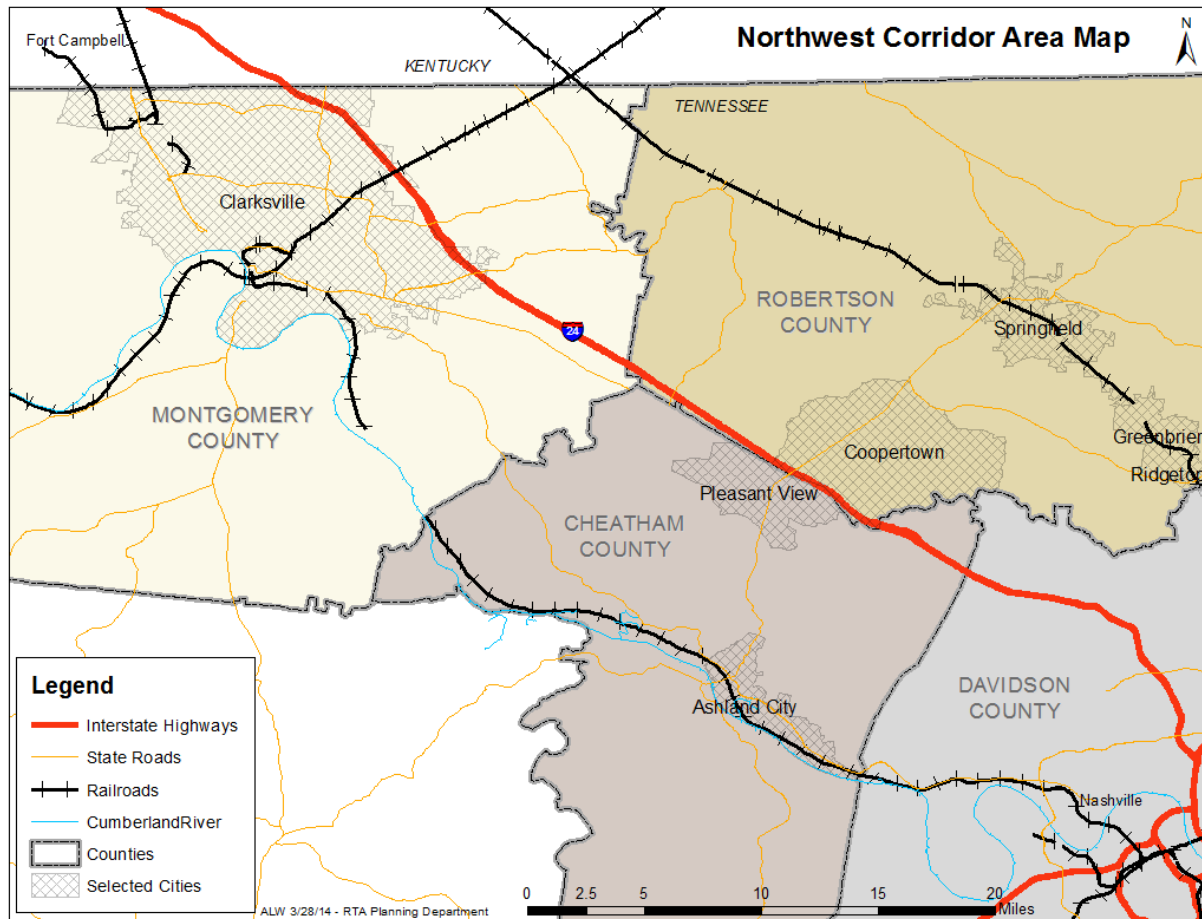
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### III. SCOPE OF WORK – NORTHWEST CORRIDOR TRANSIT STUDY & IMPLEMENTATION PLAN

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#### 1. STUDY AREA

The study area will consist of at least the corridor between Nashville and Clarksville in Davidson, Cheatham, and Montgomery Counties including the Fort Campbell Army Base. At a minimum, major roads and facilities will include I-24, Clarksville Hwy (SR-112/US-41A), Ashland City Hwy (SR-12), and the former Tennessee Central railroad line from Hopkinsville Kentucky through Clarksville and Ashland City to Nashville. Proposers may increase the Study Area if they believe it will help the corridor to provide a better solution.



#### 2. PROJECT BACKGROUND

With the adoption of the 2035 Regional Transportation Plan (RTP), the Nashville Area MPO identified three major policy initiatives to guide the investment of transportation funds across the Nashville region. The first of those major policy initiatives was a Bold, New Vision for Mass Transit. The vision includes a variety of new and expanded services for regional corridors, urban centers, suburban communities, and even the rural countryside.

The long-range vision for mass transit calls for a strategic mix of transit options for future generations of Middle Tennesseans, ranging from high-frequency rapid transit service to the continued provision of rural transit services for those who do not live nearby to fixed-route options. Several key regional corridors have

been identified for provision of those services with commuter rail along the northwest corridor being one of them. The long-range vision calls for continued support for the Music City Star's east corridor commuter rail service and the development of a new commuter rail line in the region's northwest corridor to connect Clarksville and Nashville, two of Tennessee's five most populous cities.

Clarksville, the largest city in Montgomery County and the fifth largest city in Tennessee, is increasingly becoming part of the commuter shed for the Nashville metropolitan region. The number of commuters traveling from Montgomery County to Davidson County increased from 4,698 to 8,335 (68%) from 2000 to 2008. Vanpools and informal carpools operate from six Park & Rides and Jarmon Transportation operates shuttle service from Clarksville to Nashville. Additionally, RTA currently operates express bus service between Nashville and Clarksville via *Rt. 94X Clarksville Express* carrying an average of over 4,000 passengers per month in 2013.

Over the next several years no major highway projects are expected to significantly improve intercity commute times in the Clarksville-Nashville corridor. Over the next 20 years, intercity commute time is expected to deteriorate further to 1 hour and 35 minutes from the 50 minute drive of today. Clarksville-Nashville commuters need a travel option which bypasses the deteriorating traffic conditions on I-24 and US41-A/Clarksville Hwy. That transportation option should be developed within the next 5-7 years.

### **Related Plans, Studies and Required Coordination**

In 2008 an Initial Feasibility Study for commuter rail between Nashville and Clarksville was completed. The study was prepared by CSR Engineering at the request of several interested parties including Montgomery County, the City of Clarksville, Cheatham County, the Clarksville Urbanized Area MPO and the Nashville & Western Railroad. The Nashville Area MPO and the Tennessee Department of Transportation's Division of Multi- Modal Transportation Resources office also participated in the study. The purpose of the initial feasibility study was to evaluate the feasibility of a high-capacity commuter service which would improve the current travel times and provide flexibility for low-cost expansions of capacity as travel demand increases. The study evaluated commuter rail service via three different alignments including I-24, existing CSX tracks through Springfield, and the old Tennessee Central Railroad through Cheatham County along the Nashville & Western railroad. The study concluded that this last scenario was the most feasible, but further study is needed prior to the selection of a preferred alignment. The Initial Feasibility Study is available on the Nashville Area MPO's website at:

[http://www.nashvillempo.org/regional\\_plan/transit/planning\\_efforts/](http://www.nashvillempo.org/regional_plan/transit/planning_efforts/)

More recently, the Tennessee Department of Transportation completed the Interstate 24 Multimodal Corridor Study in March 2014. The study examined potential multimodal transportation improvements that would address existing and emerging transportation system issues associated with this corridor. Although the I-24 Multimodal Corridor Study included the full extent of I-24 in Tennessee, a substantial part of the corridor resides within the proposed study area for the Northwest Corridor Transit Study. The study reviews the existing and projected corridor conditions, describes the purpose and need for corridor improvements, defines performance measures and evaluates potential corridor improvements. Finally, the report outlines prioritized planning-level recommended multimodal projects and strategies for the corridor. The final report for the I-24 Multimodal Corridor Study is available on the web at:

<http://www.tdot.state.tn.us/i24/library.shtml>

In addition, the Northwest Corridor Transit Study is intended to provide analysis and recommendations that will be integrated into the Transit element of the Nashville Area MPO's 2040 RTP, scheduled for development in 2014 and adoption in 2015, and the RTA Master Plan that will be closely developed in conjunction with the MPO's 2040 RTP. The RTA Master Plan will operationalize the region's transit vision identified in the MPO's RTP and will establish policies for project development and service delivery. Lastly, the study should also be consistent with the Clarksville Urbanized Area MPO's adopted 2040 Metropolitan Transportation Plan identified needs for the corridor.

### 3. PROJECT PURPOSE

The purpose of the *Northwest Corridor Transit Study* is to provide consensus among the Regional Transportation Authority of Middle Tennessee (RTA), the Nashville Area MPO, the Clarksville Urbanized Area MPO and local community partners and stakeholders on cost effective transit improvements to serve the Northwest area of the region. The study will build upon the findings and recommendations from the 2008 Initial Feasibility Study to confirm their appropriateness for the corridor and determine whether different alternatives should be explored and additional solutions identified. The study is also expected to examine the viability of providing service to the Fort Campbell Army base in northern Montgomery County.

Enhanced transit service in the northwest corridor will connect workers to jobs and help mitigate an anticipated growth in congestion along I-24. It will also help to strengthen neighboring towns by expanding their travel options.

### 4. PROJECT SCHEDULE

The RTA will require all work associated with this study to be completed within a 12 to 15-month timeframe with a goal to have significant deliverables produced by the end of RTA fiscal year 2015, but no longer than 12 months after the notice to proceed. Proposers must discuss their ability to deliver the requested products within this timeframe.

### 5. SCOPE OF WORK

The Proposer must describe how it plans to carry out the following major work tasks, providing information about the anticipated schedule and level of effort required to produce the requested deliverables.

#### **Task 1: Project Management Plan**

The consultant shall develop a project management plan that identifies the necessary and anticipated steps and processes required to complete the project as described in this RFQ and as provided for in the contract. The work plan must include:

- An organizational chart of the project team and a description of roles and responsibilities for consultant and subcontractor team members;
- A final scope of work with a detailed description of major tasks and deliverables;
- A schedule and budget for each major task and requested deliverable;
- A description of the project management protocol for quality control procedures and client progress reports;
- A list of project participants and the expected level of participation (e.g., MPO staff, project committee members, agency partners, etc.);
- An assessment of local data and information needed to carry out the scope of services, and a corresponding data collection plan.

*Deliverable #1: Project Management Plan*

#### **Task 2: Public, Stakeholder, and Media Outreach Plan**

Outreach with the public, stakeholders, and the media will be an important component of this study. The facilitation of meetings, the preparation of materials, and the documentation and organization of public and stakeholder comments will be required throughout the process. The consultant will also be expected to synthesize findings from public involvement conducted by other public agencies and non-profit partners (e.g., Transit Alliance) during recent and ongoing economic development efforts and transportation and land use

planning activities throughout the study area in order to minimize duplication of effort and public planning fatigue.

A project coordination committee consisting of representatives from the RTA, the two MPOs, TDOT, local transit agencies, local planning and public works agencies, the rail authority, and other relevant organizations will be established to provide guidance for the study.

The Proposer must indicate its anticipated level of effort for involving the public and stakeholder groups in this study. Specifically, the consultant should describe how and when it plans to engage various audiences (e.g., media, public, businesses, government, etc.) throughout the term of the contract and any methods for organizing key stakeholders to promote effective and efficient feedback to the project team (i.e., through steering, technical, and citizen advisory committees). Additionally, due to its size and prominence in the region, the Fort Campbell Army Base (Ft. Campbell) in Montgomery County is considered a major stakeholder in this study. The consultant is expected to identify key contact personnel at the Ft. Campbell base and actively engage them in the process. At a minimum, the following groups must be considered as key audiences throughout the effort:

- State and regional governmental agencies,
- Civic organizations,
- Neighborhood associations,
- News media,
- Chambers of commerce,
- Local business leaders,
- Joint Economic and Community Development Boards,
- Resource management agencies,
- Transit/transportation providers,
- Non-profit organizations focused on transportation or growth and development (e.g., Transit Alliance of Middle Tennessee, Cumberland Region Tomorrow, Civic Design Center, etc.), and
- Representatives of traditionally underserved populations.
- Fort Campbell Army Base

In addition, given recent efforts by some members of the state legislature to limit local planning authority and the mixed reaction by the public to recent local planning efforts, the Proposer must describe how it plans to address growing concerns about the role of government in land use planning and growth management. The Proposer should describe any strategies it plans to deploy to ensure productive public discussion about issues and challenges related to community planning and growth management.

The consultant is strongly encouraged to consider innovative outreach techniques and the inclusion of social media tools to ensure broad representation from the community. The consultant should also follow all applicable Title VI guidelines and address how the project will include inclusive public participation techniques.

*Deliverable #2: Public, Stakeholder, and Media Outreach Plan*

### **Task 3: Analysis of Existing Conditions and Trends**

The consultant shall compile base year data to describe the existing conditions for the study area, and develop forecasts of the anticipated conditions for the short-, mid-, and long-term planning horizons. At a minimum, the following should be included in the analysis:

- Economic and market conditions;
- Land use and development patterns;
- Travel demand and transportation system performance;
- Freight movement;
- Environmental features and conflicts;
- Local planning practices;
- Natural resource conservation efforts;
- Public health and well-being.

The MPOs have invested heavily in two technical tools that are, and will continue to be, the basis for land use and transportation modeling and scenario planning in the region. The Nashville MPO manages the regional land use model using ArcGIS-based CommunityViz (Placeways). Each MPO maintains a TransCAD-based travel demand model. While the land use model covers the entire study area, the travel demand models housed at the two MPOs do not include Cheatham County. The consultant must address this gap. The consultant must also address how the travel demand model used for this study will be constructed from the two MPO models that currently exist independent of each other. The MPOs recently partnered on a 10-county household travel survey that includes all areas within the study area in anticipation of the modeling needs for the corridor.

