

REQUEST FOR PROPOSALS (RFP) 2021027

Financial Auditing Services

Date Issued: *January 7, 2022*

Proposal Due: *February 9, 2022*

Facilitator:

Kim Hereford

Project Manager

Kmi.hereford@nashville.gov

615-862-6118

REQUEST FOR PROPOSALS

MTA Main Office
430 Myatt Drive
Nashville, TN 37115

**PROPOSALS MUST BE RECEIVED
PRIOR TO 1:00 p.m.
February 9, 2022
PROPOSAL NUMBER
2021027**

INSTRUCTIONS:

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

Nashville Metropolitan Transit Authority (Nashville MTA), doing business as WeGo Transit, (hereafter may be referred to as the "Agency," the "Authority," "WeGo Public Transit," or "WeGo") is requesting proposals from firms qualified to *provide financial auditing services*. Please see Scope of Work for detailed requirements.

SECTION I	Introduction
SECTION II	Instructions to Proposer
SECTION III	Scope of Work, Proposal Format & General Terms and Conditions
SECTION IV	FTA Model Clauses and Forms
SECTION V	Contract Terms and Conditions (Proposed)

PROPOSAL DEADLINE

Proposals will be accepted at the Agency's office located at 430 Myatt Drive, Nashville, TN 37115, until 1:00 p.m. Central Time (CT), February 9, 2022. Proposals received after this date and time will not be accepted. Proposals are not opened with regular mail.

QUESTIONS/CLARIFICATION DEADLINE

All questions, requests for clarification, and other inquiries related to this RFP must be received by Kim Hereford, Project Manager, no later than 10:00 a.m. Central Time (CT), January 21, 2022 via e-mail at kim.hereford@nashville.gov. Proposers are encouraged to submit any exceptions to the contract terms in the form of a question during the question-and-answer period.

PRE-PROPOSAL MEETING (NON-MANDATORY)

Nashville MTA's Procurement Department will not host a Pre-Conference meeting for this solicitation.

ADDENDA REQUEST

Proposers are not to contact other Agency personnel with any questions or clarification concerns in reference to this RFP. The Procurement Department will provide all official communication concerning this RFP. Addenda request MUST be submitted prior to due date in order to receive notices of addenda.

I HAVE READ AND UNDERSTOOD THIS REQUEST FOR PROPOSAL (RFP) and do herein request copies or notices of addenda. The information requested below must be received no later than, 10:00 a.m. CT, January 21, 2022 via e-mail at kim.hereford@nashville.gov.

Company Name

Phone Number

Fax Number

Address

Point of Contact

Title

Notice to Proposers	2
Pre-Proposal Meeting	2
Procuring Agency and Procurement Project Administrator	2
Addenda Request	2

TABLE OF CONTENTS

I.	INTRODUCTION	5
	Solicitation Schedule	6
	Evaluation Scoring Measures	7
	Disadvantaged Business Enterprise Participation	8
II.	INSTRUCTIONS TO PROPOSERS	9
III.	SCOPE, PROPOSAL FORMAT & GENERAL TERMS/CONDITIONS	18
IV.	FTA CLAUSES AND FORMS	33
	Required Forms	47
V.	CONTRACT TERMS AND CONDITIONS (PROPOSED)	68

I. INTRODUCTION

The mission of the Nashville Metropolitan Transit Authority is:

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

1.1 GENERAL

The mission of the Nashville Metropolitan Transit Authority (Nashville MTA), doing business as WeGo Public Transit, is to provide public transportation services to our community and its visitors so they can achieve greater mobility and experience a cleaner, healthier environment with less traffic congestion. Nashville MTA provides public transportation services, including 31 bus routes, to citizens and visitors within the Metropolitan Nashville area. Nashville MTA is a component unit of the Metropolitan Government of Nashville and Davidson County, responsible for public transit services in nine (9) counties within the Greater Nashville and Middle Tennessee areas, and funded with Federal, State and local subsidies, as well as farebox revenue.

