

March 11, 2025



# REQUEST FOR PROPOSALS

*Intelligent Transportation Systems*

**REQUEST FOR PROPOSAL – COVER PAGE**

Issue Date

March 11, 2025

Title:

Fixed Route Intelligent Transportation System  
(ITS)

Reference Number:

RFP# CDPT2025-02

Issuing and Using Agency:

City of DeKalb Transit Division  
Attn: Mike Neuenkirchen, Transit Manager  
1216 Market St  
DeKalb, Illinois 60115

Proposals for Furnishing the Product(s)/Service(s) Described Herein Will Be Received Until:

**4:00 PM on April 30, 2025 (CST)**

All Inquiries for Information Should Be Directed To: Address listed above or Phone (815) 748-2370.

IF PROPOSALS ARE MAILED OR HAND-DELIVERED, SEND DIRECTLY TO:

**COD Transit PROCUREMENT, RFP #CDPT2025-02, 1216 Market St, DeKalb, ILLINOIS 60115.**

The Reference Number, Date and Time of proposal submission deadline, as reflected above, must clearly appear on the face of the returned proposal package.

In Compliance With This Request for Proposals And To All Conditions Imposed Therein and Hereby Incorporated By Reference, The Undersigned Offers And Agrees To Furnish The Goods/Services Described Herein In Accordance With The Attached Signed Proposal Or As Mutually Agreed Upon By Subsequent Negotiation.

Name and Address of Firm: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

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

*(Signature in ink)*

\_\_\_\_\_ Zip Code: \_\_\_\_\_

Name: \_\_\_\_\_

*(Please Print)*

Telephone: (     ) \_\_\_\_\_

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

Fax Number: (     ) \_\_\_\_\_

FEI/FIN Number: \_\_\_\_\_

DUNS Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

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## DEFINITION OF WORDS AND TERMS

Words and terms shall be given their ordinary and usual meanings. Where used in the Contract documents, the following words and terms shall have the meanings indicated. The meanings shall be applicable to the singular, plural, masculine, feminine and neuter of the words and terms.

Acceptance or Accepted: Written documentation of City of DeKalb Transit's determination that the Contractor's Work has been completed in accordance with the Contract.

Addendum/Addenda: Written additions, deletions, clarification, interpretations, modifications or corrections to the solicitation documents issued by CDPT during the Solicitation period and prior to contract award.

Administrative Change: Documentation provided by CDPT to Contractor, which reflects internal CDPT procedures not affecting the Contract terms or Scope of Work.

Best and Final Offer: Best and Final Offer shall consist of the Proposer's revised proposal, the supplemental information, and the Proposer's Best and Final Offer. In the event of any conflict or inconsistency in the items submitted by the Proposer, the items submitted last will govern.

Buyer: Individual designated by CDPT to conduct the Contract solicitation process, draft and negotiate contracts, resolves contractual issues and supports the Project Manager during Contract performance.

Change Documentation: A written document agreed upon by Project Managers, which if it creates a material change to the Contract term or Scope of Work shall be executed as a Contract Amendment.

Change Order: Written order issued by City of DeKalb Transit, with or without notice to sureties, making changes in the Work within the scope of this Contract.

City Manager: City of DeKalb City Manager

COD: City of DeKalb

CDPT: City of DeKalb Public Transit

Contract Amendment: A written change to the Contract modifying, deleting or adding to the terms or scope of work, signed by both parties, with or without notice to the sureties.

Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between CDPT and the Contractor for completion of the Work.

Contract Period: The period of time during which the Contractor shall perform the Services or Work under the Contract.

Contract Price: Amount payable to the Contractor under the terms and conditions of the Contract for the satisfactory performance of the Services or Work under the Contract.

Contractor: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with CDPT for the performance of Services or Work under the Contract.

Cost Analysis: The review, evaluation and verification of cost data and the evaluation of the specific elements of costs and profit. Cost analysis is the application of judgment utilizing criteria to project from the data to the estimated costs in order to form an opinion on the degree to which proposed costs represent what the Contract should cost, assuming reasonable economy and efficiency.

Day: Calendar Day.

DBE: Disadvantage Business Enterprise

Documentation: Technical publications relating to the use of the Work to be provided by Contractor under this Contract, such as reference, user, installation, systems administration and technical guides, delivered by the



Contractor to City of DeKalb Transit.

DOT: Department of Transportation.

Final Acceptance: The point when CDPT acknowledges that the Contractor has performed the entire Work in accordance with the Contract.

FTA: Federal Transit Administration.

Person: Includes individuals, associations, firms, companies, corporations, partnerships, and joint ventures.

Price Analysis: The process of examining and evaluating a price without evaluating its separate cost elements and proposed profit.

Procurement Administrator: The individual designated by CDPT to administer the Contract and be the Contractor's primary point of contact. The Transit Manager has no contracting authority.

Project Manager: The individual designated by CDPT to manage the project on a daily basis and who may represent CDPT for Contract Administration.

Proposer or Offeror or Bidder: Individual, association, partnership, firm, company, corporation or a combination thereof, including joint ventures, submitting a bid/proposal to perform the Work.

Provide: Furnish without additional charge.

Reference Documents: Reports, specifications, and/or drawings that is available to proposers for information and reference in preparing bids but not as part of this Contract.

RFP or Solicitation: Request for proposals; also known as the solicitation document.

Scope of Work or Statement of Work (SOW): A section of the Request for Proposals consisting of written descriptions of Services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

Services: The furnishing of labor, time or effort by a Contractor, but not involving the delivery of any specific manufactured good.

Shall or Will: Whenever used to stipulate anything, Shall or Will means mandatory by either the Contractor or City of DeKalb Transit, as applicable, and means that the Contractor or City of DeKalb Transit, as applicable, has thereby entered into a covenant with the other party to do or perform the same.

Specifications or Technical Specifications: A Section of the Request for Proposals consisting of written descriptions of Services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

Subcontractor: The individual, association, partnership, firm, company, corporation, or joint venture entering into an agreement with the Contractor to perform any portion of the Work covered by this Contract.

Submittals: Information that is submitted to the Transit Manager in accordance with the Scope of Work/Specifications.

Trip: Involves a trip that is moving people within a specific area, often using public conveyances such as buses, trains, or subways.

Work: Everything to be provided and done for the fulfillment of the Contract and shall include all goods and services specified under this Contract, including Contract Amendments and settlements.

**LEGAL NOTICE**

March 11, 2025

**REQUEST FOR PROPOSALS**  
**Intelligent Transportation Systems (ITS)**  
**RFP# CDPT2025-02**

The CDPT is seeking proposals for the deployment of Fixed Route Intelligent Transportation Systems (ITS) . The scope of work/specifications is outlined in the Request for Proposals (RFP). The successful Proposer shall meet the terms and conditions set forth in this document and all other attachments.

The RFP, which includes the procurement schedule, may be obtained by downloading the document from City of DeKalb Transit's website found at <https://www.cityofdekalb.com/1436/BIDS>. All interested contractors should complete an Interested Proposer Registration Form (contained in the RFP) and submit it to the listed person, via e-mail. All questions should be directed to:

Mike Neuenkirchen, Transit Manager  
City of DeKalb Transit  
1216 Market St  
DeKalb, IL 60115  
(815) 748-2370  
E-mail: [Michael.Neuenkirchen@cityofdekalb.com](mailto:Michael.Neuenkirchen@cityofdekalb.com)

All proposals must be received on or before **4:00 pm (CST) on April 30, 2025** at the address listed above.

The right is reserved to accept any proposal/bid or any part or parts thereof or to reject any and all proposals/bids. Acceptance of any proposal/bid may be subject to concurrence by the Illinois Department of Transportation and the Federal Transit Administration.

Any contract resulting from these proposals is subject to financial assistance contract between the CDPT and the Federal Transit Administration and the Illinois Department of Transportation.

The contractor will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

Funding provided in whole or in part by the Illinois Department of Transportation "IDOT".

INTERESTED PROPOSER REGISTRATION FORM

**Fixed Route Intelligent Transportation Systems (ITS)  
RFP# CDPT2025-02**

Date: March 11, 2025

To: INTERESTED CONTRACTORS

Subject: Fixed Route Intelligent Transportation Systems (ITS) RFP# CDPT2025-02

To Proposers:

The REQUEST FOR PROPOSALS (RFP) and any issued addenda(s) are available for download at <https://www.cityofdekalb.com/1436/BIDS>. Please submit this Form to [michael.neuenkirchen@cityofdekalb.com](mailto:michael.neuenkirchen@cityofdekalb.com) with your completed contact information.

Name of INTERESTED CONTRACTOR: \_\_\_\_\_

Name of Contact Person: \_\_\_\_\_

Title of Contact Person: \_\_\_\_\_

Street Address/Post Office Box: \_\_\_\_\_

City, State, Zip Code: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Website Address: \_\_\_\_\_

Date of Download: \_\_\_\_\_

This Form is requested to ensure that every Interested Contractor receives issued addenda(s) for this REQUEST FOR PROPOSALS. Failure to register this download may result in a rejection of the quotation due to non-compliance with addenda requirements. See **ATTACHMENT C - ADDENDUM PAGE**, which must be completed and submitted with the proposal that you provide to the City of DeKalb Transit.

Thank you for your interest. We look forward to receiving your proposal.

Sincerely,  
Michael Neuenkirchen  
Transit Manager  
PH: (815) 748-2370

## SECTION 1 - INSTRUCTIONS TO PROPOSERS

### 1- 1. Introduction

CDPT is the primary public transportation provider for the DeKalb, Illinois Urbanized Area, including the City of DeKalb, the City of Sycamore, the Town of Cortland, and Northern Illinois University. CDPT is a municipal agency within the State of Illinois. CDPT provides an environmentally friendly and customer-focused transportation service that connects people to places in an efficient and safe manner.

CDPT contracts with Transdev to provide fixed route and paratransit services. Transdev's DeKalb property employs approximately 100 full and part-time employees, operates 13 fixed routes within the City of DeKalb, City of Sycamore, and the City of Cortland and maintains an active fleet of twenty-two 35- foot Gillig Lowfloor buses and three Ford F550 Cutaways buses.

### 1- 2. Purpose

The purpose of this Request for Proposals (RFP) is to request proposals from qualified, responsive and responsible individuals, firms, or teams for the supply and deployment of Intelligent Transportation Systems (ITS). This project includes the implementation of an Automated Vehicle Location (AVL), Automatic Passenger Counters (APC), Automatic interface with Twinvision/Luminator head signs, Automatic Voice Annunciators (AVA) and Interactive Voice Response (IVR) Systems.

### 1- 3. Proposal Submission

The proposer will submit:

- Electronic copy on thumb drive
- Four (4) hard copies;

**Original and required copies, complete with all signed affidavits and certifications, will be bound together.** Oversize pages used for drawings or similar purposes are allowed. The package containing the proposal must be clearly marked with the words "**Proposal for Fixed Route Intelligent Information Systems (ITS) RFP# CDPT2025-02**" and the time and date proposals are due. CDPT will not accept responsibility for late proposals that may be improperly routed in the mail or otherwise delivered after the prescribed date and time.

CDPT shall not be responsible for unintentional premature opening of a proposal that has not been properly addressed and identified per the instructions included with this RFP. All proposals are due **NO LATER THAN 4:00 pm (CST), April 30, 2025.**

### 1- 4. Proposal Format and Required Content

Proposals shall be prepared in a clear, concise, and economical manner. Proposals should be bound simply, and sections shall be tabbed to coincide with the sections of the RFP and pages should be numbered in each section.

There is no page limitation or minimum document size, but any information the Proposer submits is expected to be concise and relevant to the RFP. Illustrations may be included in the proposal. Proposals that do not adhere to the required format, are difficult to read or are deemed illegible by the CDPT and may be rejected.

**Proposals shall adhere to the following format and contain the following items in the order outlined below:**

A. Request for Proposal Cover Page (page 2) and all properly completed and executed Attachments.

B. Cover Letter, providing the following information:

1. Identification of the proposer(s), including name, address and telephone number of the appropriate contact person at each company/firm.
2. Proposed working relationship among proposing companies/firms, i.e. prime subcontractors, if applicable.
3. Signature of a person authorized to bind the proposing firm/company to the terms of the proposal.

C. Notice of Exception(s) (if applicable)

D. Qualifications and Capabilities of the Company

1. Name(s) and title(s) of all key personnel proposed for the duration of the contract. In the event that oral presentations are conducted, the designated key personnel will be required to attend along with other representatives of the Proposer.
2. Provide a brief profile of the Proposer, including its principal line of business, year founded, form of organization and a general description of the Proposer's financial condition. Identify any conditions (bankruptcy, pending merger, pending litigation, planned office closures) that may impede the Proposer's ability to complete the project.
3. Identify all qualifications and organizational capabilities that will establish the proposer as a satisfactory provider of the required product or service by reason of its strength and stability.
4. Identify any and all subcontractors, if applicable. For each subcontractor, provide the name, the company, address, contact person, telephone number and project function(s).

Proposer must provide affirmation of your company's ability to meet all RFP requirements, including any supporting documentation, sales materials, etc. Also include a reason why you are not able to meet any RFP requirements and why you feel regardless of your inability to meet all requirements your proposal should be considered.

E. Related Experiences and References

This section of the Proposal should establish the ability of the Proposer to provide the required product or service by demonstrating competence in the performance of services to be provided. Proposers should identify or provide any record(s) of satisfactory performance on similar contracts and supportive client references. Provide examples of similar contracts that the Proposer has undertaken (indicating current status of the contract) within the last two years. For each reference cited as related experience, furnish the name, title, address, and telephone number of the person(s) at the purchaser's organization who is the most knowledgeable about the work performed.

F. Technical Proposal (to include)

1. Proposers must demonstrate their understanding of the project, describe their project approach and explain how they will meet CDPT's goals and objectives.

2. A response to each line item in Section 2, the Scope of Work. The proposer will identify the response to each line item in the order the line item appears in the Scope of Work. Identify how the line-item requirements will be met and describe in detail the item being presented. This response will incorporate all addenda to the RFP. Each response should be clearly defined and should include, but not be limited to, a detailed statement of how the Proposer intends to achieve full compliance, or an explanation of why full compliance cannot be attained.
3. Provide, in narrative form, a plan of how your organization would approach this project if awarded the contract. This should include, but not be limited to, complete compliance with the Scope of Work, identification of potential shortfalls in your understanding of the requirements, and your ideas which would improve the likelihood of success for both parties.
4. Where the Scope of Work permits alternative means, methods, and/or materials to be employed, the proposal shall indicate the choice of the Proposer.
5. A comprehensive list of any disclaimers or caveats pertaining to the provision of service and start-up of services as described in CDPT's Scope of Work/Specifications. Except as clearly stated in this section, it shall be assumed that the CDPT's Scope of Work shall supersede any and all such specifications that may be described and/or included in the proposal.

#### G. Cost/Price Proposal

The Cost/Price Proposal should identify and respond to the items within the Scope of Work. A summary of the cost/price proposal for items in the proposal is required, showing fees for the basic work program. The cost for the entire proposal is also required. The Proposer/Bidder must demonstrate its financial capability, including financial resources to sustain operations between the time expenses are incurred and the time payment is made.

#### 1- 5. Proposal Signature

Each proposal shall include the RFP Cover Page signed by a person authorized to bind the proposing firm to the terms of the Contract. Proposals signed by an agent are to be accompanied by evidence of that person's authority.

#### 1- 6. Inquiries

The proposer is required to show on all correspondence with the CDPT the following: **Proposal for Fixed Route Intelligent Information Systems (ITS) RFP# CDPT2025-02**". Any communication with CDPT should be written and directed to: Michael Neuenkirchen, Transit Manager, City of DeKalb Transit, 1216 Market St, DeKalb, Illinois 60115. Written communication may also be forwarded via email to [michael.neuenkirchen@cityofdekalb.com](mailto:michael.neuenkirchen@cityofdekalb.com) Correspondence will not be accepted by any other means or by any other CDPT staff member.

#### 1- 7. Procurement Schedule

The projected schedule for this procurement is:

Request for Proposals available:	March 11, 2025
Deadline for questions and clarifications:	April 14, 2025
Deadline for responses to questions and clarifications:	April 21, 2025

Proposals due by <b>4:00 pm (CST)</b> :	April 30, 2025
Estimated evaluation of proposals & possible interviews:	May 30, 2025
Estimated IDOT Pre-bid concurrence	July 30, 2025
Recommend Contract Award at City of DeKalb City Council Meeting:	August 11, 2025
Anticipated Start Up Date:	January 01, 2026

#### 1- 8. Interviews & Presentations

RFP Evaluation Committee may schedule interviews and presentations for Proposers submitting proposals for this project. These interviews and presentations will allow selected Proposers to present their proposals and approaches to this project in greater depth.

CDPT will expect the Project Manager to take an active part in making the presentation at the Proposer's interview. The Project Manager would have day-to-day responsibility conducting services contracted or very closely supervising others' work for the services contracted, if awarded.

The interview and presentation will last approximately one hour. Your presentation should be limited to approximately 20 minutes. The remainder of the time will be used for follow-up discussion and questions.

The presentations will be held with the City of DeKalb via Microsoft Teams or a similar online meeting platform.

#### 1- 9. Proposal Specifics

The RFP Evaluation Committee reserves the right to reject any or all proposals. Any restrictions on the use of data contained within a proposal must be clearly stated in the proposal itself.

#### 1- 10. Disadvantaged Business Enterprise (DBE) Participation

The CDPT has established a **1.00%** DBE contract goal on this project. Therefore, a proposer must, in order to be responsible and/or responsive, make a good faith effort to meet the goal. The Proposer can meet this requirement in either of two ways.