In addition, this task will require that the consultant compile data and plans from a variety of sources. At a minimum, the following should be a target of the data collection effort:

- Inventory of existing policies and plans;
- Inventory of existing capital budget and programs;
- Land use/parcel information;
- Transportation system and networks including major roadways, transit routes and services, railroad corridors and trails;
- Information about other public infrastructure systems;
- Natural resources and environmental features;
- Socio-cultural assets and resources;
- Population and employment estimates and forecasts.

The consultant will be responsible for obtaining, organizing, and analyzing this information, however, cooperation will be provided by the RTA, MPOs, and other public agencies, as needed. Other data not listed above may be required as part of the analysis.

*Deliverable #3: Technical Memo on the Analysis of Existing Conditions and Trends*

### **Task 4: Transit Needs Assessment & Evaluation of Alternatives**

Using information compiled from the existing conditions and trends analysis, the consultant shall work with the project team to identify existing and future transit needs for the study area. This should include an evaluation of needs for regional bus services, vanpools, Park & Rides and other transit solutions, but the analysis should focus heavily on evaluating the viability of a commuter rail service between Clarksville and Nashville, alternative corridors and technologies. Nevertheless, sufficient information should be generated to

identify the impact of the No Build (Do Nothing) Alternative, the Roadway Capacity Expansion Alternative (including possible HOV lanes, dedicated truck lanes, etc.), the Bus Rapid Transit Alternative (including shared lanes with other traffic, adding or sharing HOV lanes, and adding or dedicating bus lanes), the Bus Rapid Transit Alternative on separated right-of-way, and the Commuter Rail Alternative (including different technologies).

The consultant will be expected to build upon the work presented as part of the Initial Feasibility Study completed in 2008 to further evaluate alignment and technology alternatives, providing a detailed analysis of strengths and weaknesses, costs and benefits, trade-offs, and deliverability. Specifically, the consultant must describe the following for each alternative:

- Capital costs for the guideway, bridges and overpasses, rolling stock, equipment, station, and any necessary yard or shop investments;
- Ongoing operations and maintenance costs;
- Anticipated right-of-way costs indicating where rights-of-way exist that may be leased or purchased;
- Support system for the commuter rail service including feeder and circulator bus routes, Park & Ride garages/lots, Kiss & Ride lots, stations and marketing efforts;
- Public private partnership and/or joint development opportunities for stations, commuter parking facilities and within the vicinity of the stations;
- Anticipated impacts on the growth and development in the corridor;
- Anticipated impacts on the natural environment or socio-cultural resources;
- Anticipated impacts on traditionally underserved populations;
- Anticipated ridership and user benefits in terms of increased convenience, accessibility or travel times savings;
- Anticipated funding sources including public/private partnerships;
- Political viability relative to public approval of State and local funding mechanisms for capital and operating costs including dedicated funding sources, tax benefit districts and other revenue generating mechanisms
- Anticipated cost-effectiveness to indicate the project's competitiveness for federal funding.

The consultant must address in its proposal how it plans to produce ridership forecasts for the evaluation of alternatives. There are several limitations with the current travel demand models used by the MPOs including gaps in geography for the proposed study area. Furthermore, the Clarksville Urbanized Area MPO Travel Demand Model lacks a modal split model for forecasting public transit ridership sensitive to routes, frequency and public transportation vehicle type. The consultant is encouraged to supplement the regional travel demand model with additional forecasting tools, as appropriate.

*Deliverable #4: Technical Memo on Travel Demand Modeling & Ridership Forecasting*

*Deliverable #5: Technical Memo on Transit Needs Assessment & Evaluation of Alternatives*

#### **Task 5: Detailed Transportation Recommendations for a Preferred Alternative**

Using results from the transit needs assessment and evaluation of alternatives, the consultant shall work with the project team to engage stakeholders and the public in an effort to identify the most viable and deliverable corridor alternative.

Once a "preferred" alternative is selected, the consultant shall refine and finalize the capital and operating plans for the alternative based on public input and/or further analysis. This will include the support system for the Preferred Alternative including feeder and circulator bus routes, Park & Ride garages/lots, Kiss & Ride lots, and stations and marketing efforts. There should also be an overview (to be elaborated in Task 7) of an

implementation plan and schedule for the Preferred Alternative ranging from immediate actions to preserve rights-of-way, subsequent environmental and design studies, staging the project (any operable segments), and actions to secure public approval and funding. The final materials should be compiled into a prospectus that can be used by the project team to communicate to stakeholders the general design, purpose and need, and costs and benefits of the preferred alternative.

In addition, the consultant shall work with the project team to develop a set of multi-modal transportation recommendations for the study area that will complement the corridor investment to improved personal and freight transportation conditions. Recommendations should focus on 1) meeting the travel demand anticipated from the anticipated growth, and 2) enabling opportunities for economic and community development that is consistent local plans and regional economic development initiatives.

This effort will require close coordination with the local transit agencies, the MPOs, and local governments throughout the study area to translate those recommendations into specific projects that can be identified in local transit and major thoroughfare plans, incorporated into the MPO's regional needs lists and fiscally-constrained long-range plans, and programmed in local or regional work programs.

*Deliverable #6: Technical Memo on Transit Capital and Service Recommendations*

*Deliverable #7: Prospectus on Preferred Alternative*

#### **Task 6: Placemaking & Land Use Recommendations**

The purpose of this task is to develop transit-supportive land use recommendations and urban design guidelines focused around identified possible transit stations located along the corridor. These plans will examine transportation and circulation issues, urban design and placemaking, and public realm infrastructure so as to help maintain and create great neighborhoods and high quality transit supportive development. These plans will cover the area within a half mile of a transit station, but concentrate on the area within a 10 minute walk. Coordination with local community plans and examination of current and proposed land uses is highly recommended.

The consultant will engage the local community, public agency staff, and other stakeholders to determine land use alternatives while taking into consideration the inclusion of a transit station within the study area, and future transit service. The land use alternatives will include future development and redevelopment sites and any opportunities for joint development (public-private partnerships). The alternatives are to promote transit supportive development, multi modal access and circulation, and conform to community character. Locally adopted land use policies shall be evaluated to propose possible changes. Transit supportive development scenarios shall be evaluated against current land use policies to identify potential land use obstacles to implementing those scenarios and regulatory tools to enhance transit supportive development should be included. The alternative scenarios should analyze parcel level redevelopment opportunities to assess the potential for adding density and intensity around station areas for residential, office, retail and industrial land use types. Minimum density goals should be established and specific achievable densities should be determined for each station area by identifying and quantifying available redevelopment sites and assessing the character of the area to determine what density would be appropriate in the given context.

At a minimum, the following principles should guide station areas analysis:

- Station areas should focus on roughly a half-mile radius around each station to promote walkability.
- Densities and Intensities should be highest adjacent to the stations to take advantage of the greater transportation opportunities.
- Each station should have a mix of uses and intensities that effectively support the transit and are appropriate to its land use context.

- Densities and Intensities should step down and transition into the surrounding existing uses.
- Vertical mixing of uses is a necessity to the success of transit stations.
- Plans should capitalize on the development of vacant lands and the redevelopment of marginal and transitional lands.
- Existing neighborhoods should be protected and strengthened.

The alternatives should identify by parcel for the entire station area: Guide plan designations, acreage, building square footage, and any other information needed to perform this task. These recommendations should demonstrate an understanding of Federal Transit Administration (FTA) New Starts policy guidance and land use policy changes (under local jurisdiction authority) that would improve the project's competitiveness. Maps, charts, & graphics to explain the information should be generated as part of this task.

*Deliverable #8: Technical Memo on the Placemaking & Land Use Recommendations*

#### **Task 7: Project Development & Implementation Plan**

The consultant shall prepare a detailed plan for implementing the final corridor recommendations to include an overview of the project development process, schedule, and costs. The plan should provide recommendations for positioning the transit projects for federal funding, particularly through the FTA New Starts/ Small Starts Program, and guidance on securing the non-federal share of the costs. The plan must also provide guidance (actions, responsible agencies and funding sources) on how best to move forward with setting the stage for transit implementation via right-of-way preservation, economic development, and updates to local comprehensive plans and land development regulations. The guidance should outline near term and interim steps for phased project implementation by segment as a possible solution in case that funding for the entire corridor may not become available at one time.

*Deliverable #9 : Project Development & Implementation Plan*

#### **Task 8: Final Deliverable & Reports**

The consultant shall develop promotional material including renderings and a video illustration of the final transit recommendation, an executive summary brochure, and a final report on the study's findings and recommendations. The final report must incorporate information from the technical memorandums and include supporting documentation for analyses and modeling, but be produced as a stand-alone document. In addition, the consultant should plan to present findings and recommendations to the appropriate project committees and boards for the RTA and MPOs. All data and reports shall be provided in electronic and hard copy format, as appropriate. GIS data should be provided to the RTA in a format compatible with ESRI software. Travel demand model files should be compatible with TransCAD software.

*Deliverable #10: Final renderings and video illustrations*

*Deliverable #11: 500 full-size tri-fold promotional brochures summarizing the study findings and recommendations*

*Deliverable #12: 50 hard copies of a stand-alone executive summary document*

*Deliverable #13: 50 hard copies of the final report and appendices*

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#### **IV. PROPOSAL RESPONSE REQUIREMENTS**

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##### **A. PROPOSAL FORMAT**

Proposers shall include all of the items listed below in the order shown, in their proposals. Each section should be clearly labeled, with pages numbered and separated by tabs. This format is necessary for evaluation purposes. A more detailed explanation of the requested services is found in Section III, the Scope of Services.

Proposals shall be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of this RFQ. Emphasis should be on completeness and clarity of content with sufficient detail to allow for accurate evaluation and comparative analysis. Please be advised each Part referenced below is the minimum requirements requested by RTA.

Proposals shall include tabbed sections for each deliverable describing in detail how the work will be completed.

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##### **Part: 1**

##### Cover Page and Cover Letter

All proposals shall be accompanied by a cover letter of introduction and executive summary of the proposal.

1. Name and address of firm
2. Name, phone number and email address of contact person for this RFQ
3. Number of regular employees of the firm and the type of firm.
4. A statement of financial solvency and capacity
5. A chronology of company history. Include any mergers, acquisitions or divestitures in the last ten years.
6. If your company is currently or has been involved in arbitration or litigation for any reason in the last five (5) years, please explain.
7. If your company, or any of your proposed subcontractors, has ever filed for reorganization or bankruptcy, please provide dates and resolution.
8. A description indicating proposers' experience and capabilities in performing this type of Services.
9. Description of the team that will be assigned to the proposed project. Provide names, titles and brief statements of qualifications and experience of all personnel who will work on this project and the relevancy of similar assignments completed by key personnel.
10. A listing of subcontractors and outside consultants that Proposer will use (if any) in performance of the services, including a description of how they will be managed.
11. A reference list, providing three (3) references most comparable to the size and technical needs detailed in this RFQ. Include a brief description of the services provided, how long such services have been provided, budget and schedule and to what extent they were satisfied, along with a contact person, one public sector live point of contact.
12. Provide a list of current projects, include the original and current status of the project schedule and budget.

## Part: 2

### Technical and Functional RFQ Requirements

1. Explain your understanding of the requirements of this RFQ
2. Describe your project approach and implementation plan (including a timeline) for this project.
3. Describe your approach to conducting meetings/presentations with stakeholders, starting with identifying them
4. Describe the proposed time schedule for each task and deliverables.
5. Provide your expectations from RTA including Support Staff and resources
6. Describe software you intend to utilize throughout the study

## Part: 3

### Acceptance of the Proposed Contract Terms and Conditions

Indicate any exceptions to the scope of services, general terms and conditions or other requirements listed in the Proposed Contract.

- Overall quality of response and compliance to requirements and acceptance.
  1. Signature is not required on the Proposed Contract included in the RFQ; however, any exceptions or proposed changes to the terms and conditions must be proposed on a separate attachment. RTA reserves the right to make changes to the Proposed Contract.

## Part: 4

### Proposal Forms, Licensing and Permits

|                                                |                                           |                                                |                       |
|------------------------------------------------|-------------------------------------------|------------------------------------------------|-----------------------|
| (Left Blank Intentionally)                     | DBE Compliance Statement                  | References                                     | Buy America           |
| Acknowledgment of Addenda                      | Affidavits of Compliance DBE              | Notice to Proposer                             | Insurance Certificate |
| Affidavit & Information Required for Proposers | Certificate of Authority                  | Certification Debarment, Suspension Lower-Tier | DBE Certificate       |
| Proposers Certification of Eligibility         | Certification of Restrictions on Lobbying | Certification of Debarment, Suspension Primary | License               |
| Compliance Specifications                      | Affidavits                                | Subcontractors                                 | Permits               |

\*All forms may not apply but must be submitted and indicate not applicable\*

1. If proposer is claiming a DBE percentage be applied to a portion of the project then a copy of the DBE Certificate must be included. To be considered a certified DBE the firm must be registered with the Tennessee Uniform Certification Program (TNUCP).
2. Provide DUNS, and/or SAM numbers.

## B. GENERAL TERMS AND CONDITIONS

## **1. GENERAL REQUIREMENTS**

The Parties shall fully cooperate with one another, and shall take any additional acts that may be necessary, appropriate or convenient to attain the purposes of this RFQ and any contract entered into.

## **2. PROPOSER AFFIDAVITS NON-COLLUSION**

The Proposer guarantees that the proposal submitted is not a product of collusion with any other proposer and no effort made to fix any elements of any proposal. An affidavit of non-collusion form is included and must be signed and submitted with proposal.

## **3. INSURANCE REQUIREMENTS**

The proposer shall obtain and maintain throughout the contract period, at the successful proposers own expense the following types of insurance with limits not less than those set forth below:

|                              |                                                                                                                                                                     |
|------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Commercial General Liability | \$1,000,000 combined single limit each occurrence for bodily injury and property damage                                                                             |
| Automobile                   | Automobile Liability insurance in amounts of not less than a combined single limit of \$1,000,000 covering contractors owned, non-owned, leased, or rented vehicles |
| Workers' Compensation        | Coverage A – Statutory<br>Coverage B - \$100,000                                                                                                                    |

Upon request, the proposer will provide a Certificate of Coverage with the Regional Transportation Authority and Davidson Transportation Organization named as Certificate Holder.