The Regional Transportation Authority of Middle Tennessee (RTA) provides commuter service on the Music City Star and a network of express bus routes. Nashville MTA is contracted by the Regional Transportation Authority (RTA) to provide management services for RTA and to operate express services to the surrounding communities of Brentwood, Franklin, Thompson Station, Spring Hill, Smyrna, Murfreesboro, La Vergne, Clarksville, Gallatin, Hendersonville, Joelton, and Springfield, as well as some connecting service with the Music City Star commuter train. The system includes a number of park & ride lots and other supports for commuters, such as the Emergency Ride Home Program. The RTA works closely with the Nashville Metropolitan Transit Authority (MTA). Nashville MTA is contracted to manage RTA services under a fee for service agreement. The two authorities share a headquarters, staff, and a chief executive officer. The Nashville MTA and RTA provide approximately 30,000 rides each weekday during full service.

In addition to bus service, Nashville MTA also operates a paratransit system network of smaller ADA accessible vans for its AccessRide program for people with disabilities. Nashville MTA also contracts with third-party operators to provide its Access on Demand services for customers eligible for AccessRide services.

Please visit the respective Nashville MTA and RTA websites for additional information at www.Nashvillemta.org and www.musiccitystar.org.

1.2 OVERVIEW

Nashville MTA and Davison Transit Organization (DTO) intends to award separate contracts to the successful proposer who shall provide financial auditing services. Refer to Section III of this RFP for an expanded description of the scope of work and requirements.

Nashville MTA and DTO shall enter into a Fixed Price Contract for auditing services. The contract and/or purchase order shall be for a term of five years following the Notice to Proceed.

Proposers shall submit cost information as detailed in Form 1, Cost Form. Non-profit and government discounts should be noted.

These instructions provide detailed legal and technical requirements for the acquisition of the requested services. Section V, Proposed Contract, provides a more detailed description of the contractual and legal requirements.

1.3 SOLICITATION SCHEDULE

The following estimated timeline should be used as a working guide for planning purposes. Nashville MTA reserves the right to adjust the schedule as required during the solicitation process. Nashville MTA will make good faith efforts to notify potential proposers of adjustments to the schedule; however, ultimate responsibility for obtaining notice of changes is that of the proposers. Any changes to the proposed schedule will be listed on: <https://nashvillemta.org/Nashville-MTA-procurement-list.asp>

Pre-Proposal Meeting	NA
Addenda Request Submittal Deadline	Friday, January 21, 2022 by 10:00 a.m. CST
Question/Clarification Submittal Deadline	Friday, January 21, 2022 by 10:00 a.m. CST
Proposal Submittal Deadline	Wednesday, February 9, 2022 by 1:00 p.m. CST
Presentation/Interviews	NA

All questions must be submitted in writing, via email is recommended, to Kim Hereford, Project Manager at: kim.hereford@nashville.gov. The answers to the questions will be posted on the Nashville MTA website: www.nashvillemta.org. Proposers are solely responsible for checking the website to ensure that they have the most current information regarding the proposal. Any oral communication, explanation or instruction provided will not be binding on Nashville MTA.

1.4 COST INCURRED BY PROPOSERS

The Nashville MTA is not liable for any costs incurred by prospective proposers in the preparation of submitting a proposal in response to this solicitation, in presentation of the proposal or any other activities related to responding to this solicitation.

1.5 EVALUATION OF PROPOSALS

An Evaluation Committee will examine proposals received by the due date and time to eliminate those which are determined non-responsive to the stated requirements. The Evaluation Committee will then apply the evaluation criteria set forth in the RFP or in any addenda issued to conduct an initial evaluation and scoring of the proposals. The agency may at its sole discretion develop a short list of top ranked Proposers who will be invited by the Evaluation Committee for interviews and presentations. If interviews and presentations were conducted, the Evaluation Committee will then evaluate the proposal packages

and may ask for additional information and/or best and final offers from multiple proposers before making a recommendation for award. The Evaluation Committee reserves the right to invite all, some, or no proposers for interviews and presentations, and to request Best and Final Offers from some, all, or no proposers.

