

**CASS COUNTY TRANSPORTATION AUTHORITY
REQUEST FOR PROPOSAL
COUNTY-WIDE TRANSIT SERVICE PLAN**

ISSUE DATE: November 2, 2020

DUE DATE: December 11, 2020 (3:00 PM local time)

PROJECT: *COUNTY-WIDE TRANSIT SERVICE PLAN* (“hereinafter referred to as the *Plan*”)

The Authority is seeking a qualified consultant with substantial experience in preparing comprehensive transit operations analysis and developing transit operating plans.

This document will “hereafter be referred to as the RFP”. The consultant may be a corporation or an individual and will hereafter be referred to as the Contractor. A submitter of a proposal in response to this RFP will hereafter be referred to as the Proposer. The cost of this project is not to exceed \$100,000.

This RFP with all pages, documents, and attachments contained herein or subsequently added or made a part hereof, submitted as a fully and properly executed proposal, shall constitute a contract between the Cass County Transportation Authority, “hereinafter referred to as Authority” and the successful and most responsible proposer, as determined by the Authority when approved and accepted by the Authority.

PART I - INSTRUCTIONS, TERMS, & CONDITIONS

1.1 PROPOSAL SUBMISSION

Proposals must be submitted in complete original form by mail or by messenger in a sealed envelope/packet to the following address:

**CASS COUNTY TRANSPORTATION AUTHORITY
ATTN: TRANSPORTATION BOARD CHAIR
400 EAST STATE STREET
CASSOPOLIS, MI 49031**

All proposals received shall be noted as such on the outside of the envelope:

PROPOSAL: *COUNTY-WIDE TRANSIT SERVICE PLAN*

LATE PROPOSAL PACKETS WILL NOT BE CONSIDERED

1.2 CIVIL RIGHTS COMPLIANCE

The Contractor agrees to abide by the provisions of the Elliott-Larsen Civil Rights Act, as amended, being sections 37.2101 et seq. of the Michigan Compiled Laws, and the Michigan Persons with Disabilities Civil Rights Act, as amended, being sections 37.1101 et seq. of the Michigan Compiled Laws, and specifically agrees and covenants not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, or a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of this covenant shall be regarded as a material breach of the contract.

1.3 LEGAL STATUS OF PROPOSER

The proposer shall indicate the legal status of the business firm by filling in the appropriate section below and by striking out the two non-applicable sections.

An INDIVIDUAL whose signature is affixed to this contract doing business under the name of:

A PARTNERSHIP doing business under the firm name of:

All of the members of which are as follows:

NAME _____

ADDRESS _____

A CORPORATION duly organized and doing business under the name of:

And organized under the laws of the State of: _____

1.4 INSTRUCTIONS FOR EXECUTING CONTRACT

If the proposer is an INDIVIDUAL, the trade name, if applicable, shall be indicated in the contract signed by such individual. If signed by anyone other than the proposer, there shall be attached to the contract a duly authenticated Power-of-Authority, evidencing the signer's authority to execute such a contract for and on behalf of the individual.

If the proposer is operating as a PARTNERSHIP, each partner shall sign the contract. If the contract is not signed by each partner, there shall be attached to the contract a duly authenticated Power-of-Authority evidencing the signer's or signers' authority to sign such contract for and on behalf of the partnership.

If the proposer is a CORPORATION the Certificate of Authorization for Contract Execution (APPENDIX D) shall be completed in full.

1.5 INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by law, the Contractor agrees to defend, pay on behalf of, indemnify, and hold harmless the Authority, its appointed officials, employees, and volunteers, and others working on behalf of the Authority against any and all claims, demands, suits, or loss, including all costs connected therewith, and for any damages which may be asserted, claimed, or recovered against or from the Authority, its appointed officials, employees and volunteers, and others working on behalf of the Authority by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this Contract. The Contractor will not be liable for any damages arising out of an act of negligence by the Authority and its appointed officials, employees, and volunteers, and others working on its behalf.

1.6 RIGHTS AND REMEDIES

No provision in this document or in the Contractor's proposal shall be construed, expressly or by implication as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim or default or breach of contract. The failure of either party to insist upon the strict performance of any term or condition of the contract or to exercise or delay the exercise of any right or remedy provided in the contract, or by law, or the acceptance of materials or services, obligations imposed by this contract or by law, and shall not be deemed a waiver of any right of either party to insist upon the strict performance of the contract.

1.7 WARRANTIES

Contractor warrants that all material or service delivered under this contract shall conform to the specifications of this contract. Mere receipt of shipment of the material or service specified and any inspection incidental thereto by the Authority, shall not alter or affect the obligations of the Contractor or the rights of the Authority under the foregoing warranties. Additional warranty requirements may be set forth in this document.

1.8 INSURANCE REQUIREMENTS

The successful Contractor shall not commence work under this contract until he/she has obtained the insurance required under this paragraph and provided copies to the Authority. All coverage shall be with insurance companies licensed and admitted to do business in the State of Michigan. All coverages shall be with insurance carriers acceptable to Authority.

- 1.8.1 **Workers' Compensation Insurance:** The Contractor shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including Employers' Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
- 1.8.2 **Commercial General Liability Insurance:** The Contractor shall procure and maintain during the life of this contract, Commercial General Liability Insurance on an "Occurrence Basis" with limits of liability not less than **\$500,000** per occurrence and/or aggregate combined single limit, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse, and Underground (F) Exclusions, if applicable.
- 1.8.3 **Motor Vehicle Liability:** The Contractor shall procure and maintain during the life of this contract Motor Vehicle Liability Insurance, including Michigan No-Fault Coverages, with limits of liability not less than \$ **500,000** per occurrence combined single limit, Bodily Injury, and Property Damage. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- 1.8.4 **Additional Insured:** Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating that the following shall be ***Additional Insureds:*** The Authority, all elected and appointed officials, employees, volunteers, boards, and commissions.
- 1.8.5 **Cancellation Notice:** Workers' Compensation Insurance, Commercial General

Liability Insurance, and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following: "It is understood and agreed that Thirty (30) days Advance Written Notice of Cancellation, Non-Renewal, Reduction, and/or Material Change shall be sent to: Transportation Coordinator, 400 E. State Street, Cassopolis, MI 49031.

If any of the above coverages expire during the term of this contract, the Contractor shall deliver renewal certificates and/or policies to the Authority at least ten (10) days prior to the expiration date. Include current certificates of insurances with your proposal. The successful Contractor may be required to have the Authority added as an additional insured to their insurance policy.