- a. The Proposer can meet the goal, documenting commitments for participation by DBE firms sufficient to for this purpose.
- b. Even if it does not meet the goal, the Proposer can document adequate good faith efforts. This means that the Proposer must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part, which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

For proposers to receive credit for the use of a DBE, the Illinois Unified Certification Program (IL UCP) must certify the proposed DBE prior to submission of the bid. It is the policy of City of DeKalb that Disadvantaged Business Enterprises (DBE's) as defined in 49 CFR Part 26 shall have a level playing field to compete fairly for DOT-assisted contracts. The contractor is encouraged to take all necessary and reasonable steps to ensure

that DBE's have a level playing field to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the contractor intends to subcontract a portion of the services on the project, the contractor is encouraged to contact DBE's to solicit their interest, capabilities and qualifications.

It is the policy of CDPT to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT- assisted contracts to make use of these institutions. Therefore, CDPT encourages prime contractors to use DBE financial institutions whenever possible.

49 CFR Part 26 requires CDPT to collect certain data about firms attempting to participate in FTA contracts. This data must be provided on the enclosed **Firm Data Sheet**

A. Certification – To be certified as a DBE, a firm must meet all certification eligibility standards. Firms that qualify as a DBE must: 1) be a small business as defined by the Small Business Administration; 2) be at least 51% owned by minorities, women and/or socially and economically disadvantaged adults, and 3) have its day-to-day operations controlled by women or minorities. The Illinois Unified Certification Program (IL UCP) will make its certification decisions based on the facts as a whole. DBE certification entitles contractors to participate in COD's DBE program; however, this certification does not guarantee that the contractor will obtain work with CDPT.

B. Process – A firm must apply for certification through the IL UCP. Certification guidelines and applications are also available online as PDF's at the following links:

<https://idot.illinois.gov/doing-business/certifications/dbe/il-ucp.html>

C. DBE Program – For information about COD's DBE Program, firms may contact:

Michael Neuenkirchen

Transit Manager

City of DeKalb Transit

1216 Market St, DeKalb, Illinois 60115.

(815) 748-2370 or email: [Michael.neuenkirchen@cityofdekalb.com](mailto:Michael.neuenkirchen@cityofdekalb.com)

#### 1- 11. Examination of RFP and Contract Documents

Proposers are expected to examine the Scope of Work, scope of services required, specifications, schedules, compliance requirements and all instructions. Failure to do so will be at the Proposer's risk. It is the intent of these specifications to provide product(s)/service(s) of first quality, and the workmanship must be the best obtainable in the various trades. The product(s)/service(s) proposed must be high quality in all respects. No advantage will be taken by the Proposer in the omission of any part or detail, which goes to make the product/service(s) complete. All manner of workmanship and material used in the production of the services and not herein contained or specified shall be of the industry standard and shall conform to the best practices known in the industry.

Contractor will assume responsibility for all equipment used in the proposal item, whether the same is manufactured by the Contractor or purchased ready made from a source outside the Contractor's company. It is the sole responsibility of the Contractor to read the Scope of Work/Specifications and understand them.

The submission of a proposal shall constitute an acknowledgment upon which CDPT may rely on that the Proposer has thoroughly examined and is familiar with the solicitation, instructions and Scope of



Work, including any work site identified in the RFP, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions addressing or relating to the goods and services to be provided hereunder. The failure or neglect of a Proposer to receive or examine such documents, work sites, statutes, regulations, ordinances, or resolutions shall in no way relieve the Proposer from any obligations with respect to its Proposal or to any Contract awarded pursuant to this RFP. No claim for additional compensation will be allowed which is based on lack of knowledge or misunderstanding of this RFP, work sites, statutes, regulations, ordinances, or resolutions.

1- 12. Interpretation of RFP and Contract Documents

No oral interpretations as to the meaning of the RFP will be made to any Proposer. Any explanation desired by a Proposer regarding the meaning or interpretation of the RFP, Scope of Work, Specifications, etc., must be requested in writing and with sufficient time allowed (a minimum of fifteen (15) calendar days before the proposal due date) for a reply to reach all Proposers before the submission of their proposals. Any interpretation or change made will be in the form of an addendum to the RFP, specifications, etc., as appropriate. All addendums will be furnished as promptly as is practicable to all contractors who have registered to submit a proposal on this RFP and to whom the RFP has been issued to at least seven (7) calendar days prior to the proposal due date. **All addenda will become part of the RFP and any subsequently awarded Contract.** Oral explanations, statements, or instructions given by CDPT before the award of the Contract will not be binding upon the CDPT.

1- 13. Cost of Proposals

CDPT is not liable for any costs incurred by Proposers in the preparation, presentation, testing, or negotiation of Proposals submitted in response to this solicitation.

1- 14. Samples

Samples of items, when called for, must be furnished free of charge. Samples must be labeled with the Proposer's name, manufacturer's brand name and number, proposal number, and item reference. Request for return of samples shall be accompanied by instructions, which include shipping authorization and name of carrier, and must be received within ninety (90) days after proposal opening date. If instructions are not received within this time, the commodities shall be disposed of by the CDPT.

## SECTION 2 – SCOPE OF WORK

### 2- 1. Introduction

The City of DeKalb owns and operates a public transit system known as the City of DeKalb Public Transit (“CDPT” or “Huskie Line”). The day-to-day management of the system is provided by a private contract operator – Transdev, Inc. The Maintenance of all system vehicles is currently performed at the Transdev Maintenance Facility. The CDPT operates in the City of DeKalb, City of Sycamore, Town of Cortland and accesses the METRA rail station in Elburn. The DeKalb UZA is approximately 65,000, with an additional 15,000 students living in the UZA when Northern Illinois University is in session. The system began operation in 2019 and currently consists of::

- 23 low floor 35 foot Gillig buses
- 3 Ford F550 Cutaway buses.

CDPT is a Fixed Route, with signed stops operating with time points providing fixed route service within the cities of DeKalb, Sycamore and a METRA station stop in Elburn. The hours of operation are as follows:

- Monday – Friday 07:00 am to 12:00am, consisting of peak and off-peak hours.
  - Peak hours 07:00 am to 04:10 pm covering 13 routes with frequencies ranging between hourly down to 10 minutes using 18 buses.
  - Off Peak Hours 04:10pm to Midnight covering 10 routes with frequencies ranging between ½ hour to hourly using 15 buses
  - Night service 12:00 am to 07:00 am covering 2 routes with an hourly frequency using two buses.
- Saturday 07:00 am to 12:00 am
  - Service in hourly from 07:00 am to 08:30 am the there is a mix of hourly and ½ hour service. Covering 9 routes using 9 buses
  - Night service 12:00 am to 07:00 am covering 2 routes with an hourly frequency using two buses.
- Sunday 07:00 am to 12:00 am
  - Service in hourly from 07:00 am to 08:30 am the there is a mix of hourly and ½ hour service. Covering 8 routes using 8 buses
  - Night service 12:00 am to 07:00 am covering 2 routes with an hourly frequency using two buses.

Currently CDPT uses antiquated “dump cylinder” style fare boxes and are in the process of moving away from a “Motorola” style radio system to “ESChat” wireless radios using Samsung Tablets, the buses have Lytx forward/rear G-force cameras and Twinvision/Luminator head signs and ETA Spot lite as the current AVL system for monitoring the service, communicating with the public via the ETA Spot application.

CDPT is interested in acquiring additional technologies such as Automatic Vehicle Locator (AVL) / Mobile Data Computer (MDC) functionality. In addition, CDPT is interested in integrating the new software solution with Automated Passenger Counters (APC’s), Automated Voice Annunciation (AVA’s) and other “Rider Information” technologies. The goal of implementing new technology is to provide improved service to the customers of CDPT through improved data collection and transit analysis, and greater dissemination of real time transit information.

CDPT would like to see this new technology address the following:

- Late trips, Missed trips, Early trips, VRH (Vehicle Revenue hours), Total Actual Revenue Vehicle miles, Deadhead miles, UPT (Unlinked Passenger Trips);
- OTP by route, run, driver and OTP by hour, day, week, month or year;
- Include but not limited, where has the bus been, where is the bus at, where is the bus going, when is the bus going to get there;
- Who was driving the bus, what route, alerts when bus is behind, alerts when the bus is ahead, alerts when the bus is speeding, alerts when the bus is off route all in real time;
- Supervisor ability to change or alter routes short term for construction, accidents, etc. Dispatch ability to communicate or message via MDC;
- Reports of passenger counts, types of fares, available by location, route, time, day, week, month, year, etc. Passenger per vehicle, passenger per route, passenger per stop, passenger count per hour;
- Reports of actual vehicle miles, actual vehicle hours, average of vehicle mile per hour;
- Revenue from farebox (entered into application by driver) by stop, route, day, etc.;
- Head Signs automatically change according to the route/run the bus is on;
- Passenger-friendly application and web-based mapping through our web site (Where is my bus) that will give our passengers information such, when the bus will get to their location (bus stop), when the next bus is coming, information for planning their trip. Alert passengers of current detours and alternate stops. Alerts passengers of stops in service.

CDPT is seeking one (1) qualified vendor to supply and implement the technology listed above as a single point of contact. CDPT expects that multiple vendors may partner to supply the products required; however, one (1) vendor must be the prime contractor and supply a single point of contact to ensure the project success.

## 2-2. Required Components

- Implementation of AVL / MDC system for the vehicles described including all necessary software, middleware, and hardware components.
- Provide and integrate an Automated Passenger Counter Solution with the mobile data system.
- Provide an integrated Automated Voice Annunciation Solution with the mobile data system. Interactive workstations/displays. 1 in City Transit Manager's Office, 1 in City Assistant Transit Manager's Office 1 in Vendor (Transdev) dispatch.
- Provide web-based consumer portal (App) for customers to view fixed routes, determine "where's my ride".
- Vendor will include 1 years of Technical Support and Maintenance for existing and proposed technology for complete system. (Making sure new technology will integrate with existing technology)
- Phone and email support with service technician/engineer during all normal administrative business hours and in emergency situations when system is down, or trips are unable to be delivered.
- Provision of diagnostics/repairs via remote control access to system hardware/software.
- On-site technical support when required.
- Product upgrades, new releases, patches, etc. when issued by the vendor throughout the first five (5) years of implementation. The product upgrades, new releases, patches, etc. for year 1 must be included in the proposer's base bid. The product upgrades, new releases, patches, etc. for years 2 through 5 should be included as alternates in the bid proposal.

2- 3. Vendor Requirements

- Vendor will serve as prime contractor and single point of contact for all components including integrations, procurement, and ongoing technical support.
- Provide all software applications and interfaces required.
- Provide a detailed list of recommended hardware specifications and include the purchasing cost in the bid.
- Comply with CDPT current IT architecture and standards. Provide the rate for customized reports for CDPT.
- Conduct detailed and comprehensive training sessions for CDPT and Transdev personnel. Responsible for on-going support and cooperation with CDPT.
- Ensure successful communication by developing a communication plan approved by CDPT.
- Provide a detailed schedule/implementation plan and ensure adherence. Provide pricing for year-to-year maintenance agreement.
- A # mechanism at stops (Benches, shelters, signs) for app (Note: All CDPT stops are numbered and can be accessed via Google maps or City of DeKalb Transit has a excel spreadsheet with them listed ) where someone could plug in the number or QR code to see when the bus would arrive.
- Transmit real time data into Google Transit to let customers know when next bus (or buses) will be there.

2- 4. CDPT Responsibilities

- Provide the contractor/vendor with applicable workspace.
- Provide the necessary access to CDPT workstations, servers, and scheduling/dispatch data.
- Ensure CDPT personnel are available for scheduled training and necessary support.
- Provide onsite training classroom.

2- 5. Hardware and Software Standards

CDPT is primarily a “Microsoft shop” meaning most of the operating systems, Line of Business (LOB) applications, and other applications are compatible in this way.

In addition, to this, there are a handful of LOB applications that are in use at CDPT. It is important that the vendor’s solution be compatible and, as necessary to workflows, interact with these LOB applications. These applications include Lytx (bus camera monitoring), Trillium (GTFS Data), Twinvision /Luminator head signs. Because of this, a complete list of applications the vendor’s solution is, and is not compatible with should be provided.

2- 6. Project Management

Each response to this RFP should include the Vendor’s communication plan for ensuring successful implementation. CDPT intends to take an active role in the design, implementation, integration, and testing of this new technology within our system. Moreover, CDPT required regular meeting and communication with the Vendor as to the progress and direction of the project. The communication plan developed by the Vendor should include when the meetings with the project team will take place. Vendor will provide meeting minutes to CDPT. At each of these meetings, the Vendor will provide an action item list to include current and historical items including the person responsible for

documentation purposes. The Vendor is required to provide a detailed project schedule that includes tasks to be completed by CDPT and the Vendor with appropriate dates.

## 2- 7. Warranty and Maintenance Plans

Proper warranty agreements as well as a solid and complete maintenance plan are essential for any RFP response. This should cover not only the initial setup and integration of the platform, but also continued support to ensure the working operations of the platform. This means the vendor is required to ensure that the system is functional and operational before scheduling acceptance testing or final acceptance with CDPT personnel. Additionally, through the use and life of the system, support from the vendor will be required and covered within the warranty / maintenance plan. In addition to this, a warranty on the hardware itself should span at least a 5-year mark. All maintenance, repair, replacement, and labor for such work must be covered under this warranty. AVL technology will continue to improve and change. The vendor's solution should include their plan to keep CDPT up to date with the latest improvements to AVL technology. This plan should include timelines and any costs included or excluded from warranty and maintenance plans.

## 2- 8. Training

CDPT realizes that training is an essential component of successful implementation. The vendor is required to provide comprehensive and complete training to all staff involved in the operation of the new technologies such as dispatch, Management, Information Technology, Drivers, and Maintenance. CDPT has an onsite training area and prefers that training be conducted in their facility.

Training shall be conducted by Vendor personnel that are well versed with the vendor's system. A detailed training plan should be provided to CDPT. The plan should include on-site training that will allow for continued employee responsibilities. This plan should include training agendas describing who will be trained during each session and the length of each session. The plan should address the levels of training (i.e. end user, administrative, technical, power user, etc.).

The selected Vendor is required to provide training and user manuals as well as quick reference guides for all trainees. Bus operators should be provided with a laminated shirt pocket card with brief operational instructions. At least 4 hard copies of the training manuals and user guides should be provided for each software application.

The vendor should detail different training methods and approaches (i.e. classroom, train the trainer, one-on-one, web based, etc.). CDPT would like the Vendor to recommend a training method and utilize CDPT data during the training sessions.

## 2- 9. Reporting, Data, Conversion, Security

CDPT requires the selected Vendor to provide an agreed upon amount of customized (canned) reports. Canned reporting will be included with the total cost proposal and development of new reports will be covered under maintenance and warranty agreement. In addition to canned reports, an ad hoc reporting tool that allows CDPT staff to pull specific data contained within the software system. Ad hoc reporting will allow data pulls by time, day, week, month, year, vehicle number, driver, passenger, route, and any other field that is contained within the software. Governmental reports including National Transit Database (NTD) and daily operational reports should be included. Example of reports would be:

- Canned – Total ridership, by date or date span
- Canned – Total mileage, by date or date span
- Ad hoc – total mileage by a specific vehicle during date span
- Ad hoc – Number of pickups at a specific stop between certain hours and certain days of the week
- Ad hoc – drop-off totals sortable, by highest to lowest by date or date span

These are just examples and specific reports and needs will be determined at a later date.

2- 10. System Testing and Acceptance

CDPT will validate that the contractor has met all requirements stated in this RFP before accepting the systems. The Vendor is responsible for providing the labor and supervision for the installation and testing of the system. CDPT will work with the selected Vendor to develop acceptance procedures to ensure the equipment is installed properly and functioning according to specifications and to complete system testing and acceptance. CDPT requires the Vendor to develop and submit a series of testing plans and procedures two weeks before testing begins. Testing will begin only after CDPT has signed off on the testing plans and procedures submitted by the vendor. A final system acceptance test is required after all system components are installed and operational.

The vendor is required to ensure that the system is functional and operational before scheduling acceptance testing or final acceptance with CDPT personnel. CDPT will formally accept the system upon the successful completion of the user acceptance testing. CDPT will determine whether the system meets the standards as outlined in the contractual documents.

2- 11. Software Upgrades

CDPT expects that upgrades shall be available to allow them to take advantage of improvements in both software and hardware capabilities. The Vendor will provide at least 30 days advance notice of upgrades in the software and will continue to keep software up to date beyond any warranty or service agreement.

### SECTION 3 – PROPOSAL SUBMISSION PROVISIONS

#### 3- 1. Postponement, Amendment and/or Cancellation of Request for Proposals

The CDPT reserves the right to revise or amend any portion of this RFP prior to the date and time for the proposal delivery. Such revisions and amendments, if any, shall be issued through addenda to this RFP. Copies of such addenda and/or amendments shall be placed on the CDPT website and will be furnished to the Proposer's email address submitted on the Contractors Registration Form. If the revisions or addenda require changes in requested information or the format for proposal submission, the established date for submission of proposals contained in this RFP may be postponed by such number of days as, in the CDPT's opinion, shall enable Proposers adequate time to revise their proposals.

CDPT reserves the right to cancel this RFP at any time or change the date and time for submitting proposals by announcing the same prior to the date and time established for proposal submittal.

#### 3- 2. Rejection of Proposals

CDPT reserves the right to reject any or all proposals and waive any minor informalities or irregularities.

#### 3- 3. Clarification of Proposals

CDPT reserves the right to obtain clarification of any point in a proposal or to obtain additional information necessary to properly evaluate the proposal. Failure of a Proposer to respond to such a request for additional information or clarification may result in the proposals' rejection.

#### 3- 4. Approved Equals

In all cases, services and materials must be furnished as specified. Where brand names or specific items are used in the specifications, consider the term "or approved equal" to follow. Any unapproved deviations, exceptions, substitutions, alternates or conditional qualifications contained in a proposal may be cause for its rejection.

If potential proposers believe that their product is equal to the product specified, they must submit a written request to CDPT on the provided form (Attachment D) and this request will be approved or rejected by CDPT at least seven (7) calendar days prior to the due date of proposals. Requests for approved equals and clarification of specifications must be received by CDPT in writing a minimum of fifteen (15) days before the proposal opening to allow analysis of the request.

