



March 01, 2023

REQUEST FOR PROPOSAL
RP013-23

The Gwinnett County Board of Commissioners is soliciting competitive sealed proposals from qualified vendors to **Provision of Microtransit Technology Package and Support Services on an Annual Contract** with four (4) options to renew for the Department of Transportation.

Proposals must be returned in a sealed container marked on the outside with the Request for Proposal number and Company Name. Proposals will be received until **2:50 P.M. local time on March 31, 2023** at the Gwinnett County Financial Services - Purchasing Division – 2nd Floor, 75 Langley Drive, Lawrenceville, Georgia 30046. Any proposal received after this date and time will not be accepted. Proposals will be publicly opened and only names of submitting firms will be read at 3:00 P.M. A list of firms submitting proposals will be available the following business day on our website www.gwinnettcountry.com.

A virtual pre-proposal conference is scheduled for 10:00 A.M. on **March 13, 2023**. To access the virtual meeting, dial 1-408-418-9388, and enter access code 2332 611 9776. All vendors are urged to attend.

Questions regarding proposals should be directed to Lindsey Gravitt, Purchasing Associate II at lindsey.gravitt@gwinnettcountry.com or by calling 770-822-7833, no later than **March 15, 2023**. Proposals are legal and binding upon the bidder when submitted. One (1) unbound original and five (5) copies, and one (1) electronic thumb drive should be submitted.

Successful vendors will be required to meet insurance requirements. The Insurance Company should be authorized to do business in Georgia by the Georgia Insurance Department, and must have an A.M. Best rating of A-5 or higher.

Gwinnett County does not discriminate on the basis of disability in the admission or access to its programs or activities. Any requests for reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of Gwinnett County Government should be directed to the ADA Coordinator at the Gwinnett County Justice and Administration Center, 770-822-8165.

The written proposal documents supersede any verbal or written prior communications between the parties.

Selection criteria are outlined in the request for proposal documents. Gwinnett County reserves the right to reject any or all proposals to waive technicalities, and to make an award deemed in its best interest.

Award notification will be posted after award on the County website, www.gwinnettcountry.com and companies submitting a proposal will be notified via email.

We look forward to your proposal and appreciate your interest in Gwinnett County.

Lindsey Gravitt
Purchasing Associate II

The following pages should be returned with your proposal:

Code of Ethics Affidavit, Page 18
E-Verify Affidavit, Page 19
Firm Information, Page 20
References, Page 21
Cost, Page 22 (to be returned in a separate sealed envelope)
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Project Background

a. Current Situation

Gwinnett County Transit, housed within the Department of Transportation of Gwinnett County, has operated transit service since 2001. The backbone of Gwinnett County's transit system is fixed route service. Gwinnett County's population is approximately 927,000 and about 20 percent of Gwinnett County residents have access to fixed route service, which includes Americans with Disabilities Act (ADA) complementary paratransit service.

In 2021, Gwinnett County delivered over 808,000 fixed route trips and over 20,000 ADA paratransit trips (i.e., unlinked passenger trips). Gwinnett County has 81 buses to support fixed route service and 11 vehicles to support ADA paratransit service. With extensive experience providing demand-response transportation options for 21 years, Gwinnett County staff have been exploring the potential for recent developments in technology to improve various types of existing demand-response transportation and provide on-demand transportation options. More details regarding Gwinnett County's transit service are available online.¹

To serve areas of the County that do not have enough density to support fixed route transit, Gwinnett County embarked on a Microtransit pilot from September 2018 through April 2019 to test local interest in, and ridership for, Microtransit service. "Microtransit," also known as "on-demand transit" and other descriptive terms, involves providing "shared ride" (i.e., more than one passenger) direct trips in response to origins and destinations provided by passengers – most commonly with real time trip requests and bookings enabled using an app. Microtransit differentiates from fixed route in that there are no established routes, as the service is focused on direct trips based on origins and destinations provided by passengers, responding dynamically in real time to provide direct trips.

Gwinnett County's Microtransit pilot operated in Snellville, Georgia from September 2018 through April 2019. The service area was approximately 17 square miles in total, and a total of 33,376 trips were provided during the 7.5 months of service operations with the last month's ridership in April 2019 totaling 6,465.

b. Project Goals

Gwinnett County's goals are to enhance the service that replaces short, local single occupancy vehicle trips and provide shared vehicle options for riders traveling shorter distances within the Microtransit service area. The integration of the app makes this a more efficient service for Gwinnett County's customers and the goals listed below are a summary of the overall need(s):

- To serve the residents in Gwinnett County with affordable public transportation options, which in turn, will prove the viability of technology-based mobility, increase network connections, grow ridership and complement GCT's fixed route and paratransit services
- To deliver and support a Microtransit/Paratransit software app that can be used to manage the deployment of Microtransit/Paratransit vehicles and trips within Gwinnett County
- To provide a more sustainable option to solo travel, which reduces traffic, congestion, and emissions
- Deliver and extend coverage to underserved, disadvantaged and less-dense communities, as well as seniors and persons with disabilities (ADA) in Gwinnett County to fulfill Title VI and jurisdictional equity goals while expanding economic opportunity

¹ <https://www.gwinnettcounty.com/web/gwinnett/departments/transportation/gwinnettcountytransit>

- Acquire big data to allow for market analysis, simulation and detailed analysis of service performance, ridership and opportunities for improvements in transit planning and ridership needs

Project Introduction

a. Purpose

Gwinnett County is procuring a package for Microtransit/Paratransit technology and support services to advance its vision for scaling up Microtransit operations and integrating Microtransit into the County's transit system.

b. Microtransit/Paratransit Program Strategy

Gwinnett County seeks to provide a better quality of service to its residents that is safe, reliable, efficient to operate and follows all local, state, and Federal rules and regulations. The software will be a fully automated scheduling, dispatching and reservation system for Microtransit and Paratransit solutions.

Gwinnett County's Microtransit/Paratransit program strategy involves the integration of the software into the Gwinnett County transit system for specific programmatic functions including, fare payment, and National Transit Database (NTD) reporting. Details regarding the integration of Microtransit into the Gwinnett County transit system are provided in the section titled *Integration of Microtransit into Transit System* for further reference.

c. Contract Duration and potential FTA Provision

Gwinnett County anticipates an initial contract of one year, with intent to renew for maintenance and support, for a total potential contract duration of three to five years. This project is dependent on the availability of Gwinnett County's funding sources, which are subject to change.

The responsibilities of the selected vendors will be defined and further detailed in the agreement between the County/DOT and the selected respondent. If the project is funded through FTA funds, all future contracted vendors must meet the responsibilities described below which include but are not limited to:

- Appendix 1- Required Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Project Scopes

a. Overview

Gwinnett County is releasing this request for proposals (RFP) to procure a vendor that provides an on- demand Microtransit Solution and a Paratransit Scheduling/Dispatch Solution to **manage all services that are not run as a traditional fixed-route on fixed- schedule** using a single product (this may include multiple modules within the same product), in the form of Software as a Service (SaaS).

b. Project Deliverables

The vendor will be required to accomplish the following functions:

1. Design, test and launch a software platform for Gwinnett County flexible/ on-demand general public demand response transit (DRT)/Microtransit/Paratransit services.
2. Provide System Admin, Gwinnett Transit Staff and End User training and marketing materials for a successful launch

3. Maintain and Manage ongoing customer support for the software platform

c. Scopes for General Public Demand Response and Microtransit Service

The Mobility Platform will support the flexibility of a range of DRT/Microtransit and Paratransit services including but not limited to the following:

1. **Curb-to Curb / Zone-based Service:** refers to curb-to-curb service designed to serve residents within a defined geographic service zone.
2. **Fixed-route Connector / Feeder:** refers to a demand responsive service that is primarily designed to serve a defined checkpoint on a fixed route network (stop or station), often acting as a first/last mile connector service.
3. **Paratransit Alternative:** services specifically designed to serve customers that qualify for ADA paratransit but exceed the criteria as defined in the ADA paratransit regulations in 49 CFR 37 (<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/part-37-transportation-services-individuals-disabilities>). These services will include in-advance and will-call trip requests.

Examples are:

- i. Utilization of consumer choice model to provide same day service; and
- ii. Providing service to previously certified ADA eligible customers that may not be within a 3/4 mile buffer of a fixed route and eventually offering ADA-eligible customer service citywide.

d. Scopes for Paratransit Service

The Mobility Platform will support paratransit services as follows:

1. Scheduling

- a. The system shall provide the capability to manually override details of scheduled trips where needed to meet ADA standards, including negotiation window.
- b. The system shall notify the dispatch representatives or the customer upon booking when the number of permitted trips for a pre-determined timeline.
- c. The system shall notify the customer service representative upon booking if a customer is approaching the expiration of their eligibility status via a message on website and mobile app, and voice message on the IVR upon booking.
- d. The system shall notify the customer of an approaching expiration date.
- e. The system shall permit the booking of subscription trips.
 - i. The system shall at least provide daily, weekly, and monthly subscription trip booking options.
 - ii. The system shall permit the suspension of subscription trips by entering the start date and end date of the suspension period.
 - iii. The system shall automatically suspend subscription trips on non- service days such as holidays.
 - iv. The system shall notify the customer when a subscription trip has been suspended via a message on website and mobile app, and voice message on the IVR.
 - v. The system shall notify the customer the duration of which a subscription trip has been suspended via a message on website and mobile app, and voice message on the IVR.

- f. The system shall prioritize scheduling of ADA paratransit trips. Also, ADA paratransit trips, once scheduled, shall be anchored (i.e., not modified) during batch or continuous optimization process.
- g. The system shall allow booking of return trip upon customer request and shall automatically fill out the information using the previous original trip information.

2. Operations Management

- a. The system shall allow management of trips in real-time as described. All operations management functions shall strictly follow the guidelines as required for the management of ADA paratransit trips.
- b. The system shall provide the capability to manually override where needed to meet ADA service standards.
- c. The system shall permit manual overriding of trip negotiations when necessary to meet ADA standards.
- d. The system shall automate violation notices issuance upon the day of violation.
- e. The system shall provide a printable version of the automated notice that will include the customers’ mailing address.
- f. The system shall provide a daily report of trip violations where all printable notices will be accessible.

Project Specifications

Gwinnett County requires six parts for the Microtransit/Paratransit technology package including **a.** Project Management; **b.** passenger-facing app with associated web-based platform; **c.** software for trip detail processing and route generation; **d.** on-board technology to direct vehicle operator activity; **e.** data visualization, reports, data access and security; and **f.** support service. Each part of the package has a series of “required” and “encouraged” features/functions listed below. Some technology package aspects are service type specific, “Microtransit only” or “Paratransit only”. As applicable, the phase and tentative timing of some features/functions is referenced, to provide detail as to when the feature/function would be needed. If a phase is not specified, Gwinnett County anticipates the feature/function being required/encouraged from the beginning of the project until the end.

a. Project Management

The vendor shall provide a project manager who serves as the main point of contact for the project and responsible for:

- a. Kick-off meeting
- b. Agreed upon communication protocol
- c. Development of an Implementation Plan and Schedule
- d. Test and Refinement Plan
- e. Onboarding Software/Hardware and Installation Requirements and Plan

b. Passenger-facing app with associated web-based platform

- 1. **Trip planning features and functions with associated web-based platform (all required)**
 - a. Map displayed prominently on the first step in app user experience to enable clear communication about allowable origins and destinations for the Microtransit and Paratransit

service area, including a search function that enables a potential user to check if their origin and destination fall within each respective service area

- b. Statement displayed that the trip will be shared with other people, clarifying that it is not a direct pick-up and drop-off service for individuals
- c. Advance booking, including day prior at a minimum, enabled
- d. Clear details provided on the wait time for pick-up and anticipated drop-off time, with a high level of accuracy based on real-time traffic information, provided prior to booking