1.9 TAXES

Except as may be otherwise provided in the RFP, the Authority is exempt from Federal Excise and State Sales Tax, and such taxes shall not be included in the proposal process. Federal Exemption Certificates will be furnished if so requested.

1.10 GRATUITIES

The Authority may, by written notice to the Contractor, cancel this contract if it is found that gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any agent or representative of the Contractor, to any officer or employee of the Authority amending, or making any determinations with respect to the performing of such contract.

1.11 INDEPENDENT SERVICE COST DETERMINATION BY CONTRACTOR

By submission of a proposal, the prospective Contractor certifies that in connection with the proposal:

1.11.1 The proposed service cost was determined independently, without consultation, communication, or agreement for the purpose of restricting competition.

1.11.2 The service cost quoted in the proposal has not nor will be knowingly disclosed by the prospective Contractor to anyone prior to the contract award.

1.11.3 No attempt has been made or will be made to induce other individuals or firms to submit or not submit a proposal.

1.11.4 Each person signing the proposal certifies that he/she is authorized to bind the Contractor to its provisions.

1.12 DISCLOSURE

1.12.1 All information in proposals received is subject to disclosure under the provisions of MCL 15.231 et seq., known as the "Freedom of Information Act". This Act also provides for the complete disclosure of contracts and attachments thereto.

1.12.2 If a person believes that any portion of a proposal, bid, offer, specification, protest or correspondence contains information that should be withheld, then the Board Chair should be so advised in writing (price is not confidential and will not be withheld). The Authority shall review all requests for confidentiality and provide a written determination. If the confidential request is denied, such information shall be disclosed as public information.

1.13 CONTRACT NEGOTIATIONS

At the completion of the evaluation process, the Authority may enter into discussions with the proposer finalists in a competitive range, to identify any needed revisions to the original proposal. Best and final offers may be requested from each of the finalists, or after careful consideration, the proposer that gives the most advantageous proposal may be recommended for award. In the event only one proposal is received, the Authority may require that the proposer submit a cost proposal in sufficient detail for the Authority to perform a cost/price analysis to determine if the contract price is fair and reasonable. Award shall be made by the Authority to the proposer whose proposal represents the best value to the Authority.

1.14 CONTRACT

The contract shall be based upon the RFP issued by the Authority and the offer submitted by the Contractor in response to the RFP. The offer shall substantially conform to the terms, conditions, specifications and other requirements set forth within the text of the RFP. The Authority reserves the right to clarify any contractual terms with the concurrence of the Contractor; however, any substantial non-conformity in the offer, as determined by the Authority, shall be deemed non-responsive and the offer rejected. The contract shall contain the entire agreement between the Authority and the Contractor relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.

1.15 AWARD OF CONTRACTS

Upon Notice of Intent to Award: The apparent successful proposer shall sign and file with the Authority, within ten (10) working days after receiving a fully executed Offer

and Acceptance form, all documents necessary to the successful execution of the contract.

1.15.1 The contract will be awarded to the most responsive and responsible proposer whose proposal conforming to this solicitation will represent the best value to the Authority; price and other factors considered.

1.15.2 The Authority reserves the right to accept or reject any or all proposals for sound and documentable business reasons and to waive informalities and irregularities in proposals or proposal procedures, and to accept any proposal determined by the Authority to represent the best value to the Authority, even though not the lowest proposal.

1.15.3 The Authority reserves the right to postpone the proposal opening for sound documentable, business reasons.

1.15.4 The Authority reserves the right to reissue the request for proposal.

1.15.5 NON-EXCLUSIVE CONTRACT: Any contract resulting from this solicitation shall be awarded with the understanding and agreement that it is for the sole convenience of the Authority. The Authority reserves the right to obtain like goods or services from another source when necessary.

1.16 PRIME CONTRACTOR RESPONSIBILITIES - SUBCONTRACTING

The selected Contractor will be required to assume responsibility for all services offered in the proposal whether or not parts of the contract are subcontracted. Further, the Authority will consider the selected Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract. If any part of the work is to be subcontracted, the prime Contractor must provide complete description of work subcontracted and descriptive information about subcontractors' organization and capabilities. The Contractor is totally responsible for adherence by the subcontractor to all provisions of the contract.

1.17 INDEPENDENT CONTRACTOR

1.17.1 It is clearly understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venturer, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose whatsoever.

1.17.2 Contractor shall not be entitled to compensation in the form of salaries, or to paid vacation or sick days by the Authority, and that such days do not accumulate for the use of same at a later date.

1.17.3 The Authority will not provide any insurance coverage to Contractor, including Workmen's Compensation coverage. The Contractor is advised that taxes or social security payments shall not be withheld from an Authority payment issued hereunder and that Contractor should make arrangements to directly pay such expenses, if any.

1.18 NON-ASSIGNMENT

The Contractor may not assign, subcontract, or otherwise transfer this agreement without the express prior written approval of the Authority.

1.19 SUBCONTRACTS

No subcontract shall be entered into by the Contractor with any other party to furnish any of the material/service specified herein without the advance written approval of the Authority. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Contractor referred to herein. The Contractor is responsible for contract performance whether or not subcontractors are used. The Authority shall not unreasonably withhold approval and shall notify the Contractor of the Authority's position within 15 days of receipt of written notice by the Contractor.

1.20 ASSIGNMENT - DELEGATION

No right or interest in this contract shall be assigned by the Contractor without prior written permission of the Authority, and no delegation of any duty of Contractor shall be made without prior written permission of the Authority. The Authority shall not unreasonably withhold approval and shall notify the Contractor of the Authority's position within 15 days of receipt of written notice by the Contractor.

1.21 CONTRACT PAYMENT

Payment for the proper performance of services under a contract entered into as a result of this RFP shall be commensurate with the scheduled progress of the work and shall be made upon receipt of a detailed invoice for payment. A separate invoice shall be issued for each shipment of material or service performed, and no payment shall be issued prior to receipt of material or service and correct invoice.

The allowability of individual items of cost will be determined by 48CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et. Seq. The Contractor will also be required to comply with 49 CFR, Part 18, and Uniform Administrative Requirement for Grants and Cooperative Agreements to State and Local Governments. The Contractor should have an accounting system capable of segregating direct costs from indirect costs per the above cited regulations. The Contractor and Subcontractors (if applicable) will comply with all applicable laws and maintain books, documents, papers, and accounting records for a period of three years from the date of the final payment.