1.6 EVALUATION SCORING MEASURES

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

Evaluation Criteria and Point Score Allocation:

	EVALUATION CRITERIA	Point Value
Part 1	<u>Company information, Minimum Qualifications, Experience, and References</u> What is the proposer's previous experience in projects of this nature? Did the proposer's references indicate positive experiences with the proposer and were the proposer's recommendations implemented by the reference? Would the reference(s) engage the proposer again for the scope of work? How does this project relate to the proposer's other work and corporate purpose?	15
Part 2	<u>Understanding of the RFP</u> Does the proposal displays understanding of the requested services?	10
Part 3	<u>Project Team & Key Individuals</u> Does the proposing team have experience in providing all required elements of this project? Have the members of the proposing team previously worked together to deliver a successful project? How will subconsultants' work be managed? Does the proposing team include diversity members? Does the level of engagement of principal personnel reflect adequately reflect the proposer's overall engagement with the effort? Have the key personnel previously performed the elements in the scope of work? Do the personnel working on the project have necessary skills and experience to successfully deliver the project? What will the level of involvement of key personnel be for this project in relation to the proposer's other ongoing work?	25
Part 4	<u>Technical Approach/ Schedule</u> Does the proposal reflect a thorough, thoughtful, creative approach to the tasks? Is there evidence of a clear understanding of the project objectives? Are the relationships among tasks understood? Will the approach to the project lead to an outcome that will meet the project's goals? Does the schedule include sufficient time for review and collaboration with Nashville MTA staff prior to completion? Does the schedule adequately account for the overlap of tasks and incorporating results of one task into the work of another? Does the planned schedule lead to timely completion of the engagement? Does the planned schedule assume reasonable levels of agency staff availability for tasks requiring review and collaboration?	25
Part 5	<u>Cost</u> The firm with the lowest cost will receive the maximum 25 points	25

	The remaining firms scores will be based on the Lowest Cost divided by Proposed Cost) X 25 Points Possible = Points awarded	
Total Points		100

Nashville MTA reserves the right to conduct negotiations with the top-ranked proposers to reach final agreement on specific terms of the Services Contract. Proposals should be submitted initially on the most favorable and cost-effective terms within reason.

1.7 PROPOSAL ACCEPTED

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

Each proposer submits its response with the understanding that nothing in this solicitation shall be construed to require the Nashville MTA to award a contract.

Waiver: Proposer must indicate that the company is prepared to enter into a contract with Nashville MTA in accordance with the terms and conditions set forth in this solicitation, any addenda, and proposed contract. Proposal shall be valid for a minimum period of one hundred and twenty days (120) from the date of the opening of proposals.

1.8 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

This contract is not subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The agency's overall goal for DBE participation is 14 %. A separate contract goal has not been established for this procurement.

END SECTION I

II. INSTRUCTIONS TO PROPOSERS

2.1 REQUESTS FOR CLARIFICATION

If any person submitting a proposal is in doubt as to the true meaning of any part of the Scope of Work, other proposal documents, finds discrepancies in or omissions from the Scope of Work, may submit to the Procurement Department a written request for an interpretation or correction, no later than, *10:00 a.m.* Central Time (CT), January 21, 2022. **Only written requests will be accepted.** E-mailed questions and/or requests for clarifications to the Procurement Department are acceptable. The person submitting the request will be responsible for its prompt delivery and verification of delivery.