2. Trip booking/updates features and functions

- a. Required
 - i. Specific origins and destinations highlighted/flagged on map (e.g., transfer points for fixed route/paratransit/microtransit)
 - ii. Specific origins and destinations prohibited
 - iii. Some origins and destinations “corralled” to specific pick-up/drop-off points (e.g., curbside instead of driveway, specific place within large development/parking lot, and shopping centers with a single address but multiple stores)
 - iv. Ability to book group trips (i.e., trips for two or more people)
 - v. Ability to book trips on behalf of other people (e.g., family member booking on behalf someone who is unable to book for themselves, senior services staff booking on behalf of Gwinnett County seniors)
 - vi. Ability for app user to indicate that they require assistance with mobility devices (e.g., wheelchair lift, on-board securing equipment, etc.) and provide details on what type of assistance is needed
 - vii. Ability for app user to enter special requests of
 - viii. After booking, app user should have real time updates on the location of the vehicle along with an updated wait time for pick-up and an updated anticipated drop-off time
 - ix. Ability to cancel trip within a certain time window with no penalty
 - x. Ability to book a two-leg trip with an origin in the Microtransit area and destination in Paratransit area for only paratransit customers
 - xi. Ability to accept a two-leg trip with an origin in the Paratransit area and destination in Microtransit area for only paratransit customers
 - xii. Ability to provide text/email notification to customers
- b. Encouraged
 - i. Connection, potentially through a web link, to Gwinnett County’s real time fixed route data for ease of booking Microtransit trips that transfer to fixed routes

3. Trip payment features and functions (all required)

- a. Facilitation of on-board trip payment with Breeze Card and Breeze Mobile
 - i. Directing app user to website for Breeze Card and Breeze Mobile reloading and mentioning that Breeze Card and Breeze Mobiles can be purchased/reloaded in transit stations and customer service
- b. Facilitation of on-board trip payment through mobile app
 - i. When the Atlanta regional transit system has payment enabled through a mobile app, vendor will provide connectivity with the new regional mobile payment technology solution as well as any other mobile payment connectivity requested by Gwinnett County.
- c. Technology capability for trip payment included in app, with options for payment by credit card and PayPal with no incurred fees

4. General features and functions (all required)

- a. App user profile with required information including paratransit eligibility (yes/no only, to be verified by Gwinnett County)
- b. App user profile with optional information including age, income level, household size, disability, veteran status, and other details
- c. “White label” app with ability to brand as Gwinnett County’s app without mention of the Microtransit technology provider
- d. App available in online app stores for all mobile devices with Gwinnett County’s “white label” brand
- e. Statement on penalties for no-show passengers will be enabled
- f. Ability for passengers to submit comments, complaints, ratings, and other information through the app/web-based platform, via link to web form to be provided by Gwinnett County

c. Software for trip detail processing and route generation

1. Trip detail features and functions (all required)

- a. Intake of trip details submitted by app users through a technology app, or through a web-based platform, and through a phone-based system managed by Gwinnett County
- b. Intake of trip details submitted through phone-based system managed by Gwinnett County
- c. Intake of trip details to facilitate booking a two-leg trip with an origin in the paratransit area and destination in microtransit area, including coordination with paratransit technology provider which would submit trip details on behalf of paratransit passengers

2. Route generation features and functions

- a. Required
 - i. Real time traffic data from reliable sources (e.g., Waze and Google Maps) integrated into route generation algorithm
 - ii. Route generation on on-demand basis (e.g., trips booked in real time) through algorithm optimized for waiting time and travel time.
 - iii. Ability for routes to deviate outside of the Microtransit area if traffic congestion is better and travel time is reduced as a result
- b. Encouraged
 - i. Route generation on advanced notice basis (e.g., trips booked day prior) through algorithm customized for that specific purpose (i.e., what is traditionally associated with paratransit) and optimized for waiting time and travel time
 - ii. Ability to build in clear time points into the algorithm to support periodic deviations (e.g., on the hour and half hour) from the Microtransit area to the fixed route/paratransit area
 - iii. Ability for software to support an on-time guarantee window

d. On-board technology to direct vehicle operator activity

1. On-board software features and functions (all required)

- i. Ability for vehicle operator to enter time and location data, as well as various notes (potentially with dropdown box of reasons), when they stop for maintenance needs or other purposes like incidents or accidents
- ii. Ability for software to automatically track operator login time and location data when they depart from the transit headquarters, when they start the Microtransit/Paratransit route, when they end the Microtransit/Paratransit route, and when they return to transit headquarters

- iii. Ability for vehicle operator to informally enter anonymized passenger data (e.g., estimated age, trip purpose and disability) for analytical purposes
- iv. Ability for vehicle operator to enter time and location for all pick-ups and drop-offs, in connection with complete trip details from start to finish
- v. Ability for vehicle operator to see in advance if an upcoming passenger will require assistance with mobility devices (e.g., wheelchair lift, on-board securing equipment, etc.)
- vi. Ability for vehicle operator to do on-the-spot trip bookings
- vii. Ability for vehicle operator to see the next few upcoming drop-offs

2. On-board hardware (all required)

- a. Required
 - i. Tablets that run on-board software and support other functions such as updates from headquarters, etc., to be owned in perpetuity by Gwinnett County and complete with holder, protective case, charger/charging cables, and installation if needed (estimated number: 21 for Microtransit/Paratransit vehicles and 3 spares for back-up)
 - ii. Mobile data plan for tablet connection, paid on a monthly basis

e. Data visualization, reports, data access and security

1. Data visualization and reports (all required)

- a. Known current NTD data as well as NTD data required in the future (known current data includes but is not limited to, date, route, vehicle #, revenue and total hours, revenue and total miles, passengers and passenger miles²)
- b. Provide an 'at a glance'/dashboard function that displays reports to Gwinnett County staff with the most critical data, including the data types listed below at a minimum, with the ability to specify custom time periods (across a random week, full month, 2-day period, etc.)
 - i. Common origin and destination hotspots/concentrations by day and time of day, and transfers to transit hubs
 - ii. Percentage of trips booked through app, through phone-based service, and through web based platform
 - iii. Wait time for pick-up for all trips, difference between estimated wait time and actual wait time for all trips (e.g., on-time and not on-time trips)
 - iv. Total travel time (i.e., pick-up to drop-off) for all trips, difference between estimated travel time and actual travel time for all trips
 - v. Trip cancellations and no-show hotspots/concentrations by day and time of day, as well as methods for diagnosis (e.g., increased wait time due to traffic congestion)
 - vi. Payment method (e.g., Breeze Card and Breeze Mobile, cash, or ticket)
 - vii. App user profile information and/or anonymized passenger data informally entered by vehicle operator (e.g., paratransit eligibility, age, income level, household size, disability, veteran status, and others)
 - viii. Mapping of historical routes by day and time of day
 - ix. Mapping of traffic congestion that impacted paths of historical routes by day and time of day
 - x. Mapped data generated by vehicle operator (time and location data when they depart from the transit headquarters, when they start the Microtransit/Paratransit route, when they stop for maintenance needs or other purposes, when they end the

² Vehicles Operated in Maximum Service (VOMS) would only be needed if Gwinnett County is not able to get data at the vehicle # level.

- Microtransit/Paratransit route, and when they return to transit headquarters), including time and location data
- xi. Percentage of passengers requiring assistance with mobility devices (e.g., wheelchair lift, on-board securing equipment, etc.) with details on what type of assistance was needed
 - xii. Percentage of passengers entering special requests with details on types of requests made
 - xiii. Rideshare/shared rides percentage (i.e., percent of vehicle hours with more than one trip/multiple passengers who did not book a “group trip” on a vehicle at the same time, for vehicle hours with no group trips 16.6% = 2 passengers up to 100% = at capacity/12 passengers)
 - xiv. Rideshare/shared ride counts (i.e., all vehicle hours with trip counts, broken down by day and hour with group trips factored in)
 - xv. Key trends including highest single day passenger count and highest single day trip count at a minimum
 - xvi. General information including total passengers carried, total mileage, total trips, average daily passengers, average daily trips, average median and longest wait times, average daily miles driven, average median and longest ride times, passengers per clock hour (broken down into individual vehicles), and passengers/boardings per revenue hour at a minimum (all of the above should be able to be broken down by any time period requested by Gwinnett County))
 - xvii. Operational/efficiency data for each trip including dwell time by stop, paused vehicle time (i.e., vehicles on the road but not accepting trips), deadhead time, revenue time, and other operational/efficiency data
 - xviii. Customer satisfaction data including comments, complaints, ratings, and other information submitted through the app/web-based platform
 - xix. Full data cycle/trip details for each passenger from start to finish (e.g., trip booking, pick-up, drop-off, etc.)
 - xx. Passenger comments, complaints, ratings, and other information submitted through the app along with breakdown of ratings and classification of written feedback for ease of review.
 - xxi. Data indicating the best time for additional vehicle allocation, during established peak times for example, to enable scaling up and down efficiently and proactively. This could include vehicle staging if there is a gap between trip calls.
 - xxii. Data indicating the best time for shift changes, vehicle refueling, and other service needs, during established non-peak times for example, to ensure they minimize service disruption.
- c. Provide ability to create reports including all data listed above, ability to establish set of standard reports (e.g., to process without creating them repeatedly)
 - d. Tracking and displaying specific performance requirements/targets to be determined at a later date that may not be covered above and additional ad hoc reports as needed

2. Data access via direct download/export (all required)

All data listed above should also be available for direct download. Gwinnett County should have ongoing access to all data associated with the Microtransit/Paratransit service outside of the dashboard in easily accessible formats and in an ongoing fashion to facilitate downloading the data anytime without assistance.

All data generated as a result of Microtransit/Paratransit service is and remains the property of Gwinnett County.

- a. Custom data export to CSV format of known current NTD data as well as NTD data required in the future (known current data includes date, route, vehicle #, revenue and total hours, revenue and total miles, passengers and passenger miles)
- b. Full data cycle/trip details for each passenger from start to finish (e.g., trip booking, pick-up, drop-off, etc.)
- c. Passenger comments, complaints, ratings, and other information submitted through the app along with breakdown of ratings and classification of written feedback for ease of review.
- d. Data indicating the best time for additional vehicle allocation, during established peak times for example, to enable scaling up and down efficiently and proactively. This could include vehicle staging if there is a gap between trip calls.
- e. Data indicating the best time for shift changes, vehicle refueling, and other service needs, during established non-peak times for example, to ensure they minimize service disruption.

3. Security for Data and Personal Identifiable Information (PII) (all required)

- a. All user data (includes but is not limited to: user's account, e-mail, contact, payment, mobile app and web platform usage history or other personally identifiable information (PII)) shall be stored, collected and protected in a secure (and if appropriate) encrypted manner and shall comply with all applicable local, federal, and State of Georgia rules and regulations.
- b. Mobile app, web platform, and system backend shall include security measures to protect from virus, cybersecurity threats, malware, etc.

f. Support Services

To support the technology package, the following services are required on an ongoing basis, as needed by Gwinnett County:

1. Training and tech support (all required)

- a. Staff training to ensure staff are well-equipped to run all technology package aspects
- b. Technology support and assistance as issues or questions arise with staff, via phone and email during service hours
- c. End User training and marketing materials

2. Upgrades, maintenance/warranty, and repairs (all required)

- a. Ongoing maintenance as needed, through a warranty or other contractual guarantees
- b. Technology fixes and repairs for all malfunctions and bugs
- c. Contractor must provide upgrades and new features to software it generally makes to licensees
- d. Must provide advance notice for any system/software maintenance or outages that may disrupt/least impact service

Selection Criteria

Emphasis for consideration will be placed upon the related experience of the staff proposed to work on the project, how well the technology provider demonstrates an understanding of the challenges that must be overcome to successfully implement a new Microtransit program, the solutions offered to overcome the challenges, the cost, and proposal format compliance.

This RFP is issued in accordance with the Gwinnett County Policy for the Procurement of Professional Services, Competitive Proposals Selection Method. Therefore, both qualitative factors and price are to be considered; given that price is one of the selection criteria and not the final determinant. An RFP committee will be assigned to review, evaluate, and rank all responsive proposals utilizing an evaluation scoring system.