1.22 LENGTH OF CONTRACT

The term of the contract shall be for the period required to complete the project scope as described in the RFP and mutually agreed upon by both parties. The Authority reserves the right to delay the commencement of this contract for the purposes of allowing the Authority and/or the Contractor sufficient time to make the proper preparations and acclimation in anticipation of providing the services as referenced herein.

1.26 MODIFICATION TO CONTRACT

1.26.1 Written Change Orders - Oral change orders are not permitted. No change in the contract shall be made unless the Authority gives prior written approval. The Consultant shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification change not properly ordered by written modification to the contract signed by the Authority. A properly executed change order takes precedence over previous executed contract provisions. The change order cannot constitute a cardinal change.

1.26.2 Change Order Procedure - Within fifteen (15) calendar days after receipt of the written change order to modify the contract, the Consultant shall submit to the Authority a detailed price and schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiations between the Consultant and the Authority. At this time, a detailed modification shall be executed in writing by both parties.

1.27 CANCELLATION

CANCELLATION OF CONTRACT by the Authority may be for; a) default by the Contractor or b) lack of further need for the service or commodity at the location named in the contract. Default is defined as the failure of the Contractor to fulfill the obligations of their quotation or contract. In case of default by the Contractor, the Authority may cancel the contract immediately and procure the articles or services from other sources and hold the Contractor responsible for any excess costs occasioned thereby. Either the Contractor or the Authority may terminate this agreement with a 90 day written notification to the other party. In the event the Authority no longer needs the service or commodity specified in the contract due to relocation of offices, or lack of funding, the Authority may cancel the contract by giving the Contractor written notice of such

cancellation 30 days prior to the date of cancellation without penalty or fine.

1.28 EXCEPTIONS TO CONTRACT TERMS AND SPECIFICATIONS

The proposer shall clearly identify any proposed deviations from the contract terms or specifications in the RFP. Each exception must be clearly defined and referenced to the proper paragraph in this RFP. The exception shall include, at a minimum, the proposer's proposed substitute language and opinion as to why the suggested substitution will provide equivalent or better service and performance. If no exceptions are noted in the proposer's proposal, the Authority will assume complete conformance with this specification and the successful proposer will be required to perform accordingly.

In addition, MDOT 3917, Version 08/2018; APPENDIX A- Prohibition of Discrimination in State Contracts, shall be attached and incorporated by reference as an exhibit to the Contract. A copy of the document is available at the following link:

<https://mdotjboss.state.mi.us/webforms/GetDocument.htm?fileName=3917.pdf>

1.29 COMPLIANCE WITH STATE AND FEDERAL CONTRACT CLAUSES

The Project is funded in part by a grant from the Michigan Department of Transportation (MDOT) using United States Department of Transportation (US DOT) funds. MDOT administers this grant by, and requires the Authority to comply with, Federal Transit Administration Circular 4220.1F Consistent with this Circular. MDOT requires compliance with the Federal Terms contained in, which is attached (APPENDIX B) and incorporated in this Proposal. A copy of the Federal Contract Clauses 3168 Version 11/2019, Professional and A&E Less than \$150,000, can also be found at the following link:

<https://mdotjboss.state.mi.us/webforms/GetDocument.htm?fileName=3168.pdf>

A signed, original copy of the Federal Contract Clauses must be included with the submitted proposal.

The Contractor also acknowledges that the Authority is bound by its grant contract with MDOT, and that the Authority will administer its contract with the Contractor in a manner that is consistent with its MDOT Grant Contract, a copy of which may be made available to the Contractor upon request.

1.30 WRITTEN PROTEST PROCEDURES

Contractors wishing to protest procurement decisions or processes must submit the protest in writing to the Transportation Coordinator at the Authority. Protests about solicitation specifications or processes must be received at least 15 business days before

the solicitation due date. Protests received after the due date, but before award must be received before 10 business days after the due date. Post award protests must be received by the Authority no later than 10 business days after the award decision.

The protester must qualify as an “interested party” in the procurement. An “interested party” is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the procurement at issue.

The written protest must identify the protesting party, clearly define the decision or process being protested and the reason(s) for the protest, and the relief desired of the CCTA’s procurement award.

The CCTA reserves the right to not accept solicitations, postpone or extend the solicitation due date, cancel any award or re-solicit based on the protest received. The CCTA or her/his designee will review the written protest and provide a written decision to the protestor within 10 business days of receiving the protest.

The protestor can appeal the CCTA Transportation Coordinator’s or her/his designee’s decision to the CCTA Board of Directors. That appeal must be filed with the CCTA Transportation Coordinator’s or her/his designee within 10 business days of the Transportation Coordinator’s or her/his designee’s decision. The CCTA Board of Directors decision on the appeal will be final.

Protestors can appeal the CCTA Board of Directors decision to the FTA Region V Office, 200 West Adams Street, Suite 320, Chicago, Illinois 60606; Phone (312) 353-2789; FAX (312) 886-0351.

PART II - GENERAL PROVISIONS

2.1 SUBMISSION OF PROPOSALS

2.1.1 One original of each proposal should be submitted on the forms and in the format specified in the RFP. The proposal should be unbound and single-sided. The material should be in sequence and related to the RFP. The Authority will not provide any reimbursement for the cost of developing or presenting proposals in response to this RFP. Failure to include the requested information may result in the proposer being declared non-responsive and removed from consideration. Fancy bindings, colored displays, promotional material, etc., will not receive evaluation credit. Emphasis should be on completeness and clarity of content.

2.1.2 To be considered, proposers must submit a complete response to this RFP. No other distribution of RFP is to be made by this proposer. The proposal must be signed in ink by an official authorized to bind the Contractor to its provisions. Proposals must remain valid for at least one hundred twenty (120) days from the opening date.

A digital copy of the proposal on a USB flash drive shall also be included.

2.2 PREPARATION OF PROPOSALS

- 2.2.1 The proposal shall be legibly prepared in either ink or typed.
- 2.2.2 Should the proposer find it necessary to alter the Proposal/Contract, such alterations shall be crossed out with ink, and the correction entered. All alterations and/or corrections must also be initialed in ink and dated by the proposer.
- 2.2.3 The proposal shall be legally signed and the complete address of the proposer provided thereon.

2.3 ACCEPTANCE OF RFP CONTENT

It is the responsibility of all proposers to examine the entire RFP package and seek clarification of any requirement that may not be clear and to check all responses for accuracy before submitting a proposal. Negligence in preparing a proposal confers no right of withdrawal after due time and date. The contents of this RFP and the proposer's proposal will become contractual obligations, if a contract ensues. Failure of the successful proposer to accept these obligations may result in cancellation of the award.