The Proposer shall indemnify and hold harmless RTA and DTO from any and all damages, loss or injury, lawsuits, claims, demands or liens resulting from any performance of proposers' employees or subcontractors.

## **4. INTEREST OF MEMBERS OF RTA**

No member of the governing body of RTA, other officer, employee or agent of RTA who exercises any functions or responsibilities in connection with the carrying out of the activities, to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract.

## **5. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS AND STATE OFFICIALS**

No member of the governing body of RTA, and no other public official of such locality, who exercises any functions or responsibilities in the review or approval of the carrying out of activities to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract. No part of the proceeds shall be paid directly or indirectly to any officer or employee of the State of Tennessee as wages, compensation or gifts in exchange for acting as officer, agent, employee, subcontractor, or Proposer to RTA in connection with any work contemplated or performed relative to this Contract.

## **6. INTEREST OF MEMBERS, OR DELEGATES TO CONGRESS**

In accordance with 18 U.S.C. Section 431, no member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Contract, or to any benefit arising there from.

## **7. INTEREST OF THE PROPOSER**

The proposer covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Proposer further covenants that no person having such interest shall be employed in the performance of this Contract.

## **8. WORKERS COMPENSATION ACT**

The proposer shall comply with the State Law known as the Workers' Compensation Act and shall pay into the State insurance fund the necessary premiums required by the Act to cover all employees furnishing said services to RTA, and under the control of the proposer, and shall relieve RTA from any costs due to accidents and other liabilities mentioned in said Act.

## **9. SOCIAL SECURITIES ACT**

The proposer shall be and remain an independent proposer with respect to all services performed and agrees to and does accept full and exclusive liability for payment of any and all contributions or taxes for social security, unemployment insurance, and retirement benefits or annuities imposed under any State and Federal law which are measured by the wages, salaries, or other remunerations paid to persons by the proposer for work performed under the terms of this contract. The proposer agrees to obey all lawful rules and regulations and to meet all lawful requirements which are now or may be issued or promulgated under laws authorized by State or Federal officials; and proposer also agrees to indemnify and save harmless RTA from any contributions or liability therefore.

## **10. EQUAL EMPLOYMENT OPPORTUNITY**

In implementing the Project/Contract, the proposer may not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age or national origin. 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, sex, disability, age or national origin. 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. The proposer shall insert the foregoing provisions (modified only to show the particular contractual relationship) in all subcontracts, except subcontracts for standard commercial supplies or raw materials.-

## **11. AUTHORITY TO ENTER CONTRACT**

The proposer has all requisite power and authority to conduct its business and to execute, deliver, and perform services specified in the RFQ and any Contract that may be issued. The proposer warrants that the individuals who have signed the proposal have the legal right and authority to bind the proposer.

## **12. AUTHORIZATION OF PROPOSAL**

If the proposal is made by an individual doing business under an assumed name, the proposal shall so state. If the proposal is made by a partnership, the full name and addresses of each member and the address of

the partnership shall be given and the proposal shall be signed by one member thereof. If the proposal is made by a corporation, it shall be signed in the corporate name by an authorized officer. If the proposal is made by a joint venture, the full name and address of each member of the joint venture shall be given and the proposal shall be signed by each venture. Form(s) is included to be filled out and submitted with proposal.

### **13. SUBCONTRACT APPROVAL**

Proposer shall contain a provision making the subcontractor(s) subject to all provisions stipulated in the Contract. The proposer shall be fully responsible for all services performed by any subcontractor.

### **14. PROMPT PAYMENT**

The proposer agrees to pay each subcontractor for satisfactory performance of its contract no later than 30 days from receipt of each payment the proposer receives from RTA. The proposer agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor work is satisfactorily completed. Any delay or postponement of payment from the above reference may occur only for good cause following written approval of RTA. This clause applies to both DBE and non DBE subcontractors. If the proposer determines the work to be unsatisfactory, it must notify RTA immediately, in writing, and state the reasons. Failure to comply with this requirement would be construed to be a breach of contract and subject to contract termination.

### **15. PROTEST**

#### **A. Definitions for Purposes of the section**

The term "days" refers to working days of the Authority.

The term "interested party" means any person (a) who is an actual proposer or prospective proposer in the procurement involved, and (b) whose direct economic interest would be affected by the award of the contract or by a failure to award the contract.

Note – The Federal Transit Administration (FTA) will be notified by the Authority of all formal, written protests, when FTA funds are involved.

B. Regional Transportation Authority (RTA/Authority) will hear and consider a bona fide protest regarding its procurement actions. It is anticipated that the majority of protests will be evaluated and finally decided by the Authority. Accordingly, the Authority intends to provide a thorough review of all bona fide bid protests. The Authority's primary concern, however, is the timely procurement of needed capital equipment, supplies or services. It does not intend to allow the filing of protests to unnecessarily delay the procurement process, especially if the protest involved is vexatious or frivolous in nature.

Notwithstanding the availability of these protest procedures, any interested party is encouraged to exhaust all methods described in this section of resolving an issue before filing a formal protest with the Authority. In its consideration of a protest, the Authority reserves the right to give due consideration to the good faith efforts of the protestor to resolve the issue involved through informal methods.

#### **C. Submission of Protest**

Any interested party may file a protest with the Authority on the basis that the Authority has failed to comply with applicable Federal or State Regulations or with the Authority's Procurement Process. The protest must be filed in accordance with the timing requirements set forth in subsection D. "Types of Protests and Timing"

of this section, and must include: The name, phone number, e-mail and address of the protestor. The RFQ and proposed contract number of the proposal. A statement of grounds for the protest, a statement as to what relief is requested, and in particular the Federal or State law or Authority Process alleged to have been violated. This statement should be accompanied by any supporting documentation the protesting party desires the Authority to consider in making its decision.

Protest should be submitted to: Procurement Manager  
430 Myatt Drive  
Nashville, TN 37210

#### D. Types of Protests and Timing

The requirement for timely filing of protest with the Authority will depend upon the type of protests involved. The Authority will consider the following three types of protest by interested parties:

##### 1. Protest regarding Proposal

Any protest regarding the proposal must be filed no later than five (5) business days before proposal due date. Any protest filed after that date regarding the proposal will not be considered by the Authority.

This type of protest would include any claim that the proposal contained exclusionary or discriminatory specification, any challenge to the basis of award, or any claim that the proposal documents or the proposal process violated applicable Federal or State law, or that the Authority failed to follow its Procurement Process in the proposal.

##### 2. Protests regarding Requirements and Responsiveness

Any protest regarding the requirements and responsiveness of proposal by the Authority must be filed with Authority no later than five (5) business days after receipt of letter of notification of non-responsiveness. Any protest filed after such date regarding the requirements and responsiveness will not be considered by the Authority.

This type of protest would include any challenge to determinations by the Authority of the responsiveness of or the responsibility of a proposer, or any claim that the requirements and responsiveness of proposal violated Federal or State law or the Authority's Procurement Process.

##### 3. Protest Regarding Receipt of Non-Award Notification

Any protest regarding the award of the contract must be filed no later than five (5) business days after receipt of Non- Award Notification. Any protest regarding the award of the contract filed after that date will not be considered by the Authority.

This type of protest will only be entertained by the Authority if the protestor is able to demonstrate that the party awarded the contract fraudulently represented itself as a responsible Proposer of that the Authority violated Federal or State regulations or its Procurement Process in the award of the contract.

#### E. Authority Response

The Authority will notify the protestor upon timely receipt of a protest and may, where appropriate, request additional information from the protestor. The Authority may, at its discretion, meet with protestor to review the matters raised by the protest. The Authority's consideration of the particular types of protests will, except as otherwise stated in subsection 2. "Decisions by Authority" of this section E. "Authority Response" in accordance with the following provisions:

## 1. Types of Protests

### a. Protest regarding Proposal

Upon receipt of a timely filed protest regarding the proposal, the Authority will postpone the opening until resolution of the protest. No additional proposals will be accepted during the period of postponement.

If the protest regarding the proposal involves a claim of unduly restrictive or exclusionary specifications, the Authority will, in evaluation of the protest, consider both the specific need of the Authority for the feature or item challenged and any effects on competition of including the specifications regarding that feature or item. If the Authority determines that such feature or item was included in the specification in order to meet justified and valid transit needs of the Authority, and was not unduly restrictive of competition or designed to exclude a particular competitor, then the Authority will have grounds to deny the protest.

### b. Protest regarding requirement and responsiveness

Upon receipt of a timely filed protest regarding the requirements responsiveness, the Authority will suspend its evaluation of all proposals submitted until resolution of the protest, if the Authority determines that the protestor has established that there are reasonable doubts regarding the responsiveness of a proposal or the responsibility of a Proposer or regarding the Authority's compliance with Federal or State Regulations or its Procurement Process.

### c. Protests after non-award notification

Upon receipt of a timely filed protest regarding the non-award notification the Authority will not proceed with contract, if necessary, until the resolution of the protest if the Authority determines that the protestor has established a prima facie case that the contract was awarded fraudulently or in violation of that Federal or State Regulations or the Authority's Procurement Process.

## 2. Decisions by Authority

As indicated above, in most instances the Authority will suspend the procurement process upon receipt of a bona fide protest. However, the Authority reserves the right, notwithstanding the pendency of a protest, to proceed with the appropriate action in the procurement process or under the contract in the following cases:

- A. where the item to be procured is urgently required;
- B. where the Authority determines that the protest was vexatious or frivolous; and
- C. where delivery or performance will be unduly delayed or other undue harm will occur, by failure to make the award promptly.

After reviewing the protest submitted under this section, the Authority will issue a written decision of the basis of the information provided by the protestor, the results of any meetings with protestor, and the Authority's own investigation. If the protest is upheld, the Authority will take appropriate action to correct the procurement process and protect the rights of the protestor, including re-proposal, revised evaluation of proposal or Authority determinations, or termination of the contract. If the protest is denied, the Authority will lift any suspension imposed and proceed with the procurement process.

## F. FTA Protest Procedure

Reviews of protests by FTA will be limited to claims that the Authority failed to have or follow protest procedures, or claims the Authority failed to review a complaint or protest. A protestor must exhaust all administrative remedies with the Authority before pursuing a protest with FTA. An appeal to FTA must be

received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester knew or should have known of the violation.

Under certain circumstances, protest may be made to the FTA in accordance with FTA circular 4220.1F.

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

#### **16. ADDITIONAL SERVICES REQUEST**

RTA reserves the right to request Additional Services under this RFQ that may not be specifically identified within. Proposers are encouraged to identify and provide supporting statements and price information for any other area(s) of services not listed in the Scope that may be related to Additional Services and the work of RTA.

#### **17. RFQ/PROPOSED CONTRACT ALTERATIONS**

No alterations or variables in the terms of the RFQ and /or of the Proposed Contract shall be valid or binding upon RTA unless authorized in writing by RTA.

#### **18. ASSIGNABILITY**

Any public agency (i.e., city, district, public agency, municipality, and other political subdivision or any FTA-funded entity) shall have the option of participating in any award made as a result of a proposal and/or contract at the same prices, terms and conditions. RTA reserves the right to assign any or all portions of Services awarded under this proposal and/or contract. This assignment, should it occur, shall be agreed to by RTA and Proposer. Once assigned, each agency will enter into its own contract and be solely responsible to the Proposer for obligations to the service assigned. RTA right of assignment will remain in force over the contract period or until completion of the contract including options, whichever occurs first. RTA shall incur no financial responsibility in connection with contracts issued by another public agency. The public agency shall accept sole responsibility for placing service and payments to the Proposer.

#### **19. PUBLICATION AND MEDIA RESTRICTIONS**

The Contractor shall not publish or reproduce subject data in whole or in part, or in any manner or form, without the advance written consent of RTA, unless RTA has released or approved the release of that data to the public.

#### **20. GRATUITIES AND KICKBACKS**

It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may

result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Metropolitan Government contracts.

## **21. NO CONTINGENCY FEES**

Contractor hereby represents that Contractor has not been retained or retained any persons to solicit or secure this Contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contract or subcontractor under RTA contracts. RTA shall have the right to annul said Contract without liability or, in its discretion, to deduct from the Contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

## **22. NON-DISCRIMINATION**

It is the policy of RTA not to discriminate on the basis of age, race, sex, color, national origin, creed, religion or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy. No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in RTA contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, creed, sex, national origin, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with RTA or in the employment practices of RTA Contractors. Accordingly, all proposers entering into contracts with RTA shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

## **23. LICENSING AND PERMITS**

The Contractor and all subcontractors shall be appropriately licensed in the State of Tennessee for the work required as a result of the Contract. The cost for any required licenses shall be the responsibility of the Contractor.

Unless otherwise provided in the Contract Documents, the contractor shall be responsible for paying for permits and government fees where the cost of obtaining such permits or paying such fees has not been waived by the issuing authority necessary for proper execution and completion of the Project. The contractor shall be responsible for obtaining any building or other types of permits necessary for the proper execution and completion of the Project

## **24. INSPECTION OF WORK**

All work which includes services performed, material furnished or utilized in the performance of services, and workmanship in the performance of services shall be subject to inspection and test by RTA to the extent practicable at all times and places during the term of the Contract. All inspections by RTA shall be made in such a manner as to not unduly delay the work. RTA shall have the right to enter the premises used by the Contractor for the purpose of inspection and auditing all data and records, which pertain to the Contractor's performance under the Contract.

If any work performed is not in conformity with the requirements of the Contract, RTA shall have the right to require the Contractor to perform the work again in conformity with such requirements at no increase in the

total Contract amount. In the event the Contractor fails promptly to perform the work again, RTA shall have the right, either by Contract or otherwise, to have the work performed in conformity with the Contract requirements and charge to the Contractor any costs to RTA that are directly related to the performance of such work, or terminate the Contract for default as provided in this RFQ.