#	Criteria	Points
Part I		
	Quality and completeness of the proposal	10
	Qualification, experience and reference	20
	Ability to meet the scopes and specification of the project	30
	Project approach	20
Sub-Total		80
Part II		
5	Proposed Cost	10
Total		90
Part III		
6	Optional Interview	10
Total with Interview		100

Part I – Initially, proposals will be evaluated based on their relative responsiveness to criteria 1-4 above and with those point values weighted as shown above.

Part II – Firms may be short-listed for further consideration. The fee schedules of the short-listed firms from Part I will be opened, reviewed and scored. At the discretion of the County, or as deemed in its best interest, firms may be short-listed a second time for an interview/presentation.

Part III – If interviews are necessary for selection, evaluation will be performed and will be worth an additional 0-10 points in the selection process. The number of firms short listed and interviewed will be at the discretion of the selection committee. The consultant will be responsible for any cost associated with the request for an interview.

If, for any reason, the recommended firm(s) cannot execute the contract, the County may select the firm with the second highest score, and so on until a satisfactory agreement has been reached.

Proposal Format

1. Quality and completeness of Proposal

- To facilitate comparative analysis and evaluation of proposals it is desired that a uniform format be employed in structuring each proposal. The vendor's degree of compliance with the requirements of the RFP will be a factor in the evaluation of the proposal. Proposals with major deviations or omissions may not be considered for detailed study.
- Company proposals will become part of the contract with Gwinnett County should they be selected under the RFP. Proposals should be submitted in the format, including heading descriptions as outlined above. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal.
- Pricing worksheets should be in a separate sealed in envelope or other container and delivered with the RFP response.
- Proposers should note the following specifications regarding the Proposal:
- Marketing materials should not be submitted as documentation of the bidder's ability to provide services.
- Sections should be tabbed and pages numbered consecutively for ease of review.
- Each question or statement should be reprinted in its entirety and followed by the response.
- If a question is not applicable or if there is no answer, so state.
- With respect to preparing proposals, it is imperative that proposers respond to each question and provide the requested information as per this RFP. Additionally, the County prefers responses that exhibit the following characteristics:
 - Simple, clear and concise responses (Note: brevity in response is strongly preferred but not at the expense of substance)
 - Full/total costs disclosed (in separate envelope)
 - Willingness to work as part of a team along with the County
- Vendors may include anything unique in their proposed solution which they feel adds value to the products and services provided to Gwinnett County. These value additions must be explained, justified, and priced separately in the proposal.

2. Qualifications, Experience, and Reference (limited to 20 pages)

a. Company Background

- Company history including date established, the type of ownership, size of the organization, years in business.

b. Qualification

- Qualification of the firm.
- Organizational chart
- Vision and mission of the company
- Areas of expertise in transit related software development
- resumes of the key personnel (including a project manager, developer, etc.)

c. Experience

- Detailed information of years of experience in transit related software/ or Microtransit technology development, including the name, size, year and cost of the software system developed

- list and explain all incidents within the last three (3) years wherein a contract was terminated prior to completion. Technology providers must list all lawsuits in which the technology provider and a customer were parties within the last five (5) years.
- d. Reference**
- A minimum of five public sector clients from projects of a similar scope. Complete using the customer reference forms.
- e. Financial Stability**
- Demonstration of the feasibility of operations and financial stability (sufficient cash liquidity to fund payroll and other expenses for a period of at least three (3) months).

3. Ability to meet the scopes and specification of the project

Complete six tables in the Appendix 2 to indicate if the specifications explained for the six parts of the Microtransit/Paratransit technology package and support services can be met (i.e., yes, no, and maybe for both “required” and “encouraged” features/functions). If “maybe” is indicated, then explain in detail within the proposal why maybe was selected, as opposed to yes or no. The six parts for the Microtransit/Paratransit technology package include **a.** Project Management; **b.** passenger-facing app with associated web-based platform; **c.** software for trip detail processing and route generation; **d.** on-board technology to direct vehicle operator activity; **e.** data visualization, reports, data access and security; and **f.** support service.

4. Project Approach (Limited to 10 pages)

Provide responses to the following questions/statements:

- Describe how testing would be conducted to better understand opportunities for the expansion of Microtransit/Paratransit operations.
- Regarding Microtransit integration with ADA paratransit specifically, describe how integration would be conducted to better understand opportunities.
- If the paratransit area added to the Microtransit areas for one demand-response/on-demand area, would the Microtransit software potentially be able to meet the legal obligations for wait times for the pick-up and drop-off windows required by the Americans with Disabilities Act (ADA)? Or is that unlikely? Explain key factors or dependencies in understanding this issue, as relevant.
- Explain how ongoing training and tech support for the technology package would be handled.
- Explain how ongoing upgrades, maintenance, and repairs for the technology package would be handled.
- Provide examples of successful integration and partnerships of other functions and features into the mobile app. (i.e., mobile payment provided by another app).

5. Proposed Costs

Gwinnett County requires that the Vendors complete the provided Cost Schedule, located on Page 22. Costs for all products and services proposed should be submitted on the form provided. Vendor shall hold firm terms and pricing for at least 12 months from the date of contract award.

- Implementation costs and services shall cover all costs, including direct and overhead expenses. Travel, per diem, Initial Purchase and Implementation, System design and configuration, installation, system testing and refinement, training and Marketing, and all hardware/software and any other miscellaneous costs should be included in this figure.

- **The Cost schedule should be delivered in a sealed container, such as an envelope, separate from the technical RFP response.**

Integration of Microtransit into Transit System

Gwinnett County is working on the integration of Microtransit into its existing transit system in four primary areas. While the phases of Microtransit operations are fairly established, there is ambiguity regarding how much integration across each of the four areas is feasible. Gwinnett County's goal is to reach the maximum amount of integration possible in each phase, and the County will work with the Microtransit technology provider to understand what is feasible for each phase and plan integration implementation appropriately.

Based on integrations described below, Gwinnett County would anticipate new features to be designed into the Microtransit technology, if it does not already have the features included. Such features would not only benefit Gwinnett County, but other transit agencies seeking increasingly integrated Microtransit as it becomes a mature service offered within a transit agency's wider mobility offering.

Once the Microtransit program is operational, Microtransit and ADA paratransit will be the two services within Gwinnett County's transit system that provide demand-response options.

The current differences between the two in Gwinnett County primarily relate to technology and target populations.

- **Technology** – Microtransit requires at least three parts for its technology package including a passenger-facing app to book trips, software for intake of origins/destinations and real time route generation, and on-board technology to direct vehicle operator activity. ADA paratransit currently requires only two parts for its technology package including software for intake of origins/destinations and route generation based on prior bookings (up to 7 days in advance) as well as on-board technology to direct vehicle operator activity. ADA paratransit currently has no passenger-facing app to book trips; currently only phone calls facilitate trip booking. It is also critical to acknowledge the difference between real time route generation (for Microtransit) and route generation based on prior bookings (for ADA paratransit). While both types of software platforms perform a route generation function, one is customized for prior bookings, while another is customized real time bookings. The former would generate routes based off of fully known information (i.e., all the origins and destinations called in the day prior or up to 7 days in advance), while the latter would generate routes based off of much more limited information (i.e., trips coming in real time). For real time trips, while patterns can be analyzed over time, it is not possible to predict all the origins and destinations that will be requested during the day. In a sense, the paratransit software has the potential to generate truly optimal routes, since all origins and destinations are known in advance. In contrast, the Microtransit software operates in a much more dynamic environment, responding on an ongoing basis to incoming information. Therefore, while both platforms perform a route generation function, they each generate routes depending on the timing of incoming information which means they are custom built for different environments (i.e., advanced or real time trip booking). This is not to say that some route generation software packages could not perform well in both advanced and real time trip booking environments; it is possible that some route generation software solutions have been designed with both contexts in mind.
- **Target populations** - In Gwinnett County, Microtransit is provided for the general population, while ADA paratransit is provided only for passengers with disabilities. Further, ADA paratransit is required to serve as a "complementary" service to fixed routes, and the details of its operation are governed by the US Department of Transportation's ADA regulation, 49 CFR §37.129(a). For passengers who become eligible, transit agencies must provide an unlimited number of trips to any location in the service area. In short, ADA paratransit has a number of requirements that do not necessarily apply to Microtransit service.

The current similarities between the two primarily relate to vehicles and staff.

- **Vehicles** - The same 12-passenger vehicles are used to provide both Microtransit and ADA paratransit service. This enables efficiencies for procurement, daily use, and replacement.
- **Staff** - Gwinnett County has a contractor that supports daily transit operations. A portion of the contracted staff has been focused on ADA paratransit service over the years. During the Microtransit pilot that was in operation from September 2018 through April 2019, the skills of the ADA paratransit staff were translated to Microtransit service with promising results. It is the intent of Gwinnett County to leverage the ADA paratransit staff for the Microtransit program as it scales up, potentially training and adding additional staff members to the group.

Though the differences between Microtransit and ADA paratransit are significant, it is Gwinnett County's intent to integrate the two as much as is feasible, given the contrast between technology packages and target populations in particular. As explained under "multiple phases of Microtransit operations," Phase 2 is the first time that transfers would be facilitated between Microtransit and ADA paratransit, which is the first real opportunity to integrate Microtransit and ADA paratransit. In preparation for Phase 2, Gwinnett County anticipates working with the Microtransit technology provider to create various tests that would run during Phase 1 to experiment with various integration options, potentially with a small group of paratransit passengers who are supportive of Microtransit and willing to be involved in the testing process. Even more integration with ADA paratransit is possible during Phase 3. The Microtransit technology provider would work with Gwinnett County to assess what level of ADA paratransit integration is feasible during Phase 2 and Phase 3, based on the results from tests that ran during Phase 1.

Gwinnett County has analyzed multiple options for ADA paratransit integration during Q1 and Q2 2019. Put simply, one option is to connect Microtransit and ADA paratransit primarily to facilitate transfer for paratransit passengers but keeping some operational aspects between Microtransit and ADA paratransit separate. ADA paratransit would run on one software platform supported with phone-based, advanced booking, separated from Microtransit running on another software platform and supported with real time, app-based booking. This option would require a significant amount of coordination with the paratransit technology provider to facilitate multiple legs of a demand-response trip – a paratransit leg followed by a Microtransit leg in one direction, for example, and a Microtransit leg followed by a paratransit leg in the other.

Another option is to merge Microtransit and ADA paratransit operations to the fullest extent. This option could involve ADA paratransit becoming provided on an on-demand basis, along with Microtransit. Gwinnett County is aware that this option could result in generating more demand for ADA paratransit and is open to committing more resources to manage the increase in demand.

Gwinnett County would welcome recommendations by the technology provider for more effective and efficient paratransit and Microtransit integration solutions including operational solutions and others.

Fare payment

Gwinnett County intends to charge for Microtransit trips in accordance with its current fare structure. For instance, Microtransit trip fares may be the same as paratransit trip fares and incorporated to the monthly pass and regional transit fare system just as paratransit trips are currently. While an option to pay for Microtransit trips directly through the passenger-facing app may be utilized, it is more likely that fare payment for Microtransit trips would be facilitated through Gwinnett County's centralized fare payment for the entire transit system (i.e., Breeze fare payment system). Therefore, while the passenger-facing app would facilitate

Microtransit trip booking, it should direct users to the Breeze fare payment system.³ Passengers would be able to transfer between Microtransit and ADA paratransit at no cost, but when a passenger transfers from fixed route to Microtransit they would need to pay the difference between the two fares. Payment for Microtransit trips would be facilitated at the farebox with cash and Breeze Card and Breeze Mobile. Regional mobile fare payments with Breeze are anticipated in the next few years in the Atlanta region, and Microtransit integration with the Breeze mobile system would be anticipated.