2.4 INQUIRIES

- 2.4.1 Any significant explanation desired by a proposer, regarding the meaning or interpretation of the RFP and attachments, must be requested in writing and with sufficient time allowed for a reply to reach all prospective respondents before the submission of their proposal. Any information given to a prospective proposer concerning the RFP will be furnished to all prospective proposers as an amendment or an addendum to the RFP if such information would be of significance to uninformed proposers. The Authority shall make the sole determination as to the significance of the information. Oral explanation or instructions given before the award of the contract shall not be binding.
- 2.4.2 Questions that arise as a result of this RFP must be submitted in writing to the issuing office via E-MAIL no later than 3:00 p.m. local time **November 20, 2020**. All questions and answers will be provided to all firms who were sent a notice of the request for proposal or who have submitted proposals or questions. This will be done via email by **November 30, 2020**. All questions and answers will also be posted on the MyWayThere.org website. Prospective Proposers are responsible for checking the web site for any updates or addenda to the RFP. Any

correspondence related to this solicitation should refer to the appropriate page and paragraph number. Questions must be addressed to:

Cass County Transportation Authority
Transportation Coordinator
E-MAIL: schuhtrans@yahoo.com

2.5 RESPONSIVE PROPOSAL

All pages and documents and the information requested herein, must be furnished completely in compliance with the instructions. The manner of submission is essential to permit prompt evaluation of all proposals on a fair and uniform basis. The Authority reserves the right to accept or reject any or all proposals for sound documentable, business reasons and to waive informalities and irregularities in proposals or proposal procedures, and to accept any proposal determined by the Authority to be in the best interests of the Authority, even though not the lowest priced proposal. **Proposals shall remain valid for one hundred twenty (120) days from opening.**

2.6 LATE PROPOSALS

Any proposals received at the office herein designated after the exact time specified for receipt will not be considered. The prevailing clock shall be local time - Cassopolis, MI.

LATE PROPOSAL PACKETS WILL NOT BE CONSIDERED

2.7 ALTERNATE PROPOSALS

Proposers are cautioned that any alternate proposal, unless specifically requested; or, any changes, insertions, or omissions to the terms and conditions, specifications, or any other requirements for the RFP, may be considered non-responsive and at the option of the Authority, result in the rejection of the proposal. The respondent shall clearly identify any proposed deviations from the contract terms or specifications in the RFP. Each exception must be clearly defined and referenced to the proper paragraph in this RFP. The exception shall include, at a minimum, the proposer's proposed substitute language and opinion as to why the suggested substitution will provide equivalent or better service and performance. If no changes are noted Authority will assume vendor is in agreement.

2.8 WITHDRAWAL OF PROPOSAL

Proposals may be withdrawn prior to the exact time set for receipt of proposals in person by a proposer or the proposer's authorized representative, provided the representative's identity is made known and the representative signs a receipt for the proposal documents.

2.9 FUNDING SOURCES

This project is funded jointly by the Federal Transit Administration and the Michigan Department of Transportation. The selected Contractor may have to have a third-party subcontract approved by the Michigan Department of Transportation.

2.10 PROCURING AGENCY

All communications concerning any aspect of this solicitation or offers shall be with the Project Contact. A proposer may be disqualified from proposing on this RFP if communications are made with an employee or representative other than the Project Contact. All communications must be in writing. Verbal comments are not part of this solicitation.

Procuring Agency: Cass County Transportation Authority
400 East State Street
Cassopolis, MI 49031

Project Contact: Dennis Schuh, Transportation Coordinator
schuhtrans@yahoo.com

2.11 SOLICITATION SCHEDULE

The following is the solicitation schedule for this RFP:

Event	Date and Time
Request for Proposal Issued	November 2, 2020
Emailed Questions due	No later than 3:00 p.m., November 20, 2020
Authority response to RFP questions	No later than 3:00 p.m., November 30, 2020
Proposals due	No later than 3:00 p.m., December 11, 2020
Evaluation of Proposals Received	December 12, 2020 – January 12, 2021
Proposer Presentations/Interviews	January 4, 2021 – January 8, 2021
Authority Board Selection	January 13, 2021
Anticipated Announcement of Award	January 13, 2021

PART III - TECHNICAL SPECIFICATIONS

3.1 INTRODUCTION TO SCOPE OF WORK

The Authority is seeking proposals from qualified Contractors with demonstrated success to develop a County-Wide Transit Service Plan, “hereinafter referred to as the Plan”, for Cass County, Michigan. The cost of this project shall not exceed \$100,000.

3.2 BACKGROUND

3.2.1 County-wide public transit service began in 1988. It was started as a system that would assist in coordinating and consolidating transportation for human service agency clients with limited county-wide public service. At the time the City of Dowagiac was already operating a dial-a-ride transit system that primarily served the general public within the City, Monday through Friday. Today public transit options in Cass County are limited with no evening or weekend service provided by either system. This lack of service affects the economy of the County and region by limiting access to places of employment, medical care, entertainment and basic consumer goods. It is assumed that the lack of transit options most affects the elderly and low income populations who either are unable to afford or drive a vehicle for transportation needs. Further data collection and public outreach are necessary to assess the needs of the County in order to develop a County-wide transit plan that eliminates barriers to transportation services.

3.2.2 Current service providers include the Authority, which provides general public service throughout the County, with limited service to the City of Niles in Berrien County. This service is offered weekdays from 7:00am until 4:00pm. It requires riders to call and schedule a ride 24 hours in advance. The Authority also continues to provide transportation services to clients of several social service agencies. This type of service which has been a primary revenue generator for the CCTA has experienced a significant decrease over the last decade.

The City of Dowagiac has service within its city limits on a “demand-response” basis. The service is operated by the Authority by contract using City owned buses. Other private transportation options, such as cab service, are not available. The result is a fragmented system that is difficult for residents to navigate and involves similar administrative functions at two separate systems.

3.2.2.1 Service Design - there is a need for an assessment of the type of transit services that would be in place in various areas of the Authority to ensure equitable, efficient and effective transit service utilizing one County-wide transit system. Challenges include establishing the appropriate mix and amount of services to address the unmet needs of youth, seniors, low income households, people with disabilities, as well as choice riders.

3.2.2.2 Connectivity- there is a need for seamless mobility and the need to connect with other modes of transportation and services outside the Authority to access vital lifeline services.

3.2.2.3 Service Quality- there is a need for performance measures and standards for assessing transit performance and level of service.

3.2.2.4 Service Expansion - there is a need to establish additional transit service throughout the County centered around activity centers in urban and rural areas where it is limited or does not currently exist.