## **25. PROPOSER'S RESPONSIBILITY**

It is the intent of these specifications to provide for goods of first quality and the workmanship must be the best obtainable in the various trades. The design of the goods, which the contractor proposes to furnish, must be of substantial and durable construction in all respects. No advantage shall be taken by the Proposer or manufacturer in the omission of any part or detail, which goes to make the product complete and ready for installation and use.

The contractor shall assume responsibility for all materials used in the proposal whether the contractor manufactures the same or purchased ready-made from a source outside the contractor's company.

## **26. ACCEPTANCE OF MATERIAL OR SERVICES PERFORMED**

If the item or services performed are not acceptable RTA will furnish a letter of non-acceptance detailing the deficiencies within thirty (30) days after delivery and the system becomes operational. Acceptance of delivery of an item or services performed shall not release the Contractor from liability for services not performed, faulty workmanship or materials appearing even after final payment have been made.

## **27. STANDARD OF CARE**

Contractor shall perform all services under this Contract in a skillful and competent manner. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the services assigned to them. The Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services, and that such licenses and approvals shall be maintained throughout the term of this Contract. Any person who is determined by RTA to be uncooperative, incompetent, a threat to the adequate or timely completion of the services, a threat to the safety of persons or property, or any employee who fails or refuses to perform the services in a manner acceptable to RTA shall be promptly removed by the Contractor and shall not be re-employed to perform any of the services under this Contract.

## **28. RIGHT TO EMPLOY OTHER CONTRACTORS**

RTA reserves the right to purchase goods and/or services, with other Contractors in connection with these Services.

## **29. CONTRACT AMENDMENTS/MODIFICATIONS/CHANGE ORDERS**

No changes to this RFQ, Proposer proposal, or Contract shall be approved unless appropriate parties of RTA authorize the change. All changes shall be made by written agreement between the parties.

RTA shall not incur any costs due to any unauthorized changes made by Contractor.

## **30. TAX EXEMPTION**

RTA is exempt from payment of all Federal, State, and local taxes in connection with the project. Said taxes must not be included in proposal prices.

### **31. ATTORNEY FEES**

In the event RTA deems it necessary to take legal action to enforce any provision of the contract, and RTA prevails, Contractor shall pay all expenses of such action including RTA attorney fees and costs at all stages of the litigation.

### **32. INELIGIBLE CONTRACTORS AND SUBCONTRACTORS**

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

### **33. OTHER CONTRACT REQUIREMENTS**

To the extent no inconsistent with foregoing Federal requirements, this contract shall also include those standard classes attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from recipient.

### **34. COMPLIANCE WITH FEDERAL REGULATIONS**

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

## **C. FEDERAL TRANSIT ADMINISTRATION CONTRACT CLAUSES**

### **1. CONTRACT DOCUMENTS**

Any contract resulting from this proposal shall include the following:

- Request for Qualifications No. 2014471 and all addenda
- Proposers Offer and Guarantee
- Proposal Award/Contract

The Contractor and appropriate parties of RTA will sign to execute contract.

Federal requirements may apply to this procurement and any future contract. If those requirements change then the most recent requirements shall apply. The Federal Government requires that activities finances in part, with Federal funds, and performed by a third party contractor and/or its subcontractor's on behalf of RTA must be in accordance with Federal requirements.

All subcontracts and subcontractors employed because of this contract are subject to the same conditions and regulations as set forth herein unless specifically exempted.

The prime contractor shall ensure that its subcontractor's at all tiers are aware of and comply with these Federal regulations. The prime contractor is liable for subcontractor's compliance failures. Failure to comply will render the prime contractor responsible for damages and/or contract termination.

## **2. NO OBLIGATION BY THE FEDERAL GOVERNMENT**

RTA and Proposer acknowledge and agree that notwithstanding any concurrence by the Federal Government in or approval of the proposal 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 RTA, Proposer, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

The Proposer agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the sub-contractor who will be subject to its provisions.

## **3. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

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

The Proposer also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Proposer, to the extent the Federal Government deems appropriate.

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

## **4. ACCESS TO RECORDS AND REPORTS/RECORD RETENTION**

The Proposer agrees to provide RTA, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Proposer which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Proposer also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Proposer access to Proposers' records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309, or 5311.

The Proposer agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Proposer agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Proposer agrees to maintain same until RTA, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

Reports or information requested from the Proposer will be prepared using electronic or information technology capable of assuring that, when provided to FTA, the reports or information will meet the applicable accessibility standards of section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C., 794d, and U.S.ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194.

## **5. FEDERAL CHANGES**

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

## **6. CIVIL RIGHTS REQUIREMENTS**

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 agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq. and 49 USC Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1612; and implementing regulations, as may be amended.

4) 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.

## **7. TERMINATION PROVISIONS**

Termination for Convenience – RTA may terminate this contract, in whole or in part, at any time with thirty (30) days written notice to the Proposer. Upon receipt of such notice, the Proposer shall perform no further services under the contract. Settlement payment will be based on successful delivery or service prior to termination. RTA shall pay the aggregate price of delivered service computed in accordance with the prices specified in the contract. If the Proposer has any property in its possession belonging to RTA, the Proposer will account for the same, and dispose of it in the manner RTA directs.

Termination for Default Breach or Cause – If the Proposer does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services and the Proposer fails to perform in the manner called for in the contract, or if the Proposer fails to comply with any other provisions of the contract, RTA may terminate this contract for default. Termination shall be effected by serving a thirty (30) day written notice of termination on the Proposer setting forth the manner in which the Proposer is in default. The Proposer shall promptly submit its termination claim to RTA for payment. The Proposer will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by RTA that the Proposer had an excusable reason for not performing, such as a man-made disaster, fire, or flood, which are not the fault of or are beyond the control of the Proposer, RTA, may set up a new delivery of performance schedule, and may allow the Proposer to continue work, or treat the termination as a termination for convenience.

In the event of breach or default by the Proposer, RTA shall be entitled to all of its damages and reasonable expenses, and its cost to include, but not limited to its reasonable attorneys' fees incurred because of such default.

Opportunity to Cure – RTA in its sole discretion may, in the case of a termination for breach or default, allow the Proposer ten (10) days 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 Proposer fails to remedy to RTA satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Proposer of written notice from RTA setting forth the nature of said breach or default, RTA shall have the right to terminate the Contract without any further obligation to Proposer. Any such termination for default shall not in any way operate to preclude RTA from also pursuing all available remedies against Proposer and its sureties for said breach or default.

Waiver of Remedies for any Breach -In the event that RTA elects to waive remedies for any breach by Proposer of any covenant, term or condition of this Contract, such waiver by RTA shall not limit RTA remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

Termination Funding – Should funding for this contract be discontinued, reduced, or delayed, in whole or in part, RTA shall have the right to terminate the contract immediately upon written notice to Proposer.

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

## **8. DISADVANTAGED BUSINESS ENTERPRISE**

It is the policy of the Department of Transportation that Disadvantaged Business Enterprises, as defined in 49 C.F.R. Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under the Agreement. Accordingly, the DBE requirements of 49 C.F.R. Part 26 applies to this Contract. In connection with the performance of this Contract, the Proposer will cooperate with RTA in meeting its commitments and goals with regard to maximum utilization of Disadvantaged Business Enterprise and will use its best effort to insure that disadvantaged businesses will be utilized when possible by steps in accordance with DOT regulations 49 C.F.R. Part 26.

## **9. DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION**

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is (10%). RTA goal for DBE participation is (2%). For this procurement, a (5%) contract goal is established. To be considered a certified DBE the organization must be registered with the Tennessee Uniform Certification Program (TNUCP).

The Proposer shall not discriminate based on race, color, creed, national origin, sex, age, or disability in the performance of this Contract. The Proposer shall carry out applicable requirements of 49 C.F.R Part 26 in the award and administration of this DOT-assisted contract. Failure by the 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 RTA deems appropriate. Each subcontract the Proposer signs with a subcontractor must include the assurance in this paragraph (see 49 C.F.R. 26.13(b)).

Proposers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so as provided for in 49 C. F. R. 26.53. Award of this Contract is conditioned on submission of the following (concurrent with and accompanying sealed proposal) (concurrent with and accompanying an initial proposal) (prior to award):

- 1) The names and addresses of DBE firms that will participate in this contract;
- 2) A description of the work each DBE will perform;
- 3) The dollar amount of the participation of each DBE firm participating;
- 4) Written documentation of the proposers' commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
- 5) Written confirmation from the DBE that is participating in the contract as provided in the prime contractor's commitment; and
- 6) If the contract goal is not met, evidence of good faith efforts to do so.

Proposers must present the information required above as a matter of responsiveness with initial proposals.

If RTA did not establish a separate contract goal the successful proposers will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

The Proposer is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Proposer's receipt of payment for that work from RTA. In addition, the prime Proposer agrees to return retainage payments to each subcontractor within thirty (30) days after subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval of RTA. This clause applies to both DBE and non-DBE subcontractors.

The Proposer must promptly notify RTA, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of RTA.

**A certificate is attached and must be completed, signed, and submitted with the proposal.**

#### **10. DEBARMENT AND SUSPENSION GOVERNMENT-WIDE**

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

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

By signing and submitting its proposal, the Proposer certifies as follows:

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

**A certificate is attached and must be completed, signed, and submitted with the proposal.**

#### **11. PROVISIONS FOR RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION**

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

**Performance during Dispute-**Unless otherwise directed by RTA, Proposer shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages-**Should either party to the Contract suffer injury or damage to person or property

because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing within fifteen (15) days after the first observance of such injury of damage.

**Remedies**-Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between RTA and the Proposer arising out of or relating to this Contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction in Davidson County within the State of Tennessee.

**Rights and Remedies**-The duties and obligations imposed by the Contract Documents and the rights and remedies available 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 RTA, shall constitute a waiver of any right or duty afforded RTA under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach hereunder, except as may be specifically agreed in writing or in a court of competent jurisdiction in Davidson County, Tennessee.

## **12. LOBBYING REQUIREMENTS**

The Proposer must comply with the following lobbying requirements, "New Restrictions on Lobbying," at 49 CFR part 20.

Proposer shall file the certification required by 49 CFR part 20, as amended. "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Proposer shall certify that it will not and has not used Federally appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Proposer shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contracts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures shall be forwarded to RTA.

**(The attached Lobbying Certificate must be completed, signed and returned with proposal).**

## **13. CLEAN WATER AND AIR REQUIREMENTS**

The Proposer agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., and the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Proposer agrees to report each violation to RTA and understands and agrees that RTA will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

## **14. FLY AMERICA**

The Proposer agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10. This provides that recipients and sub-recipients of Federal funds and their Proposer's are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. If a foreign air carrier is used, the Proposer shall submit an appropriate certification of compliance, memorandum

adequately explaining why service by a U.S. flag air carrier was not available, or why it was necessary to use a foreign air carrier. The Proposer agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

## **15. CIVIL RIGHTS REQUIREMENTS**

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 agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. Section 12101 et seq. and 49 USC Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. App. Section 1612; and implementing regulations, as may be amended.

4) 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.

## **16. ENERGY CONSERVATION REQUIREMENTS**

The 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.

## **17. ADA ACCESS REQUIREMENTS**

The Proposer agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA) 42 U.S.C. §§ 12101 et seq; section 504 of the Rehabilitation Act of 1973 as amended 29 U.S.C. § 794, section 16 of the Federal Transit Act, as amended, 49 U.S.C. §§ 1612.

## **18. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

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

## **19. PATENT AND RIGHTS IN DATA**

A. (1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. (1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA

## **20. RIGHTS IN DATA AND COPYRIGHT REQUIREMENTS**

The following requirements apply to each contract involving experimental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, RTA and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), RTA and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

## **21. NOTIFICATION OF FEDERAL PARTICIPATION FOR STATES**

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

## **22. ADA ACCESS REQUIREMENTS**

The Proposer agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA) 42 U.S.C. §§ 12101 et seq; section 504 of the Rehabilitation Act of 1973 as amended 29 U.S.C. § 794, section 16 of the Federal Transit Act, as amended, 49 U.S.C. §§ 1612.

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**V. REQUIRED FORMS**

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**FORM 1****ACKNOWLEDGMENT OF ADDENDA**

The undersigned acknowledges receipt of the following addenda to the proposal documents:  
(If none received, write none)

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

ADDENDUM NUMBER: \_\_\_\_\_ DATED: \_\_\_\_\_

**NOTE:** Failure to acknowledge receipt of all addenda may cause the proposal considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the proposal.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

## FORM 2

### AFFIDAVIT OF NON-COLLUSION

Affidavit and information required for proposer:

I hereby swear, or affirm, under the penalty for perjury:

(1) That I am the Proposer (if the Proposer is an individual), a partner in the proposal (if the Proposer is a partnership), or an officer or employee of the proposing corporation with the authority to sign on its behalf (if Proposer is a corporation).

(2) That the attached proposal or proposals or any subsequently submitted best and final offer have been arrived at by the Proposer independently and have been submitted without collusion with, and without any agreement, understanding, or planned course of action with, and other vendor of materials, supplies, equipment, or services described in the Invitation for proposals, designed to limit independent proposing or competition.

(3) That the contents of the proposal or proposals have not been communicated by the Proposer, or its employees, or agents, to any person not an employee, or agent of the Proposer and

(4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**FORM 3**

**PROPOSER'S CERTIFICATION OF ELIGIBILITY**

The \_\_\_\_\_ (Name of  
Proposer (third-party Contractor)) hereby certifies that (Check appropriate box) ☐ is ☐ is not included on  
the United States Comptroller General's "Consolidated List of Persons or Firms Currently Debarred for  
Violation of Various Public Contracts Incorporation Labor Standards Provision"

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
SAM & DUNS Number

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**FORM 4**

**COMPLIANCE WITH SPECIFICATIONS**

In submitting a proposal the proposer is sufficiently informed in all matters affecting the RFQ, and that the proposer has checked the proposal for errors and omissions and hereby states that they will comply with the specifications in all areas including approved equals and addenda that were granted by RTA.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2014

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_

**FORM 5**

**DISADVANTAGED BUSINESS ENTERPRISE COMPLIANCE STATEMENT**

*THIS PAGE MUST BE COMPLETED BY PRIME PROPOSER TO INDICATE THE AMOUNT (PERCENTAGE) OF DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION.*

The undersigned, as a representative of the entity, \_\_\_\_\_, submitting a bid/proposal for the \_\_\_\_\_ project, hereby acknowledges that the DBE goal established for this project is \_\_\_\_\_%.