National Transit Database (NTD) reporting

NTD requires reporting for all demand-response trips provided by transit agencies. This reporting includes the total trips provided as well as trips per revenue hour and trips per vehicle hour. Though NTD has not laid out specific Microtransit reporting requirements, it is anticipated that they will at some point in the future. In the meantime, NTD requires reporting of Microtransit as demand-response trips. Gwinnett County anticipates that the Microtransit technology provider will adhere to the reporting requirements NTD has, currently and in the future. Gwinnett County also anticipates that the Microtransit technology provider will work with the NTD reporting software provider to ensure NTD data collection requirements (i.e., data types) are met, and that the Microtransit technology platform will generate data in the formats required to facilitate the automated data transfer process to the NTD reporting software (i.e., data formats).

³ www.breezecard.com, <https://www.gwinnettcountry.com/web/gwinnett/Departments/Transportation/GwinnettCountyTransit/PassesandTickets>



Bid # & Description RP013-23, Provision of Microtransit Technology Package and Support Services on an Annual Contract Page 18

CODE OF ETHICS AFFIDAVIT

PLEASE RETURN THIS FORM COMPLETED WITH YOUR SUBMITTAL. SUBMITTED FORMS ARE REQUIRED PRIOR TO EVALUATION.

In accordance with Section 54-33 of the Gwinnett County Code of Ordinances the undersigned bidder/proposer makes the following full and complete disclosure under oath, to the best of their knowledge, of the name(s) of all elected officials whom it employs or who have a direct or indirect pecuniary interest in or with the bidder/proposer, its affiliates or its subcontractors:

1. _____
Company Submitting Bid/Proposal

2. Please select one of the following:

- No information to disclose (*complete only section 4 below*)
- Disclosed information below (*complete section 3 & section 4 below*)

3. If additional space is required, please attach list:

Gwinnett County Elected Official Name

Gwinnett County Elected Official Name

Gwinnett County Elected Official Name

Gwinnett County Elected Official Name

4. BY: _____
Authorized Officer or Agent Signature

Sworn to and subscribed before me this

Printed Name of Authorized Officer or Agent

_____ day of _____, 20____

Title of Authorized Officer or Agent of Contractor

Notary Public

(seal)

Note: See Gwinnett County Code of Ethics Ordinance EO2011, Sec. 54-33. The ordinance will be available to view in its' entirety at **GwinnettCounty.com**



Solicitation Name & No. RP013-23, Provision of Microtransit Technology Package and Support Services on an Annual Contract Page 19

**CONTRACTOR AFFIDAVIT AND AGREEMENT
(THIS FORM SHOULD BE FULLY COMPLETED AND RETURNED WITH YOUR SUBMITTAL)**

By executing this affidavit, the undersigned contractor verifies its compliance with The Illegal Immigration Reform Enhancements for 2013, stating affirmatively that the individual, firm, or corporation which is contracting with the Gwinnett County Board of Commissioners has registered with and is participating in a federal work authorization program* [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security] to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act, in accordance with the applicability provisions and deadlines established therein.

The undersigned further agrees that, should it employ or contract with any subcontractor(s) in connection with the physical performance of services or the performance of labor pursuant to this contract with the Gwinnett County Board of Commissioners, contractor will secure from such subcontractor(s) similar verification of compliance with the Illegal Immigration Reform and Enforcement Act on the Subcontractor Affidavit provided in Rule 300-10-01-08 or a substantially similar form. Contractor further agrees to maintain records of such compliance and provide a copy of each such verification to the Gwinnett County Board of Commissioners at the time the subcontractor(s) is retained to perform such service.

E-Verify * User Identification Number Date Registered

Legal Company Name

Street Address

City/State/Zip Code

BY: _____
Authorized Officer or Agent Date
(Contractor Signature)

Title of Authorized Officer or Agent of Contractor

Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
_____ DAY OF _____, 20_____

For Gwinnett County Use Only:

Document ID # _____

Issue Date: _____

Initials: _____

Notary Public
My Commission Expires: _____

* As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is "E-Verify" operated by the U.S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

FIRM INFORMATION

This should be submitted with vendors technical proposal NOT the Cost Schedule

The undersigned acknowledges receipt of the following addenda, listed by number and date appearing on each:

Addendum No.	Date	Addendum No.	Date
_____	_____	_____	_____

Certification Of Non-Collusion in Proposal Preparation _____
 (Signature) (Date)

In compliance with the attached specifications, the undersigned acknowledges all requirements outlined in the "Instructions to Proposers" and all documents referred to therein. offers and agrees, if this proposal is accepted by the Board of Commissioners within one hundred twenty (120) days of the date of proposal opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, delivered to the designated point(s) within the time specified in the fee schedule.

Legal Business Name _____

Federal Tax ID _____

Address _____

Does your company currently have a location within Gwinnett County? Yes No

Representative Signature _____

Print Authorized Representative's Name _____

Telephone Number _____ Fax Number _____

E-Mail Address _____

Contact Person (if someone other than the authorized representative listed above) _____

Telephone Number _____ Fax Number _____

E-Mail Address _____

FAILURE TO RETURN THIS PAGE AS PART OF YOUR BID DOCUMENT MAY RESULT IN REJECTION OF BID.

REFERENCES

Gwinnett County requests a minimum of five (5) references where work of a similar size and scope has been completed.

Note: References should be customized for each project, rather than submitting the same set of references for every project bid. The references listed should be of similar size and scope of the project being bid on. Do not submit a project list in lieu of this form.

1. Company Name _____
 Brief Description of Project _____
 Completion Date _____
 Contract Amount \$ _____ Start Dates _____
 Contact Person _____ Telephone _____
 E-Mail Address _____

2. Company Name _____
 Brief Description of Project _____
 Completion Date _____
 Contract Amount \$ _____ Start Date _____
 Contact Person _____ Telephone _____
 E-Mail Address _____

3. Company Name _____
 Brief Description of Project _____
 Completion Date _____
 Contract Amount \$ _____ Start Date _____
 Contact Person _____ Telephone _____
 E-Mail Address _____

Company Name _____

Cost Schedule

(to be submitted in a separate sealed envelope)

Item #	Description	Lump Sum Cost
1	Lump sum/one time cost for Initial Purchase and Implementation to include System design and configuration, installation, system testing and refinement, training and Marketing, and all hardware/software	\$
2	1 year of support and maintenance	\$
Total		\$

Gwinnett County requires pricing to remain firm for the duration of the initial term of the contract. Failure to hold firm pricing for the initial term of the contract will be sufficient cause for Gwinnett County to declare proposal non-responsive. Unless otherwise noted below, quoted prices will remain firm for four (4) additional one-year renewal periods. **Line item 1 is a one-time lump sum amount renewal will apply line item 2 only.**

Increase/Decrease for Renewal Option 1 _____% Increase / Decrease (**circle one**)
 Increase/Decrease for Renewal Option 2 _____% Increase / Decrease (**circle one**)
 Increase/Decrease for Renewal Option 3 _____% Increase / Decrease (**circle one**)
 Increase/Decrease for Renewal Option 4 _____% Increase / Decrease (**circle one**)

Certification Of Non-Collusion in Bid Preparation _____
(Signature) (Date)

In compliance with the attached specifications, the undersigned offers and agrees, if this quote is accepted by the Board of Commissioners within one hundred and twenty (120) days of the date of quote opening, to furnish any or all of the items upon which prices are quoted, at the price set opposite each item, delivered to the designated point(s) within the time specified in the quote schedule. By submission of this quote, I understand that Gwinnett County uses Electronic Payments for remittance of goods and services. Vendors should select their preferred method of electronic payment upon notice of award. For more information on electronic payments, please refer to the [Electronic Payment](#) information in the instructions to bidders.

Legal Business Name _____

Federal Tax ID _____

Address _____

Does your company currently have a location within Gwinnett County? Yes No

Representative Signature _____

Print Authorized Representative's Name _____

Telephone Number _____

Email Address _____

Contact Person (if someone other than the authorized representative listed above) _____

Telephone Number _____ Email Address _____

Gwinnett County requires that all Contracts between parties be entered into via the following documents. If any exceptions are taken to any part of this document, each must be stated in detail and submitted as part of your proposal/bid document. If no exceptions are noted, it is assumed that the party fully agrees to the contract in its entirety. Exceptions to the sample contract provided in this request for proposal will be considered in terms of responsiveness when making award.

“SAMPLE”
<<DESCRIPTION>>
ANNUAL CONSULTANT CONTRACT

This **AGREEMENT** made and entered into this _____ day of _____, 20____ by and between Gwinnett County , Georgia (Party of the First Part, hereinafter called the County), and _____, (Party of the Second Part, hereinafter called the Consultant)

NOW THEREFORE, for and in consideration of the mutual promises and obligations contained herein and under the conditions hereinafter set forth, the parties do hereby agree as follows:

1. TERM:

This contract shall commence _____ , for a one year period with one option to renew for an additional one year period.

2. ATTACHMENTS:

This Contract shall consist of the Service Provider's bid/proposal and all Invitations to Bid/Proposals including all drawings, specifications, price lists, Instructions to Bidders, General Conditions, Special Provisions, Detailed Specifications, addenda, and change orders issued after execution of the Contract (hereinafter collectively referred to as the "Bid"), which are specifically incorporated herein by reference (Exhibit A). In the event of a conflict between the contract documents and the Service Provider's bid/proposal, the County's contract documents shall control.

3. PERFORMANCE:

Consultant agrees to furnish all skill and labor of every description necessary to carry out and complete in good, firm and substantial, workmanlike manner, the work specified, in strict conformity with the Bid Proposal.

4. PRICE:

As full compensation for the performance of this Contract, the Owner shall pay the Consultant for the actual quantity of work performed. The fees for the work to be performed under this agreement shall be charged to the Owner in accordance with the rate schedule referenced in the Bid Proposal (Exhibit A) is the total obligation of the County pursuant to OCGA section 36-60-13 (a) (3). The Owner agrees to pay the Consultant following receipt by the Owner of a detailed invoice, reflecting the actual work performed by the Consultant.

5. INDEMNIFICATION AND HOLD HARMLESS:

CONSULTANT agrees to protect, defend, indemnify, and hold harmless the COUNTY, its commissioners, officers, agents and employees from and against any and all liability, damages, claims, suits, liens, and judgments, for whatever nature, including claims for contribution and/or indemnification, for injuries to or death of any person or persons, or damage to the property or other rights of any person or persons to the extent arising out of and attributed to the negligent acts, errors or omissions of the CONSULTANT. CONSULTANT's obligation to protect, defend, indemnify, and hold harmless, as set forth hereinabove shall

include any matter arising out of any patent, trademark, copyright, or service mark, or any actual or alleged unfair competition disparagement of product or service, or other business tort of any type whatsoever, or any actual or alleged violation of trade regulations.

CONSULTANT further agrees to protect, defend, indemnify, and hold harmless the COUNTY, its commissioners, officers, agents, and employees from and against any and all claims or liability for compensation under the Worker's Compensation Act arising out of injuries sustained by any employee of the CONSULTANT.

6. TERMINATION FOR CAUSE:

The County may terminate this agreement for cause upon ten (10) days prior written notice to the Consultant of the Consultant's default in the performance of any term of this Agreement. Such termination shall be without prejudice to any of the County's rights or remedies provided by law.

7. TERMINATION FOR CONVENIENCE:

The County may terminate this Agreement for its convenience at any time upon 30 days written notice to the Consultant. In the event of the County's termination of this Agreement for convenience, the Consultant will be paid for those services actually performed. Partially completed performance of the Agreement will be compensated based upon a signed statement of completion to be submitted by the Consultant, which shall itemize each element of performance.

8. AGREEMENT NOT TO DISCRIMINATE:

During the performance of this Contract, the Consultant will not discriminate against any employee or applicant for employment because of race, creed, color, sex, national origin, age, or disability, which does not preclude the applicant or employee from performing the essential functions of the position. The Consultant will also, in all solicitations or advertisements for employees placed by qualified applicants, consider the same without regard to race, creed, color, sex, national origin, age, or disability which does not preclude the applicant from performing the essential functions of the job. The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provision will be binding upon each subconsultant, providing that the foregoing provisions shall not apply to contracts or subconsultants for standard commercial supplies of raw materials.

9. ASSIGNMENT:

The Consultant shall not sublet, assign, transfer, pledge, convey, sell or otherwise dispose of the whole or any part of this Contract or his right, title, or interest therein to any person, firm, or corporation without the previous consent of the Owner in writing.