3.2.2.5 Transit Investments - there is a need to develop policy framework and performance based methodology for prioritizing transit investment in the County so the County-wide service planning effort will be part of an on-going cycle of continuous improvement.

3.2.3 Overall, the project objective is to develop a county-wide plan involving all stakeholders and building a consensus on what services are needed in each community and how each service will fit into an integrated transit system.

3.3 PROJECT SUMMARY

3.3.1 The Plan is intended to provide a vision for all public transportation in Cass County and also examine issues and services in adjacent Michigan counties as well as the Elkhart/Mishawaka, Indiana, urban areas to the extent they represent connections to and from Cass County. The plan is intended to provide a basis for developing and delivering transit projects and programs over the next five years.

3.3.2 The Contractor shall consider the general needs of the traveling public as well as the specific needs of particular sub-markets including, but not necessarily limited to, older adults, people with disabilities, students and employers. The Contractor will also consider people who do not use local public transportation. The Plan will describe how non-users may be converted to users by addressing what specific barriers or objections non-users have and how to overcome those barriers.

3.3.3 The plan must address all reasonable transportation concepts and not rely on what has traditionally been done by the Authority. The Contractor will consider all modes of transportation including, but not limited to, fixed deviated-route bus service, demand-response and advance reservation. Throughout the plan

development, the Contractor shall consider possible roles for third-party transit providers or brokers. The Contractor shall describe where and under what circumstance it is best to rely on third-party providers as opposed to "in house" services.

3.3.4 The Contractor will develop one or more scenarios to represent the future "desired state" for public transportation and will create corresponding implementation strategies designed to achieve the desired state. At a minimum, options (or alternatives, or scenarios) should be designed that vary according to the funding levels needed to pay for them (e.g. high, medium, and low). Another minimum requirement is that options (or alternatives, or scenarios) should be created for at least three time-frames (e.g. 1-year 3-year and 5-year). All of the projects and improvements should be sufficiently detailed to enable future inclusion in a capital and operating program. The Contractor shall identify strategies for funding the improvements recommended in the Plan. The funding strategies must address how an integrated system might pay for both capital improvements and on-going operations. Funding strategies may include the use of existing funding sources as well as funding sources not yet in place. If suggested funding sources are not yet in existence, the Contractor shall outline the steps needed to establish those funding sources, describe possible challenges to establishing those sources, and provide a description of the steps that are needed to establish the suggested funding source.

3.3.5 The following analysis and methods will be used:

3.3.5.1 Existing and Future Conditions and Needs Analysis

3.3.5.1.1 Document existing conditions in regard to transit use (origin/destination), transit ridership, transit rider characteristics (with particular attention to the needs of youth, seniors, people with disabilities, as well as low-income workers).

3.3.5.1.2 Document the characteristics of potential future transit riders and travel markets (particularly as they relate to land use and economic development needs and demands).

3.3.5.2 Develop Vision, Goals and Objectives for the County-wide Transit Plan

3.3.5.2.1 The vision, goals and objectives will address all transit modes as well as land use, economic development, social equity, environmental sustainability, and financial sustainability.

- 3.3.5.2.2 They will address both long-term and near-term planning horizons.
- 3.3.5.3 Develop performance measures and standards for assessing transit performance and level of service.
 - 3.3.5.3.1 Develop a common set of performance measures for assessing transit performance and level of service or different transit service types, including ongoing performance monitoring
 - 3.3.5.3.2 Identify potential tools and technologies that can be used for efficiently collecting data and monitoring performance.
- 3.3.5.4 Develop policy framework and performance based methodology for prioritizing transit investment in the County.
- 3.3.5.5 Develop and implement a methodology for prioritizing corridors and transit investments (capital and operating) to build the network over time that is based on ridership, operating and capital cost, constraints, equity, connectivity and functionality.
- 3.3.5.6 Develop an Implementation and Financial Plan
 - 3.3.5.6.1 The plan will recommend implementation strategies for plan elements including discussion of priorities and timing issues.
 - 3.3.5.6.2 Identification of potential barriers to implementation and recommendations for addressing those barriers.
 - 3.3.5.6.3 Capital and operating plan that includes cost estimates as well as potential funding sources.
 - 3.3.5.6.4 Capital costs for transit-supportive infrastructure improvements will also be included.
 - 3.3.5.6.5 Plan will coordinate and align funding priorities at the local, state and federal level with regard to proposed Countywide transit service and related infrastructure.
- 3.3.5.7 Develop a Detailed Service Plan of Proposed Operations
 - 3.3.5.7.1 Types, or modes, of service to be provided (fixed-route bus connections, demand response services, paratransit, door to door connections, etc)
 - 3.3.5.7.2 Schedules / scheduling concepts
 - 3.3.5.7.3 Geographic service areas
 - 3.3.5.7.4 Days and hours of service

- 3.3.5.7.5 Vehicle requirements
- 3.3.5.7.6 Staffing requirements
- 3.3.5.7.7 Facility requirements
- 3.3.5.7.8 Cost to provide each of the services
- 3.3.5.7.9 Estimated ridership for each service

3.3.5.8 The described method is the preferred approach because it will be comprehensive and thorough, so the results have enough detail to ensure implementation. Also this method focuses on engaging stakeholders and creating buy-in which is also critical to ensure implementation.

3.3.5.9 The results will be a Plan that will make public transit an integral part of Cass County's transportation system. This project will result in a clear, detailed integrated service plan that will ensure more effective transit service delivery by the Authority, and will also provide the necessary foundation for moving forward with a more equitable and local sustainable funding source for public transit.

3.4 PUBLIC ENGAGEMENT

The Contractor is expected to offer a creative methodology that walks stakeholders through a sequence of steps that comprehensively identifies the range of alternatives for public transportation in Cass County, evaluates the alternatives against a set of criteria, and selects the alternative that best satisfies the criteria. Public outreach should focus on education and gaining public input on key trade-offs, choices, and priorities. The engagement strategy should also help citizens and local leaders work through the tradeoffs that transit network design requires.

3.5 DELIVERABLES

The following deliverables are suggested by the Authority as the logical outcomes of the required analysis and methods described above.

3.5.1 **Task 1:** Existing and Future Conditions and Needs Analysis

- 3.5.1.1 Document existing conditions with regard to transit use (origin destination) transit ridership, transit rider characteristics (with particular attention to the needs of youth, seniors, and other transit dependent populations as well as low income workers), characteristics of potential future transit riders and travel markets. Identify primary travel corridors and markets.