1. Is your organization a qualified Disadvantaged Business Enterprise and/or is your subcontractors a qualified DBE? \_\_\_\_\_

If yes,

- ☐ The Proposer will submit DBE Certificate.
- ☐ The Proposer is further represents that the proposed level of DBE participation is \_\_\_\_\_%. However, this level of DBE participation is less than the goal established for this project.

2. If your organization is not a qualified Disadvantaged Business Enterprise, submit documentation of the Proposer's good faith efforts to achieve the goal established for this project.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

**FORM 6 - A**

To be considered a certified Disadvantaged Business Enterprise an organization must be registered with the Tennessee Uniform Certification Program (TNUCP). Please find below a listing of Program Partners that can provide DBE certification.

**TENNESSEE UNIFORM CERTIFICATION PROGRAM  
UNIFORM CERTIFICATION PARTNERS**

Bristol Tennessee Transit  
Chattanooga Area Regional Transportation Authority  
Chattanooga Metropolitan Airport Authority  
Clarksville Transit System  
Jackson Airport Authority  
Jackson Transit Authority  
Kingsport Area Transit Service  
Knoxville Area Transit  
Memphis Area Transit Authority  
Memphis Shelby County Airport Authority  
Metropolitan Knoxville Airport Authority  
Metropolitan Nashville Airport Authority  
Metropolitan Transit Authority  
Murfreesboro Rover Public Transit  
Regional Transit Authority  
Tri-City Airport Authority  
Smyrna Airport Authority  
Johnson City Transit  
  
Tennessee Department of Transportation  
(Lead Agency)

**FORM 6 – B**

Metropolitan Transit Authority/Regional Transportation Authority  
**Disadvantage Business Enterprise**

NOTICE OF INTENT TO PERFORM  
AS A SUBCONTRACTOR AND/OR MATERIAL SUPPLIER

NAME OF PROJECT \_\_\_\_\_

CONTRACT NUMBER \_\_\_\_\_

CHECK ONE:

☐ Subcontractor  
(Fully complete Parts I and III)

☐ Subcontractor with Lower-Tier Subcontractors  
(Fully complete Parts I, II and III)

PART I: SUBCONTRACTOR PARTICIPATION

1. TO:

\_\_\_\_\_  
(Name of Prime Contractor)

FROM:

\_\_\_\_\_  
(Name of Subcontractor)

2. The undersigned Subcontractor/Supplier intends to perform work with the above project as (check one):

\_\_\_ an individual / sole proprietorship

\_\_\_ a partnership

\_\_\_ a corporation

\_\_\_ a joint venture

3. The undersigned Subcontractor/Supplier (check applicable statements):

NOTE: Pursuant to MTA/RTA's policies, DBE firms participating in the Disadvantaged Business Enterprises (DBE) Program must have "current" certification status with the Tennessee Uniform Certification Program (TNUCP) prior to contract award. DBE Firms must be fully certified through our Metropolitan Transit Authority (MTA), Nashville Airport Authority, or the Tennessee Department of Transportation (TDOT) to be counted towards the DBE goals on this project. Evidence of DBE certification must be attached to this form.

\_\_\_ is a Non-DBE.

\_\_\_ has been certified as a DBE by with MTA or TDOT.

\_\_\_ has been certified as a DBE by the Airport Authority. Certification # \_\_\_\_\_.

\_\_\_ has been certified as a SBE

4. The undersigned Subcontractor/Supplier is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both) and at the following price \$\_\_\_\_\_.

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**PART II: LOWER-TIER SUBCONTRACTOR PARTICIPATION**

With respect to the proposed subcontract described above, the following lower-tier subcontract(s) will be sublet and/or awarded to lower-tier subcontractor(s):

Name of Firm Receiving Lower-Tier Subcontract

Work to Be Perform

Contract Amount

(List DBE and Non-DBE Firms)

DBE (Y/N)

Subcontract \_\_\_\_\_ ( ) \_\_\_\_\_  
\$ \_\_\_\_\_

Company \_\_\_\_\_

Address: \_\_\_\_\_ DUNS \_\_\_\_\_  
SAM.GOV \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone No.: \_\_\_\_\_ Insurance ☐

Subcontract \_\_\_\_\_ ( ) \_\_\_\_\_  
\$ \_\_\_\_\_

Company \_\_\_\_\_

Address: \_\_\_\_\_ DUNS \_\_\_\_\_ SAM.GOV \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone No.: \_\_\_\_\_ Insurance ☐

Subcontract \_\_\_\_\_ ( ) \_\_\_\_\_  
\$ \_\_\_\_\_

Company \_\_\_\_\_

Address: \_\_\_\_\_ DUNS \_\_\_\_\_ SAM.GOV \_\_\_\_\_

Contact Person: \_\_\_\_\_ Phone No.: \_\_\_\_\_ Insurance ☐

Total amount to be subcontracted out to DBE: \$ \_\_\_\_\_

Total amount to be subcontracted out to non-DBE/SBE: \$\_\_\_\_\_

**PART III: SIGNATURES**

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\_\_\_\_\_  
DATE: \_\_/\_\_/\_\_ BY: \_\_\_\_\_ PHONE: \_\_\_\_\_

**(Name of Prime Contractor)**

(Signature of Authorized Representative)

\_\_\_\_\_  
PHONE: \_\_\_\_\_ DATE: \_\_/\_\_/\_\_ BY: \_\_\_\_\_

**(Subcontractor)**

(Signature of Authorized Representative)

**PART IV: DBE PARTICIPATION VERIFICATION**

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To be completed by MTA/RTA DBE Representative:

Total DBE participation amount: \$\_\_\_\_\_ Overall \_\_\_\_\_% DBE participation

Reviewed for Content and Completeness:

\_\_\_\_\_  
Liaison Officer DBE

**FORM 7**

**AFFIDAVIT OF COMPLIANCE**

TO BE COMPLETED BY DISADVANTAGED BUSINESS ENTERPRISE/WB DISADVANTAGED BUSINESS

State of \_\_\_\_\_

County of \_\_\_\_\_

I hereby certify that I am the \_\_\_\_\_ (title) and;

duly authorized representative of \_\_\_\_\_ (name of firm)

Whose address is \_\_\_\_\_

I do hereby declare and affirm that I am a Disadvantaged Business Enterprise (DBE) as defined by the RFQ and I will provide information requested by RTA to document this fact.

I do solemnly declare and affirm, under the penalties of perjury, that the contents of the aforementioned document are true and correct and the above firm has authorized me to execute this affidavit.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**FORM 8**

**CERTIFICATE OF AUTHORITY**

I hereby declare and affirm that I am:

- ☐ **PROPOSER IS A CORPORATION**
- ☐ **PROPOSER IS AN INDIVIDUAL**
- ☐ **PROPOSER IS A PARTNERSHIP**
- ☐ **PROPOSER IS A JOINT VENTURE**

I, the undersigned, as certified authority of the organization submitting the foregoing proposal, hereby certify that under and pursuant to the By-Laws and Resolutions of said organization, each officers who has signed proposals on behalf of the corporation, including the foregoing assurance of irrevocability, is fully and completely authorized so to do.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

**NOTE: If Partnership or Joint Venture includes copies for each signing member of organization per Section IV Proposal Response Requirements, 12.**

**FORM 9**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I \_\_\_\_\_ hereby certify on behalf of \_\_\_\_\_.  
(Name of Official) (Name of Proposer)

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)]

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[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 Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, et seq., apply to this certification and disclosure, if any.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

**FORM 10**

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION PRIMARY PARTICIPANT**

The prospective contractor certifies, by submission of this proposal, that neither it nor its "principals" as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency as defined at 49 CFR 29.940 and 29.945.

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

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

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

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Company

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Authorized Signature /Date

---

Name Printed

---

Title

**FORM 11**

**CERTIFICATION OF LOWER-TIER PARTICIPANTS  
CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

The prospective lower tier participant contractor certifies, by submission of this proposal, that neither it nor its "principals" as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency as defined at 49 CFR 29.940 and 29.945.

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

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

---

Company

---

Authorized Signature /Date

---

Name Printed

---

Title

**FORM 12**

**CONTACT INFORMATION OF SIMILAR CONTRACTS/REFERENCES**

1. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Company Name

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

**FORM 13**

**AFFIDAVITS**

**State of** \_\_\_\_\_ **County of** \_\_\_\_\_

*As used herein, "Proposer" will include proposers and.*

**Compliance with Laws:** After first being duly sworn according to law, the undersigned (Affiant) states that he/she is the \_\_\_\_\_ (Title) of \_\_\_\_\_ (Proposer), and that Proposer is presently in compliance with, and will continue to maintain compliance with, all applicable laws. Thus, Affiant states that Proposer has all applicable licenses, including business licenses, copies of which are attached hereto. Finally, Affiant states that Proposer is current on its payment of all applicable gross receipt taxes and personal property taxes.

**Contingent Fees:** In accordance with the Metropolitan Government's 1992 Procurement Code, and RTA Purchasing Policy and FTA rules it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a RTA contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. After first being duly sworn according to law, the undersigned (Affiant) states that the Proposer has not retained anyone in violation of the foregoing.

**Non-Discrimination:** After first being duly sworn according to law, the undersigned (Affiant) states that by its employment policy, standards, and practices the Proposer does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal, or laying off of any individual due to his/her race, creed, color, national origin, age, or sex, and that the Proposer is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

It is the policy of RTA, FTA and the Metropolitan Government not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of its contract with RTA, Proposer certifies and warrants it will comply with this policy.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

Sworn to and subscribed before me on this \_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

## FORM 14

### NOTICE TO PROPOSER

The Proposer hereby agrees that the Chief Executives Officer and or the Board of Directors have the right to reject any or all proposals and to waive informality in any proposal and the Proposer shall not dispute the correctness of the quantities used in computing the best, responsive proposal.

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Company

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Authorized Signature /Date

---

Name Printed

---

Title

**FORM 15****SUBCONTRACTOR INFORMATION**

Please provide the following information pertaining to your subcontractors: **Firm Name, Description of Work, Contractor License Number with Date Information, SAM.GOV & DUNS Numbers, Anticipated Subcontract or Supply amount, and Anticipated DBE%**

**A.**

|                 |                                     |
|-----------------|-------------------------------------|
| 1. FIRM NAME    | 2. CONTRACTOR LICENSE NUMBER & DATE |
| 3. AMOUNT       | 4. DBE%                             |
| 5. SAM & DUNS # | 6. DESCRIPTION OF WORK              |

**B.**

|                 |                                     |
|-----------------|-------------------------------------|
| 1. FIRM NAME    | 2. CONTRACTOR LICENSE NUMBER & DATE |
| 3. AMOUNT       | 4. DBE%                             |
| 5. SAM & DUNS # | 6. DESCRIPTION OF WORK              |

**C.**

|                 |                                     |
|-----------------|-------------------------------------|
| 1. FIRM NAME    | 2. CONTRACTOR LICENSE NUMBER & DATE |
| 3. AMOUNT       | 4. DBE%                             |
| 5. SAM & DUNS # | 6. DESCRIPTION OF WORK              |

**D.**

|                 |                                     |
|-----------------|-------------------------------------|
| 1. FIRM NAME    | 2. CONTRACTOR LICENSE NUMBER & DATE |
| 3. AMOUNT       | 4. DBE%                             |
| 5. SAM & DUNS # | 6. DESCRIPTION OF WORK              |

\*Please copy Form 15 if you have more than four (4) subcontractors.\*

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**VI. PROPOSED CONTRACT**

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**RTA RESERVES THE RIGHT TO MAKE CHANGES TO PROPOSED CONTRACT**

**Contract No. 2014471-C**

**Between**

**Regional Transportation Authority  
And  
Contractor**

**RTA NORTHWEST CORRIDOR TRANSIT STUDY**

This Contract ("Contract") is made and entered into as of the Effective Date of \_\_\_\_\_, hereinafter set out by and between Regional Transportation Authority, (hereinafter "RTA"), located at 430 Myatt Drive, Nashville TN, 37115, and Contractor Name, (hereinafter "Contractor"), located at \_\_\_\_\_. The Services required by RTA in this Contract are to be rendered for the project stated in the RFQ 2014471 and below in this Contract.

NOW, THEREFORE, for and in consideration of the mutual promises, covenants and agreements stated herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, RTA and the Contractor agree as follows:

**Contract Documents ("Contract")**

1. Contract No. 2014471-C
2. REQUEST FOR QUALIFICATION No. 2014471 and any Addenda
3. Contractors Proposal dated \_\_\_\_\_

**Order of Precedence:** In the event of conflicting provisions, all documents shall be construed according to the following priorities:

1. Any properly executed Amendments to this Contract (most recent with first priority)
2. Contract No. 2014471-C
3. REQUEST FOR QUALIFICATION No. 2014471 and any Addenda
4. Contractors Proposal dated \_\_\_\_\_

**RECITALS**

WHEREAS, Contractor responded to a REQUEST FOR QUALIFICATION (RFQ) to update and develop RTA Northwest Transit Study.

WHEREAS, Contractor responded and represented that its proposed services shall meet or exceed the requirements and specifications of the RFQ; and

WHEREAS, RTA is authorized to enter into a Contract.