10. WAIVER:

A waiver by either party of any breach of any provision, term, covenant, or condition of this agreement shall not be deemed a waiver of any subsequent breach of the same or any other provision, term, covenant, or condition.

11. SEVERABILITY:

The parties agree that each of the provisions included in this agreement is separate, distinct and severable from the other and remaining provisions of this agreement, and that the invalidity of any agreement provision shall not affect the validity of any other provision or provisions of this agreement.

12. GOVERNING LAW:

The parties agree that this agreement shall be governed and construed in accordance with the laws of the State of Georgia. This agreement has been signed in Gwinnett County, Georgia.

13. MERGER CLAUSE:

The parties agree that the terms of this agreement include the entire agreement between the parties, and as such, shall exclusively bind the parties. No other representations, either oral or written, may be used to contradict the terms of this agreement.

(Signature Next Page)

IN WITNESS WHEREOF, the parties hereto, acting through their duly authorized agents, have caused this **AGREEMENT** to be signed, sealed and delivered.

GWINNETT COUNTY, GEORGIA

By: _____
Nicole L. Hendrickson, Chairwoman
Gwinnett County Board of Commissioners
ATTEST:

Signature

Tina King, County Clerk
Board of Commissioners

APPROVED AS TO FORM:

Signature
Gwinnett County Staff Attorney

CONSULTANT: _____

BY: _____
Signature

Print Name

Title

ATTEST:

Signature

Print Name
Corporate Secretary

(Seal)

PROFESSIONAL SERVICES INSURANCE REQUIREMENTS

(For projects less than \$5,000,000)

1. Statutory Workers' Compensation Insurance
 - (a) Employers Liability:
 - ✓ Bodily Injury by Accident - \$100,000 each accident
 - ✓ Bodily Injury by Disease - \$500,000 policy limit
 - ✓ Bodily Injury by Disease - \$100,000 each employee

2. Commercial General Liability Insurance
 - (a) \$1,000,000 limit of liability per occurrence for bodily injury and property damage
 - (b) The following additional coverage must apply:
 - ✓ 1986 (or later) ISO Commercial General Liability Form
 - ✓ Dedicated Limits per Project Site or Location (CG 25 03 or CG 25 04)
 - ✓ Additional Insured Endorsement (Form B CG 20 10 with a modification for completed operations or a separate endorsement covering Completed Operations)
 - ✓ Blanket Contractual Liability
 - ✓ Broad Form Property Damage
 - ✓ Severability of Interest
 - ✓ Underground, explosion, and collapse coverage
 - ✓ Personal Injury (deleting both contractual and employee exclusions)
 - ✓ Incidental Medical Malpractice
 - ✓ Hostile Fire Pollution Wording

3. Auto Liability Insurance
 - (a) \$500,000 limit of liability per occurrence for bodily injury and property damage
 - (b) Comprehensive form covering all owned, nonowned, leased, hired, and borrowed vehicles
 - (c) Additional Insured Endorsement
 - (d) Contractual Liability

4. Professional Liability Insurance - \$1,000,000 (project specific for the Gwinnett County project) limit of liability per claim/aggregate or a limit of \$1,000,000 per occurrence and \$2,000,000 aggregate or a claim/aggregate limit of \$3,000,000 per occurrence and \$3,000,000 aggregate.
 - ✓ Insurance company must be authorized to do business in the State of Georgia.
 - ✓ Dedicated Limits per Project Site or Location (CG 25 03 or CG 25 04 or some other form)

5. Gwinnett County Board of Commissioners (and any applicable Authority) should be shown as an additional insured on General Liability and Auto Liability policies.

6. The cancellation should provide 10 days notice for nonpayment and 30 days notice of cancellation.

7. Certificate Holder should read:
 - Gwinnett County Board of Commissioners
 - 75 Langley Drive
 - Lawrenceville, GA 30046-6935

8. Insurance Company, except Worker' Compensation carrier, must have an A.M. Best Rating of A-5 or higher. Certain Workers' Comp funds may be acceptable by the approval of the Insurance Unit. European markets including those based in London and domestic surplus lines markets that operate on a non-admitted basis are exempt from this requirement provided that the contractor's broker/agent can provide financial data to establish that a market is equal to or exceeds the financial strengths associated with the A.M. Best's rating of A-5 or better.

9. Insurance Company should be licensed to do business by the Georgia Department of Insurance.

*See above note regarding Professional Liability

10. Certificates of Insurance, and any subsequent renewals, must reference specific bid/contract by project name and project/bid number.
11. The Contractor shall agree to provide complete certified copies of current insurance policy (ies) or a certified letter from the insurance company (ies) if requested by the County to verify the compliance with these insurance requirements.
12. All insurance coverages required to be provided by the Contractor will be primary over any insurance program carried by the County.
13. Contractor shall incorporate a copy of the insurance requirements as herein provided in each and every subcontract with each and every Subcontractor in any tier, and shall require each and every Subcontractor of any tier to comply with all such requirements. Contractor agrees that if for any reason Subcontractor fails to procure and maintain insurance as required, all such required Insurance shall be procured and maintained by Contractor at Contractor's expense.
14. No Contractor or Subcontractor shall commence any work of any kind under this Contract until all insurance requirements contained in this Contract have been complied with and until evidence of such compliance satisfactory to Gwinnett County as to form and content has been filed with Gwinnett County. **The Acord Certificate of Insurance or a preapproved substitute is the required form in all cases where reference is made to a Certificate of Insurance or an approved substitute.**
15. The Contractor shall agree to waive all rights of subrogation against the County, the Board of Commissioners, its officers, officials, employees, and volunteers from losses arising from work performed by the contractor for the County.
16. Special Form Contractors' Equipment and Contents Insurance covering owned, used, and leased equipment, tools, supplies, and contents required to perform the services called for in the Contract. The coverage must be on a replacement cost basis. The County will be included as a Loss Payee in this coverage for County owned equipment, tools, supplies, and contents.
17. The Contractor shall make available to the County, through its records or records of their insurer, information regarding a specific claim related to any County project. Any loss run information available from the contractor or their insurer relating to a County project will be made available to the county upon their request.
18. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all Subcontractors of their liability provisions of the Contract.
19. The Contractor and all Subcontractors are to comply with the Occupational Safety and Health Act of 1970, Public Law 91-956, and any other laws that may apply to this Contract.
20. The Contractor shall at a minimum apply risk management practices accepted by the contractors' industry.

Surety Bonds (If Required)

All of the surety requirements will stay the same except the Surety Company must have the same rating as item 8 above.

**GWINNETT COUNTY
DEPARTMENT OF FINANCIAL SERVICES – PURCHASING DIVISION**

GENERAL INSTRUCTIONS FOR VENDORS, TERMS AND CONDITIONS

*****ATTENTION*****

FAILURE TO RETURN THE FOLLOWING DOCUMENTS MAY RESULT IN SUBMITTAL BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. THE COUNTY SHALL BE THE SOLE DETERMINANT OF TECHNICALITY VS. NON-RESPONSIVE SUBMITTAL:

1. FAILURE TO USE COUNTY QUOTE/BID/FEE SCHEDULE.
2. FAILURE TO RETURN OR ACKNOWLEDGE APPLICABLE COMPLIANCE/SPECIFICATION SHEETS.
3. FAILURE TO RETURN OR ACKNOWLEDGE APPLICABLE ADDENDA.
4. FAILURE TO PROVIDE INFORMATION ON ALTERNATES OR EQUIVALENTS.
5. FAILURE TO PROVIDE BID BOND, WHEN REQUIRED, WILL RESULT IN SUBMITTAL BEING DEEMED NON-RESPONSIVE AND AUTOMATIC REJECTION. BID BONDS ARE NOT REQUIRED ON ALL SOLICITATIONS. BOND REQUIREMENTS ARE CLEARLY STATED ON THE INVITATION PAGE. IF CLARIFICATION IS NEEDED, CONTACT THE PURCHASING ASSOCIATE LISTED IN THE INVITATION. **IF BONDS ARE REQUIRED, FORMS WILL BE PROVIDED IN THIS SOLICITATION DOCUMENT.**
6. FAILURE TO PROVIDE CONTRACTOR AFFIDAVIT AND AGREEMENT, WHEN REQUIRED, MAY RESULT IN SUBMITTAL BEING DEEMED NON-RESPONSIVE AND REJECTED. THE CONTRACTOR AFFIDAVIT AND AGREEMENT IS NOT REQUIRED ON ALL SOLICITATIONS. IF CLARIFICATION IS NEEDED, CONTACT THE PURCHASING ASSOCIATE LISTED IN THE INVITATION.
7. FAILURE TO PROVIDE AN ETHICS AFFIDAVIT WHEN REQUIRED, MAY RESULT IN SUBMITTAL BEING DEEMED NON-RESPONSIVE AND REJECTED. THE ETHICS AFFIDAVIT IS REQUIRED ON ALL FORMAL SOLICITATIONS OVER \$100,000.00. IF CLARIFICATION IS NEEDED, CONTACT THE PURCHASING ASSOCIATE LISTED IN THE INVITATION.

I. PREPARATION OF SUBMITTAL

- A. Each vendor shall examine the drawings, specifications, schedule, and all instructions. Failure to do so will be at the vendor's risk, as the vendor will be held accountable for their submittal.
- B. Each vendor shall furnish all information required by the solicitation form or document. Each vendor shall sign the submittal and print or type his or her name on the quote/bid/fee schedule. The person signing the submittal should initial erasures or other changes. An authorized agent of the vendor must sign the submittal.
- C. Fee schedule pricing should have only two decimal places unless otherwise stated. In the event of a calculation error in total price, the unit pricing prevails.
- D. Except for solicitations for the sale of real property, individuals, firms, and businesses seeking an award of a Gwinnett County contract may not initiate or continue any verbal or written communications regarding a solicitation with any County officer, elected official, employee, or other County representative other than the Purchasing Associate named in the solicitation between the date of the issuance of the solicitation and the date of the final award. The Purchasing Director will review violations. If determined that such communication has compromised the competitive process, the offer submitted by the individual, firm or business may be disqualified from consideration for award. Solicitations for the sale of real property may allow for verbal or written communications with the appropriate Gwinnett County representative.
- E. Sample contracts (if pertinent) are attached. These do NOT have to be filled out with the submittal but are contained for informational purposes only. If awarded, the successful vendor(s) will be required to execute these documents prior to County execution.
- F. Effective July 1, 2013 and in accordance with the Georgia Illegal Immigration Reform Enhancements for 2013, an original signed, notarized and fully completed Contractor Affidavit and Agreement should be included with vendor's submittal, if the solicitation is for the physical performance of services for all labor or service contract(s) that exceed \$2,499.99 (except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia). Failure to provide the Contractor Affidavit and Agreement with your submittal may result in being deemed non-responsive and automatic rejection.

II. DELIVERY

- A. Each vendor should state time of proposed delivery of goods or services.
- B. Words such as "immediate," "as soon as possible," etc. should not be used. The known earliest date or the minimum number of calendar days required after receipt of order (delivery A.R.O.) should be stated. If calendar days are used, include Saturday, Sunday, and holidays in the number.

III. EXPLANATION TO VENDORS

Any explanation desired by a vendor regarding the meaning or interpretation of the solicitation, drawings, specifications, etc. must be requested by the question cutoff deadline stated in the solicitation for a reply to reach all vendors before the deadline of the solicitation. Any information given to a prospective vendor concerning a solicitation will be furnished to all prospective vendors as an addendum to the solicitation if such information is necessary or if the lack of such information would be prejudicial to uninformed vendors. The written solicitation documents supersede any verbal or written communications between the parties. Receipt of addenda should be acknowledged in the submittal. **It**

is the vendor's responsibility to ensure they have all applicable addenda prior to their submittal. This may be accomplished by contacting the assigned Purchasing Associate prior to the submittal or visiting the Gwinnett County website.