3.5.1.2 Deliverables: Technical memorandum documenting existing conditions and needs with respect to transit and more general travel within and outside the Authority.

3.5.2 **Task 2:** Develop Vision, Goals and Objectives for the County-wide Transit Service Plan.

3.5.2.1 In conjunction with plan partners, other stakeholders and the public, develop the vision, goals and objectives for the County-wide Transit Service Plan. The vision, goals and objectives will be informed by the analysis of existing and future conditions and needs, as well as previous planning efforts. The vision and goals will address transit modes, social equity and financial sustainability. They will address both long-term and near term planning horizons.

3.5.2.2 Deliverables: Technical memorandum documenting the vision, goals and objectives and describing the rationale behind their development.

3.5.3 **Task 3:** Develop Performance Measures and Standards for assessing Transit Performance and Level of Service.

3.5.3.1 Develop a common set of performance measures for assessing transit performance and level of service for different transit service types. Identify tools and technologies that can be used for efficiently collecting data and monitoring performance.

3.5.3.2 Deliverables: Technical memorandum summarizing transit performance measures currently used and recommending a set of measures to be incorporated into the County-wide Transit Service Plan to assess current and future transit performance and level of service.

3.5.4 **Task 4:** Develop a Policy Framework and Performance Methodology for Prioritizing Transit Investments.

3.5.4.1 Develop and implement a methodology for prioritizing corridors and transit investments (capital and operating) to build the network over time that is based on ridership, operating and capital cost,

constraints, equity, connectivity and functionality, business and economic development needs and origin/destination demands, as well as other potential factors. Transit service coverage and "lifeline" type service should also be addressed.

3.5.4.2 Deliverables: Technical Memorandum documenting the policy rational and performance based methodology.

3.5.5 **Task 5:** Develop an Implementation and Financial Plan.

3.5.5.1 The implementation and financial plan will focus on:

- 3.5.5.1.1 Implementation strategies for plan elements including discussion of priorities and timing issues. Identification of potential barriers to implement and recommendations for addressing those barriers.
- 3.5.5.1.2 Capital and operating plan that includes cost estimates as well as potential funding sources.
- 3.5.5.1.3 Capital costs for transit-supportive infrastructure improvements will also be included.
- 3.5.5.1.4 Plan will coordinate and align funding priorities at the local, state and federal level with regard to proposed County-wide transit service and related infrastructure.

3.5.5.2 Deliverables: An implementation plan will be included as a chapter in the draft and final County-Wide Transit Service Plan.

3.5.6 **Task 6:** Develop a Detailed Service Plan of Proposed Operations

3.5.6.1 Service Plan Includes:

- 3.5.6.1.1 Types, or modes, of service to be provided (deviated fixed-route bus, demand response services, door to door connections, non-emergency medical, etc)
- 3.5.6.1.2 Routes and/locations of the service
- 3.5.6.1.3 Schedules / scheduling concepts
- 3.5.6.1.4 Fare Structure(s)

- 3.5.6.1.5 Geographic service areas
- 3.5.6.1.6 Days and hours of service
- 3.5.6.1.7 Vehicle requirements
- 3.5.6.1.8 Staffing requirements
- 3.5.6.1.9 Facility requirements
- 3.5.6.1.10 Estimated ridership for each service
- 3.5.6.1.11 Cost to provide each of the services

3.5.6.2 Deliverables: Technical memorandum detailing each of the items above. Easy to understand and interpret info graphics and maps should also be included to represent the above items for future presentations.

3.5.7 **Task 7:** Stakeholder Engagement, Governance and Public Outreach

3.5.7.1 Public outreach will focus on education and gaining public input from County residents, elected officials and relevant agencies and organizations on key trade-offs, choices and priorities. It should make use of online, interactive web-based tools as well as in person meetings, outreach events and stakeholder interviews.

3.5.7.2 Deliverables: Technical memorandum detailing the public participation approach, stakeholder involvement record and timeline. Technical and meeting support including meeting preparation, presentations, summaries, and information materials for up to five Commission, Committee, and focus group meetings. Development of a project specific website, and other public engagement strategies.

3.5.8 Each deliverable shall be transmitted to the Authority in draft form, and will be subject to a two-stage review process. The Authority and staff will review the draft and advise the Contractor of needed changes. When the changes have been made, the Contractor will be advised to produce a draft for stakeholder presentation and review. Additional changes to the document may be required after the public review process.

3.5.9 Media and file formats: Reports shall be delivered to the Authority in a current version of Microsoft Word. Reports distributed to stakeholders, or placed on the internet for public access, will be in Adobe .pdf format. Presentations shall be produced and delivered in Microsoft Power Point, and public versions will be delivered in .pdf format

3.5.10 Reports are to be dated and identified as either draft or final, as appropriate. Submittal of final reports shall be accompanied by the files, in their native format, that were used to generate graphics displayed in the reports.

3.6 PROJECT TIMETABLE

3.6.1 At the start of the project, the Contractor will be expected to produce a project timetable that lists major tasks with their starting and ending dates. Meetings and deliverables should be included as milestones on the timetable. The Contractor shall update and re-submit the timetable as conditions warrant.

3.6.2 The Contractor will provide a task-by-task budget. The budget will be constructed in a way that allows the Contractor and the Authority Project Manager to monitor project financial performance and take corrective actions in a timely manner.

3.6.3 The desired timetable for project completion is 3-6 months from the date of contract execution. Contractors may, however, propose a longer timeline if they feel the proposed work cannot be completed within the 3-6 month period.

3.7 PROJECT MANAGEMENT AND REPORTING

3.7.1 The Contractor shall name a single point of contact for the project, and all communications between the Authority and the Contractor shall be through that individual.

3.7.2 The Authority Project Manager for this effort and shall be the Contractor's primary contact. Although from time-to-time the Contractor may be directed to talk to others, the Contractor shall keep the Authority Project Manager advised of all communications with other Authority staff.

3.7.3 The Contractor will submit regular progress reports to the Authority Project Manager indicating the status of the project relative to the original budget and timeline. The progress reports shall note any instances of

expected deviations from the original project budget and timeline, and shall either describe corrective actions, or offer a revised budget and timeline to meet the new circumstances. Adjustments to the total budget will be strongly discouraged, but re-allocation of existing budget among tasks will be considered.

3.8 CONTENTS OF PROPOSAL

Proposals shall be submitted in two parts: PART ONE – “Proposal Information” will be used to qualify the proposers, and PART TWO – “Price” will be used to determine the best value to the Authority. Proposals shall have all requests for information numbered and answered completely. The narrative portion and the materials presented in response to this request for information shall be submitted in the same order as presented in this Request for Proposal.