Any request for an approved equal must be fully supported with catalog information, specifications and illustrations, or other pertinent information, as evidence that the substitute offered is equal to or better than the specification. Where an approved equal is requested, the Proposer must demonstrate the equality of this product to CDPT to determine whether the Proposer's product is or is not equal to that specified.

#### 3- 5. Modification or Withdrawal of Proposals and Late Proposals



At any time before the time and date set for submittal of proposals, a Proposer may request to withdraw or modify its Proposal. Such a request must be made in writing by a person with authority as identified on the RFP Cover Page, provided their identity is made known and a receipt is signed for the proposal. All proposal modifications shall be made in writing executed and submitted in the same form and manner as the original proposal. Any proposal or modification of proposal received at CDPT's office designated in the solicitation after the exact time specified for proposal receipt will not be considered.

3- 6. Errors and Administrative Corrections

CDPT will not be responsible for any errors in proposals. Proposers will only be allowed to alter proposals after the submittal deadline in response to requests for clarifications or Best and Final Offers by CDPT. CDPT reserves the right to request an extension of the proposal period from a Proposer or Proposers.

CDPT reserves the right to allow corrections or amendments to be made that are due to minor administrative errors or irregularities, such as errors in typing, transposition or similar administrative errors. Erasures or other changes or entries made by the proposer must be initialed by the person signing the proposal.

3- 7. Compliance with RFP Terms and Attachments

CDPT intends to award a Contract based on the terms, conditions, and attachments contained in this RFP. Proposers are strongly advised to not take any exceptions. Proposers shall submit proposals which respond to the requirements of the RFP. An exception is not a response to the RFP requirement. If an exception is taken, a "Notice of Exception" must be submitted with the proposal. The "Notice of Exception" must identify the specific point or points of exception and provide an alternative. Proposers are cautioned that exceptions to the terms, conditions, and attachments may result in rejection of the proposal.

CDPT may, at its sole discretion, determine that a proposal with a Notice of Exception merits evaluation. A proposal with a Notice of Exception not immediately rejected may be evaluated, but its competitive scoring will be reduced to reflect the importance of the exception. Evaluation and negotiation will only continue with the Proposer if CDPT determines that a Contract in the best interest of CDPT may be achieved. The Notice of Exception will be used as part of the CDPT's evaluation of the proposal, and, therefore, must be made known during the course of the proposing process. Comments and exceptions substantially altering the form agreement will not be considered after conclusion of the bid process and the award of a contract. Failure to submit a marked-up copy of the form agreement with a bid proposal will be interpreted by CDPT as the proposer's acceptance of the form agreement provided herein.

3- 8. Collusion

The proposer guarantees that the proposal submitted is not a product of collusion with any other proposer, and no effort has been made to fix the proposal price of any proposer or to fix any overhead, profit, or cost element of any proposal price (Attachment G - Affidavit of Non-Collusion). Failure to submit the signed affidavit at the time of bid opening shall be grounds for disqualification of the proposer's offer.

If CDPT determines that collusion has occurred among Proposers, none of the proposals from the participants in such collusion shall be considered. CDPT's determination shall be final.



3- 9. Pricing, Taxes and Effective Date

The price to be quoted in any proposal will include all items of labor, materials, tools, equipment, delivery and other costs necessary to fully meet the requirements of CDPT. Any items omitted, which are clearly necessary for the completion of this project, will be considered a portion of such specifications, although not directly specified.

Price proposals shall include all freight charges, FOB to the designated delivery points. CDPT is exempt from payment of Federal, Excise and Transportation Tax, and the Illinois Sales, Excise and Use Tax. Proposers will not include these taxes in their proposed price(s). All other government taxes, duties, fees, licenses, permits, royalties, assessments, and charges shall be included in the proposed price.

In the event of a discrepancy between the unit price and the extended amount for a required item, the unit price will govern.

The price quoted by the proposing companies/firms will not change for a period of ninety (90) days, beginning from the date the proposal is opened.

3- 10. Proposal Alternatives

Proposals shall address all requirements identified in this solicitation. In addition, CDPT may consider proposal alternatives submitted by Proposers that provide enhancements beyond the RFP requirements. Proposal alternatives may be considered if deemed to be in CDPT's best interests. Proposal alternatives must be clearly identified.

3- 11. Single Proposal Response

If only one Proposal is received in response to the RFP, a sample of two (2) Proposals, if available, awarded to the Proposer within the past two (2) years may be requested of the single Proposer. A cost/price analysis and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

## SECTION 4 – PROPOSAL EVALUATION & CONTRACT AWARD

### 4- 1. General

RFP Evaluation Committee shall employ a qualification and cost-based selection in a negotiated purchase method in making the award for this procurement. Technical information and price information will be evaluated.

Offerors will be required to submit supporting documentation on the technical aspects and cost. The Evaluation Committee may elect to interview proposers in order to clarify their proposals and/or for the Proposers to make oral presentations. If interviews, presentations, or negotiations are held, the evaluation team may reevaluate the proposals of those firms interviewed. CDPT expects all offerors to fully cooperate with its evaluation process.

### 4- 2. Eligibility for Award / Preliminary Proposal Review

The preliminary review is the initial step in the proposal review process and the purpose is to gauge the responsiveness of the Proposer. The proposals will be preliminarily evaluated according to the following criteria:

- The completeness of the proposal,
- The Proposer has submitted proposal on or before the required due date and time,
- The required forms, certifications, and deliverables have been submitted.

Failure to meet any or all the above criteria will result in a nonresponsive proposal and said proposal will be rejected in its entirety.

In order to qualify as a Responsible Proposer, in addition to the other requirements herein provided, a Proposer must be prepared to prove to the satisfaction of CDPT that it has the integrity, skill, and experience to faithfully perform the conditions of the Contract and that it has the necessary financial resources to provide the services in a satisfactory manner and within the time specified.

To be considered skilled and experienced, the Proposer must show, among other requirements of CDPT, that it has satisfactorily supplied services of the same general type and scope as that which is called for in the RFP.

The Proposer shall maintain at all times, the necessary licenses, permits or certifications required and may be required to furnish evidence of the same.

### 4- 3. Evaluation of Proposals

The RFP Evaluation Committee will evaluate the proposals in accordance with the criteria set forth below. The total evaluation points, as separately determined by each team member, will be added and each proposer will be ranked in numerical sequence, from the highest to the lowest score. RFP Evaluation Committee may then select the proposal that is considered to be the most advantageous to CDPT.

### 4- 4. Scoring and Evaluation Criteria

Each criterion has been assigned a weighting factor that reflects the relative significance or priority each criterion has in determining the costs and quality associated with this service. Conversely, the proposal receiving the highest total score shall be deemed the proposal in the opinion of RFP Evaluation Committee, best meets the established criteria listed herein. Proposals will be rated on a scale from one (lowest rating) to ten (highest rating) with regard to each evaluation criterion. As such, the proposal that is evaluated by an evaluation team member as the best with regard to a particular criterion will receive the maximum number of points for that criterion. The evaluation criteria are listed as follows:

- |  |     |
|--|-----|
| • Quality and Capability of the Service  | 25% |
| • Capabilities of Firm/Company and Staff | 25% |
| • Technical Support                      | 10% |
| • Experience and References              | 10% |
| • Price                                  | 30% |

The Qualification and Capabilities Criteria will be evaluated based on the following:

- Quality and Capability of the Service Compliance with the Technical Requirements; Impact of noncompliant features on overall system functionality and value; Impact of features that exceed requirements on overall system functionality and value; Additional features and availability referring to new and emerging technologies.
- Capabilities of Firm/Company and Staff Technical experience in performing work on services of similar nature; Experience working with public agencies; Financial stability and strength.
- Technical Support Plan for technical and management coordination with the CDPT; Proposed project schedule; Training and documentation approach; Qualifications of proposed project staff; References for Contractor's project manager and subcontractors. Demonstration of a well-considered installation approach; Potential impact on the CDPT operations; Proposed installation timeline; the CDPT resource requirements to support installation; Testing plans and procedures; Proposer's overall understanding of CDPT's needs and objectives; Suitability of the proposed technological solution to CDPT requirements; Quality and performance of hardware and components; Software features and functionality; Features unique to the Contractor's solution; Reliability and maintainability as evidence by use of a proven design; Ability to integrate with future Smart Bus technologies; Suitability of alternative approaches proposed.
- Experience and References Competency of subcontractors; assessment by client references; References with demonstrated success in providing similar services; Reputation for providing high-quality products and services.
- Price Proposal The Price comprises the overall cost of the base contract, including the system warranty, installation, training, maintenance costs and other reoccurring costs/fees.

Refer to Section 1-4 for additional information related to the evaluation criteria.

The Scope of Work, as amended through the request for exception process, and any addenda thereto, will set forth the minimum requirements of the service RFP Evaluation Committee requires through this procurement.

The award of this contract shall be made to the proposer whose proposal, in the opinion of RFP Evaluation Committee, best meets the established criteria listed herein.

4- 5. Competitive Range

The competitive range is determined through a preliminary evaluation of proposals, which applies the evaluation criteria as set forth above. The groups remaining in the competitive range may be invited to participate in additional evaluations, testing, Best and Final Offer, or negotiations.

4- 6. Negotiations

CDPT may undertake concurrent negotiations with proposers determined to be within a competitive range. CDPT does, however, reserve the right to award a contract based on the original proposal without any negotiations. The decision to award without negotiation may be made by CDPT if, in the sole opinion of CDPT, preliminary evaluation of the proposals received indicates that the best achievable and technically acceptable proposal has been received.

Concurrent negotiations with all proposers whose proposals are within the competitive range may be conducted by CDPT. Negotiations may be entered into with one or more Proposers to finalize contract terms and conditions. In the event negotiations are not successful, CDPT may initiate negotiations with the next ranking proposer or reject proposals.

Negotiation of a Contract will be in conformance with all applicable federal, state, and local laws, regulations, rules, and procedures. The objective of the negotiations will be to reach agreement on all provisions of the proposed Contract. The CDPT may elect to submit a revised cost as part of the negotiation process based on current market values.

Upon completion of negotiations, the proposal that best meets the requirements of the RFP and ranks the highest evaluation score earned by its proposal based on the evaluation criteria shall be recommended to CDPT's City Manager as the successful proposer for award.

4- 7. Contract Award

Contract award, if any, will be made by CDPT to the responsible Proposer whose proposal best meets the requirements of the RFP, and will be the most advantageous to CDPT with respect to operational plan, quality, and other factors as evaluated by CDPT. CDPT shall have no obligations until a Contract is signed between the Proposer and CDPT.

Contract award will occur when CDPT signs the Contract or issues a purchase order. No other act of CDPT shall constitute Contract award. The Contract will establish the Contract value and incorporate the terms of this document but will not be the authorization for Contractor to proceed.

4- 8. Execution of Contract and Notice to Proceed

The Proposer to whom CDPT intends to award the Contract shall sign the Contract and return it to CDPT. Upon authorization by City of DeKalb's City Manager, or designee, the Contract will be countersigned. Upon receipt by CDPT of any required documentation and submittals by the Proposer, a Notice to Proceed may be issued, if appropriate.

4- 9. Public Disclosure of Proposals

CDPT is subject to the Illinois Freedom of Information Act. Therefore, the contents of this RFP and the Contractor's proposal submitted in response to this RFP shall be considered public documents and are subject to the Illinois FOIA statutes. As such, all proposals submitted to CDPT will be available for inspection and copying by the public after the selection process has been concluded. There are, however, various items that may be exempt under public disclosure laws. If any proprietary, privileged, or confidential information or data is included in the Contractor's proposal, each page that contains this information or data should be marked as such (e.g., "Proprietary," "Confidential," "Business Secret," or "Competition Sensitive") in order to indicate your claims to an exemption provided in the Illinois FOIA. It is COD's sole right and responsibility, however, to make the determination whether these items are exempt or not exempt under the Illinois FOIA statutes.

All data, documentation and innovations developed as a result of these contractual services shall become the property of CDPT.

## SECTION 5 – STANDARD CONTRACTUAL TERMS & CONDITIONS

### 5- 1. Administration

This Contract is between CDPT and the Contractor who will be responsible for providing the goods and/or performing the services described herein. CDPT is not party to defining the division of work between the Contractor and its Subcontractors, if any, and the Specifications and/or Scope of Services has not been written with this intent.

Contractor represents that it has or will obtain all duly licensed and qualified personnel and equipment required to perform hereunder. Contractor's performance under this Contract may be monitored and reviewed by CDPT Transit staff. Reports and data required to be provided by the Contractor shall be delivered to the Transit Manager. Questions by Contractor regarding interpretation of the terms, provisions, and requirements of this Contract shall be addressed to the Transit Manager for response.

### 5- 2. Notification of Delay

Contractor will notify CDPT's Transit Manager as soon as Contractor has, or should have, knowledge that an event has occurred which will delay delivery or start-up of services. Within five days, Contractor will confirm such notice in writing furnishing as many details as is available.

### 5- 3. Request for Extension

The contractor agrees to supply, as soon as such data are available, any reasonable proofs that are required by CDPT's Transit Manager to make a decision of any request for extension. CDPT's Transit Manager will examine the request and any documents supplied by the Contractor and will determine if the Contractor is entitled to an extension and the duration of such extension. CDPT's Transit Manager will notify the Contractor of the decision in writing. It is expressly understood and agreed that Contractor will not be entitled to damages or compensation and will not be reimbursed for losses on account of delays resulting from any cause under this provision.

### 5- 4. Contract Changes

Any proposed change in the contract including a change in the scope of work will be submitted to CDPT for its prior written approval and CDPT will make the change by a Change Order if agreed upon by both parties in writing. Each written Change Order will expressly include any change in the Contract price or delivery schedule. No oral order or conduct by CDPT will constitute a Change Order unless confirmed in writing by CDPT.

### 5- 5. Instructions by Unauthorized Third Persons

In accordance with subsection 5-4, Contract Changes, of the solicitation, CDPT's Transit Manager or his/her authorized representative are the only persons authorized to make changes within the general scope of the Contract.

Any instructions, written or oral, given to Contractor by someone other than CDPT's Transit Manager or his/her authorized representative, which are considered to be a change in the Contract, will not be considered an authorized Contract change. Any action on the part of Contractor taken in compliance

with such instructions will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

5- 6. Cost or Price Analysis

CDPT reserves the right to conduct a cost or price analysis for any purchase. CDPT may be required to perform a cost analysis when competition is lacking for any purchase. Sole source procurements which result in a single Bid being received will be subject to a cost analysis which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of data to determine the effect on Bid prices. CDPT may require a Pre-Award Audit and potential Contractors shall be prepared to submit data relevant to the proposed work which will allow CDPT to sufficiently determine that the proposed price is fair, reasonable, and in accordance with Federal, State and local regulations. Procurements resulting in a single Bid will be treated as a negotiated procurement and CDPT reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price. If a negotiated price cannot be agreed upon by both parties, CDPT reserves the right to reject the single Bid. Contract change orders or modifications will be subject to a cost analysis.

5- 7. Lack of Funds

If expected or actual funding is withdrawn, reduced, or limited in any way prior to the expiration date set forth in this Contract or in any amendment hereto, CDPT may, upon written notice to Contractor, terminate this Contract in whole or in part. Such termination shall be in accordance with CDPT's rights to terminate for convenience or default.

5- 8. Force Majeure

The timely receipt of CDPT's requirements is essential. If the requirements are not received on time in accordance with the delivery schedule, CDPT may cancel the unfilled portion of the contract for cause, purchase substitute requirements elsewhere, and recover from Contractor any increased costs, thereby incurred together with all resulting incidental and consequential damages. CDPT may also terminate for cause, purchase substitute requirements elsewhere and recover costs and damages for breach of Contractor obligations.

The Contractor shall be entitled to a reasonable extension of time from CDPT for the delays caused by damage to Contractor's and/or CDPT's property caused by fire, lightning, earthquakes, tornadoes, and other extreme weather conditions or acts of nature, power failures, riots, acts of civil or military authorities of competent jurisdiction, strikes, lockouts, and any other industrial, civil or public disturbances beyond the control of the Contractor and its subcontractors causing the inability to perform the requirements of this Contract. Any delay other than ones mentioned above shall constitute a breach of Contractor's contractual obligations.

5- 9. Taxes, Licenses, Laws, and Certificate Requirements

Contractor shall maintain and be liable for all taxes, fees, licenses, and costs as may be required by federal, state, and local laws, rules, and regulations for the conduct of business by Contractor and any subcontractors and shall secure and at all times maintain any and all such valid licenses and permits as may be required to provide the services or supplies under this Contract. If for any reason, Contractor's required licenses or certificates are terminated, suspended, revoked, lapsed, or in any manner

modified from their status at the time this Contract becomes effective, Contractor shall immediately notify CDPT in writing of such condition.

Contractor will give all notices and comply with all federal, state, local and CDPT laws, ordinances, rules, regulations, standards, and orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these General Provisions of the Contract and the other Contract Documents. If the Contract Documents are at variance therewith in any respect, any necessary changes shall be adjusted by appropriate modification. Omission of any applicable laws, ordinances, rules, regulations, standards or orders by CDPT in the Contract Documents shall be construed as an oversight and shall not relieve the Contractor from his obligations to meet such fully and completely. Upon request, Contractor shall furnish to CDPT certificates of compliance with all such laws, orders and regulations. Contractor shall be responsible for obtaining all necessary permits and licenses required for performance under the Contract.

Applicable provisions of all federal, state, and local laws, and of all ordinances, rules, and regulations shall govern any and all claims and disputes which may arise between person(s) submitting a Bid response hereto and CDPT, by and through its officers, employees and authorized representatives, or any other persons, natural and otherwise, and lack of knowledge by any Contractor shall not constitute a cognizable defense against the legal effect thereof.