IV. SUBMISSION OF FORMAL OFFERS/SUBMITTALS

- A. Formal bid and proposal submittals shall be enclosed in a sealed package or envelope, addressed to the Gwinnett County Purchasing Division with the name of the vendor, the date and hour of opening and the solicitation number on the face of the package or envelope. Facsimile or emailed submittals will not be considered. Any addenda should be enclosed in the sealed envelopes as well.
- B. ADD/DEDUCT: Add or deduct amounts indicated on the outside of the envelope are allowed and will be applied to the lump sum amount. Amount shall be clearly stated and should be initialed by an authorized representative.
- C. Samples of items, when required, must be submitted within the time specified and, unless otherwise specified by the County, at no expense to the County. Unless otherwise specified, samples will be returned at the vendor's request and expense, if items are not destroyed by testing.
- D. Items offered must meet required specifications and must be of a quality that will adequately serve the use and purpose for which intended.
- E. Full identification of each item submitted, including brand name, model, catalog number, etc. must be furnished to identify exactly what the vendor is offering. Manufacturer's literature may be furnished but vendor should not submit excessive marketing material.
- F. The vendor must certify that items to be furnished are new and that the quality has not deteriorated to impair its usefulness.
- G. Unsigned submittals will not be considered except in cases where it is enclosed with other documents that have been signed. The County will determine acceptability in these cases.
- H. Gwinnett County is exempt from federal excise tax and Georgia sales tax regarding goods and services purchased directly by Gwinnett County. Vendors are responsible for federal excise tax and sales tax, including taxes for materials incorporated in county construction projects. Vendors should contact the State of Georgia Sales Tax Division for additional information. Agreements where there is a cost-plus mark-up, mark-up will not be paid on taxes.
- I. Information submitted by a vendor in the solicitation process shall be subject to disclosure after the public opening in accordance with the Georgia Open Records Act.

V. WITHDRAWAL DUE TO ERRORS

Vendors must give Gwinnett County Purchasing Division written notice within two (2) business days of completion of the opening stating that they wish to withdraw their submittal without penalty for an obvious clerical or calculation error. Submittal may be withdrawn from consideration if the price was substantially lower than the other submittals due solely to a mistake therein, provided pricing was submitted in good faith, and the mistake was a clerical mistake as opposed to a judgment mistake and was due to an unintentional arithmetic error or an unintentional omission of a quantity of work, labor or material made directly in the compilation of the submittal. The unintentional arithmetic error or omission

can be clearly proven through inspection of the original work papers, documents, and materials used in preparing the submittal sought to be withdrawn. The vendor's original work papers shall be the sole acceptable evidence of error and mistake if a vendor elects to withdraw their submittal. If a quote or bid submittal is withdrawn under the authority of this provision, the lowest remaining responsive offer shall be deemed to be low bid.

No vendor who is permitted to withdraw their submittal shall, for compensation, supply any material or labor or perform any subcontract or other work agreement for the person or firm to whom the contract is awarded or otherwise benefit, directly or indirectly, from the performance of the project for which the withdrawn bid or proposal was submitted.

Vendors who fail to request withdrawal by the required forty-eight (48) hours may automatically forfeit bid bond if a bond was required. Bid may not be withdrawn otherwise.

Withdrawal is not automatically granted and will be allowed solely at Gwinnett County's discretion.

VI. TESTING AND INSPECTION

Since tests may require several days for completion, the County reserves the right to use a portion of any supplies before the results of the tests are determined. Cost of inspections and tests of any item that fails to meet the specifications, shall be borne by the vendor.

VII. F.O.B. POINT

Unless otherwise stated in the request for invitation and any resulting contract, or unless qualified by the vendor, items shall be shipped F.O.B. Destination, Freight Prepaid and Allowed. The seller shall retain title for the risk of transportation, including the filing for loss or damages. The invoice covering the items is not payable until items are delivered and the contract of carriage has been completed. Unless the F.O.B. clause states otherwise, the seller assumes transportation and related charges either by payment or allowance.

VIII. PATENT INDEMNITY

The vendor guarantees to hold the County, its agents, officers, or employees harmless from liability of any nature or kind for use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, articles or appliances furnished or used in the performance of the contract, for which the vendor is not the patentee, assignee, or licensee.

IX. BID BONDS AND PAYMENT AND PERFORMANCE BONDS (IF REQUIRED, FORMS WILL BE PROVIDED IN THIS DOCUMENT)

A five percent (5%) bid bond, a one hundred percent (100%) performance bond, and a one hundred percent (100%) payment bond must be furnished to Gwinnett County for any solicitation as required in the solicitation package or document. **Failure to submit a bid bond with the proper rating will result in submittal being deemed non-responsive.** Bonding company must be authorized to do business in Georgia by the Georgia Insurance Commission, listed in the Department of the Treasury's publication of companies holding certificates of authority as acceptable surety on Federal bonds and as acceptable reinsuring companies, and have an A.M. Best rating as stated in the insurance requirement of the solicitation. **The bid bond, payment bond, and performance bond must have the proper A.M. Best rating as stated in the solicitation document.**

X. DISCOUNTS

- A. Time payment discounts may be considered in arriving at net prices and in award of solicitations. Offers of discounts for payment within ten (10) days following the end of the month are preferred.

- B. In connection with any discount offered, time will be computed from the date of delivery and acceptance at destination, or from the date correct invoice or voucher is received, whichever is the later date. Payment is deemed to be made for the purpose of earning the discount on the date of the County check.

XI. AWARD

- A. Award will be made to either the highest scoring firm (for proposals) or the lowest responsive and responsible vendor (for quotes/bids). The quality of the articles to be supplied, their conformity with the specifications, their suitability to the requirements of the County, and the delivery terms will be taken into consideration in making the award. The County may make such investigations as it deems necessary to determine the ability of the vendor to perform, and the vendor shall furnish to the County all such information and data for this purpose as the County may request. The County reserves the right to reject any submittal if the evidence submitted by, or investigation of such vendor fails to satisfy the County that such vendor is properly qualified to carry out the obligations of the contract.
- B. The County reserves the right to reject or accept any or all offers and to waive technicalities, informalities and minor irregularities in the submittals received.
- C. The County reserves the right to make an award as deemed in its best interest, which may include awarding to a single vendor or multiple vendors; or to award the whole solicitation agreement, only part of the agreement, or none of the agreement, based on its sole discretion of its best interest.
- D. In the event of proposal scores rounded to the nearest whole number result in a tie score, the award will be based on lowest cost.
- E. If proposal negotiations with the highest ranked firm are unsuccessful, the County may then negotiate with the second ranked firm and so on until a satisfactory agreement has been reached.

XII. DELIVERY FAILURES

Failure of a vendor to deliver within the time specified or within reasonable time as interpreted by the Purchasing Director, or failure to make replacement of rejected articles/services when so requested, immediately or as directed by the Purchasing Director, shall constitute authority for the Purchasing Director to purchase in the open market articles/services of comparable grade to replace the articles/services rejected or not delivered. On all such purchases, the vendor shall reimburse the County within a reasonable time specified by the Purchasing Director for any expense incurred in excess of the contract prices, or the County shall have the right to deduct such amount from monies owed the defaulting vendor. Alternatively, the County may penalize the vendor one percent (1%) per day for a period of up to ten (10) days for each day that delivery or replacement is late. Should public necessity demand it, the County reserves the right to use or consume articles/services delivered which are substandard in quality, subject to an adjustment in price to be determined by the Purchasing Director.

XIII. COUNTY FURNISHED PROPERTY

No material, labor or facilities will be furnished by the County unless so provided in the solicitation package.

XIV. REJECTION OF SUBMITTALS

Failure to observe any of the instructions or conditions in this solicitation package may constitute grounds for rejection.

XV. CONTRACT

Each submittal is received with the understanding that the acceptance in writing by the County of the offer to furnish any or all the commodities or services described therein shall constitute a contract between the vendor and the County which shall bind the vendor on his part to furnish and deliver the articles quoted at the prices stated in accordance with the conditions of said accepted submittal. The County, on its part, may order from such vendor, except for cause beyond reasonable control, and to pay for, at the agreed prices, all articles specified and delivered.

Upon receipt of a solicitation package containing a Gwinnett County "Sample Contract" as part of the requirements, it is understood that the vendor has reviewed the documents with the understanding that Gwinnett County requires that all agreements between the parties must be entered into via this document. If any exceptions are taken to any part, each must be stated in detail and submitted as part of the vendor's submittal. If no exceptions are stated, it is assumed that the vendor fully agrees to the provisions contained in the "Sample Contract" in its entirety.

Any Consultant as defined in O.C.G.A. §36-80-28 that is engaged to develop or draft specifications/requirements or serve in a consultative role during the procurement process for any County procurement method, by entering into such an arrangement or executing a contract, the consultant agrees to abide by the current state law and: 1) Avoid any appearance of impropriety and shall follow all policies and procedures of the County, 2) Disclose to the County any material transaction or relationship pursuant to §36-80-28, that is considered a conflict of interest, any involvement in litigation or other dispute, relationship, or financial interest not disclosed in the ethics affidavit, and 3) Acknowledge that any violation or threatened violation of the agreement may cause irreparable injury to the County, entitling the County to seek injunctive relief in addition to all other legal remedies.

When the vendor has performed in accordance with the provisions of this agreement, Gwinnett County shall pay to the vendor, within thirty (30) days of receipt of any department approved payment request and based upon work completed or service provided pursuant to the contract, the sum so requested, less the retainage stated in this agreement, if any. If Gwinnett County fails to pay the vendor within sixty (60) days of receipt of a pay request based upon work completed or service provided pursuant to the contract, the County shall pay the vendor interest at the rate of ½% per month or pro rata fraction thereof, beginning the sixty-first (61st) day following receipt of pay requests. The vendor's acceptance of progress payments or final payment shall release all claims for interest on said payment.

The parties agree that this Contract shall be governed and construed in accordance with the laws of the State of Georgia.

XVI. NON-COLLUSION

Vendor declares that the submittal is not made in connection with any other vendor's submittal for the same commodity or commodities, and that the submittal is bona fide and is in all respects fair and without collusion or fraud. An affidavit of non-collusion shall be executed by each vendor. Collusion and fraud in submittal preparation shall be reported to the State of Georgia Attorney General and the United States Justice Department.

XVII. DEFAULT

The contract may be canceled or annulled by the Purchasing Director in whole or in part by written notice

of default to the vendor upon non-performance or violation of contract terms. An award may be made to the next low responsive and responsible bidder, or the next highest scoring responsive and responsible proposer, or articles specified may be purchased on the open market similar to those so terminated. In either event, the defaulting vendor (or their surety) shall be liable to the County for costs to the County in excess of the defaulted contract prices; provided, however, that the vendor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the vendor to deliver materials or services within the time stipulated on their offer, unless extended in writing by the Purchasing Director, shall constitute contract default.

XVIII. TERMINATION FOR CAUSE

The County may terminate this agreement for cause upon ten days prior written notice to the vendor of the vendor's default in the performance of any term of this agreement. Such termination shall be without prejudice to any of the County's rights or remedies by law.

XIX. TERMINATION FOR CONVENIENCE

The County may terminate this agreement for its convenience at any time upon 30 days written notice to the vendor. In the event of the County's termination of this agreement for convenience, the vendor will be paid for those services actually performed. Partially completed performance of the agreement will be compensated based upon a signed statement of completion to be submitted by the vendor, which shall itemize each element of performance.

XX. SUBSTITUTIONS

Vendors offering substitutions or who are deviating from the attached specifications shall list such deviations on a separate sheet to be submitted with their offer. The absence of such a substitution list shall indicate that the vendor has taken no exception to the specifications contained herein.

XXI. INELIGIBLE VENDORS

The County may choose not to accept the offer by an individual, firm, or business who is in default on the payment of taxes, licenses, or other monies owed to the County. Additionally, vendors or persons placed on an Ineligible Source List for reasons listed in Part 6, Section II of the Gwinnett County Purchasing Ordinance shall not be eligible to provide any commodities or services to the County during the period such person remains on the Ineligible Source List.