PART ONE should include the following:

3.8.1 Qualifications and References

- 3.8.1.1 Describe the company, including history, mission and nature of work, age, number of employees and office location(s).
- 3.8.1.2 At least one (1) reference is required for each subcontractor with a proposed budget over \$25,000 total for this contract.
- 3.8.1.3 Provide a resume for each key team member (including key personnel working for each subcontractor) Qualifications and capabilities of the staff to be assigned to the Authority’s contract including licenses, certifications, and years of experience.

3.8.2 Experience and Capacity

- 3.8.2.1 Provide a minimum of three clients, preferably public transit or governmental agencies, that the firm has provided services similar to the Authority’s requirements. Provide the address, phone number, email (if available) and contact name for the clients. Include a brief project description, the project title, duration, budget, sponsoring agency, sponsor project manager, the specific work conducted and roles played by individuals proposed for this contract.
- 3.8.2.2 Discussion and evidence of successful Countywide Transit Service Plans that Contractor has developed. Contractor must state what measurements it used to determine that the plans have been successful.

3.8.3 Responses to Scope of Work

3.8.3.1 Understanding the Required Scope of Work - By presentation of a well-conceived work plan, this section of the proposal shall establish that the proposer understands the Authority's objectives and work requirements and describes the proposer's ability to satisfy those objectives and requirements. Succinctly describe the proposed approach for addressing the required work, outlining the activities that would be undertaken in completing the various tasks and specifying who would perform them. Include a timetable for completing all work specified in The Required Scope of Work. The proposer may also suggest technical and procedural innovations that have been used successfully on the other projects and which may facilitate the performance of the services and which may not be specifically called out in this RFP. Additional items included in the RFP must be clearly described as additional or optional tasks. Provide a detailed explanation of the approach for completing the work and addressing the tasks identified above.

3.8.3.2 Management Plan and Approach - This section should include a description of your team's proposed approach to your assignment at the Authority, reflecting your understanding of the needs, and detailing the expertise of the team, including all subcontractors, in specific area of interest. Describe how your team's expertise will be practically applied to fulfill the Scope of Work, including, how the team will implement the contract, if awarded. This section may include key areas of consideration and the rationale for implementing the contract as proposed. This section should also describe your approach to client communications and coordination. Describe methods of planning, scheduling, delivery of tasks, coordination meeting strategies and how the team will provide updated and accurate information to the Authority for the duration of the contract. Describe how management of the team members and subcontractors will be handled as well as managing budgetary controls and avoiding exceeding resources allocated for specific tasks.

3.8.3.3 Proposed Staffing Plan and Availability - Designate the Principal-in-Charge or Program Manager who will serve as the Authority primary contact throughout the duration of the contract and identify individuals for key positions. Describe the specific roles and responsibilities of key team members and indicate the percentage of total contract hours that each member will spend on the contract and any other assurance as to their ability to provide the requested services in a responsive and timely manner. For all proposed subcontractor key team members provide a list of current clients, a brief resume describing similar contracts on which they have been involved in and their role in the contract. Full resumes may be included in an appendix. Any substitution of key team members after submittal of the proposal or during the contract will require prior written approval from the Authority. Further, since significant time and

effort may be required to educate and train substitute team members, the final contract will include financial and other provisions regarding the replacement of key personnel during the contract term. For firms with multiple offices, proposals must clarify which resources are available directly out of the local office.

3.8.3.4 The Proposal shall include a description of the Proposer's project management and quality assurance plans.

3.8.4 Schedule

Provide an estimated time to complete Scope of Services from contract award including an audit milestone chart reflecting start and completion dates by section, element, and major deliverables.

3.8.5. Performance Measures

Provide a list of proposed performance measures that could be used during the course of the contract, if selected, to evaluate deliverables and services performed. If selected, these will be negotiated with staff during contract negotiations and final performance measures will be incorporated into a Professional Services Contract.

3.8.6 Cost Proposal (**PART TWO**) should include the following:

A Proposer must submit a detailed cost estimate including cost of services, travel cost, materials and printing, indirect costs and fees. All travel costs billed will follow the State of Michigan's vehicle and travel rates. Current travel rates can be found on the Department of Technology, Management and Budget's website at: https://www.michigan.gov/dtmb/0,5552,7-358-82548_13132---,00.html. Indicate the number of hours per task and title of staff included in the lump sum fee. The Authority reserves the right to negotiate final contract price for completion of all project tasks. The resulting contract shall be a fixed/firm price type contract.

3.9 PROPOSAL EVALUATION, NEGOTIATION AND SELECTION

3.9.1 Review for General Responsiveness

It is the intent of the Authority to conduct a comprehensive, fair and impartial evaluation of the proposals received in response to this Request for Proposal. The proposal selected will be that response deemed the best value to the Authority.

The proposals will be reviewed by a selection committee made up of four board members of the CCTA. Any proposal that does not include enough information to permit the evaluators to rate the proposals in any one of the evaluation factors listed below will be considered non-responsive.

Proposals will be evaluated, negotiated, selected and any award made in accordance with the criteria and procedures described in this section. Subject to the Authority's right to reject any or all proposals for sound documentable, business reasons. The Proposer will be selected whose proposal is scored the highest based upon consideration of the criteria. During the initial review of proposals, the Authority reserves the right to request clarification of minor issues from any Proposer to assure a complete understanding of their offer and to adjust any evaluations made with incorrect or unclear information.

Proposers, in a competitive range, may be requested by the Authority to participate in interviews during the evaluation process. Not all Proposers may be invited to present their Proposals and be interviewed. Proposers who are invited to make a presentation and be interviewed do so at their own expense and are not guaranteed award of a contract.

The original scoring of the non-price criteria may be modified based on the results of the interview.

The Authority reserves the right to accept or reject any or all proposals and to waive informalities and irregularities in the proposals or proposal procedures, and to accept any proposal determined by the Authority to be in the best interests of the Authority, even though not the lowest cost proposal.

3.9.2 Evaluation Criteria

Proposals will be evaluated and assigned weighted points based upon their relative strength and experience in the following areas. The criteria are listed in order of importance. Price is less important than the other technical factors as a whole. Evaluations will be made in strict accordance with all of the evaluation criteria and procedures. The Authority will select for any award the highest scored proposal from a responsible, responsive proposer, whose proposal does not exceed the \$100,000 project cost limit. The Authority reserves the right to award to other than the lowest priced proposal and to the proposal representing the best value.