5- 10. Defective Work, Materials or Services

When and as often as CDPT determines that the work, materials, or services furnished under the Contract are not fully and completely in accordance with any requirement of the Contract, it may give notice and description of such non-compliance to Contractor. Within seven (7) calendar days of receiving such written notification, Contractor must supply CDPT with a written detailed plan which indicates the time and methods needed to bring the work, materials, or services within acceptable limits of the Contract. CDPT may reject or accept this plan at its discretion. In the event this plan is rejected, the work, materials, or services will be deemed not accepted and returned to Contractor at Contractor's expense. This procedure to remedy defects is not intended to limit or preclude any other remedies available to CDPT by law, including those available under the Uniform Commercial Code.

5- 11. Assignment

Contractor shall not assign any interest, obligation, or benefit under or in this Contract or transfer any interest in the same, whether by assignment or notation, without the prior written consent of CDPT. If an assignment is approved, this Contract shall be binding upon and inure to the benefit of the successors of Contractor. This provision shall not prevent Contractor from pledging any proceeds from this Contract as security to a lender. An assignment may be conditioned upon the posting of bonds, securities and the like by the assignee and the assignee must assume the written Contract and be responsible for the obligations and liabilities of Contractor, known and unknown, under this Contract and applicable law.

CDPT may assign its rights and obligations under the Contract to any successor to the rights and functions of CDPT or to any governmental agency to the extent required by applicable laws or governmental regulations, or to the extent CDPT deems necessary or advisable under the circumstances.



5- 12. Indemnification and Hold Harmless

To the fullest extent permitted by law, Contractor agrees to indemnify, and hold harmless, and upon request, defend COD and CDPT , its officers, directors, Board Members, employees, agents, representatives, volunteers, subsidiaries, successors, and assigns (“Indemnitees”), from any claim, liability, damage, expense, suit or demand (including, without limitation, reasonable attorneys’ fees and court costs) for any losses, damages, injuries, or death to any persons including Contractor’s employees or any Subcontractor’s employees, or for damage or loss to any third-party property, arising out of or in any manner related to, based upon, or in connection with any operations,

5- 13. Workers Compensation Waiver

To the fullest extent permitted by law, Contractor expressly (a) waives the benefits, for itself and all subcontractors of the provisions of any applicable workers compensation law limiting the tort or other liability of any employer on account of injuries to the employer’s employees, and expressly (b) assumes proportionate liability in that regard. Contractor also waives any rights and/or claims for subrogation and/or reimbursement by listen or otherwise for itself, and all Subcontractors to recover from CDPT any amounts paid under any applicable workers compensation law by Contractor, any Subcontractor or their respective workers’ compensation insurers.

5- 14. Applicable Law and Forum

All work done pursuant to any contract resulting from this RFP will be governed by and construed according to the regulations of the Federal Transit Administration and the laws of the State of Illinois. Further, the successful Proposer shall abide by all federal, state, and local laws, codes, and ordinances governing any areas(s) in which a service is rendered and shall have all required permits, licenses, agreements, tariffs, bonding, and insurance required by same. No claims for additional payment shall be approved for changes required to comply with any such requirements. Any actions arising here from shall be filed in the County of DeKalb, Illinois and the Federal Transit Administration if applicable.

5- 15. Attorney Fees

In the event either party shall engage the services of an attorney or other professional due to the default of the other party, the defaulting (non-prevailing) party shall pay all legal costs and fees, including attorney’s fees, incurred by the non-defaulting (prevailing) party in enforcing its rights.

5- 16. State Officials and Employees Ethics Act

City of DeKalb has adopted a policy to adopt the State Officials and Employees Ethics Act. These policies shall apply to CDPT employees involved in procurement. It is a breach of ethical standards for any CDPT employee to participate directly or indirectly in a procurement when the employee knows:

- The employee, or any member of the employee’s immediate family, has a financial interest pertaining to the procurement; or
- A business or organization in which the employee, or any member of the employee’s immediate family, has a financial interest pertaining to the procurement; or

- Any other person, business or organization with whom the employee or any member of employee's immediate family is negotiating or has an arrangement concerning prospective employment is involved in the procurement. In addition, any persons acting as members of an evaluation committee for any procurement shall, for the purposes of the procurement, be bound by conditions of this Section. Throughout the bid/proposal evaluation process and subsequent contract negotiations, offerors shall not discuss or seek specific information about this procurement, including but not limited to, the contents of submissions, the evaluation process or the contract negotiations, with members of any evaluation committee, or other City of DeKalb employees other than the designated procurement officer.

5- 17. Conflicts of Interest and Non-Competitive Practices

- Conflict of Interest – Contractor by entering into this Contract with CDPT to perform or provide work, services, or materials, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed and/or provided under this Contract and that it shall not employ any person or agent having any such interest. In the event that Contractor or its agents, employees or representative's hereafter acquires such a conflict of interest, is shall immediately disclose such interest to CDPT and take action immediately to eliminate the conflict or to withdraw from this Contract, as CDPT may require.
- Contingent Fees and Gratuities – Contractor, by entering into this Contract with CDPT to perform or provide work, services, or materials, has thereby covenanted:
  - a. No person or selling agency except bona fide employees or designated agents or representatives of Contractor has been or will be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and
  - b. No gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Contractor or any of its agents, employees, or representatives, to any official, member or employee of CDPT or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

5- 18. Conflicts of Interest – Current and Former Employees

CDPT seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former CDPT employees in transactions with CDPT. Consistent with this policy, no current or former CDPT employee may contract with, influence, advocate, advise, or consult with a third party about a CDPT transaction, or assist with the preparation of Bids submitted to CDPT while employed by CDPT or within one (1) year after leaving CDPT's employment, if he/she participated in determining the work to be done or process to be followed while a CDPT employee.

Furthermore, no member, officer, or employee of CDPT during their tenure or for two (2) years thereafter will have any financial interests, direct or indirect, in this Contract or the proceeds thereof.

5- 19. Other Public Agency Orders

Other federal, state, county, and local entities may utilize the terms and conditions established by this Contract. CDPT does not accept any responsibility or involvement in the purchase orders or contracts issued by other agencies.

5- 20. Severability

Whenever possible, each provision of this Contract shall be interpreted to be effective and valid under applicable law. If any provision is found to be invalid, illegal, or unenforceable, then such provision or portion thereof shall be modified to the extent necessary to render it legal, valid, and enforceable and have the intent and economic effect as close as possible to the invalid, illegal, and unenforceable provision.

5- 21. Non-waiver of Breach

No action or failure to act by CDPT shall constitute a waiver of any right or duty afforded to CDPT under the Contract; nor shall any such action or failure to act by CDPT constitute an approval of, or acquiescence in, any breach hereunder, except as may be specifically stated by CDPT in writing.

5- 22. Use of CDPT's Name in Contractor Advertising or Public Relations

CDPT reserves the right to review and approve all CDPT-related copy prior to publication. Contractor will not allow CDPT-related copy to be published in Contractor's advertisements or public relations programs until submitting CDPT-related copy and receiving prior written approval from CDPT's Transit Manager or his/her authorized representative. Contractor will agree that published information on CDPT or its program will be factual, and in no way imply that CDPT endorses Contractor's firm, service, or product.

5- 23. Exclusionary or Discriminatory Specifications

CDPT agrees that it will comply with the requirements of 49 U.S.C. Section 5323(h) (3) by refraining from using any Federal assistance awarded by the FTA to support procurements using exclusionary or discriminatory specifications. CDPT further agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal Statute.

5- 24. Protest Procedures

Pre-Proposal Protests:

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

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

The decision by the City Manager shall be the final agency decision on the matter.

Pre-Award Protests:

With respect to protests made after the deadline for submission of bids/proposals but before contract award by CDPT, protests shall be limited to those protests alleging a violation of Federal or State law, a challenge to the bids/proposals evaluation and award process.

Such protests shall be submitted in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail) to the City Manager as specified below not later than five (5) business days after the Recommendation for Contract Award announcement by CDPT.

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

The decision by the City Manager shall be the final agency decision on the matter.

Requirements for Protests:

All protests must be submitted to CDPT in writing (defined as being sent or received via letter or facsimile on official firm/agency letterhead or by electronic mail), with sufficient documentation, evidence and legal authority to demonstrate that the Protestor is entitled to the relief requested. The protest must be certified as being true and correct to the best knowledge and information of the Protestor and be signed by the Protestor. The protest must also include a mailing address to which a response should be sent.

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

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

Protest Response:

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

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

5- 25. Insurance Requirements

The contractor shall not commence work until all insurance required under this section has been obtained and the proper insurance verification has been provided to CDPT.

5- 26. General Requirements

All insurance policies shall be written with a company or companies licensed to conduct business within the State of Illinois and holding a current Best's Key Rating of A- VII or better. Contractor agrees to name CDPT as additional insureds on General, Business Automobile and Excess or Umbrella liability policies by endorsement to the policies. Insurance policies shall be endorsed to give CDPT 30 day's written notice (10 days in case of Workers Compensation) of cancellation for any reason, non-renewal or material change in coverage or limits. In case of non-payment of premium by Contractor, CDPT retains the rights but is not obligated to pay any premiums and deduct such amounts from any payments due to the Contractor.

There shall be no exclusions for punitive damages in the General or Business Automobile policies.

Complete, certified copies of all insurance policies applicable to this agreement will be sent to CDPT within 60 days of each inception or anniversary date, so that these insurance policies may be reviewed by CDPT. Until copies of policies are received, Evidence of Coverage in the form of an original Certificate of Insurance shall be submitted to CDPT. The Contractor also agrees to have deficiencies in the insurance policies amended as per the directions of CDPT or its representative.

Failure to provide the required insurance shall not relieve the Subcontractor of any liability the Prime contractor shall have under this agreement or at law.

Subcontractor's Liability: Any portion of the Work to be performed for Contractor by a Subcontractor shall be performed pursuant to an appropriate written subcontract between Contractor and Subcontractor. No subcontract shall relieve Contractor of its obligations under this agreement. Contractor shall remain responsible for all subcontracted Work, and Contractor shall be as fully liable to Owner for the acts and omissions of its Subcontractors, their agents, representatives, and persons directly or indirectly employed by them as it is for the acts and omissions of Contractor's own employees. Any subcontracts between Contractor and Subcontractor will obligate the Subcontractor to the Owner to the same extent as Contractor is obligated to the Owner. The Owner is a third-party beneficiary of such Subcontractor or Subcontractors and in that regard will have the same rights against the Subcontractor as the Contractor would have against the Subcontractor. Such subcontracts will specifically require that the Subcontractor will comply with the insurance provisions of this agreement for the benefit of the Owner, to the same extent that the Contractor is obligated to do so.

5- 27. Required Coverages

Contractor and each of its Subcontractors shall adhere to the following provisions and in those respects shall maintain the following minimum insurance coverage. When the term "Each" is used it refers to the "Contractor" and any Subcontractors hired or engaged by the "Contractor" both separately and collectively.

- A. **Commercial General Liability** (Occurrence Form), Each shall carry Commercial General Liability Insurance on ISO form CG 2010 (10 01) and CG 2037 (10 01) (or a substitute form providing equivalent coverage) which is in a form satisfactory to Owner. Either singly or in combination with Excess or Umbrella Liability Insurance policy **covering all operations** with the following limits:

- Each Occurrence (Bodily Injury, Property Damage) \$1,000,000
- Personal and Advertising Injury Limit \$1,000,000
- General Aggregate Limit \$1,000,000
- Products and Completed Operations Aggregate Limit \$1,000,000
- Fire Damage Limit \$50,000
- Medical Payments – Any One Person \$5,000

**B. Business Automobile Policy** either singly or in combination with Excess or Umbrella Liability Insurance policy **covering all operations** with the following limits:

- Owned, Hired or Non-Owned (Per Accident) \$1,000,000
- Medical Payments (Each Person) \$5,000
- Comprehensive (\$5,000 Deductible – Maximum) Actual Cash Value
- Collision (\$5,000 Deductible – Maximum) Actual Cash Value

In the case of policies that list specific vehicles or specific drivers, proof of coverage is required to be provided to CDPT for each vehicle or driver before it can be used in service. The Contractor will be fully responsible for all physical damage deductibles to CDPT owned vehicles. In addition, Contractor will be fully responsible for all rental costs and other costs associated with any vehicles that replace any vehicle that sustains any type of physical damage.

**C. Workers Compensation**

- Part A Statutory
- Part B – Employers Liability
- Bodily Injury by Accident \$500,000
- Bodily Injury by Disease (Policy Limit) \$500,000
- Bodily Injury by Disease (Each Employee) \$500,000

All States and Voluntary Compensation endorsements shall be included in the Workers Compensation policy. Workers' Compensation shall be provided to all employees of the Contractor.

## SECTION 6– SPECIFIC CONTRACTUAL TERMS & CONDITIONS

### 6- 1. Contract

A Contract shall be issued referencing this solicitation. Contract shall define and authorize the work by Contractor based on the firm fixed prices agreed to by CDPT. The Contract(s) issued by CDPT may reflect agreed to modification of Contract terms, funding, or other matters subject to subsection 6-4, Contract Changes.

### 6- 2. Contract Documents and Precedence

The documents constituting the Contract between CDPT and Contractor are intended to be complementary so that what is required by any one of them shall be as binding as if called for by all of them. In the event of any conflicting provisions or requirements within the several parts of the Contract Documents, the following order of precedence shall be applied:

- 1) Any required federal, state or local regulations that may not be altered by CDPT;
- 2) Contract;
- 3) Contract amendments;
- 4) Results of negotiations;
- 5) Solicitation and all issued addenda and approved equals;
- 6) Any optional federal regulations elected by CDPT as expressly set forth herein;
- 7) Clarifications of and amendments to Contractor’s proposal as accepted by CDPT; and
- 8) Contractor’s proposal and Attachments, and all clarifications and amendments issued prior to contract award.

### 6- 3. Contract Term

The term of the Contract shall be effective with the issuance of the Notice to Proceed. The contract end date shall be determined by the last day for which the warranty/service agreement is effective.

### 6- 4. Payment Procedures

Payments for services rendered and expenses incurred shall be made after presentation of the Contractor’s invoices upon delivery of goods ordered by CDPT. Such invoices shall be computed in accordance with the fee schedule agreed to by CDPT and Contractor, and incorporated into the final contract, and are due and payable within thirty (30) days of receipt of a correct invoice as agreed upon by CDPT. Each invoice shall contain Contractor’s list of items delivered. The contractor also agrees to supply, with each invoice, additional information as may be requested by CDPT.

Invoices should clearly identify the CDPT purchase order number and any prompt payment discount offered to CDPT for paying within ten (10) days of receipt. CDPT may, at any time, conduct an audit of any and/or all records kept by the Contractor for this project. Any overpayment uncovered in such an audit may be charged against the Contractor’s future invoices. CDPT may withhold payment for services it believes were improper, failed to meet with project specifications, or are otherwise questionable. Invoices should be submitted to:



[wendy.kriese@cityofdekalb.com](mailto:wendy.kriese@cityofdekalb.com) (or)

City of DeKalb  
Accounts Payable  
164 E Lincoln Hwy.  
DeKalb, IL 60115

6- 5. Advance Payment Prohibited

No advance payment shall be made for the work furnished by Contractor pursuant to this Contract.

6- 6. Prompt Payment to Subcontractors

The Contractor is required to pay each first tier Subcontractor for all work that the Subcontractor has performed to the satisfaction of the CDPT, no later than thirty (30) calendar days after the Contractor has received payment from CDPT for that work, and each tier of Subcontractors must likewise pay the next lower tier of Subcontractors within thirty (30) calendar days after receiving payment. If this Contract provides for retainage, the Contractor must remit to each first-tier Subcontractor its share of any retainage within thirty (30) days after receipt of such retainage from CDPT, and each tier of Subcontractors must likewise remit retainage to the next lower tier of Subcontractors within thirty (30) calendar days after receiving payment. If this Contract does not provide for retainage, then neither Contractor nor any Subcontractor may withhold retainage from a Subcontractor. The requirements of this paragraph must be stated in all of the Contractor's subcontracts.

A delay in or postponement of payment to a Subcontractor requires good cause and prior written approval by CDPT's Transit Manager or his/her authorized representative. The Contractor is required to include, in each subcontract, a clause requiring the use of appropriate arbitration mechanisms to resolve all payment disputes.

CDPT will not pay the Contractor for work performed unless and until the Contractor ensures that each Subcontractor has been promptly paid under all previous payment requests, as evidenced by the filing with CDPT of lien waivers (if applicable), canceled checks (if requested), and the Contractor's sworn statement that it has complied with the prompt payment requirements. The Contractor must submit a prompt payment affidavit, (form to be provided by CDPT) which identifies each Subcontractor (both DBE and non-DBE) and the date and amount of the last payment to such Subcontractor, with every payment request filed with CDPT, except for the first payment request.

Failure to comply with these prompt payment requirements is a breach of the Contract which may lead to any remedies permitted under law, including, but not limited to, Contractor debarment. In addition, Contractor's failure to promptly pay its Subcontractors is subject to the provisions of 50 ILCS 505/9.

6- 7. Price Adjustments

Price adjustments either upward or downward may be negotiated only at the time of renewal unless CDPT requests a contract modification.

6- 8. Shipping Charges



All prices shall include freight FOB to the designated delivery point. CDPT shall reject requests for additional compensation for freight charges.

6- 9. Delivery Points

This Contract requires all goods and/or services and supervision necessary to furnish the goods and services as set forth herein to be made to any authorized CDPT-related facility and will be determined at the time of order at the sole discretion of CDPT.

6- 10. Summary Report

Contractor shall, if requested, submit to CDPT a quarterly report of services provided to CDPT under this Contract. The report, in a format acceptable to CDPT, shall identify by item the amount of work completed, the status of the project in relation to the schedule, and any other information that may be relevant to project oversight.