XXII. PENDING LITIGATION

An individual, firm, or business that has litigation pending against the County, or anyone representing a firm or business in litigation against the County, not arising out of the procurement process, will be disqualified.

XXIII. OCCUPATION TAX CERTIFICATE

Each successful vendor must have a valid Gwinnett County occupation tax certificate if the vendor maintains an office within the unincorporated area of Gwinnett County. Incorporated, out of County, and out of State vendors are required to have any and all certificates necessary to do business in any town, County or municipality in the State of Georgia, or as otherwise required by County ordinance or resolution. Vendors may be required to provide evidence of valid certificates. Out of State vendors are required to have a certificate in the Georgia jurisdiction where they receive the most revenue.

XXIV. PURCHASING POLICY AND REVIEW COMMITTEE

The Purchasing Policy & Review Committee has been established to review purchasing procedures and make recommendations for changes; resolve problems regarding the purchasing process; make recommendations for standardization of commodities, schedule buying, qualified products list, annual

contracts, supplier performance (Ineligible Source List), and other problems or requirements related to purchasing. The Purchasing Policy & Review Committee has authority to place vendors on the Ineligible Source List for reasons listed in Part 6, Section II of the Gwinnett County Purchasing Ordinance, for a period not to exceed three (3) years.

XXV. AMERICANS WITH DISABILITIES ACT

All vendors for Gwinnett County are required to comply with all applicable sections of the Americans with Disabilities Act (ADA) as an equal opportunity employer. In compliance with the Americans with Disabilities Act (ADA), Gwinnett County provides reasonable accommodations to permit a qualified applicant with a disability to enjoy the privileges of employment equal to those employees without disabilities. Disabled individuals must satisfy job requirements for education background, employment experience, and must be able to perform those tasks that are essential to the job with or without reasonable accommodations. Any requests for the reasonable accommodations required by individuals to fully participate in any open meeting, program or activity of Gwinnett County should be directed to the ADA Coordinator, 75 Langley Drive, Lawrenceville, Georgia 30046, 770-822-8165.

XXVI. ALTERATIONS OF SOLICITATION AND ASSOCIATED DOCUMENTS

Alterations of County documents are strictly prohibited and will result in automatic disqualification of the vendor's solicitation response. If there are "exceptions" or comments to any of the solicitation requirements or other language, then the firm may make notes to those areas, but may not materially alter any document language.

XXVII. TAX LIABILITY

Local and state governmental entities must notify vendors of their use tax liability on public works projects. Under Georgia law, private vendors are responsible for paying a use tax equal to the sales tax rate on material and equipment purchased under a governmental exemption that is incorporated into a government construction project: excluding material and equipment provided for the installation, repair, or expansion of a public water, gas, or sewer system when the property is installed for general distribution purposes. To the extent the tangible personal property maintains its character (for example, the installation of a kitchen stove), it remains tax-exempt. However, if the installation incorporates the tangible personal property into realty (for example, the installation of sheetrock), it becomes taxable to the private vendor. See O.C.G.A. §48-8-3(2) and O.C.G.A. §48-8-63.

XXVIII. STATE AND FEDERAL LAW REGARDING WORKER VERIFICATION

Effective July 1, 2013 State Law requires that all who enter into a contract for the physical performance of services for all labor or service contract(s) that exceed \$2,499.99 (except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia) and that all who enter into a contract for public works as defined by O.C.G.A. §36-91-2(12) for the County, must satisfy the Illegal Immigration Reform Enhancements for 2013 in conjunction with the Federal Immigration Reform and Control Act (IRCA) of 1986, in all manner, and such are conditions of the contract.

The Purchasing Division Director with the assistance of the Internal Audit Division shall be authorized to conduct random audits of a vendor's or subcontractors' compliance with the Illegal Immigration Reform Enhancements for 2013 and the rules and regulations of the Georgia Department of Labor. The vendor and subcontractors shall retain all documents and records of its compliance for a period of five (5) years following completion of the contract or shall abide by the current time requirements at the time of the contract. This requirement shall apply to all contracts for all public works, labor or service contracts that exceed \$2,499.99 except for services performed by an individual who is licensed pursuant to Title 26, Title 43, or the State Bar of Georgia.

Whenever it appears that a vendor's or subcontractor's records are not sufficient to verify the work eligibility of any individual in the employment of such vendor or subcontractor, the Purchasing Director shall report same to the Department of Homeland Security and may result in termination of the contract if it is determined at any time during the work that the vendor or subcontractor is no longer in compliance with worker verification.

By submitting an offer to the County, vendor agrees that, in the event the vendor employs or contracts with any subcontractor(s) in connection with the covered contract, the vendor will secure from the subcontractor(s) such subcontractor(s) indication of the employee-number category applicable to the subcontractor, as well as attestation(s) from such subcontractor(s) that they follow the Illegal Immigration Reform Enhancements for 2013 in conjunction with all federal requirements. Original signed, notarized Subcontractor Affidavits and Agreements must be maintained by the vendor awarded the contract.

A vendor's or subcontractor's failure to participate in the federal work authorization program as defined above shall be subject to termination of the contract. A vendor's failure to follow Gwinnett County's instruction to terminate a subcontractor that is not participating in the federal work authorization program may be subject to termination of the contract.

XXIX. SOLID WASTE ORDINANCE

No individual, partnership, corporation, or other entity shall engage in solid waste handling except in such a manner as to conform to and comply with the current Gwinnett County Solid Waste Ordinance and all other applicable local, state and federal legislation, rules, regulation, and orders.

XXX. GENERAL CONTRACTORS LICENSE

Effective July 1, 2008: **All General Contractors must have a current valid license from the State Licensing Board for Residential and General Contractors, unless specifically exempted from holding such license pursuant to Georgia law (O.C.G.A. §43-41-17).**

XXXI. PRODUCTS MANUFACTURED IN GEORGIA

When contracting for or purchasing supplies, materials, equipment, or agricultural products that exceeds \$100,000.00, excluding beverages for immediate consumption, Gwinnett County shall give preference as far as may be reasonable and practicable to such supplies, materials, equipment, and agricultural products as may be manufactured or produced in this state. Such preference shall not sacrifice quality. Gwinnett County Board of Commissioners shall consider, among other factors, information submitted by the vendor which may include the vendor's estimate of the multiplier effect on gross state domestic product and the effect on public revenues of the state and the effect on public revenues of political subdivisions resulting from acceptance of an offer to sell Georgia manufactured or produced goods as opposed to out-of-state manufactured or produced goods. Any such estimates shall be in writing. **(O.C.G.A. §36-84-1).**

XXXII. INDEMNIFICATION

To the fullest extent permitted by law, the vendor shall, at his sole cost and expense, indemnify, defend, satisfy all judgments, and hold harmless the County, its commissioners, officers, agents, and employees from and against all claims, damages, actions, judgments, costs, penalties, liabilities, losses and expenses, including, but not limited to, attorney's fees arising out of or resulting from the performance of the work, provided that any such claim, damage, action, judgment, cost, penalty, liability, loss or expense (1) is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by the negligent acts, errors by any act or omission of the vendor, any subcontractor,

anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless whether such claim is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any of the rights or obligations of indemnity which would otherwise exist as to any party or person described in this agreement. In any and all claims against the County, its commissioners, officers, agents, and employees by any employee of the vendor, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation contained herein shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the vendor or any subcontractor under Worker's Compensation Acts, disability benefit acts, or other employee benefit acts.

Vendor shall also indemnify, hold harmless, insure, and defend the County for damages, losses, or expenses to the extent caused by or resulting from the negligence, recklessness, or intentionally wrongful conduct of the vendor or other persons employed or utilized by the vendor in the performance of a contract that utilizes survey services.

XXXIII. CODE OF ETHICS

Vendors shall disclose under oath the name of all elected officials whom it employs or who have a direct or indirect pecuniary interest in the business entity, its affiliates, or its subcontractors. (This shall not apply to informal purchases as defined by the Purchasing Ordinance.) The vendor shall execute a Code of Ethics affidavit. Failure to submit the affidavit during the procurement process shall render the offer non-responsive.

Any business entity holding a contract with Gwinnett County that after execution of the contract or issuance of the purchase order employs, subcontracts with, or transfers a direct or indirect pecuniary interest in the business entity to an elected official shall within five (5) days disclose such fact in writing under oath to the Clerk of the Board of Commissioners. Failure to comply, or vendors submitting false information or omitting material information shall be referred to the Purchasing Policy & Review Committee for action pursuant to the Purchasing Ordinance or to the District Attorney for possible criminal prosecution. Note: See Gwinnett County Code of Ethics Ordinance E02011, Sec. 54-33. The ordinance is available to view in its entirety at www.gwinnettcountry.com.

XXXIV. ELECTRONIC PAYMENT

Vendors accepting procurements should select one of Gwinnett County's electronic payment options.

- A. A vendor may select ePayables payment process which allows acceptance of Gwinnett County's virtual credit card as payment for outstanding invoices. The authorized vendor representative must send an email to: vendorelectronicpayment@gwinnettcountry.com and indicate the desire to enroll in Gwinnett County's virtual credit card payment process.
- B. A vendor may select Direct Deposit payment process and the payment will be deposited directly into an account at their designated financial institution. To securely enroll in Direct Deposit, either access your online [Vendor Login and Registration](#) on the County's web site and update the requested information on the Direct Deposit tab or mail a [Direct Deposit Authorization Agreement](#) form.

The County will send a Payment Advice notification via email for both payment types. For more information about Electronic Payments, please visit the Gwinnett County Treasury Division page or click here -> [Gwinnett County Electronic Payments](#).

DIRECTIONS TO GJAC BUILDING FROM I-85

Take I-85 to Georgia Highway 316 (Lawrenceville/Athens exit). Exit Highway 120 (Lawrenceville/Duluth exit) and turn right. At seventh traffic light, turn right onto Langley Drive. Cross Highway 29 through the traffic light and proceed through the roundabout. Visitors can either proceed to the front parking area on the left or to the parking deck behind the building. Click [here](#) for additional information about parking. The Purchasing Division is located on the second floor, West Wing.

Appendix 1

**REQUIRED CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS
UNDER FEDERAL AWARDS – APPENDIX II TO 2 CFR PART 200**

The following provisions are required and apply when federal funds are expended for any contract resulting from this procurement process.

(A) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60- 1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Pursuant to Federal Rule (C) above, when federal funds are expended by Gwinnett County on any federally assisted construction contract, the equal opportunity clause is incorporated by reference herein.

Does vendor agree to abide by the above?

YES _____ Initials of Authorized Representative of vendor

(B) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146- 3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The nonfederal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

Pursuant to Federal Rule (D) above, when federal funds are expended by Gwinnett County, during the term of an award for all contracts and subgrants for construction or repair, the vendor will be in compliance with all applicable Davis-Bacon Act provisions.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(C) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions

which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

Pursuant to Federal Rule (E) above, when federal funds are expended by Gwinnett County, the vendor certifies that during the term of an award for all contracts by Gwinnett County resulting from this procurement process, the vendor will be in compliance with all applicable provisions of the Contract Work Hours and Safety Standards Act.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(D) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Pursuant to Federal Rule (F) above, when federal funds are expended by Gwinnett County, the vendor certifies that during the term of an award for all contracts by Gwinnett County resulting from this procurement process, the vendor agrees to comply with all applicable requirements as referenced in Federal Rule (F) above.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(E) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Pursuant to Federal Rule (H) above, when federal funds are expended by Gwinnett County, the vendor certifies that during the term of an award for all contracts by Gwinnett County resulting from this procurement process, the vendor certifies that they will maintain active registration status in the System for Awards Management (SAM.gov) and that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

CAGE Code:

(If No Cage Code) Date of SAM.Gov Registration:

(F) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the nonfederal award.