PART ONE (Contractor Qualifications) should include the following;

3.9.3 Quality and approach of proposal (maximum of 45 points available):

- 3.9.3.1 Proven experience of firm on projects of similar SOW
- 3.9.3.2 Understanding of objectives
- 3.9.3.3 Methodology and procedures
- 3.9.3.4 Work plan/schedules/time lines

3.9.4 Organizational, personnel and resources (maximum of 30 points available):

- 3.9.4.1 Organization and management
- 3.9.4.2 Experience and qualifications of proposed staff

PART TWO (Price)

3.9.5 Cost and/or fees (maximum of 25 points available):

3.9.5.1 Cost and/or fees. Note: The formula used to determine the points assigned for cost of services is: $(\text{Low Proposal Price} / \text{Price of Proposal Being Evaluated}) \times \text{Points Possible}$

If the Proposal fails to meet the RFP requirements, the Proposal is non-responsive.

3.10 APPENDICES

The following appendices shall be completed and submitted with response.

3.10.1 Prohibition of Discrimination (APPENDIX A)

3.10.2 Federal Contract Clauses 3168 Version 11/2019, Professional and A & E Less than \$150,000 (APPENDIX B)

3.10.3 Non-Collusion (APPENDIX C)

3.10.4 Certificate of Authorization (APPENDIX D)

3.11 RESPONSE TO RFP

Proposal packets must arrive at the Cass County Transportation Authority and be time stamped on or before the date and time specified on the first page of this RFP. Proposers are responsible for the timely receipt by the Authority of their proposals notwithstanding delays resulting from postal handling or any other reasons.

LATE PROPOSAL PACKETS WILL NOT BE CONSIDERED.

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract, the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised August 2011

Michigan Department
of Transportation
3168 (11/19)

PROFESSIONAL AND A & E LESS THAN \$150,000

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GOVERNMENT WIDE DEBARMENT AND SUSPENSION (NON PROCUREMENT)

Applicability – all contracts more than \$25,000.

The Recipient agrees to the following:

1. It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <http://www.sam.gov.proxy1.senalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <http://www.sam.gov.proxy1.senalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.
2. If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

CONTRACTOR / COMPANY NAME

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

TYPE OR PRINT NAME	TITLE
SIGNATURE	DATE

SEISMIC SAFETY

Construction of new buildings or additions to existing buildings. These requirements do not apply to micropurchases (\$10,000 or less, except for construction contracts of more than \$2,000).

Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

PATENT AND RIGHTS IN DATA

Applicability – all contracts involving experimental, developmental, or research work except micropurchases (\$10,000 or less, except for construction contracts over \$2,000).

Patent Rights:

- A. General. The Recipient agrees that: (1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery, (2) The Federal

Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA.

- B. Federal Rights. The Recipient agrees that: (1) Its rights and responsibilities, and the rights and responsibilities of each Third Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing.

Rights in Data and Copyrights:

- A. Definition of "Subject Data." means recorded information: (1) Copyright. Whether or not copyrighted, and (2) Delivery. That is delivered or specified to be delivered under the Underlying Agreement.
- B. Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to: a. Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but (2) Do not include: (a) Financial reports, (b) Cost analyses, or (c) Other similar information used for Project administration.
- C. General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C (1) do not apply to: (a) Publications or reproductions for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release.
- D. Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Nonexclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and
- E. Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third Party Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged,

or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception. Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding, F. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,

- F. Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section
- G. (1) if (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law, H. Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent, I. Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and
- H. Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

FLY AMERICA REQUIREMENTS

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and sub recipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and

shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

ENERGY CONSERVATION

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

ACCESS TO RECORDS AND REPORTS

Applicability – as shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11). FTA does not require the inclusion of these requirements in subcontracts.

FEDERAL CHANGES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

TERMINATION

Applicability – all contracts more than \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000

- a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

- b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.
- c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.
- d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default.

In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if: (1). Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and (2). Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

- i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

Applicability – when a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

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

CIVIL RIGHTS REQUIREMENTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

- a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute): (1) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program.
- b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued.
- c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that

applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

- d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 implement a DBE program approved by FTA, and 3 establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,
- e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in

Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

- g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,
- h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd - 290dd-2,
- i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: (1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,
- j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.
- k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

DISADVANTAGED BUSINESS ENTERPRISE

Applicability – contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.
- b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. If a separate contract goal has been established, Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
- d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
- f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

PROMPT PAYMENT

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

APPENDIX C

NON-COLLUSION AFFIDAVIT

The proposal, by its officers and authorized agents or representatives present at the time of filing this proposal, being duly sworn on their oaths, say that neither they nor any of them have in any way, directly or indirectly, entered into any arrangement or agreement with any other proposer or with any public officer of such Authority,, whereby such affidavit or affiant or either of them has paid or is to pay to such other proposer or public officer any sum of money, or has given or is to give to such other proposer or public office anything of value whatsoever, or such affidavit or affiant or either of them has not directly or indirectly entered into any arrangement or agreement with any other proposer or proposers, which tends to or does lessen or destroy free competition in the letting of the contract sought for by the attached proposal, that no inducement of any form or character other than that which appears on the face of the proposal will be suggested, offered, paid or delivered to any person whomsoever to influence the acceptance of the proposal or awarding of the contract, nor has this proposer any agreement or understanding of any kind whatsoever, with any person whomsoever to pay, deliver to, or share with any other person in any way or manner, any of the proceeds of the contract sought by this proposal.

COMPANY: _____

BY: _____
(signature)

NAME: _____
(type or print)

TITLE: _____

DATE: _____

APPENDIX D

CERTIFICATE OF AUTHORIZATION FOR CONTRACT EXECUTION

This certificate shall be executed by the appropriate officer of the Corporation other than the one who signed the foregoing proposal. Before executing, please note the last paragraph of this certificate.

I, _____, certify that I am the _____ of
(Official Corporate Title)

the corporation named Proposer herein: that _____ who signed the
foregoing proposal on behalf of said corporation was then _____ of said
corporation; that said proposal was duly signed for on behalf of said corporation by authority of
its governing body and is within the scope of its corporate powers.

SIGNED: _____

TITLE: _____

FIRM: _____

DATE: _____

INCLUDE CORPORATE SEAL OR NOTARIZE BELOW

In lieu of the foregoing certificate, there may be attached to the proposal a copy of that portion of the records of the corporation as will show the official corporate character and authority of the officer signing. Such copy shall be duly certified by the secretary or assistant secretary under the corporate seal to be true copies.