NOW, THEREFORE, the parties mutually agree as follows:

## **1. SCOPE OF SERVICES**

1.0 RTA and Contractor agree to the following:

- 1) List of Goods and Services, Exhibit A
- 2) Project Schedule, Exhibit B
- 3) Performance Phase Milestones, Exhibit C
- 4) Performance Phase Milestones, Exhibit D
- 5) Insurance Requirements and Certificate of Insurance, Exhibit E

1.1 Contractor shall update and develop strategic Northwest Corridor Transit Study for RTA. Contractor shall provide supporting documentation, training, technical support and maintenance as specified within the Contract specifications. Contractor shall be responsible for all acts, tasks, equipment, system components, and services required, providing RTA with specified and agreed deliverables. The Contract shall be responsible for all goods or services whether or not specifically identified within this Contract or other documentation but is necessary for the completion of the services and deliverables in an acceptable manner to RTA.

1.2 Unless otherwise expressly agreed to in writing, all work under this Contract shall be performed by Contractor.

1.3 Contractor shall assume the overall responsibility for the work, including hardware and software, and shall provide the project management and expertise necessary to complete the Contract in a professional timely manner in accordance with this Contract and all documents identified.

1.3 Project Staffing: The Contractor shall assign only competent and qualified personnel to provide services as set forth in this Contract and shall at all times be solely responsible for their work quality.

1.4 In the event the Contractor desires to change such key personnel from performing such services under this Contract, the Contractor will submit the qualifications of the proposed substituted personnel to RTA for prior approval.

1.5 Contractor shall promptly remove any employee or subcontractor who is determined by RTA, in writing to the Contractor, to be uncooperative, incompetent, a threat to the timely completion of the services, a threat to the safety of persons or property, or refuses to perform the services in a manner acceptable to RTA. Rejection by RTA and removal of assigned personnel shall not relieve the Contractor of its full responsibilities under the Contract, and shall not provide the basis for any claim or cause of action.

1.6 The Contractor shall be responsible for the installation of all equipment, systems and parts furnished by Contractor and RTA in accordance with the requirements under this contract.

1.7 The Contractor will submit a detailed execution schedule, to be approved by RTA Project Manager, in writing, before starting any work. The Contractor's project manager will work with RTA Contract Manager, or representative to coordinate and accomplish all tasks smoothly.

1.8 Review and approval of deliverables shall be based on RFQ and final proposal requirements and all Contract documents. Prior to finalizing any deliverable, the Contractor is required to submit a draft deliverables for RTA project approval, in writing. The draft deliverables must include all components as specified in Contract Documents.

1.9 RTA and Contractor will develop and approve in writing the schedule for all meetings and presentations of key stake holders.

## **2. CONTRACT TERM**

### **2.0 Termination**

This Contract shall not be binding upon the parties until it has been signed by the authorized representatives of the Contactor and RTA. When it has been so signed and filed this contract shall be effective as of the date written below.

The term of this Contract will be for 12-15 months with the option for (1) 3 months extension to the term. This Contract may be extended by all the required parties with a properly executed amendment to this Contract.

2.1 This Contract shall commence on the \_\_\_\_\_. The term of this Contract shall be as follows: Contract Start Date: \_\_\_\_\_, Contract End Date: \_\_\_\_\_.

2.2 RTA Contract obligations shall automatically terminate at Contract End Date.

2.3 In the event of Lack of Funding RTA shall have the right to terminate the Contract immediately upon written notice to Contractor.

2.4 RTA may terminate this Contract at any time upon thirty (30) days written notice to Contractor.

## **3. COMPENSATION**

3.0 The value of this Contract has a not to exceed value of \$ \_\_\_\_\_. The price provided on the Price Proposal (Exhibit A) shall constitute the Project Price, which shall not be modified unless changes are agreed to by both parties in writing and properly amended in accordance with this Contract. The total compensation is comprised of the performance phase which includes a 2 year warranty for \$ \_\_\_\_\_ and the extended maintenance for \$ \_\_\_\_\_.

3.1 The Contract price shall include all costs for supervision, labor, materials, hardware, software, licenses and other expenses, which are necessary for the proper installation and performance of the work under this Contract.

3.2 The Contractor shall prepare and present to RTA and RTA Representative the Contractor's Goods and Services List (Exhibit A) and Contractor's Project Schedule (Exhibit B), Performance Phase Milestones ("Milestones") (Exhibit C) apportioning the Project Price among the different elements of the Project for purposes of periodic and final payment. The Contractor's Project Schedule and Milestones shall detail the areas of product and service responsibilities of the Contractor and/or Subcontractor per the term of the Project and Contract. The Contractor's Schedule and Milestones shall be presented in a format acceptable to RTA or Owner's Representative, with such detail and supporting information that RTA or Owner's Representative requests. The Contractor shall not imbalance it is Milestones nor artificially inflate any element thereof. Violation of this provision by the Contractor shall constitute a material breach of this Contract. The Contractor's Milestones will be utilized for the Contractor's Payment Requests but shall only be so utilized after the Owner's Representative and RTA have approved it in writing.

3.3 Each Payment Request shall be signed by the Contractor and shall constitute the Contractor's representation that the quantity of work has reached the level for which payment is requested, that the work has been properly installed or performed in strict compliance with this Contract and that the Contractor of a

Payment Request also constitutes an affirmative representation and warranty that all work for which RTA has previously paid is free and clear of any lien, claim or other encumbrance of any person whatsoever. Furthermore, the Contractor warrants and represents that, upon payment of the Payment Request submitted; title to all work, goods and services included in such payment shall be vested in RTA. Thereafter, RTA or the Owner's Representative shall review the Payment Request and may also review the work at the Project site or elsewhere to determine whether the quantity and quality of the work, goods and services are as represented by the Payment Request and are as required by this Contract. The Owner's Representative shall approve in writing the amount which, in the opinion of the Owner's Representative, is properly owing to the Contractor. The Owner's Representative's approval of the Contractor's Payment Requests shall not preclude RTA from the exercise of any of its rights as set forth in Subparagraph (E) below.

- A. When payment is received from RTA, the Contractor shall within fourteen (14) calendar days pay all subcontractors and suppliers the amounts they are due for the work covered by such payment. In the event RTA becomes informed that the Contractor has not paid a subcontractor, or supplier as provided herein, RTA shall have the right, but not the duty, to issue further checks and payments to the Contractor of amounts otherwise due hereunder naming the Contractor and any such subcontractor, or supplier as joint payees. Such joint check procedure, if employed by RTA, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit RTA to repeat the procedure in the future.
- B. Neither payment to the Contractor, utilization of the Project for any purpose by RTA, nor any other act or omission by RTA shall be interpreted or construed as an acceptance of any work of the Contractor not strictly in compliance with this Contract.
- C. RTA shall have the right to refuse to make payment and, if necessary, may demand the return of a portion or all of the amount previously paid to the Contractor due to:
  - a. The quality of a portion, or all, of the Contractor's work not being in accordance with the requirements of this Contract;
  - b. The quantity of the Contractor's work not being as represented in the Contractor's Payment Request, or otherwise;
  - c. The Contractor's rate of progress being such that, in RTA 's opinion, Initial Testing and Acceptance, Operational Acceptance or final completion, or all, may be inexcusably delayed;
  - d. The Contractor's failure to use Contract funds, previously paid the Contractor by RTA, to pay Contractor's Project-related obligations including, but not limited to, subcontractors, and suppliers;
  - e. Claims made, pending or known against RTA or its property in relation to this Contract or the acts or omissions of the Contractor or any of its subcontractors;
  - f. Loss caused by the Contractor; and,
  - g. The Contractor's failure or refusal to perform any of its obligations to RTA.

In the event that RTA makes written demand upon the Contractor for amounts previously paid by RTA as contemplated in the Subparagraph (E), the Contractor shall promptly comply with such demand.

- D. If within sixty (60) days from the date payment to the Contractor is due, RTA, without cause or basis

hereunder, fails to pay the Contractor any amount then due and payable to the Contractor, the Contractor shall have the right to cease work until receipt of proper payment after first providing ten (10) days written notice to RTA of the Contractor's intent to cease work.

- E. When Initial Testing and Acceptance, if applicable, has been achieved, the Contractor shall notify RTA and the Owner's Representative in writing and shall furnish to the Owner's Representative a listing of those matters yet to be finished. The Owner's Representative will thereupon conduct an inspection to confirm that the work is in fact substantially complete. Upon its confirmation that the Contractor's work is substantially complete, the Owner's Representative will so notify RTA and Contractor in writing and will therein set forth the date of Substantial Completion. If the Owner's Representative, through its inspection, finds that the Contractor's work is not substantially complete, and is required to repeat all, or any portion, of its Substantial Completion inspection, the Contractor shall bear the cost of such repeat inspection(s) which cost may be deducted by RTA from and payment then or thereafter due to the Contractor.
- F. After initial acceptance and if the Contractor is ready for a Final Completion, it shall notify RTA and the Owner's Representative thereof in writing. Thereupon, the Owner's Representative will perform a Final Review of the Project. If the Owner's Representative confirms that the Project is complete in full accordance with this Contract and that the Contractor has performed all of its obligations to RTA hereunder, the Owner's Representative will furnish a final Approval for Payment to RTA certifying to RTA that the Project is complete and the Contractor is entitled to the remainder of the unpaid Project Price, less any amount withheld pursuant to this Contract. If the Owner's Representative finds that the Project is not finally complete and is required to repeat all or any part of its final review of the Project, the Contractor shall bear the cost of such repeat review(s), including by outside agents representing RTA, which costs may be deducted by RTA from the Contractor's final payment.
- G. When RTA reasonably believes that initial acceptance or Final Completion will be inexcusably delayed, RTA shall be entitled, but not required, to withhold from any amounts otherwise due the Contractor an amount then believed by RTA to be adequate to recover liquidated damages applicable to such delays. If and when the Contractor overcomes the delay in achieving initial acceptance or Final Completion, or any part thereof, for which RTA has withheld payment, RTA shall promptly release to the Contractor those funds withheld, but no longer applicable, as liquidated damages.
- H. Prior to being entitled to receive final payment and as a condition precedent thereto, the Contractor shall furnish RTA (if applicable), in the form and manner required by RTA, if any, with a copy to the Owner's Representative:
  - a. An affidavit that all of the Contractor's obligations to subcontractors, suppliers and other third parties in connection with the Project have been paid or otherwise satisfied;
  - b. Separate released of claims or waivers from each subcontractor, supplier or other person or entity who has or might have a claim against RTA;
  - c. All product warranties, operating manuals, instruction manuals and other record documents, drawings, reports, maps and files, and things customarily required of the Contractor, or expressly required herein, as part of or prior to Project closeout.
- I. RTA shall, subject to its rights set forth in Subparagraph (E) above, make reasonable efforts to make final payment of all sums due the Contractor within thirty-five (35) days of the Owner's Representative's execution of a final Approval for Payment, but in any event shall make payment within sixty (60) days.

3.4 RTA shall compensate the Contractor in accordance with the terms and conditions of this Contract at the prices agreed upon. Notwithstanding anything contained herein to the contrary, the maximum firm fixed price amount to be paid to the Contractor for all work performed under this contract shall not exceed the amount negotiated, unless additional work is authorized by RTA in writing.

#### **4. ACCEPTANCE**

4.0 This contract is awarded to a reliable and dependable contractor and subcontractors. Contractors and subcontractors found guilty of unethical, irresponsible business practices will be suspended and debarred from conducting future business with the government.

4.1 Contractors and subcontractors must maintain up-to-date System for Award Management (SAM.gov), Dun and Bradstreet (DUNS number), or other registration databases that may be required. Contractor must submit all TDOT issued letter or certification of any DBE's participating on this project.

#### **5. CONTRACTOR'S REPRESENTATIONS AND WARRANTIES**

5.0 Contractor represents and warrants to RTA as follows:

a. Contractor is a corporation duly organized, validly existing and in good standing under the laws of the State of Tennessee, and has full corporate power and RTA to execute, deliver and perform its obligations under this Contract, the instruments attached hereto, and any other agreements and instruments contemplated by this Contract. Contractor has all requisite corporate power and RTA to own its properties, inventory, equipment and assets, including the work (as defined herein), and to conduct its business as now conducted. Contractor is qualified to do business in all jurisdictions where it is required to do so and has all necessary permits and authorizations required to carry out Contractor's Business.

b. The execution and delivery of this Contract, the instruments attached hereto, and the other agreements and instruments contemplated by this Contract have been duly authorized by all necessary actions of Contractor and by anyone else whose approval or authorization is required. Upon execution and delivery, this Contract, the instruments attached hereto, and the other agreements and instruments contemplated by this Contract will be legal, valid and binding obligations of Contractor, enforceable against it in accordance with its respective terms.

c. The execution and delivery of this Contract do not, and the execution and delivery of the instruments attached hereto and other agreements and instruments contemplated by this Contract will not, and the consummation of the transactions contemplated hereby and thereby will not: (i) violate any provisions of any of Contractor's Charter, Bylaws or other organizational documents; (ii) violate any provision of law or any order, judgment or decree of any court or other governmental or regulatory RTA applicable to Contractor; (iii) violate or result in a breach of, an acceleration under, or constitute (with due notice or lapse of time or both) a default under, any contract, lease, loan agreement, mortgage, security agreement, or other agreement or instrument to which Contractor is a party or by which it is bound or to which any of Contractor's properties, inventory, or assets is subject, which would prevent Contractor from transferring any of the goods/services in the manner and as contemplated by and in accordance with the terms and provisions of this Agreement; or (iv) result in the imposition of any liens or restrictions on Contractor's Business or any properties and inventory (including goods/services) thereof.

d. There is no litigation pending or threatened against or relating to Contractor which could materially or adversely affect the goods/services the subject of this sale.

e. There is not now and will not be at the delivery of the goods/services to RTA any damage, destruction or loss not covered by Contractor's insurance which could materially or adversely affect the goods/services; it being expressly agreed that the risk of loss of said goods/services shall remain with Contractor until delivery of goods/services to RTA and after acceptance of the delivery of said goods/services after final inspection is made by RTA.

f. Contractor shall have and convey at delivery good and marketable title to all of the goods/services free and clear of all liens, pledges, security interests and encumbrances.

g. Comply with all laws; and

h. Give any notices required prior to the transfer of the goods/services to RTA.