6- 11. Warranty Provisions

- A. No Waiver of Warranties and Contract Rights: Conducting of tests and inspections, review of Scope of Work or plans, payment for a work, or acceptance or final acceptance of the work by COD shall not constitute a waiver of any rights under this Contract or in law. The termination of this Contract shall in no way relieve Contractor from its warranty/guarantee responsibility.
- B. Warranty: Contractor warrants that the work performed under this Contract shall be free from defects in material and workmanship and shall conform to all requirements of this Contract. Any work corrected shall be subject to this subsection to the same extent as the work initially provided.
- C. Warranty Applicable to Third Party Suppliers, Vendors, Distributors, and Subcontractors: Contractor shall ensure that the warranty requirements of this Contract are enforceable through and against Contractor's suppliers, vendors, distributors, and subcontractors. Contractor is responsible for liability and expense caused by any inconsistencies or differences between the warranties extended to CDPT by Contractor and those extended to Contractor by its suppliers, vendors, distributors, and subcontractors. Such an inconsistency or difference shall not excuse the Contractor's full compliance with its obligations under this Contract. The contractor shall cooperate with CDPT in facilitating warranty related work by such suppliers, vendors, distributors, and subcontractors.

6- 12. Express Warranties for Services

Contractor warrants that the services shall in all material respects conform to the requirements of this Contract. The contractor warrants that qualified professional personnel with in-depth knowledge shall perform the services in a timely and professional manner; and that the services shall conform to the standards generally observed in the industry for similar services. The contractor warrants that the services shall be in compliance with all applicable laws, rules, and regulations.

6- 13. Warranty Remedies

If at any time before Final Acceptance of any work covered by this Contract, Contractor or CDPT discovers one or more material defects or errors in the work of any other aspect in which the work materially fails to meet the provisions of the warranty requirements herein, Contractor shall, at its own expense and within thirty (30) days of notification of the defect by CDPT, correct the defect, error, or nonconformity.

Notice Required – CDPT shall give written notice of any defect to Contractor. If Contractor has not corrected the defect within thirty (30) days after receiving the written notice, CDPT, in its sole discretion, may correct the defect itself. In the case of an emergency where CDPT believes delay could cause serious injury, loss, or damage, CDPT may waive the written notice and correct the defect. In either case, CDPT shall charge-back the cost for such warranty repair to Contractor.

Contractor is responsible for all costs of repair or replacement in order to restore the work to the applicable Contract requirements or scope of work, including shipping charges, for work found defective before Final Acceptance, regardless of who actually corrects the defect.

6- 14. Independent Status of Contractor

In the performance of this Contract, the parties shall be acting in their individual, corporate, or governmental capacities and not as agents, employees, partners, joint ventures, or associates of one another. The parties intend that an independent contractor relationship shall be created by this Contract. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purpose whatsoever. The contractor shall not make any claim or right, privilege or benefit, which would accrue to an employee.

6- 15. Notices

Any notice which is required to be given hereunder shall be deemed sufficiently given or rendered if such notice is in writing and is delivered personally or sent by certified mail, postage prepaid, return receipt requested, or by a national overnight courier service to the following addresses:

City of DeKalb Transit  
Transit Manager  
1216 Market St  
DeKalb, IL 60115

Any notice given hereunder by personal delivery or express mail shall be deemed delivered when received. Any properly addressed notice given herein by certified mail shall be deemed delivered when the return receipt therefore is signed, or refusal to accept the mailing by the addressee is noted thereon by the postal authorities. Either party may, at any time, change its address for the above purposes by sending a notice to the other party stating the change and setting forth the new address.

6- 16. Non-Disclosure of Data

Data provided by CDPT either before or after Contract award shall only be used for its intended purpose. Proposers, vendors, Contractors, and subcontractors shall not utilize or distribute the CDPT data in any form without the prior express written approval of CDPT.

6- 17. Non-Disclosure Obligation

While providing the work required under this Contract, Contractor might encounter licensed technology, software, documentation, drawings, schematics, manuals, data, or other materials marked “Confidential,” “Proprietary,” or “Business Secret.” Contractor shall, with regard to such information and material received or used in performance of this Contract, employ practices no less than those used for the protection of Contractor’s own confidential information.

The Contract imposes no obligation upon Contractor with respect to confidential information which Contractor can establish that: a) was in the possession of, or was rightfully known by Contractor without an obligation to maintain its confidentiality prior to receipt from CDPT or a third party; b) is or becomes generally known to the public without violation of this Contract; c) is obtained by Contractor in good faith from a third party having the right to disclose it without an obligation of confidentiality; or, d) is independently developed by Contractor without the participation of individuals who have had access to CDPT’s or the third party’s confidential information. Contractor may disclose confidential information if so required by law, provided that Contractor notifies CDPT that the third party of such requirement prior to disclosure.

6- 18. Public Disclosure Requests

Contracts shall be considered public documents and, with exceptions provided under public disclosure laws, will be available for inspection and copying by the public.

If a Contractor considers any portion of any documents which may be delivered to CDPT pursuant to this Contract to be protected under the law, Contractor shall clearly identify each such item with words such as “Confidential,” “Proprietary,” or “Business Secret.” If a request is made for disclosure of any such document, CDPT will determine whether the document should be made available under the law. If the document or parts thereof are determined by CDPT to be exempt from public disclosure, CDPT will not release the exempted document. If the document is not exempt from public disclosure law, CDPT will notify the Contractor of the request and allow Contractor five (5) days to take whatever action it deems necessary to protect its interests. If Contractor fails or neglects to take such action within said period, CDPT will release the document deemed subject to disclosure. By signing a Contract, Contractor assents to the procedure outlined in this paragraph and shall have no claim against CDPT on account of actions taken under such procedure.

6- 19. Ownership of Data

Subject to the rights granted Contractor pursuant to this Agreement, all right, title and interest in and to the data collected and developed during the performance of this contract shall at all times remain the sole and exclusive property of CDPT. Contractor shall surrender all such data to CDPT prior to submitting an invoice for final payment.

6- 20. Patents and Royalties

Contractor is responsible for paying all license fees, royalties, or the costs of defending claims for the infringement of any intellectual property that may be used in performing this Contract. Before final payment is made on this Contract, Contractor shall, if requested by CDPT, furnish acceptable proof of a proper release from all such fees or claims.

6- 21. Changed Requirements

New federal, state, and local laws, regulations, ordinances, rules, policies, and administrative practices may be established after the date this Contract is established and may apply to this Contract. To achieve compliance with changing requirements, Contractor agrees to accept all changed requirements that apply to this Contract and require subcontractors to comply with revised requirements as well. Changed requirements will be implemented through subsection 5-4, Contract Changes/ Change Order Procedure.

6- 22. Counterparts

This Contract may be signed in two (2) counterparts, each of which shall be deemed an original and which shall together constitute one (1) Contract.

6- 23. Contractual Relationships

No contractual relationship will be recognized under the Contract other than the contractual relationship between CDPT and the Prime Contractor.

## SECTION 7 - STATE OF ILLINOIS CONTRACT REQUIREMENTS

### 7- 1. Interest of Members of in Congress

No member of or delegate to the Illinois General Assembly shall be admitted to any share or part of this contract or to any benefit arising therefrom.

### 7- 2. Prohibited Interests

No member, or officer, or employee of the CDPT or a local public body with financial interest or control in this contract during his tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

### 7- 3. Contract Changes

Any proposed change in this contract shall be submitted to the CDPT for its prior approval.

### 7- 4. Escalation

The Department does not allow escalation clauses as part of specifications or contracts, with the following exceptions, subject to prior concurrence for each contract:

- Procurement for rail vehicles, where the contract price exceeds one year; and
- Procurements of metal product from a mill or manufacturer where quotations based on “price at time of shipment” have historically been used.

### 7- 5. Equal Employment Opportunity

The Contractor will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

In the event of the Contractor's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act and Regulations of the Illinois Department of Human Rights (Department), the Contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the Contract may be cancelled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of this Contract, the Contractor agrees as follows:

1. That it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from the military service; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify such underutilization.
2. That, if it hires additional employees in order to perform this Contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules and Regulations) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each

job classification for which employees are hired in such a way that minorities and women are not underutilized.

3. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, national origin or ancestry, age, physical or mental handicap unrelated to ability, or an unfavorable discharge from military service.
4. That it will send to each labor organization or representative of workers with which it has or is bound by a collective bargaining or other agreement or understanding, a notice advising such labor organizations or representative of the Contractor's obligations under the Illinois Human Rights Act and the Department's Rules and Regulations. If any such labor organization or representative fails or refuses to cooperate with the Contractor in its efforts to comply with such Act and Rules and Regulations, the Contractor will promptly notify the Department and the contracting agency and will recruit employees from other sources when necessary to fulfill its obligations thereunder.
5. That it will submit reports as required by the Department's Rules and Regulations, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules and Regulations.
6. That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules and Regulations.
7. That it will include, verbatim or by reference, the provisions of this ITEM in every subcontract it awards under which any portion of the Contract obligations are undertaken or assumed, so that such provisions will be binding upon such subcontractor. In the same manner as with other provisions of this Contract, the Contractor will be liable for compliance with applicable provisions of this clause by such subcontractors; and further it will promptly notify the contracting agency and the Department in the event the subcontractor fails or refuses to comply therewith. In addition, the Contractor will not utilize any subcontractor declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

7- 6. Financial Assistance Acknowledgement

Contracts resulting from procurement solicitations are subject to financial assistance agreements between the Buyer, the Illinois Department of Transportation, and/or the United States Department of Transportation.

7- 7. Access to Third Party Contract Records

The Contractor shall permit the authorized representatives of the Buyer(s), such as the Federal Transit Administration or the State of Illinois to inspect and audit all data and records of the Contractor relating to the Contractor's performance under any subsequent contract or agreement. This applies to all third party contract records (at any tier), as required. The Contractor and its subcontractors shall maintain books, records, and documents and shall undertake such accounting procedures and practices as may be deemed necessary to assure proper accounting of all funds paid pursuant to any subsequent contract or agreement. All costs charged to items performed under any subsequent

contract or agreement shall be supported by properly executed and clearly identified invoices, contracts, vouchers, or checks evidencing in detail the nature and propriety of the charges. These records shall be subject at all reasonable times of the normal business day to inspection, review, or audit by the Buyer, its authorized representative(s), the US Secretary of Transportation, Comptroller, the State Auditor, or other governmental officials authorized by law to monitor the contract or agreement and project site. The Contractor's fiscal management system shall include the capability to provide accurate, current, and complete disclosure of the financial status of any subsequent contract or agreement upon request.

7- 8. Assignments

The Contractor shall not assign its performance of any portion of the specified services under any subsequent contract or agreement without the advance written consent of the Buyer(s). It is hereby understood and agreed; that said consent must be sought in writing not less than ten (10) calendar days prior to the date of any proposed assignment. The Buyer(s) reserve the right to accept or reject any such assignment, although Buyer acceptance shall not be unreasonably withheld. Acceptance of subcontractor's is contingent upon each subcontractor's ability to comply with the applicable terms, conditions, and clauses, particularly the assurances, contained in any subsequent contract or agreement.

7- 9. Subcontracts

The Contractor shall not enter into any sub-contracts or agreements, or start any work by the work forces of a subcontractor, or use any materials from the stores of a subcontractor, with respect to this acquisition Project and any subsequent contracts, without the prior concurrence of the Buyer(s). All such subcontracts and agreements shall be approved by the Buyer(s).

7- 10. Retention of Records

The Contractor shall comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules. Contractor is to maintain verifiable records which include all Project eligible costs incurred while completing those tasks contained in any contracted Scope of Work. The Contractor shall retain all books, records, documents, and other material relevant to any subsequent contract or agreement for a period of five (5) calendar years following the Buyer's final payment and all other pending matters are closed. If any litigation, claim, negotiation, audit, or other action involving any contract or agreement for a Project's records has been initiated prior to the expiration of the five-year period, the Contractor shall retain the appropriate records of the Project for the five-year period immediately following completion of the action and resolution of all issues arising from it. The Contractor agrees that the Buyer or its designee shall have full access and the right to examine any of said records at all reasonable times during said period.

7- 11. Ownership of Records

The Contractor shall permit the authorized representatives of the Buyer(s), such as the Federal Transit Administration or the State of Illinois to inspect and audit all data and records of the Contractor relating to the Contractor's performance under any subsequent contract or agreement. This applies to all third party contract records (at any tier), as required. The Contractor and its subcontractors shall maintain books, records, and documents and shall undertake such accounting procedures and practices as may

be deemed necessary to assure proper accounting of all funds paid pursuant to any subsequent contract or agreement. All costs charged to items performed under any subsequent contract or agreement shall be supported by properly executed and clearly identified invoices, contracts, vouchers, or checks evidencing in detail the nature and propriety of the charges. These records shall be subject at all reasonable times of the normal business day to inspection, review, or audit by the Buyer, its authorized representative(s), the US Secretary of Transportation, Comptroller, the State Auditor, or other governmental officials authorized by law to monitor the contract or agreement and project site. The Contractor's fiscal management system shall include the capability to provide accurate, current, and complete disclosure of the financial status of any subsequent contract or agreement upon request..

7- 12. Performance Bonds

If applicable, performance bonds are required for construction projects costing in excess of One Hundred Thousand Dollars (\$100,000). The Contractor shall furnish a performance bond in an amount equal to one hundred percent (100%) of the contract price. Performance bonds may also be required in other instances, with the bond percentage to be determined in the contract award.

7- 13. Termination

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

7- 14. Lobbying

Contractors that apply or bid for an award exceeding \$100,000 must file the required Byrd Anti-Lobbying Amendment certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other contract award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Pursuant to Federal regulations, the Contractors are required to have all subcontractors providing more than \$100,000.00 in services or materials to also complete this certification and include it with any Bid/Proposal submittal. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

7- 15. Certified Payrolls

If applicable (normally construction and service contracts), the Buyers shall obtain from the Contractor, and each subcontractor, a certified copy of each weekly payroll within seven (7) days after the submission of an invoice for completed work. Following a review by the Buyers, or their designated



agent, for compliance with state and federal labor laws, the payroll copy shall be retained by the Buyers, for later review by the authorized representatives of the appropriate State of Illinois or Federal agencies.

7- 16. Government (IL) Inspection

The Contractor shall permit the authorized representatives of the Buyer(s), such as the Federal Transit Administration or the State of Illinois to inspect and audit all data and records of the Contractor relating to the Contractor's performance under any subsequent contract or agreement. This applies to all third party contract records (at any tier), as required. The Contractor and its subcontractors shall maintain books, records, and documents and shall undertake such accounting procedures and practices as may be deemed necessary to assure proper accounting of all funds paid pursuant to any subsequent contract or agreement. All costs charged to items performed under any subsequent contract or agreement shall be supported by properly executed and clearly identified invoices, contracts, vouchers, or checks evidencing in detail the nature and propriety of the charges. These records shall be subject at all reasonable times of the normal business day to inspection, review, or audit by the Buyer, its authorized representative(s), the US Secretary of Transportation, Comptroller, the State Auditor, or other governmental officials authorized by law to monitor the contract or agreement and project site. The Contractor's fiscal management system shall include the capability to provide accurate, current, and complete disclosure of the financial status of any subsequent contract or agreement upon request.

7- 17. Vendor Registration with Illinois Department of Human Rights

Vendor must provide proof of Registration with the Illinois Department of Human Rights.

7- 18. Insurance Requirements

The Contractor and his subcontractors shall maintain Workmen's Compensation, Public Liability, Property Damage, and Vehicle Liability Insurance in amounts and on terms satisfactory to the Buyers and any specific insurance requirements noted in a procurement solicitation.

At a minimum, the following insurance requirements shall be met by the Contractor. When applicable, more stringent or revised insurance requirements may be required.

The selected Contractor shall obtain and keep in force, at its own expense, during the full term of any subsequent contract or agreement the following insurance coverage:

- a. Statutory Workers' Compensation and Employer's Liability Insurance - All employees of the Contractor performing work under any Contract or Agreement for this Project shall be insured in the statutory amount required to comply with the laws of the State of Illinois, or their respective State of incorporation, as appropriate.
- b. Comprehensive Vehicle Liability Insurance - All vehicles used in conjunction with the performance of any Project Agreement, whether owned, non-owned, leased, or hired shall be insured; limits for bodily injury or death shall not be less than Five Hundred Thousand and Zero One-Hundredths Dollars (\$500,000.00) per person and One Million and Zero One-Hundredths Dollars (\$1,000,000.00) per occurrence, and property damage limits of not less than Five Hundred Thousand and Zero One-Hundredths Dollars (\$500,000.00); or as an alternative, not less than One Million and Zero One-Hundredths Dollars (\$1,000,000.00) combined single-limit coverage.

- c. Comprehensive General Liability Insurance - When applicable, the Contractor shall maintain this insurance with limits for bodily injury or death of not less than Five Hundred Thousand and Zero One-hundredths Dollars (\$500,000.00) per incident, and One Million and Zero One-hundredths Dollars (\$1,000,000.00) aggregate. This insurance coverage must cover at least the following types of coverage:
  - A. Operations - Premises Liability;
  - B. Independent Contractor's Liability;
  - C. Broad Form Contractual Liability, covering the Contractor's obligations under any contract or agreement for the Project;
  - D. Products Liability;
  - E. Completed Operations Liability;
  - F. Personal Injury Liability, including claims arising from employees of the contractor; and
  - G. Broad Form Property Damage Liability.
- d. Umbrella Liability Insurance of not-less-than One Million Dollars (\$1,000,000.00).

All such insurance, when required, shall be provided by insurance companies having a Best's rating of not less than A+XII, as shown in the most current issue of Best's Key Rating Guide, Property - Casualty.

The Contractor shall indemnify and hold the Buyer harmless against any direct or indirect damages that shall be suffered or claimed for injuries to persons or property during the performance of the work described in any subsequent contract or agreement for this Project. Notwithstanding, the Buyer reserves all claims or rights of action against the Contractor as may be required in the best interests of the Buyer.