Pursuant to Federal Rule (I) above, when federal funds are expended by Gwinnett, the vendor certifies that during the term and after the awarded term of an award for all contracts by Gwinnett County resulting from this

procurement process, the vendor certifies that it is in compliance with all applicable provisions of the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). The undersigned further certifies that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all covered sub-awards exceeding \$100,000 in Federal funds at all appropriate tiers and that all subrecipients shall certify and disclose accordingly.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(G) The Buy America regulation at 49 C.F.R. § 661.13 requires notification of the Buy America requirements in a recipients' bid or request for proposal for FTA funded contracts. Recipients can draw on the following language for inclusion in their federally funded procurements. Note that recipients are responsible for including the correct Buy America certification based on what they are acquiring. Recipients should not include both the rolling stock and steel, iron, or manufactured products certificates in the documents unless acquiring both in the same procurement. The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

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

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

Certificate of Compliance with Buy America Requirements

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

Date: _____

Signature: _____

Company: _____

Name: _____

Title: _____

(H) Bus Testing. 49 U.S.C. § 5318(e); 49 C.F.R. part 665. The Bus Testing requirements pertain only to the purchase or lease of any new bus model, or any bus model with a major change in configuration or components to be acquired or leased with funds obligated by FTA. Recipients are responsible for determining whether a vehicle to be acquired requires full or partial testing or has already satisfied the bus testing requirements by achieving a passing test score in accordance with 49 C.F.R. part 665. Recipients must certify compliance with FTA's bus testing requirements in all grant applications for FTA funding for bus procurements.

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(I) The Cargo Preference Act of 1954 at 46 U.S.C. § 55305 and 46 C.F.R. part 381 requirements applies to all contracts involving equipment, materials, or commodities that may be transported by ocean vessels.

The contractor agrees to:

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(J) The Clean Air and Clean Water Act at 42 U.S.C. §§ 7401 – 7671q; 33 U.S.C. §§ 1251-1387; and 2 C.F.R. part 200, Appendix II (G) requirements apply to each contract and subcontract exceeding \$150,000. Each contract and subcontract must contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

The Contractor agrees:

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(K) Civil Rights Laws and Regulations

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

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

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

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

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

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

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

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

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall

include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(L) Disadvantaged Business Enterprise of 49 C.F.R. part 26, requires the contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

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

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

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

Contract Assurance

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the AGENCY deems appropriate.

DBE Participation

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

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

Good Faith Efforts

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

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

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

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

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. 49 C.F.R. § 26.53(b) (2) (VI). In determining whether a Bidder has made good faith efforts, the Authority may take into

account the performance of other Bidders in meeting the Contract goals. For example, if the apparent successful Bidder failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the Authority may view this as evidence of the Bidder having made good faith efforts.

Administrative Reconsideration

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

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

Termination of the DBE Subcontractor

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

Continued Compliance

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

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

Reports and other correspondence must be submitted to the DBE Coordinator with copies provided to the [Agency Name1] and [Agency Name2]. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed. The successful Bidder/Offeror shall permit:

- The AGENCY to have access to necessary records to examine information as the AGENCY deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.
- The authorized representative(s) of the AGENCY, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the Contractor relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.
- All data/record(s) pertaining to DBE shall be maintained as stated in Section [insert reference to record keeping requirements for the Project.]

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

Prompt Payment (§26.29) – The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than [specify number] days from the receipt of each payment the prime contractor receives from [Name of recipient]. The prime contractor agrees further to return retainage payments to each subcontractor within [specify the same number as above] days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the [Name of Recipient]. This clause applies to both DBE and non-DBE subcontractors.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(M) The Energy Policy and Conservation Act at 42 U.S.C. 6321 et seq. and 49 C.F.R. part 622, subpart C requires contracts to maintain compliance with the mandatory energy standards and policies of its state energy conservation plans and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance as required under FTA regulations, “Requirements for Energy Assessments,” 49 C.F.R. part 622, subpart C.

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(N) The Fly America Act from 49 U.S.C. § 40118; 41 C.F.R. part 301-10; and 48 C.F.R. part 47.4 apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier’s designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the U.S. DOT has determined meets the requirements of the Fly America Act.

Fly America Requirements

a) Definitions. As used in this clause—

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

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

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

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

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

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

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(O) No Federal Government Obligation to Third Parties.

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(P) Program Fraud and False or Fraudulent Statements and Related Acts

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

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

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

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

Recovered Materials

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

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

Safe Operation of Motor Vehicles

Seat Belt Use

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

Distracted Driving

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(S) Substance Abuse Requirements. Third party contractors who perform safety-sensitive functions must comply with FTA’s substance abuse management program under 49 C.F.R. part 655, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.” Under 49 C.F.R. § 655.4, Safety-sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors: (1) Operating a revenue service vehicle, including when not in revenue service; (2) Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License; (3) Controlling dispatch or movement of a revenue service vehicle; (4) Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such services; (5) Carrying a firearm for security purposes. Additionally, third party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs.”

The recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 C.F.R. part 655. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option for only those recipients that have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.

The Contractor agrees to participate in AGENCY’s drug and alcohol program established in compliance with 49 C.F.R. part 655.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

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

Termination for Convenience (General Provision)

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

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

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

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

Opportunity to Cure (General Provision)

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

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

Waiver of Remedies for any Breach

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

Termination for Convenience (Professional or Transit Service Contracts)

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

Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the AGENCY.

Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of AGENCY goods, the Contractor shall, upon direction of the AGENCY, protect and preserve the goods until surrendered to the AGENCY or its agent. The Contractor and AGENCY shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the AGENCY.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

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

Rights and Remedies of the AGENCY

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

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

For purposes of this Contract, breach shall include [AGENCY to define].

Rights and Remedies of Contractor

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

Remedies

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

Disputes

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

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

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

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

Performance during Dispute

Unless otherwise directed by AGENCY, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

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

Remedies

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

Rights and Remedies

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

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(V) Huawei Technology Ban - Section 889 of the 2019 National Defense Authorization Act ("NDAA")

- **889(a)(1)(A):** directs that agencies may not "procure or obtain . . . any equipment, system, or service that uses *covered telecommunications equipment or services* as a substantial or essential component of any system." This limitation was implemented by an amendment to the Federal Acquisition Regulation ("FAR") published on August 13, 2019.
- **889(a)(1)(B)** directs that agencies may not "enter into a contract (or extend or renew a contract) with an entity that uses any equipment, system, or services that uses *covered telecommunications equipment or services* as a substantial or essential component of any system." This limitation was implemented by an amendment to the FAR in July 2019, with an effective date of August 13, 2020.
 - **Covered telecommunications equipment or services" falls into four categories:**
 - **Telecommunications equipment produced by Huawei Technologies Company, ZTE Corporation, or any subsidiary or affiliate of either.**
 - **When to be used for public safety, government facility security, security of critical infrastructure, or other national security purposes, "video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, . . . Dahua Technology Company" or any subsidiary or affiliate of the aforementioned.**

- **Telecommunications or video surveillance services provided by any of the aforementioned entities.**
 - **Telecommunications or video surveillance equipment produced by or provided by an entity the Secretary of Defense ‘reasonably believes’ to be an entity connected to the government of the People’s Republic of China**
- **889(a)(1)(B) directs that agencies may not “enter into a contract (or extend or renew a contract) with an entity that uses any equipment, system, or services that uses covered telecommunications equipment or services as a substantial or essential component of any system.” This limitation was implemented by an amendment to the FAR in July 2019, with an effective date of August 13, 2020.**

The Contractor agrees to participate in AGENCY’s ban established in compliance with Section 889 of the 2019 National Defense Authorization Act.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

(W) National ITS Architecture Policy on Transit Projects. ITS projects shall conform to the National ITS Architecture and standards in accordance with the requirements contained in this part. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621)

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

RECORD RETENTION REQUIREMENTS FOR CONTRACTS PAID FOR WITH FEDERAL FUNDS – 2 CFR § 200.333

When federal funds are expended for any contract resulting from this procurement process, the vendor certifies that it will comply with the record retention requirements detailed in 2 CFR § 200.333. The vendor further certifies that vendor will retain all records as required by 2 CFR § 200.333 for a period of three years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH COMPLIANCE WITH EPA REGULATIONS APPLICABLE TO GRANTS, SUBGRANTS, COOPERATIVE AGREEMENTS, AND CONTRACTS IN EXCESS OF \$100,000 OF FEDERAL FUNDS

When federal funds are expended for any contract resulting from this procurement process in excess of \$100,000, the vendor certifies that the vendor is in compliance with all applicable standards, orders, regulations, and/or requirements issued pursuant to the Clean Air Act of 1970, as amended (42 U.S.C. 1857(h)), Section 508 of the Clean Water Act, as amended (33 U.S.C. 1368), Executive Order 117389 and Environmental Protection Agency Regulation, 40 CFR Part 15.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

CERTIFICATION OF COMPLIANCE WITH BUY AMERICA PROVISIONS

Vendor certifies that vendor is in compliance with all applicable provisions of the Buy America Act. Purchases made in accordance with the Buy America Act must still follow the applicable procurement rules calling for free and open competition.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

CERTIFICATION OF NON-COLLUSION STATEMENT

Vendor certifies under penalty of perjury that its response to this procurement solicitation is in all respects bona fide, fair, and made without collusion or fraud with any person, joint venture, partnership, corporation or other business or legal entity.

Does vendor agree? YES _____ Initials of Authorized Representative of vendor

**UNITED STATES DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION**

MASTER AGREEMENT TERMS & COMPLIANCE

a. The Recipient must comply with all applicable federal laws, regulations, and requirements, and should follow applicable federal guidance, except as FTA determines otherwise in writing.

b. To assure compliance with federal laws, regulations, and requirements, the Recipient must take measures to assure that other participants in its Underlying Agreements (e.g., Third Party Participants) comply with applicable federal laws, regulations, and requirements, and follow applicable federal guidance, except as FTA determines otherwise in writing.

c. FTA may take enforcement action if the Recipient or a Third Party Participant violates an applicable federal law, regulation, or requirement, or does not follow applicable federal guidance.

d. FTA and the Recipient agree that not every provision of this Master Agreement will apply to every Recipient or Underlying Agreement.

(1) FTA has divided the Master Agreement into "Terms of Agreement," "Generally Applicable Provisions," and "Special Provisions for Specific Programs."

(2) This Master Agreement has an Appendix A illustrating the specific provisions of the Master Agreement that apply to the Tribal Transit Programs.

(3) Criteria determining which federal laws, regulations, requirements, and guidance apply include the type of Award, the federal law authorizing federal assistance for the Award, the federal law or regulations governing how the Award must be implemented, the federal guidance pertaining to the Award, and the Recipient's legal status as a "state," "state instrumentality," a "local government," a federally recognized Indian Tribe (Indian Tribe), a "private nonprofit entity," a "private for profit entity," or an individual.

e. As provided by federal laws, regulations, requirements, and guidance, FTA will enforce only those federal laws, regulations, requirements, and guidance that apply to the specific FTA Recipient, its Third Party Participants, or any Project and related activities encompassed in the Award, the accompanying Underlying Agreement, and any Amendments thereto.

f. Each provision of this Master Agreement must be interpreted in context with all other provisions of this Master Agreement and the Underlying Agreement. If a single provision is read apart from the rest of this Master Agreement or the Underlying Agreement, that provision might not convey the extent of the Recipient’s responsibility to comply with the requirements of this Master Agreement and the Underlying Agreement.

g. This Master Agreement does not have an Expiration Date, and this Master Agreement continues to apply to the Recipient and its Underlying Agreement, until modified or superseded by a more recently enacted or issued applicable federal law, regulation, requirement, or guidance, or amendment to this Master Agreement or the Underlying Agreement. **Vendor agrees to comply with all federal, state, and local laws, rules, regulations and ordinances, as applicable. It is further acknowledged that vendor certifies compliance with all provisions, laws, acts, regulations, etc. as specifically noted above.**

Vendor’s Name/Company Name: _____ Address, City,
State, and Zip Code: _____ Phone Number: _____
_____ Fax Number: _____ Printed Name and Title of
Authorized Representative: _____ Email Address: _____
_____ Signature of Authorized
Representative: _____ Date: _____
Federal Tax ID # _____
DUNS # (9 Digits) _____
CAGE Code (5 Digits): _____ Expiration Date: _____