5.1 The foregoing representations and warranties of Contractor are made with the knowledge and expectation that Contractor is placing complete reliance on such representations and warranties in entering into this Agreement and shall survive the delivery and acceptance of the goods/services to and by RTA.

## **6. WARRANTY**

6.0 For a period of \_\_\_\_\_ year following acceptance of the delivered, installed and/or functional goods (if applicable), services and if, other work and work products, ("goods") Contractor warrants that all goods, shall be free from defects of material and workmanship, and will be mechanically able to perform without errors or delay, the functions and calculations as represented by the Specifications and Documentation, including any special purposes specifically stated. For the warranty period, Contractor's obligation for any breach of this warranty shall be (i) to replace or correct, at Contractor's own expense, any defects in the goods and (ii) in the event the goods do not operate in all material respects as specified in the Documentation and/or Proposal, RTA shall be entitled to terminate the Contract for default in accordance with the terms and conditions of this Contract and shall be entitled to seek a refund of any fees paid to Contractor.

## **7. TITLE WARRANTY**

7.0 Contractor warrants that it has good title to and/or the right to sell the goods and represents that all goods delivered to RTA are free and clear of all liens, claims or encumbrances of any kind. Contractor shall defend, indemnify and hold RTA harmless from and against all claims, liability, loss, damage or expense including legal fees, arising from any actual or claimed infringement of any trademark, patent, copyright, or other intellectual property right with respect to the goods, or their use by RTA. In the event use of the goods are restricted or interfered with as a result of such infringement, Contractor shall, at its cost, procure non-infringing goods, for RTA which are equal substitutes for the goods in all material respects; or obtain for RTA the right to use the goods without infringement; or refund to RTA all monies paid by RTA.

## **8. TAXES**

8.0 RTA shall not be responsible for any taxes that are imposed on Contractor. Furthermore, Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to RTA.

## **9. COPYRIGHT, TRADEMARK, SERVICE MARK, OR PATENT INFRINGEMENT**

- A. Contractor shall, at its own expense, be entitled to and shall have the duty to defend any suit which may be brought against RTA to the extent that it is based on a claim that the products or services furnished infringe a copyright, Trademark, Service Mark, or patent. The Contractor shall have sole discretion in selecting counsel. Contractor shall further indemnify and hold harmless RTA against any award of damages and costs made against RTA by a final judgment of a court of last resort in any such suit. RTA shall provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and RTA to enable Contractor to do so. No costs or expenses shall be incurred for the account of Contractor without its written consent. RTA reserves the right to participate in the defense of any such action. Contractor shall have the right to enter into negotiations

for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon RTA unless approved by RTA Board.

- B. If the products or services furnished under this contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:
  - 1. Procure for RTA the right to continue using the products or services.
  - 2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to RTA, so that they become non-infringing.
  - 3. Remove the products or discontinue the services and cancel any future charges pertaining thereto.
  - 4. Provided, however, that Contractor will not exercise option b.iii. until Contractor and RTA have determined that options b.i. and b.ii. are impractical.
- C. Contractor shall have no liability to RTA, however, if any such infringement or claim thereof is based upon or arises out of:
  - 1. The use of the products or services in combination with apparatus or devices not supplied or else approved by Contractor.
  - 2. The use of the products or services in a manner for which the products or services were neither designated nor contemplated.
  - 3. The claimed infringement in which RTA has any direct or indirect interest by license or otherwise, separate from that granted herein.

## **10. ASSUMPTION OF RISK**

10.0 Contractor expressly and voluntarily assumes all risk to person (including but not limited to death, personal injury and disease) and risk of loss or damage to property to which Contractor, its employees, and/or either of their property is or may be exposed while being in or on RTA Premises, except that Contractor makes no assumption of risk to person or property actually and proximately caused by the sole negligence of RTA in areas of Premises designated for Contractor access.

## **11. TERMINATION—BREACH OR CAUSE**

11.0 If the Contractor does not deliver supplies or deliverables 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, RTA may terminate this contract for default. Termination shall be effected by serving a thirty (30) day written notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor shall promptly submit its termination claim to RTA for payment. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

- A. If it is later determined by RTA that the Contractor had an excusable reason for not performing, such as a man-made disaster, fire, or flood, which are not the fault of or are beyond the control of the Contractor, RTA, may set up a new delivery of performance schedule, and may allow the Contractor to continue work, or treat the termination as a termination for convenience.
- B. In the event of breach or default by the Contractor, RTA shall be entitled to all of its damages and reasonable expenses, and its cost to include, but not limited to its reasonable attorneys' fees

incurred because of such default.

#### 11.1 Opportunity to Cure

RTA in its sole discretion may, in the case of a termination for breach or default, allow the Contractor ten (10) days 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 appropriated conditions. If Contractor fails to remedy to RTA's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor or written notice from RTA setting forth the nature of said breach or default, RTA 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 RTA from also pursuing all available remedies against Contractor and its sureties for said breach or default.

#### 11.2 Waiver of Remedies for any Breach

In the event that RTA elects to waive remedies for any breach by Contract or any covenant, term or condition of this Contract, such waiver by RTA shall not limit RTA remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

### 12. TERMINATION - FUNDING

12.0 Should funding for this contract be discontinued, reduced, or delayed, in whole or in part, RTA shall have the right to terminate the contract immediately upon written notice to Contractor. However, Contractor is entitled to payment for work performed to the date of notice of termination.

### 13. TERMINATION - NOTICE

13.0 Termination for Convenience – RTA may terminate this contract, in whole or in part, at any time with thirty (30) days written notice to the Proposer. Upon receipt of such notice, the Proposer shall perform no further services under the contract. Settlement payment will be based on successful delivery or service prior to termination. RTA shall pay the aggregate price of delivered service computed in accordance with the prices specified in the contract. If the Proposer has any property in its possession belonging to RTA, the Proposer will account for the same, and dispose of it in the manner RTA directs.

Termination for Default Breach or Cause – If the Proposer does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services and the Proposer fails to perform in the manner called for in the contract, or if the Proposer fails to comply with any other provisions of the contract, RTA may terminate this contract for default. Termination shall be effected by serving a thirty (30) day written notice of termination on the Proposer setting forth the manner in which the Proposer is in default. The Proposer shall promptly submit its termination claim to RTA for payment. The Proposer will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by RTA that the Proposer had an excusable reason for not performing, such as a man-made disaster, fire, or flood, which are not the fault of or are beyond the control of the Proposer, RTA, may set up a new delivery of performance schedule, and may allow the Proposer to continue work, or treat the termination as a termination for convenience.

In the event of breach or default by the Proposer, RTA shall be entitled to all of its damages and reasonable expenses, and its cost to include, but not limited to its reasonable attorneys' fees incurred because of such default.

Opportunity to Cure – RTA in its sole discretion may, in the case of a termination for breach or default, allow the Proposer ten (10) days 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 Proposer fails to remedy to RTA satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Proposer of written notice from RTA setting forth the nature of said breach or default, RTA shall have the right to terminate the Contract without any further obligation to Proposer. Any such termination for default shall not in any way operate to preclude RTA from also pursuing all available remedies against Proposer and its sureties for said breach or default.

**Waiver of Remedies for any Breach** -In the event that RTA elects to waive remedies for any breach by Proposer of any covenant, term or condition of this Contract, such waiver by RTA shall not limit RTA remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

**Termination Funding** – Should funding for this contract be discontinued, reduced, or delayed, in whole or in part, RTA shall have the right to terminate the contract immediately upon written notice to Proposer.

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

#### **14. MAINTENANCE OF RECORDS**

14.0 Contractor shall maintain documentation for all charges against RTA. The books, records, and documents of Contractor, insofar as they relate to work performed or money received under the contract, shall be maintained for a period of seven (7) years following the date of final payment by RTA and will be subject to audit, at any reasonable time and upon reasonable notice by RTA or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

14.1 Said records shall be made available for inspection by authorized representatives of RTA, the U.S. Department of Transportation, the Comptroller General of the United States of the U.S. General Accounting Office, and the Tennessee state Attorney General's Office during regular working hours at the Contractor's place of business. Records pertaining to appeals under disputes, to litigation or to the settlement of claims arising under or relating to the performance of the Contract shall be made available for seven (7) years after contract implementation or until disposition of the appeals, litigation, or claims, whichever is later.

14.2 The Contractor shall include, or have included, the requirements of this article in all subcontracts of any tier.

#### **15. MODIFICATION OF CONTRACT**

15.0 This contract may be altered, changed, or modified only by written amendment executed by all parties and their signatories hereto.

15.1 Contractor agrees that this Contract is subject to modification by RTA to the extent necessary to comply with federal, state or local regulations, which may govern this Contract. Written notice of such modification signed by RTA, CEO shall be provided to the Contractor.

15.2 Change Orders: Any proposed change to this Contract shall be submitted to RTA for its prior approval, and shall not become effective unless it is in writing and signed by RTA.

15.3 RTA reserves the right and may order changes or alterations in the work performed by Contractor. If the changes or alterations ordered affect the cost or progress of the work, appropriate adjustments agreed to by both parties in the time for completion of the work and compensation for the work will be made.

#### **16. PARTNERSHIP/JOINT VENTURE**

16.0 Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. It is expressly agreed and understood between the parties that the Contractor is an independent Contractor to RTA and as such shall be viewed in law and equity as an independent contractor. No vicarious liability shall be imposed upon RTA Regional Council, its employees, officers, Board members and member governments; Metropolitan Government of RTA by any action of the Contractor in the performance of this Contract nor shall the doctrine of respondent superior be applicable to RTA; RTA Regional Council, its employees, officers, Board members and member governments; Metropolitan Government of RTA through this Contract. None of the parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

## **17. WAIVER**

17.0 No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

## **18. EMPLOYMENT**

18.0 The Contractor and its subcontractors are prohibited from discriminating against any individual due to race, creed, color, national origin, age or sex and from violating any applicable laws concerning the employment of individuals with disabilities. It is the policy of RTA not to discriminate on the basis of age, race, sex, color, national origin or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this Contract, Contractor certifies and warrants it will comply with this policy and will include this policy in all subcontracts.

## **19. INSURANCE**

19.0 The Contractor shall have and maintain insurance in accordance with the requirements attached hereto (Exhibit E) and incorporated herein by reference. The required certificates of insurance must be provided by the Contractor and approved by RTA before the Notice to Proceed can be issued and before the Contractor can commence performance for any future projects.

## **20. CONTINGENT FEES**

20.0 Contractor hereby represents that Contractor has not been retained or retained any persons to solicit or secure a RTA contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Metropolitan Government contracts.

## **21. GRATUITIES AND KICKBACKS**

21.0 It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee of RTA, or for any employee or former employee of RTA to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Metro Government contracts.

## **22. INDEMNIFICATION**

a. Contractor agrees to defend, indemnify and hold RTA harmless from and against, any and all claims, causes of action, damages, expenses, taxes, assessments, interest, penalties, judgments, and costs, including reasonable attorney fees, incurred directly or indirectly by RTA arising out of or in any way connected with:

(i) Breach of any of the representations, warranties, covenants and agreements of Contractor set forth in this Agreement, the instruments attached hereto, or any instrument or agreement delivered in connection with this Agreement;

(ii) Any claim or liability asserted by a third party or any governmental agency against RTA which arises out of or is in any way connected with the ownership or use of: the Goods/services by Contractor, the Premises and Seller's Business; and

(iii) The business responsibilities, expenses, costs and liabilities of Contractor, including, but not limited to, all of Contractor's accounts payable.

b. Contractor acknowledges that it is prohibited under the Laws of Tennessee for a governmental entity to indemnify Contractor for any loss arising out of the provisions of this Contract. Accordingly, RTA does not make any indemnification to Contractor whatsoever under this Contract.

## **23. REMEDIES**

23.0 Subject to the other provisions of this Contract, in the event of a breach of any provision of this Contract, the non-breaching party shall be entitled to reasonable attorney fees, costs and expenses incurred for the enforcement of said provisions, in addition to damages for the breach thereof. The remedies set forth in the Contract shall be cumulative, and no one shall be construed as exclusive of any other or of any remedy provided by law, and the failure or delay of any party to exercise any remedy at any time shall not operate as a waiver of the right of such party to exercise any remedy for the same or subsequent default at any time thereafter.

### **23.1 Dispute Resolution**

The parties agree to make a reasonable effort to informally resolve, among themselves and with the assistance of the Owner's Representative, disputes that may arise during the performance of this Contract in a timely, professional and non-adversarial manner. In an effort to limit any disputes, the parties agree to periodically meet and evaluate the progress of performance under this Contract. Any agreements reached

by the parties utilizing these informal dispute resolution procedures are not binding unless the agreement is contained in an amendment to the Contract that is executed in accordance with the Solicitation. RTA and the Contractor may exercise such rights or remedies as either may otherwise have with respect to any dispute. Nothing in this provision shall create any right of either party to alternative dispute resolution, arbitration, mediation, or partnering.

## **24. NOTICES**

24.0 All notices, requests, demands or other communications hereunder shall be in writing and be delivered to the parties as stated below.

Notices to RTA:

430 Myatt Drive  
Nashville TN 37115  
Procurement Department

Notices to \_\_\_\_\_:

## **25. MISCELLANEOUS**

25.0 This Contract shall be governed by, enforced and interpreted in accordance with the laws of the State of Tennessee.

25.1 This Contract may not be amended orally, and no modification, termination or attempted waiver shall be valid unless in a writing signed by the parties hereto, except as specifically provided otherwise herein. If any provision of this Contract is properly determined to be illegal, invalid or unenforceable, the other provisions of this Contract shall remain in full force and effect, and such illegal, invalid or unenforceable provision shall be automatically modified in such a manner so as to make it valid, legal and enforceable but keeping it as close to its original meaning as possible.