The Buyer shall be named specifically as an additionally insured party for that insurance coverage required for a given Project procurement. A Certificate of Insurance with the Buyer listed as an additionally insured party shall be provided within ten (10) calendar days following the execution of a contract or agreement. The Contractor's insurer shall agree to give the Buyer a minimum of ten (10) calendar days advance written notice of a cancellation of insurance or a reduction in coverage below the limits set forth in the contract or herein. Coverage in the minimum amounts set forth herein shall not be construed to relieve the Contractor from liabilities in excess of such coverage.

The Contractor and all of its insurers shall waive all rights of recovery or subrogation against the Buyer and their insurance companies.

Both parties agree to provide prompt notice in writing of the institution of any suit or proceeding and permit defense of the same, and will provide all needed information and assistance to enable either party to do so. The Contractor shall give immediate notice to Buyer of any suit, claim, or action filed which arises out of the performance of any contract or agreement. Copies of all pertinent papers shall be supplied to the appropriate party immediately.

When applicable, the Contractor shall require its subcontractors to obtain an amount of insurance coverage which is deemed adequate by the Contractor, for their levels of Project participation. The Contractor shall be liable to the extent that any subcontractor insurance coverage is inadequate. Subcontractors shall submit insurance certificates evidencing coverage, prior to any commencement of work. The Buyer reserves the right to inspect Contractor and Subcontractor insurance policies, in regard to insurance requirements, prior to the

commencement of any work.

7- 19. Prime Contractor Participation

If applicable, normally construction and service related contracts, the selected Contractor will be designated the prime contractor and shall normally perform, with his own staff, work equivalent to at least fifty percent (50%) of the total amount of work for the Project. Only non-equipment and materials pay items of a contract will be used in computing the total amount of work conducted by the prime contractor at the work site. The participation percentage of a prime contractor is normally negotiable until finalized in an awarded contract.

7- 20. Warranty of Construction

If applicable, a warranty of construction will normally be provided for construction projects. If applicable, Construction warranties will normally be for a minimum period of one (1) calendar year, unless otherwise noted in the contract award, from the date of each Project completion, as evidenced by the date of final acceptance of the work. At a minimum, the Contractor warrants that work performed under any contract conforms to the contract requirements and is free of any defect of equipment, material, or workmanship performed by the Contractor or any of its subcontractors or suppliers. The Buyers shall be entitled to all warranties as provided by law.

Under this warranty condition, the Contractor shall remedy at its own expense any such failure to conform, or any such defect. Nothing in the above intends or implies that this warranty provision shall apply to work which has been abused or neglected by the Buyer.

The Contractor shall not limit or exclude any implied warranties, and any attempt to do so shall render a contract voidable at the option of the Buyer. The Contractor warrants that the goods and equipment furnished will conform to the specifications, drawings, plans, descriptions or requirements noted in the solicitation or submittal packages, and any subsequent contract or agreement, as amended.

The Contractor warrants that any construction services, work, or materials purchased by the Buyer will conform to the standards promulgated by the U.S. Department of Labor, under the Occupational Safety and Health Act (OSHA) of 1970.

Construction warranties, if applicable, may be covered in further detail by the Construction Specifications of a given solicitation package.

## SECTION 8 - FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS

### 8- 1. No Obligation by the Federal Government

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

### 8- 2. Program Fraud and False or Fraudulent Statements or Related Acts

1. The Contractor recognizes that the requirements of the Program Fraud Civil Remedies act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to the Project. Accordingly, by signing a contract or agreement, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make pertaining to the Project and any subsequent contract or agreement. In addition to other penalties that may be applicable, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate. The contractor acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the contractor provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.
2. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
3. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

### 8- 3. Access to Records and Reports

The following access to records requirements apply to this Contract:

1. The Contractor shall permit the authorized representatives of the Buyer(s), such as the Federal

Transit Administration or the State of Illinois to inspect and audit all data and records of the Contractor relating to the Contractor's performance under any subsequent contract or agreement. This applies to all third party contract records (at any tier), as required. The Contractor and its subcontractors shall maintain books, records, and documents and shall undertake such accounting procedures and practices as may be deemed necessary to assure proper accounting of all funds paid pursuant to any subsequent contract or agreement. All costs charged to items performed under any subsequent contract or agreement shall be supported by properly executed and clearly identified invoices, contracts, vouchers, or checks evidencing in detail the nature and propriety of the charges. These records shall be subject at all reasonable times of the normal business day to inspection, review, or audit by the Buyer, its authorized representative(s), the US Secretary of Transportation, Comptroller, the State Auditor, or other governmental officials authorized by law to monitor the contract or agreement and project site. The Contractor's fiscal management system shall include the capability to provide accurate, current, and complete disclosure of the financial status of any subsequent contract or agreement upon request.

2. Where the Purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
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 the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with 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 any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related

thereto. Reference 49 CFR 18.39(i)(11).

7. FTA does not require the inclusion of these requirements in subcontracts.

#### 8- 4. Changes to Federal Requirements

The Contractor agrees that the most recent of such Federal, State, and Local requirements will govern the administration of the procurement solicitation and any subsequent contract at any particular time, except if there is sufficient evidence in any contract of a contrary intent. Such contrary intent might be evidenced by a letter signed by the Federal Transit Administration (FTA) or the Illinois Department of Transportation (IDOT), the language of which modifies or otherwise conditions the text of the procurement solicitation or contract. Requirements that apply to the Agency, Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal, state or local law, regulation, other requirements, or guidance, or changes in the Agency's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement, and applicable changes to those federal requirements will apply to this Agreement and parties thereto at any tier.

#### 8- 5. Termination Provisions

1. **Termination for Convenience (General Provision)** The Buyer(s) may terminate this contract for convenience, in whole or in part, at any time by the provision of written notice to the Contractor. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to be paid the Contractor. If the Contractor has any property in its possession belonging to the Buyer(s), the Contractor will account for the same, and dispose of it in the manner the Buyer(s) directs.
2. **Termination for Default [Breach or Cause] (General Provision)** If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the CDPT may terminate this contract for default. Termination shall be affected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

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

3. **Opportunity to Cure (General Provision)** The CDPT in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 10 business days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

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

4. **Waiver of Remedies for any Breach** In the event that CDPT elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by CDPT shall not limit CDPT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
5. **Termination for Convenience of Default (Cost-Type Contracts)** The CDPT may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the CDPT or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the CDPT, or property supplied to the Contractor by the CDPT. If the termination is for default, the CDPT may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the CDPT and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the CDPT, the Contractor shall be paid a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. CDPT will not be responsible for lost profits or contract closeout cost, if this contract is terminated for convenience.

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

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

#### 8- 6. Civil Rights Requirements

The Contractor agrees to and assures that each third party contract at any tier will prohibit discrimination based on race, color, religion, national origin, sex, gender identity, disability, age or veteran's status. Contractor also agrees to prohibit the exclusion from participation in employment or business opportunity for reasons identified in 49 U.S.C. § 5332, as amended, denial from program benefits identified in 49 U.S.C. § 5332, as amended, and discrimination identified in 49 U.S.C. § 5332, as amended, including discrimination in employment or a business opportunity identified in 49 U.S.C.



§ 5332, as amended. In addition, the Contractor agrees to comply with applicable Federal or State requirements that may be issued. The Contractor and its subcontractors agree to, and assure that it will comply with all applicable Federal and State of Illinois Equal Employment Opportunity (EEO) laws and regulations. The Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, marital status, pregnancy, gender identity, sexual orientation, parental status, national origin, age, disability, family medical history or genetic information, political affiliation, military service, or other non-merit based factors or any other consideration made unlawful by federal, state or local laws. The Contractor agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, marital status, pregnancy, gender identity, sexual orientation, parental status, national origin, age, disability, family medical history or genetic information, political affiliation, military service, or other non-merit based factors or any other consideration made unlawful by federal, state or local laws. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other compensation, and selection for training, including apprenticeship. The Contractor also agrees to assist the Buyer in obtaining compliance with implementing any new requirements FTA may issue, including but not limited to:

(a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., as amended,

(b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965 (42 U.S.C. § 2000e note,), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,

(c) Comply with federal transit law, specifically 49 U.S.C. § 5332, as amended,

(d) FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients," , as amended and

(e) Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability. In the event of the Contractor's non-compliance with the provisions of the following Equal Employment Opportunity Clause, the Illinois Human Rights Act, or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Contractor may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and any subsequent Agreement may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. The contractor agrees to and assures that each third party participant will prohibit discrimination based on race, color or national origin. Additionally, will comply with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., as amended, 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," , as amended, 49 C.F.R. part 21, as amended, and Federal transit law, specifically 49 U.S.C. § 5332, as amended. Contractor agrees to comply with the most recent Title VI Requirements and federal or state guidance that may be issued.

#### 8- 7. Special DOL EEO Clause for Construction Projects (If applicable)



The contractor agrees to comply when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” as amended, and Executive Order No. 11246, “Equal Employment Opportunity in Federal Employment,” as amended. See the Equal Employment Opportunity Compliance section for additional requirements relating to Equal Employment Opportunity compliance.

8- 8. Disadvantaged Business Enterprise (DBE) Participation

1. To the extent authorized by applicable federal laws, regulations, or requirements, the contractor 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 conjunction with the performance of any subsequent Agreement, the Contractor will cooperate with the Buyer(s) in meeting its commitments and goals with regard to the maximum utilization of Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, and will use its best efforts to insure that Disadvantaged Business Enterprises shall have the maximum practicable opportunity to compete for subcontract work under any subsequent Agreement.
2. If a DBE goal is requested in the solicitation, the contractor certifies, under penalty of perjury and other applicable penal laws that if awarded the federal-aid contract, the contractor will make a good faith effort to utilize certified DBE firms to perform DBE work at or above the amount or percentage of the dollar value specified in the bidding documents. Additionally, DBE firms selected must only perform the type of work that they were certified to perform. The bidder further certifies the bidder’s understanding that the bidder may not unilaterally terminate, substitute for, or replace any DBE firm that was designated in the executed contract, in whole or in any part, with another DBE, any non-DBE firm or with the contractor's own forces or those of an affiliate of the contractor, without the prior written consent of Buyer.
3. Disadvantaged Business Enterprises (DBE’s), which are awarded a contract or an agreement by the Buyer or Contractor (subcontracts), are advised that failure to adhere to DBE requirements and policies may result in: the termination of this contract, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the contractor from future bidding opportunities as non-responsible.
4. A prime contractor cannot terminate a DBE subcontractor or supplier for convenience without written consent of the owner. If the prime contractor wishes to remove a DBE firm from the contract for any reason, the selected prime contractor must maintain documents that the following steps were adhered to:
  - Notify the Owner immediately of any Delays or incomplete work by the DBE firm.
  - Give the DBE firm a notice to cure and give them 7 days to respond or provide an acceptable schedule to complete the work.
  - If the DBE firm fails to cure the situation or complete the work on time, the prime contractor must get approval from the owner to remove the DBE firm from the project. The prime contractor must then make good faith efforts to find another DBE firm(s) to perform a commercially useful function for the project. The DBE firm(s) must perform at least the same value of work under the contract, to the extent needed to meet the contract goal established in the solicitation. The new DBE firm(s) may perform a different function than the initial DBE, but

any change in subcontractor from the original bid/proposal must be approved by the owner in writing.

5. Disadvantaged Business Enterprises, which are awarded a contract or an agreement by the Buyer or the Contractor (subcontracts) are advised that failure to adhere to DBE requirements and policies, as defined in 49 CFR Part 26, constitutes a breach of contract.

8- 9. Incorporation of FTA Terms

As a condition of a Bid or Proposal submittal, it is the responsibility of the Contractor to ensure all applicable solicitation clauses, terms, and conditions, are included in all subcontracted work contracts or agreements.

8- 10. Suspension and Debarment

The Contractor agrees to comply with federal debarment and suspension requirements, and Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200. The Contractor hereby certifies that it is not currently listed among the General Services Administration's (GSAs) "List of Parties Excluded From Federal Procurement or Non-procurement Programs" which are debarred, suspended, ineligible, or otherwise excluded from participation in performing any work funded in whole or in part with federal financial assistance. During the performance of the work described in a procurement solicitation and any subsequent Agreement, should the Contractor be placed on the GSA's "List of Parties Excluded From Federal Procurement or Non-procurement Programs", it will notify the Buyer(s) immediately of this change in status. A certification form is normally included with the Exhibits section of any procurement solicitation. Contractors may not normally participate in a procurement solicitation, if they are listed on any Local, State, or Federal debarment program. A fully-detailed request for waiver may be submitted for consideration, if a Contractor believes their appearance on a debarment list is inaccurate or unjustified. Contractor must provide a similar provision in each lower tier covered transaction and check sam.gov for any subcontract \$25,000 or over.

8- 11. Disputes, Breaches, Defaults, or Other Litigation

A. Disputes,

Except as otherwise provided in any subsequent Contract, any dispute concerning a question of fact arising under a contract, which is not disposed of by mutual agreement, shall be decided by the Contracting Officer, who shall reduce his/her decision to a written response and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer shall be final and conclusive, unless determined by a court of competent jurisdiction to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, Buyer shall afford the Contractor an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision. FTA's review of protests is limited to allegations that the Grantee (Buyer) failed to follow the above procedure.

This clause does not preclude consideration of law questions in connection with decisions provided for in this clause, provided that nothing in an Agreement or Contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

**B. Breach of Contract**

If, through any cause, the Contractor shall fail to fulfill in a timely and proper manner its obligations under any subsequent contract or agreement, or if the Contractor shall violate any of the covenants, agreements, or stipulations of any subsequent contract or agreement, the Buyer(s) shall thereupon have the right to terminate any subsequent contract or agreement by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) calendar days before the effective date of such termination. In such event, all unfinished drawings, maps, photographs or other material prepared by the Contractor under any subsequent contract or agreement shall, at the option of the Buyer(s), become its property, and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents, materials, or equipment. Notwithstanding the above, the Contractor shall not be relieved of liability to the Buyer(s) for damages sustained by the Buyer, by virtue of any breach of any subsequent contract or agreement by the Contractor, and the Buyer(s) may withhold any payments to the Contractor until such time as the final compensation to the Contractor is determined.

Any subsequent contract or agreement also may be terminated at the discretion of both parties due to circumstances beyond the control of the Contractor, such as national disaster, acts of God, or strikes by organized labor unions.

**C. Termination for Default**

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

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

**D. Determination of Outstanding Fees at Time of Termination**

The Buyer(s) may terminate any subsequent contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for the convenience of the Buyer(s) or for default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the given contract. The Contractor shall account for any property in its possession paid for with funds received from the Buyer(s), or property supplied to the Contractor by the Buyer(s). The Contractor shall promptly

submit its termination claim to the Buyer(s) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the Buyer(s), the Contractor shall be paid its contract close-out 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 the termination is for default, the Buyer(s) may determine the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination.

If, after serving a notice of termination for default, the Buyer(s) determines that the Contractor has an excusable reason for not performing, such as a strike, fire, flood, or events which are not the fault of and are beyond the control of the Contractor, the Buyer(s), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

#### 8- 12. Disclosure of Lobbying Activities

Contractors that apply or bid for an award exceeding \$100,000 must file the required Byrd Anti-Lobbying Amendment certification. Each tier certifies to the tier above that it will not and has not used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant or any other contract award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-federal funds that takes place in connection with obtaining any Federal award. Pursuant to Federal regulations, the Contractors are required to have all subcontractors providing more than \$100,000.00 in services or materials to also complete this certification and include it with any Bid/Proposal submittal. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

#### 8- 13. Clean Air

The contractor agrees to comply with all applicable standards, orders and regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q), as amended. The contractor must report and require subcontractors to report any violations to the Federal Transit Administration and the Regional Office of the Environmental Protection Agency (EPA).

#### 8- 14. Clean Water

The contractor agrees to comply with all applicable standards, orders and regulations issued relating to the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. The contractor must report and require subcontractors to report any violations to the Federal Transit Administration and the Regional Office of the Environmental Protection Agency (EPA).

8- 15. Energy Conservation

The Contractor agrees to comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., as amended.

8- 16. Cargo Preference

For any transport of property or persons, solicitation respondents agree to comply with 46 U.S.C. § 55305 and the U.S. Maritime Administration regulations, "Cargo Preference- Use of U.S. Flag Vessels", 46C.F.R., Part 381, to the extent said regulations apply to the project. The regulations require that U.S. Flag vessels be used to transport at least 50 percent of any federally assisted property. Contractors agree to insert the provisions of this clause in all subcontracts issued pursuant to subsequent contracts or agreements relative to this procurement Project. A waiver from the provision may be sought by the Contractor, through the Buyer, if grounds for a waiver exist. Waivers may require subsequent approval by other regulatory bodies.

8- 17. Fly America

For any transport of property or persons, solicitation respondents understand and agree that the Buyer, when using Federal funds, will not participate in the costs of international air transportation of any persons involved in, or property acquired for the project, unless air transportation is provided by U.S. Flag air carriers, to the extent that air service by U.S. Flagged air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C., Subsection 40118, and with U.S. GSA regulations, "Use of United States Flag Air Carriers", 41 C.F.R., Subsections 301-10.131 through 301-10.143. Contractors agree to insert the provisions of this clause in all subcontracts issued pursuant to subsequent contracts or agreements relative to this procurement Project. A waiver from the provision may be sought by the Contractor, through the Buyer, if grounds for a waiver exist. Waivers may require subsequent approval by other regulatory bodies.

8- 18. Seismic Safety

The contractor agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. § 7701 et seq., and U.S. DOT regulations, "Seismic Safety," 49 C.F.R. part 41, specifically, 49 C.F.R. § 41.117, as amended for any new buildings and additions to any existing buildings.

8- 19. Patent Rights

The Federal Government may acquire patent rights when the contractor produces a patented or patentable invention, improvement, or discovery. The Federal Government's rights arise when the patent or patentable information is conceived or reduced to practice with federal assistance provided through this Underlying Agreement, or when a patent is issued or patented information becomes available as described in the Master Agreement, the contractor or Buyer will notify FTA immediately and provide a detailed report satisfactory to FTA. Unless the Federal Government determines otherwise in writing, irrespective of its status or the status of any Third Party Participant as a large business, small business, state government, state instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual, the Recipient will transmit the

Federal Government's patent rights to FTA, as specified in 35 U.S.C. § 200 et seq and 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.