25.2 Except as provided herein below, this Contract, the instruments attached hereto, and/or the rights and obligations set forth herein or in such instruments attached hereto, are not assignable without the prior written consent of the parties hereto, which consent may be granted or withheld by a party in its sole discretion. This Contract shall be binding upon, and inure to the benefit of, the parties hereto and their respective heirs, successors and permitted assigns.

25.3 This Contract and the instruments attached hereto set forth the entire agreement between the parties with respect to the subject matters thereof, as they existed at the date of this Contract, and it is agreed and distinctly understood that all previous communications and negotiations between the parties, whether verbal or written, not contained herein or in the instruments attached hereto are hereby withdrawn and are annulled.

## **26. ATTORNEY FEES**

26.0 Contractor agrees that, in the event either party takes legal action to enforce any provision of the Contract, or to obtain a remedy for any breach of this Contract, and in the event RTA prevails in such action, Contractor shall pay all expenses of such action incurred at any and all stages of the litigation, including costs and reasonable attorney fees for RTA.

## **27. ASSIGNMENT--CONSENT REQUIRED**

27.0 Any public agency (i.e., city, district, public RTA, public agency, municipality, and other political subdivision or any FTA-funded entity) shall have the option of participating in any award made as a result of this proposal at the same prices, terms, and conditions. RTA reserves the right to assign any portion of the Goods/Services awarded under this Contract including option quantities. This assignment, should it occur, shall be agreed to by RTA's Chief Executive Officer and the Contractor. Once assigned, each agency will enter into its own contract and be solely responsible to the Contractor for obligations to the goods/services assigned. RTA's right of assignment will remain in force during the term or until completion of the contract to include options, whichever occurs first. RTA shall incur no financial responsibility in connection with contracts issued by another public agency. The public agency shall accept sole responsibility for placing orders or payments to the Contractor.

## **28. ENTIRE CONTRACT**

28.0 This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

## **29. FORCE MAJEURE**

29.0 No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

## **30. GOVERNING LAW**

30.0 The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.

## **31. VENUE**

31.0 Any action between the parties arising from this Contract shall be maintained in the chancery courts of Davidson County, Tennessee.

## **32. SEVERABILITY**

32.0 Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract, if the purposes of the Contract can reasonably be fulfilled.

## **33. EFFECTIVE DATE**

33.0 This contract shall not be binding upon the parties until it has been signed first by the Contractor and then by the authorized representatives of RTA. When it has been so signed and filed, this contract shall be effective as of the date first written above.

## **34. COUNTERPARTS**

34.0 This Contract may be executed in one or more identical counterparts, each of which shall be deemed to be an original for all purposes, and all of which taken together shall constitute a single instrument.

### **35. RTA PROPERTY**

35.0 Any RTA property, including but not limited to books, records and equipment that is in Contractor's possession shall be maintenance by Contractor in good condition and repair, and shall be returned to RTA by Contractor upon termination of the contract. All goods, documents, records and other work product and property produced during the performance and as a consequence of this contract are deemed to be RTA property.

### **36. CONTRACTING OFFICER**

36.0 RTA's Contracting Officer is the individual with the delegated RTA to administer this Contract on behalf of RTA. The Contracting Officer is solely responsible, under direction from the Owner's Representative, for authorizing services by issuing written orders, and for making any changes to the scope of services, schedule or other contractual terms and conditions by written Contract Modification. No oral representations of any nature form the basis of or may amend the Contract.

36.1 The Contracting Officer may delegate certain specific responsibilities to its authorized representative – RTA's Owner's Representative.

36.2 This Contract will be administered by:

Regional Transportation Authority  
430 Myatt Drive  
Nashville TN 37115

36.3 Written communications shall make reference to the Contract number and shall be mailed to the above address.

### **37. PUBLICATION AND MEDIA RESTRICTIONS**

37.0 The Contractor shall not publish or reproduce subject data in whole or in part, or in any manner or form, without the advance written consent of RTA, unless RTA has released or approved the release of that data to the public.

### **38. LICENSING AND PERMITS**

The Contractor and all subcontractors shall be appropriately licensed in the State of Tennessee to conduct the services and work required by this Contract. The cost for any required licenses shall be the responsibility of the Contractor. The Contractor shall be responsible for paying for permits and government fees (excluding FCC permits) if such fees have not been waived by issuing authority necessary for the proper execution and completion of the Project.

### **38. SITE CLEANUP**

Contractor shall maintain the work site in a reasonably clean condition during the performance of the work. At the end of each work day Contractor will store all equipment and materials in a neat and orderly manner in a designated area.

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed on the date and year first above written.

**Regional Transportation Authority**

**Contractor**

\_\_\_\_\_  
**CEO**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**By:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Exhibit A**  
**List of Goods and Services**

**Exhibit B**  
**Project Schedule**

**Exhibit C**  
**Performance Phase Milestones**

## **Exhibit E**

### **Insurance Requirements and Certificate of Insurance**

For Contractors doing business with RTA these Insurance Requirements supersede and replace all Insurance Requirements contained elsewhere in these documents.

#### **1. GENERAL CONSIDERATIONS**

It is a requirement of RTA that Contractors must agree to the indemnity obligations set forth in the Contract Documents. RTA reserves the right to participate in the defense of any claim or action that is brought against RTA.

To insure compliance with this policy, RTA requires each Contractor to carry adequate insurance coverage with a company of companies acceptable to said RTA. RTA fully understands that no insurance policy of any company licensed to do business in the State of Tennessee is all encompassing in coverage or limit of liability.

#### **2. INSURANCE REQUIREMENTS**

During the performance and up to the date of final payment, the Contractor must effect and maintain insurance hereafter checked as required. The first (primary) one million dollars licensed to do business in Tennessee. The excess over one million dollars (\$1,000,000) may be with either a licensed or non-admitted company provided the non-admitted company is: (1) listed as approved to do business in Tennessee by the Tennessee Department of Insurance, (2) has a Best financial rating of A minus or better, with a policyholder surplus of Roman Numeral X or better, and (3) otherwise acceptable to RTA.

All Comprehensive General Liability policies, and Comprehensive Automobile Liability policies shall be endorsed to include RTA as an Additional Insured and this shall be noted on the Certificates of Insurance.

All policies must be of the standard form of coverage as filed with and approved by the Commissioner of Insurance for the State of Tennessee or otherwise authorized. The Contractor shall not commence work under the Contract until it has obtained all insurance coverage's required hereafter and such insurance has been approved by RTA.

Check if Required:

#### **GENERAL LIABILITY**

( x ) a. Comprehensive (Commercial) General Liability:

The Contractor shall have and maintain during the life of the Contract such Bodily Injury Liability Insurance and Property Damage Liability Insurance as shall protect Contractor from claims for Bodily Injury and Property Damage arising from the Contractor's operations under the Contract, whether such operations are conducted by Contractor or by any subcontractor of said Contractor. The Bodily Injury Liability Insurance shall pay on behalf of the Insured all sums up to the limits provided by the policy which the Insured shall become legally obligated to pay as damages because of bodily injury, sickness or disease, including death at anytime resulting there from, sustained by a person other than an employee of the Contractor and caused by an occurrence. The Property Damage Liability Insurance shall pay on behalf of the of the Insured all sums up to the limits provided by the policy which the Insured shall become legally obligated to pay as damages because of injury to, or destruction of property, including the loss of use thereof, caused by any occurrence.

( ) This policy shall cover liability for damage to property caused by blasting or explosion or collapse, or structural injury to any building or structure, or damage to any property below the surface of the ground (Explosion, Collapse and Underground Damage) as applicable.

( ) b. Premises and Operations Liability:

The Contractor shall have and maintain during the life of the Contract such Premises and Operations Liability Insurance as shall protect Contractor and RTA from liability resulting from the operations under the Contract by the Contractor.

( ) c. Products and Completed Operations Liability

The Contractor shall provide such Products and Completed Operations Insurance as shall protect Contractor from liability arising out of the Contract and including those products involved in the work for which Contractor is responsible.

( ) d. Broad Form Contractual Liability:

The Contractor shall have and maintain during the life of the Contract such Contractual Liability Insurance as shall protect Contractor from liability resulting from the execution of the Contract by the Contractor. If coverage is not provided on the blanket form basis, a copy of the policy or endorsement providing coverage for contractual liability assumed by the Contractor under its Contract with RTA must be attached to the Certificate of Insurance.

#### AUTOMOBILE LIABILITY

( x ) e. Comprehensive (Business) Automobile Liability (all owned, hired and non-owned):

The Contractor shall have and maintain during the life of the Contract such Comprehensive (Business) Automobile Liability (all owned, hired, and non-owned) Insurance as shall protect the Contractor for claims arising out of the ownership, operation, maintenance and use of land motor vehicles and trailers intended for use therewith.

#### WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY

( x ) f. The contractor shall have and maintain during the life of the Contract Worker's Compensation Insurance conforming with the requirements of the laws of Tennessee and (if the box is checked) the Jones Act ( ) and the Longshoremen's and Harbor Workers' Compensation Act ( ). In case of any employee or employees are not covered by such laws of Tennessee of the Jones Act or the Longshoremen's and Harbor Workers Compensation Act, the Contractor shall provide Employers' Liability coverage for the protection of such employee or employees.

#### PROPERTY DAMAGE INSURANCE

( ) g. Builders' Risk Insurance

The Contractor shall have and maintain during the life of the Contract such Property Insurance upon Contractor's entire work at the site to the completed value thereof. This insurance shall protect RTA, as its interest may appear in the work, and shall insure against the perils of fire and extended coverage, and shall include "all risk" insurance for the physical loss or damage including without duplication of coverage, theft, vandalism and malicious mischief. All Risk Insurance may contain the normal exclusions such as, but not limited to, flood, earthquake, and mysterious disappearance, inherent vice, war and nuclear. If RTA requires coverage for flood or earthquake, specific requirements concerning same are set out hereafter in these specifications. If the Property Insurance contains a co-insurance provision, the Contractor shall be responsible for the amount of insurance satisfying the co-insurance amount so as to make the co-insurance clause inoperable. If not covered otherwise, the Contractor shall have and maintain during the life of the Contract similar Property Insurance on portions of the work stored off the site or in transit when such portions of the work are to be included in any payment.

( ) h. Other Insurance:

3. ADDITIONAL INSURANCE REQUIREMENTS:

The Certificate of Certificates of Insurance shall contain the following provision, to-wit:

The coverage provided shall not be canceled, reduced in coverage, or allowed to lapse unless and until RTA receives at least thirty (30) days advance written notice of same. Said written notice must be delivered to the Director, Insurance and Safety Division, at his office shown as the address of the Certificate Holder below.

( ) If this box is checked, each of the said policies set out above may contain a deductible feature not in excess of \$\_\_\_\_\_ per occurrence. If a deductible feature is provided in a policy or policies, the Contractor shall be liable for said amount of any claim or loss.

4. The work "Contract" above means the AGREEMENT between RTA and Contractor for this project. The word "Contractor" means the successful Proposer who is the Contractor for this project. The limit "Ea. Occur". Is the monetary limit applied to each person injured in a given occurrence. The limit "Ea. Occur". Is the limit of the total liability for claims, subject to the limit for "Ea. Person," from one common cause. The word "Aggregate" is the limit of the total liability for all damage of the specified coverage for each annual term of the insurance policy.

5. The Contractor is required to have a CERTIFICATE of INSURANCE properly executed by an insurance company or insurance companies authorized to do business in the State of Tennessee.

6. MINIMUM LIMITS OF COVERAGE – Coverage shall be at least to the following minimum limits. If the Contractor has obtains primary and umbrella excess policies, there shall be no gap between them.

GENERAL LIABILITY

|     |                                             |                              |                        |
|-----|---------------------------------------------|------------------------------|------------------------|
| (a) | Comprehensive General Liability             |                              |                        |
|     | Bodily Injury                               | \$1,000,000                  | Ea. Occur.             |
|     |                                             | \$1,000,000                  | Aggregate Per Project  |
|     | Property Damage                             | \$1,000,000                  | Ea. Occur.             |
|     |                                             | \$1,000,000                  | Aggregate Per Project  |
|     | (or) Combined Single Limit                  | \$1,000,000                  | Per Occur. Per Project |
| (b) | Premises and Operations Liability           | same limits as in (a) above. |                        |
| (c) | Products and Completed Operations Liability | same limits as in (a) above. |                        |
| (d) | Contractual Liability                       | same limits as in (a) above. |                        |

AUTOMOBILE LIABILITY

|     |                                                                     |             |            |
|-----|---------------------------------------------------------------------|-------------|------------|
| (e) | Comprehensive Automobile Liability (all owned, hired and non-owned) |             |            |
|     | Bodily Injury                                                       | \$1,000,000 | Ea. Person |
|     |                                                                     | \$1,000,000 | Ea. Occur. |
|     | Property Damage                                                     | \$1,000,000 | Ea. Occur. |
|     |                                                                     | \$1,000,000 | Aggregate  |
|     | (or) Combined Single Limit                                          | \$1,000,000 | Per Occur. |

WORKERS COMPENSATION AND EMPLOYER'S LIABILITY

|     |                                                         |                  |
|-----|---------------------------------------------------------|------------------|
| (f) | Worker's Compensation<br>(including compliance with the | Statutory Amount |
|-----|---------------------------------------------------------|------------------|

Jones Act and Longshoremen's and  
Harbor Worker's Act as applicable)

|                      |           |            |
|----------------------|-----------|------------|
| Employer's Liability | \$100,000 | Ea. Occur. |
|----------------------|-----------|------------|

PROPERTY DAMAGE

|     |                          |                        |
|-----|--------------------------|------------------------|
| (g) | Builder's Risk Insurance | \$(Value of Structure) |
|-----|--------------------------|------------------------|

|     |                 |                 |
|-----|-----------------|-----------------|
| (h) | Other Insurance | \$(As Required) |
|-----|-----------------|-----------------|