8- 20. Access Requirements for Persons with Disabilities

If applicable, the Contractor agrees to comply with and assure that they, and any subsequent subcontractor providing work, materials, equipment, or services under a procurement Project, solicitation, or contract will comply with all applicable State and Federal requirements, including but not limited to the most recent guidelines on the Americans with Disability Act of 1990 (ADA), DOT Public Transportation Regulations and the Section 504 of the Rehabilitation act of 1973 and the Architectural Barriers act of 1968, as amended, which requires that buildings an public accommodations be accessible to individuals with disabilities. Contracts for rolling stock or facilities design/construction/renovation must comply with the accessibility requirements of the state of Illinois and Federal requirements.

8- 21. Recycled Products

The Contractor agrees to give preference to the purchase and/or provision of recycled products or products that conserve natural resources, where appropriate and applicable, for use in this acquisition, pursuant to the various Environmental Protection Agency (EPA) guidelines contained in 40 CFR, Parts 247-254, as amended.

8- 22. Contract Work Hours and Safety Standards

The contractor agrees to comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Contracts that involve the employment of mechanics or laborers must comply with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

The records to be maintained under this clause shall be made available by the Contractor or Sub-contractor for inspection, copying, or transcription by authorized representatives of the FTA, US Department of Transportation, or the Department of Labor, and the Contractor or Sub-contractor will permit such representatives to interview employees during working hours on the job.

1. **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.



2. **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
3. **Withholding for unpaid wages and liquidated damages** - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
4. **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

#### 8- 23. Veterans Preference

Veterans Preference. As provided in 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

1. Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction, if applicable, work required under a third-party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

#### 8- 24. Copeland Anti-Kickback Act

The contractor agrees to comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”), as amended, in addition to other requirements that may apply. The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The contractor agrees to report suspected and reported violations to the buyer.

8- 25. Rights in Data and Copyrights

For projects funded through a Federal award with FTA for experimental, developmental, or research work purposes, depending on the nature of the Underlying Agreement, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable invention, improvement, or discovery. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. Subject data includes, but is not limited to: computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Underlying Agreement.

8- 26. Conformance with ITS National Architecture

Solicitation respondents agree to conform, to the extent applicable, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by Section 5206(e) of TEA-21, 23 U.S.C. Subsection 502 note, and with FTA Notice: "FTA National ITS Architecture Policy on Transit Projects"; 66 Federal Regulations 1455 seq., January 8, 2001, and other subsequent Federal directives that may be issued regarding ITS.

8- 27. Texting While Driving and Distracted Driving

Consistent with Executive Order No. 13513 and to encourage safety and to decrease crashes by distracted drivers, the City of DeKalb encourages contractors to adopt and promote texting while driving and distracted driving policies and programs for their employees and other personnel that operate company owned, rented, or personally operated vehicles.

8- 28. Seat Belt Use

To encourage compliance with Federal Executive Order 13043 the City of DeKalb encourages contractors to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned, rented, or personally operated vehicles.



### **ATTACHMENT A – Vendor Checklist**

(Verification that all necessary documents are included)

This form must be completed and returned with the technical proposal. Failure to return this form may be cause for considering your proposal non-responsive.

	<u>Vendor Check-off</u>	<u>CDPT Check-off</u>
Cover Letter	_____	_____
Request for Proposal Cover Page	_____	_____
Attachment A: Vendor Checklist	_____	_____
Attachment B: Proposal Affidavit	_____	_____
Attachment C: Addendum Page	_____	_____
Attachment D: Request for Clarification/ Approved Equals	_____	_____
Attachment E: Indemnity and Insurance Requirements	_____	_____
Attachment F: Certification Regarding Debarment and Suspension	_____	_____
Attachment G: Affidavit of Non-Collusion	_____	_____
Attachment H: Compliance with Federal Lobbying Regulations	_____	_____
Attachment I: Firm Data Sheet	_____	_____
Attachment J: DBE Good Faith Effort (Information Sheet)	_____	_____
Attachment K: DBE Letter of Intent	_____	_____
Attachment L: DBE Affidavit	_____	_____
Attachment M: DBE Unavailable Certification	_____	_____
Attachment N: IDOT Special Provisions	_____	_____
Attachment O: Prompt Payment Affidavit	_____	_____
Attachment P: Proposal Pricing Form	_____	_____

**ATTACHMENT B – Proposal Affidavit**

The undersigned hereby declares that he/she has carefully read and examined the Advertisement, the Scope and Terms, the Specifications, Warranty, and Quality Assurance Requirements, with all supporting certificates and affidavits, for the provision of services specified at the prices stated in the fee proposal.

Signed: \_\_\_\_\_

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

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

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

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

My Commission Expires: \_\_\_\_\_

**ATTACHMENT C – Addendum Page**

The undersigned acknowledges receipt of the following addenda to this RFP. (Include the number and date for each entry.)

Addendum Number \_\_\_\_\_ Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated \_\_\_\_\_

Addendum Number \_\_\_\_\_ Dated \_\_\_\_\_

Failure to acknowledge the receipt of all addenda may cause the proposal to be considered non-responsive to this Request for Proposal, which will require rejection of the proposal.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

**ATTACHMENT D – Request for Clarifications / Approved Equals**

Date: \_\_\_\_\_

Proposing Company: \_\_\_\_\_

Section of the RFP: \_\_\_\_\_ Page Number: \_\_\_\_\_

Proposer's Request: \_\_\_\_\_

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CDPT Response: \_\_\_\_\_

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Approved \_\_\_\_\_

Denied \_\_\_\_\_

Comments: \_\_\_\_\_

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Signature: \_\_\_\_\_

Date: \_\_\_\_\_

### **ATTACHMENT E – Indemnity and Insurance Requirements**

1. These are the Indemnity and Insurance Requirements for Contractors providing services or supplies to City of DeKalb Transit (CDPT). By agreeing to perform the work or submitting a proposal, you verify that you comply with and agree to be bound by these requirements. If any additional Contract documents are executed, the actual Indemnity language and Insurance Requirements may include additional provisions as deemed appropriate by CDPT.
2. You should check with your Insurance advisors to verify compliance and determine if additional coverage or limits may be needed to adequately insure your obligations under this agreement. These are the minimum required and do not in any way represent or imply that such coverage is sufficient to adequately cover the Contractor's liability under this agreement. The full coverage and limits afforded under Contractor's policies of Insurance shall be available to CDPT and these Insurance Requirements shall not in any way act to reduce coverage that is broader or includes higher limits than those required. The Insurance obligations under this agreement shall be: 1—all the Insurance coverage and limits carried by or available to the Contractor; or 2—the minimum Insurance requirements shown in this agreement, whichever is greater. Any insurance proceeds in excess of the specified minimum limits and coverage required, which are applicable to a given loss, shall be available to CDPT.
3. Contractor shall furnish the CDPT with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to CDPT before work begins. CDPT reserves the right to require full-certified copies of all Insurance coverage and endorsements.

#### **I. INDEMNIFICATION**

To the fullest extent permitted by law, Contractor agrees to indemnify, and hold harmless, and upon request, defend CDPT, its officers, directors, Council Members, employees, agents, representatives, volunteers, subsidiaries, successors, and assigns ("Indemnitees"), from any claim, liability, damage, expense, suit or demand (including, without limitation, reasonable attorneys' fees and court costs) for any losses, damages, injuries, or death to any persons including Contractor's employees or any Subcontractor's employees, or for damage or loss to any third-party property, arising out of or in any manner related to, based upon, or in connection with any operations, performance, breach, course or scope of Work, act, omissions, or presence upon use, or other encountering of any property, facilities, personnel, vehicles, equipment, or operation of CDPT by or involving CDPT, Contractor or any of their employees, agents, representatives, facilities, vehicles, materials equipment, or Subcontractors (regardless of tier) or anyone directly or indirectly employed by any of them, in any connection with the Work performed by or on behalf of Contractor, regardless of whether the Contractor is a party to any lawsuit. In that regard, this obligation to indemnify includes, without limitation, claims against CDPT for CDPT's own negligence or fault.

#### **II. INSURANCE**

All insurance required except for worker's compensation shall be endorsed to add City of DeKalb, it's officials, employees, agents and volunteers to be added to all liabilities policies as additional insureds. The contractor's insurer will provide at least 30 days' written notice of cancellation.

I have read and understand the above requirements and agree to be bound by them for any work performed for the COD.

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

**ATTACHMENT F – Certification Regarding Debarment and Suspension**

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

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

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

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

Authorized Official: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this proposal.

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of the contents of the statement submitted on or with this certification and understands that the provisions of 31 U.S.C. Sections 3801 ET Seq. are applicable thereto.

Authorized Official: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

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**ATTACHMENT G – Affidavit of Non-Collusion**

I hereby swear (or affirm) under the penalty for perjury:

1. That I am the proposer (if the proposer is an individual), a partner in the proposal (if the proposer is a partnership), or an officer or employee of the proposing corporation having authority to sign on its behalf (if the proposer is a corporation);
2. That the attached proposal has been arrived at by the proposer independently and have been submitted without collusion and without any agreement, understanding, or planned common course of action with any other vendor or materials, supplies, equipment, or service described in the Request for Proposals, designed to limit independent proposals or competition;
3. That the contents of this bid proposal has not been communicated by the proposer or its employees or agents to any person not an employee or agent of the proposer or its surety on any bond furnished with the proposal, and will not be communicated to any such person prior to the official opening of the proposal; and
4. That I have fully informed myself regarding the accuracy of the statements made in the affidavit.

Signed: \_\_\_\_\_

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

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

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

My Commission expires \_\_\_\_\_, 20\_\_\_\_

Proposer's Federal Employer Identification Number: \_\_\_\_\_  
(Number used on Employer's Quarterly Federal Tax Return)

**ATTACHMENT H – Compliance with Federal Lobbying Regulations**

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

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

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

By: \_\_\_\_\_  
Signature of Company Official

\_\_\_\_\_  
Date

\_\_\_\_\_  
Official's Title



**ATTACHMENT I – Firm Data Sheet**

The prime consultant is responsible for submitting the information requested below **for all firms on the project team, both prime and subcontractors**. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit complete data will result in the Expression of Interest not being considered.

Firm's Name and Address	Firm's DBE Status*	Firm's Age	Firm's Annual Gross Receipts

\* Y = DBE-Certified by IDOT  
N = Not DBE-Certified by IDOT

NA = Firm Not Claiming DBE Status  
IP = DBE-Certification In-Process

**ATTACHMENT J – DBE Good Faith Effort**  
***(For information only – not to be returned)***

1. The CDPT has established a 1.00% goal for Disadvantaged Business Enterprise (DBE) participation for this contract. Therefore, a proposer must, in order to be responsible and responsive, make a good-faith effort to meet the goal. The proposer can meet this requirement in either of two (2) ways. First, the proposer can meet or exceed the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if the proposer doesn't meet the goal, the proposer can document its good-faith efforts to meet the goal. This means that the proposer must show that it took all necessary and reasonable steps to achieve the DBE goal, or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.
2. The CDPT will use the good-faith efforts mechanism as required by 49 CFR part 26. It is up to the CDPT to make a fair and reasonable judgment whether a proposer that did not meet the goal made adequate good-faith efforts. The CDPT will consider the quality, quantity, and intensity of the different kinds of efforts that the proposer made. The efforts employed by the proposer should be those that one could reasonably expect a proposer to take, if the proposer were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good-faith efforts to meet the DBE contract requirements. As emphasized by the Department of Transportation, CDPT's determination concerning the sufficiency of the firm's good-faith efforts is a judgment call; meeting quantitative formulas is not required.
3. The CDPT will not require that a proposer meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the proposer shows that an adequate good-faith was made. The rule specifically prohibits the CDPT from ignoring bona fide good-faith efforts.
4. The following is a list of types of actions that the CDPT will consider as part of the proposer's good-faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.
  - a. Soliciting through all reasonable and available means (e.g. attendance at pre-proposal meetings, advertising, and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The proposer must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The proposer must determine with certainty whether or not a DBE is certified.
  - b. The DBEs are interested by taking appropriate steps to follow up initial solicitations.
  - c. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
  - d. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

**ATTACHMENT J – Good-Faith Effort (Continued)**

- e. Negotiating in good-faith with interested DBEs. It is the proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

A proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities, as well as contract goals, into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the proposer of the responsibility to make good-faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs, if the price difference is excessive or unreasonable.

- f. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations, and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of proposals from DBEs in the Contractor's efforts to meet the project goal.
- g. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance, as required by the recipient or contractor.
- h. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- i. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; Federal, State, and Local minority/women business assistance offices; and other organizations, as allowed on a case-by-case basis, to provide assistance in the recruitment and placement of DBEs.

**ATTACHMENT K – DBE Letter of Intent**

To: \_\_\_\_\_  
(Name of Proposer)

The undersigned intends to perform work in connection with the above project as a DBE (Check one):

Individual \_\_\_\_\_ Corporation \_\_\_\_\_ Partnership \_\_\_\_\_ Joint Venture \_\_\_\_\_

The Disadvantaged Business Enterprise status of the undersigned is confirmed:

1. On the reference list of Disadvantaged Business Enterprises dated \_\_\_\_\_; or
2. On the attached Disadvantaged Business Enterprise Identification Statement.

The undersigned is prepared to perform the following work in connection with the above project (Specify in detail particular work items or parts thereof to be performed):

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The DBE contractor will perform this work at the following price: \_\_\_\_\_

You have projected the following commencement date for such work, and the undersigned is projecting completion of such work as follows:

Items	Projected Commencement Date	Projected Completion Date
_____	_____	_____
_____	_____	_____

The above work will not be sublet to a non-Disadvantaged Business Enterprise at any tier. The undersigned will enter into a formal agreement for the above work with you, conditioned upon your execution of a contract with CDPT.

Name of Disadvantaged Business Enterprise: \_\_\_\_\_

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

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

Date: \_\_\_\_\_

**ATTACHMENT L – DBE Affidavit**

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

Date: \_\_\_\_\_

County: \_\_\_\_\_

The undersigned, being duly sworn, deposes and says that he/she is the (sole owner, partner, president, treasurer, or other duly authorized official of a corporation) of

\_\_\_\_\_  
(Name of Official)

\_\_\_\_\_  
(Name of DBE)

and certifies that since the date of its certification through the IL UCP, the certification has not been revoked nor has it expired nor has there been any change in the minority status of

\_\_\_\_\_  
(Name of DBE)

\_\_\_\_\_  
(Signature and Title of Person Making Affidavit)

Sworn to before me this \_\_\_\_\_ day \_\_\_\_\_, 20\_\_\_\_\_

\_\_\_\_\_  
(Notary Public)

NOTE: The proposer must attach the DBE's most recent certification letter or document to this affidavit.

**ATTACHMENT M – DBE Unavailable Certification**

I, \_\_\_\_\_, the \_\_\_\_\_  
(Name) (Title)

of \_\_\_\_\_ certify that on \_\_\_\_\_  
(Proposer/Prime Contractor) (Date)

I contacted the following Disadvantaged Business Enterprise to obtain a proposal to perform the following work item(s):

DBE Organization	Work Items Sought	Form of Proposal Sought (i.e., materials, materials & labor, labor only, etc.)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

To the best of my knowledge and belief, said Disadvantaged Business Enterprise was unavailable for work on this project, or unable to prepare a proposal, for the following reason(s):

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ was offered an opportunity on \_\_\_\_\_  
(Name of Disadvantaged Business Enterprise) (Date)

by \_\_\_\_\_ to submit a proposal to perform the above identified work.  
(Proposer)

The above statement is a true and accurate account of why I did not submit a proposal on this project.

Signed: \_\_\_\_\_  
(Disadvantaged Business Enterprise Official)

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

Date: \_\_\_\_\_

## **ATTACHMENT N**

### **SPECIAL PROVISIONS FOR DISADVANTAGED BUSINESS ENTERPRISE PARTICIPATION (DBE)**

This Provision applies to all contracts entered into that have a disadvantaged business enterprise participation (DBE) goal. This Provision shall be included, in its entirety, as part of all contracts of the subrecipient that require DBE participation.

**FEDERAL OBLIGATION.** Subrecipient, as a recipient of federal financial assistance, is required to take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts. Consequently, the federal regulatory provisions of 49 CFR Part 26 apply to this contract concerning the utilization of disadvantaged business enterprises. For the purposes of this Provision, a disadvantaged business enterprise means a business certified in accordance with the requirements of 49 CFR Part 26 and listed in the Illinois Unified Certification Program (IL UCP) DBE Directory.

**STATE OBLIGATION.** This Provision will also be used by the Illinois Department of Transportation and subrecipient to satisfy the requirements of the Illinois Business Enterprise for Minorities, Females, and Persons with Disabilities Act, 30 ILCS 575. When this Provision is used to satisfy state law requirements on 100 percent state-funded contracts, the federal government has no involvement in such contracts (not a federal-aid contract) and no responsibility to oversee the implementation of this Provision by the Department and subrecipient on those contracts. DBE participation on 100 percent state-funded contracts will not be credited toward fulfilling the Department's annual overall DBE goal required by the US Department of Transportation to comply with the federal DBE program requirements.

**CONTRACTOR ASSURANCE.** The Subrecipient and its Contractor makes the following assurance and agrees to include the assurance in each subcontract the Contractor signs with a subcontractor.

The Contractor, subrecipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of contracts funded in whole or in part with federal or state funds. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- a) Withholding progress payments;
- b) Assessing sanctions;
- c) Liquidated damages; and/or
- d) Disqualifying the Contractor from future bidding as non-responsible. 49 C.F.R § 26.13(b),

The Contractor agrees to pay each subcontractor under this contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the Contractor receives from (the subrecipient). Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of (the subrecipient).

**CONTRACT GOAL TO BE ACHIEVED BY THE CONTRACTOR.** This contract includes a specific DBE utilization goal. The goal has been included because it has been determined the work of this contract has subcontracting opportunities that may be suitable for performance by DBE companies. The determination is based on an assessment of the type of work, the location of the work, and the availability of DBE companies to do a part of the work. The assessment indicates, in the absence of unlawful discrimination and in an arena of fair and open competition, DBE companies can be expected to perform \_\_% of the work. This percentage is set as the DBE

participation goal for this contract. Consequently, in addition to the other award criteria established for this contract, the contract will only be awarded to a bidder who makes a good faith effort to meet this goal of DBE participation in the performance of the work. A bidder makes a good faith effort for award consideration if either of the following is done in accordance with the procedures set for in this Provision:

- a) The bidder documents enough DBE participation has been obtained to meet the goal or,
- b) The bidder documents a good faith effort has been made to meet the goal, even though the effort did not succeed in obtaining enough DBE participation to meet the goal.

DBE LOCATOR REFERENCES. Bidders shall consult the IL UCP DBE Directory as a reference source for DBE-certified companies. In addition, the Illinois Department of Transportation maintains a letting and item specific DBE locator information system whereby DBE companies can register their interest in providing quotes on particular bid items advertised for letting. Information concerning DBE companies willing to quote work for particular contracts may be obtained by contacting the Department's Bureau of Small Business Enterprises at telephone number (217) 785- 4611, or by visiting the Department's website at:

<http://www.idot.illinois.gov/doing-business/certifications/disadvantaged-business-enterprise-certification/il-ucp-directory/index>.

BIDDING PROCEDURES. Compliance with this Provision is a material bidding requirement and failure of the bidder to comply will render the bid not responsive.

The bidder shall submit a DBE Utilization Plan (SBE Form 2026), and a DBE Participation Statement (SBE Form 2025) for each DBE company proposed for the performance of work to achieve the contract goal, with the bid. If the Utilization Plan indicates the contract goal will not be met, documentation of good faith efforts shall also be submitted. The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor is selected over a DBE for work on the contract.

A Utilization Plan will not be accepted if it does not meet the bidding procedures set forth herein and the bid will be declared not responsive. In the event the bid is declared not responsive, the subrecipient may elect to cause the forfeiture of the penal sum of the bidder's proposal guaranty and may deny authorization to bid the project if re-advertised for bids.

GOOD FAITH EFFORT PROCEDURES. The contract will not be awarded until the Utilization Plan is approved. All information submitted by the bidder must be complete, accurate and adequately document enough DBE participation has been obtained or document the good faith efforts of the bidder, in the event enough DBE participation has not been obtained, before there will be a commitment to the performance of the contract by the bidder. The Utilization Plan will be approved if the Utilization Plan documents sufficient commercially useful DBE work to meet the contract goal or the bidder submits sufficient documentation of a good faith effort to meet the contract goal pursuant to 49 CFR Part 26, Appendix A. This means the bidder must show that all necessary and reasonable steps were taken to achieve the contract goal. Necessary and reasonable steps are those which, by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not successful. The quality, quantity, and intensity of the kinds of efforts the bidder has made will be considered. Mere *pro forma* efforts, in other words efforts done as a matter of form, are not good faith efforts; rather, the bidder is expected to have taken genuine efforts that would be reasonably expected of a bidder actively and aggressively trying to obtain DBE participation sufficient to meet the contract goal.



- a) The following is a list of types of action that will be considered as part of the evaluation of the bidder's good faith efforts to obtain participation. These listed factors are not intended to be a mandatory checklist and are not intended to be exhaustive. Other factors or efforts may be relevant in appropriate cases and will be considered.
1. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBE companies that have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBE companies to respond to the solicitation. The bidder must determine with certainty if the DBE companies are interested by taking appropriate steps to follow up initial solicitations.
  2. Selecting portions of the work to be performed by DBE companies in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the Contractor might otherwise prefer to perform these work items with its own forces.
  3. Providing interested DBE companies with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation
  4.
    - a. Negotiating in good faith with interested DBE companies. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBE companies that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBE companies to perform the work.
    - b. A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBE companies is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a bidder to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Bidders are not, however, required to accept higher quotes from DBE companies if the price difference is excessive or unreasonable. In accordance with the above Bidding Procedures, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
  5. Not rejecting DBE companies as being unqualified without sound reasons based on a thorough investigation of their capabilities. The bidder's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the bidder's efforts to meet the project goal.
  6. Making efforts to assist interested DBE companies in obtaining bonding, lines of credit, or insurance as required by the recipient or Contractor.
  7. Making efforts to assist interested DBE companies in obtaining necessary equipment,

supplies, materials, or related assistance or services.

8. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBE companies.
  9. If it is determined that the bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the contract will be awarded to the bidder provided it is otherwise eligible for award. If it is determined the bidder has failed to meet the requirements of this Provision or that a good faith effort has not been made, the subrecipient will notify the responsible company official designated in the Utilization Plan that the bid is not responsive. The notification will also include a statement of reasons for the adverse determination. If the Utilization Plan is not approved because it is deficient as a technical matter, unless waived, the bidder will be notified and will be allowed no more than a five calendar day period to cure the deficiency.
- b) If it is determined that the bidder has made a good faith effort to secure the work commitment of DBE companies to meet the contract goal, the contract will be awarded to the bidder provided it is otherwise eligible for award. If it is determined the bidder has failed to meet the requirements of this Provision or that a good faith effort has not been made, the subrecipient will notify the responsible company official designated in the Utilization Plan that the bid is not responsive. The notification will also include a statement of reasons for the adverse determination. If the Utilization Plan is not approved because it is deficient as a technical matter, unless waived, the bidder will be notified and will be allowed no more than a five-calendar day period to cure the deficiency.
  - c) The bidder may request administrative reconsideration of an adverse determination by emailing the subrecipient within the five calendar days after the receipt of the notification of the determination. The determination shall become final if a request is not made on or before the fifth calendar day. A request may provide additional written documentation or argument concerning the issues raised in the determination statement of reasons, provided the documentation and arguments address efforts made prior to submitting the bid. The request will be reviewed by the subrecipient. The subrecipient will extend an opportunity to the bidder to meet in person to consider all issues of documentation and whether the bidder made a good faith effort to meet the goal. After the review by the subrecipient, the bidder will be sent a written decision within ten working days after receipt of the request for reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. A final decision by the subrecipient that a good faith effort was made shall approve the Utilization Plan submitted by the bidder and shall clear the contract for award. A final decision that a good faith effort was not made shall render the bid not responsive.

**CALCULATING DBE PARTICIPATION.** The Utilization Plan values represent work anticipated to be performed and paid for upon satisfactory completion. The subrecipient is only able to count toward the achievement of the contract goal the value of payments made for the work actually performed by DBE companies. In addition, a DBE must perform a commercially useful function on the contract to be counted. A commercially useful function is generally performed when the DBE is responsible for the work and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. The subrecipient and Contractor are governed by the provisions of 49 CFR Part 26.55(c) on questions of commercially useful functions as it affects the work. Specific counting guidelines are provided in 49 CFR Part 26.55, the provisions of which govern over the summary contained herein.

- a) DBE as the Contractor: 100 percent goal credit for that portion of the work performed by the DBE's own forces, including the cost of materials and supplies. Work that a DBE subcontracts to a non-DBE

does not count toward the DBE goals.

- b) DBE as a joint venture Contractor: 100 percent goal credit for that portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work performed by the DBE's own forces.
- c) DBE as a subcontractor: 100 percent goal credit for the work of the subcontract performed by the DBE's own forces, including the cost of materials and supplies, excluding the purchase of materials and supplies or the lease of equipment by the DBE subcontractor from the Contractor or its affiliates. Work that a DBE subcontractor in turn subcontracts to a non-DBE does not count toward the DBE goal.
- d) DBE as a trucker: 100 percent goal credit for trucking participation provided the DBE is responsible for the management and supervision of the entire trucking operation for which it is responsible. At least one truck owned, operated, licensed, and insured by the DBE must be used on the contract. Credit will be given for the following:
  - a. The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the contract.
  - b. The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement.
- e) DBE as a material supplier:
  - a. 60 percent goal credit for the cost of the materials or supplies purchased from a DBE regular dealer.
  - b. 100 percent goal credit for the cost of materials or supplies obtained from a DBE manufacturer.
  - c. 100 percent credit for the value of reasonable fees and commissions for the procurement of materials and supplies if not a DBE regular dealer or DBE manufacturer.

**CONTRACT COMPLIANCE.** Compliance with this Provision is an essential part of the contract. The subrecipient is prohibited by federal regulations from crediting the participation of a DBE included in the Utilization Plan toward the contract goal until the amount to be applied toward the goals has been paid to the DBE. The following administrative procedures and remedies govern the compliance by the Contractor with the contractual obligations established by the Utilization Plan. After approval of the Utilization Plan and award of the contract, the Utilization Plan and individual DBE Participation Statements become part of the contract. If the Contractor did not succeed in obtaining enough DBE participation to achieve the advertised contract goal, and the Utilization Plan was approved, and contract awarded based upon a determination of good faith, the total dollar value of DBE work calculated in the approved Utilization Plan as a percentage of the awarded contract value shall become the amended contract goal. All work indicated for performance by an approved DBE shall be performed, managed, and supervised by the DBE executing the DBE Participation Commitment Statement.

- a) **NO AMENDMENT.** No amendment to the Utilization Plan may be made without prior written approval from the subrecipient.
- b) **CHANGES TO WORK.** Any deviation from the DBE condition-of-award or contract plans, specifications, or special provisions must be approved, in writing, by the subrecipient as provided elsewhere in the Contract. The Contractor shall notify affected DBEs in writing of any changes in the scope of work which result in a reduction in the dollar amount condition-of-award to the contract. Where the revision includes work committed to a new DBE subcontractor, not previously involved in the project, or where there is a commitment of work in the form of additional tasks assigned to an existing subcontract, then a revised DBE Utilization Plan (SBE Form 2026) must be submitted in writing that includes the new subcontractor or additional tasks. Changes in the DBE Utilization Plan shall not be adopted or implemented until the subrecipient and the Department have approved a revised DBE Utilization Plan in writing.

- c) SUBCONTRACTOR APPROVAL AND SUBCONTRACT. Prior to the use of any subcontractor of any tier (both DBE and non-DBE), the Contractor must submit a Request for Approval of Subcontractor (BC Form 260a) and receive written subcontractor approval from the subrecipient. The Contractor must also provide copies of DBE subcontracts to the Department upon request. Subcontractors shall ensure that all lower tier subcontracts or agreements with DBEs to supply labor or materials be performed in accordance with this Provision.
- d) TERMINATION AND REPLACEMENT PROCEDURES. The Contractor shall not terminate or replace a DBE listed on the approved Utilization Plan or perform with other forces work designated for a listed DBE except as provided in this Provision. The Contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the Contractor obtains the written consent as provided in subsection (a) of this part. Unless consent is provided for termination of a DBE subcontractor, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the DBE in the Utilization Plan.

As stated above, the Contractor shall not terminate or replace a DBE subcontractor listed in the approved Utilization Plan without prior written consent. This includes, but is not limited to, instances in which the Contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm. Written consent will be granted only if the subrecipient agrees, for reasons stated in its concurrence document, that the Contractor has good cause to terminate or replace the DBE firm. Before transmitting any request to terminate and/or substitute a DBE subcontractor, the Contractor shall give notice in writing to the DBE subcontractor, with a copy to the subrecipient, of its intent to request to terminate and/or substitute, and the reason for the request. The Contractor shall give the DBE five days to respond to the Contractor's notice. The DBE so notified shall advise the subrecipient and the Contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why the subrecipient should not approve the Contractor's action. If required in a particular case as a matter of public necessity, the subrecipient may provide a response period shorter than five days.

For purposes of this paragraph, good cause includes the following circumstances:

- a. The listed DBE subcontractor fails or refuses to execute a written contract;
- b. The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the Contractor;
- c. The listed DBE subcontractor fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements;
- d. The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- e. The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.
- f. The Contractor has determined the listed DBE subcontractor is not a responsible contractor;
- g. The listed DBE subcontractor voluntarily withdraws from the projects and provides written notice to the Contractor of its withdrawal;
- h. The listed DBE is ineligible to receive DBE credit for the type of work required;
- i. A DBE owner dies or becomes disabled with the result that the listed DBE subcontractor is unable to complete its work on the contract;
- j. Other documented good cause that compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the Contractor seeks to terminate a DBE it relied upon to obtain

the contract so that the Contractor can self- perform the work for which the DBE contractor was engaged or so that the Contractor can substitute another DBE or non-DBE contractor after contract award. When a DBE is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make a good faith effort to find another DBE to substitute for the original DBE to perform at least the same amount of work under the contract as the terminated DBE to the extent needed to meet the established Contract goal. The good faith efforts shall be documented by the Contractor. If the subrecipient requests documentation under this provision, the Contractor shall submit the documentation within seven days, which may be extended for an additional seven days if necessary at the request of the Contractor. The subrecipient will provide a written determination to the Contractor stating whether or not good faith efforts have been demonstrated.

- e) FINAL PAYMENT. After the performance of the final item of work or delivery of material by a DBE and final payment therefore to the DBE by the Contractor, but not later than 30 calendar days after payment has been made by the subrecipient to the Contractor for such work or material, the Contractor shall submit a DBE Payment Agreement (SBE Form 2115) to the subrecipient to establish and document that full and final payment has been made to the DBE.

If full and final payment has not been made to the DBE, the Contractor shall indicate in writing whether a disagreement as to the payment required exists between the Contractor and the DBE or if the Contractor believes the work has not been satisfactorily completed. If the Contractor does not have the full amount of work indicated in the Utilization Plan performed by the DBE companies indicated in the Utilization Plan and after good faith efforts are reviewed, the subrecipient may deduct from contract payments to the Contractor the amount of the goal not achieved as liquidated and ascertained damages. The Contractor may request an administrative reconsideration of any amount deducted as damages pursuant to subsection (g) of this part.

- f) ENFORCEMENT. The subrecipient reserves the right to withhold payment to the Contractor to enforce the provisions of this Provision. Final payment shall not be made on the contract until such time as the Contractor submits sufficient documentation demonstrating achievement of the goal in accordance with this Provision or after liquidated damages have been determined and collected.
- g) RECONSIDERATION. Notwithstanding any other provision of the contract, the Contractor may request administrative reconsideration of a decision to deduct the amount of the goal not achieved as liquidated damages. A request to reconsider shall be delivered to the subrecipient and shall be handled and considered in the same manner as set forth in paragraph (c) of "Good Faith Effort Procedures" of this Provision, except a final decision that a good faith effort was not made during contract performance to achieve the goal agreed to in the Utilization Plan shall be the final administrative decision of the subrecipient. The result of the reconsideration process is not administratively appealable to the U.S. Department of Transportation.
- h) ALTERNATIVE WORK METHODS. In addition to the above requirements for reductions in the condition of award, additional requirements apply to the two cases of Contractor initiated work substitution proposals. Where the contract allows alternate work methods which serve to delete or create underruns in condition of award DBE work, and the Contractor selects that alternate method or, where the Contractor proposes a substitute work method or material that serves to diminish or delete work committed to a DBE and replace it with other work, then the Contractor must demonstrate one of the following:
  - a. The replacement work will be performed by the same DBE (as long as the DBE is certified in the respective item of work) in a modification of the condition of award; or
  - b. The DBE is aware its work will be deleted or will experience underruns and has agreed in writing to the change. If this occurs, the Contractor shall substitute other work of equivalent

- value to a certified DBE or provide documentation of good faith efforts to do so; or
- c. The DBE is not capable of performing the replacement work or has declined to perform the work at a reasonable competitive price. If this occurs, the Contractor shall substitute other work of equivalent value to a certified DBE or provide documentation of good faith efforts to do so.

**ATTACHMENT O – Prompt Payment Affidavit**

**Complete either (A) or (B), as applicable**

**(A)** The undersigned affirms, to the best of his/her knowledge and belief, that:

1. The undersigned understands and agrees that the Contractor is required to pay all Subcontractors for all work that any Subcontractor has satisfactorily completed no later than thirty (30) days after the Contractor has received payment from CDPT for that work.
2. The undersigned understands and agrees that the Contractor is required to pay retainage amounts, if any, to a Subcontractor no later than thirty (30) days after the CDPT has released retainage to the Contractor for that portion of the work.
3. The undersigned understands and agrees that any delay in or postponement of payment to any Subcontractor by the Contractor requires the Contractor to demonstrate good cause and to receive prior written approval by COD's Transit Manager or his/her authorized representative.
4. The undersigned understands and agrees that the CDPT will not pay the Contractor for Services performed or Deliverables submitted unless and until the Contractor certifies that the Subcontractors have been promptly paid for the work or services they have performed under all previous payment requests, as evidenced by the filing with the CDPT the Contractor's sworn statement that the Contractor has complied with the prompt payment requirements.

The undersigned solemnly declares and affirms under penalty of perjury that the above and foregoing are true and correct, and that he/she is authorized on behalf of the Contractor to sign this affidavit.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Official's Name and Title

\_\_\_\_\_  
Date

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**(B)** The undersigned solemnly declares and affirms under penalty of perjury that no Subcontractors will be used in the performance of the work or services and, as such, the statutory prompt payment requirements are inapplicable. The undersigned further declares that he/she is authorized on behalf of the Contractor to sign this affidavit.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Official's Name and Title

\_\_\_\_\_  
Date



**ATTACHMENT P – Proposal Pricing Form**

The undersigned hereby declares that he/she has carefully read and examined the Public Notice, the Request for Proposal, terms, and requirements, with all supporting certificates and affidavits, for the goods and services noted herein, and that he/she will enter into contract negotiations for said provision of goods and services, as specified, using the costs identified herein, as the basis for those contract negotiations. **Detailed cost information shall be attached and meet the requirements as described in the Proposal.**

	COST
	\$

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Official's Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Date

\_\_\_\_\_  
Telephone Number