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

2.2 DELIVERY OF PROPOSALS

The proposers must submit (1) Original, and (3) Electronic Copy (USB, Disk or Email) of your proposal including **ALL** required forms by 1:00 p.m., Central Time (CT), February 9, 2022 to the following address:

Kim Hereford, Project Manager
Nashville MTA
430 Myatt Drive
Nashville, TN 37115

The sealed envelope, box, or appropriate package must be clearly marked with “**PROPOSAL 2022027–Financial Auditing Services**” on the lower left side and “**DO NOT OPEN WITH REGULAR MAIL.**” Nashville MTA will not consider proposals received after the deadline. **All proposals will be logged, by a Procurement Staff member, with the date and time of receipt.**

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

****NOTE: RESPONSES WILL NOT BE OPENED PUBLICLY****

2.4 PROPOSAL WITHDRAWAL

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

2.5 UNACCEPTABLE PROPOSAL

Nashville MTA will not accept proposals or award any contract to any person, firm or corporation that is in arrears or is in default to Nashville MTA upon any debt or contract, has defaulted on surety or other obligations or has failed to perform faithfully any previous contract for Nashville MTA. Nashville MTA reserves the right to request subcontractor changes to any contract.

2.6 REJECTION OR ACCEPTANCE OF PROPOSAL

The Chief Executive Officer or designee reserves the right to accept or reject any or all or any part of any proposal. Any proposal which is incomplete, conditional, obscure, or which contains additions not called for, or irregularities of any kind, may be cause for rejection of the proposal. If there is a discrepancy between the price written and the price listed in figures, Nashville MTA acknowledges that the price written is the correct price.

It is the intent of Nashville MTA, if it accepts any alternates, to accept them in the order in which they are listed in the proposal Form. Determination of the Lower Proposers shall be on the basis of the sum of the Base proposal on the alternates accepted. However, Nashville MTA shall reserve the right to accept alternates in any order which does not affect determination of the Lower Proposers.

Nashville MTA reserves the right to cancel this proposal in writing or postpone, or extend the date and time for submitting proposals at any time. Nashville MTA reserves the right to reject any or all proposals, to waive any or all informalities or irregularities in the proposals received, to investigate the qualifications and experience of any proposers, to reject any provisions in any proposal, to modify proposal contents, to obtain new proposals, and to negotiate the requested services and contract terms with any proposers. Nashville MTA reserves the right to award the Contract for requested services in full, in part and/or a single item to one or more proposers. Nashville MTA will determine the most responsive proposer(s) whose proposal(s) is most advantageous.

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

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

2.7 DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

A. Introduction

Nashville MTA operates a federal Disadvantaged Business Enterprise (DBE) Program and to ensure full and fair opportunities in Nashville MTA contracting for businesses owned by socially and economically disadvantaged individuals. Nashville MTA administers the program according to the regulations that apply to 49 CFR Part 26. Only firms that are certified consistent with 49 CFR Part 26 and by the Nashville

MTA or Tennessee Department of Transportation Unified Certification Program (TN UCP), as identified below, will be considered certified as a Disadvantaged Business Enterprise.

This section, entitled “Disadvantaged Business Enterprise Requirements” is provided in an effort to assist proposers. The information contained in this section is not intended to, nor does it, supplement or amend any federal regulation. All proposers are responsible for compliance with all applicable federal and Nashville MTA rules and requirements.

It is a requirement that all proposers providing services for the Nashville MTA take all reasonable steps to ensure that DBEs have a full and fair opportunity to compete for and perform contract work without discrimination on the basis of age, race, sex, color, national origin, creed, religion, sexual orientation or disability. In order to satisfy this requirement, proposers will be expected to timely submit documentation as identified below and as shown on the Required Forms throughout the contract period if selected and cooperate with Nashville MTA. Failure to timely submit requested documentation, cooperate with Nashville MTA, or answer inquiries truthfully will be considered a material contract breach and may result in contract termination.

B. Required Documents

The following documents **must** be submitted with the proposal:

1. Letter(s) of Intent

Proposers must submit a Letter of Intent for each DBE whose participation the proposer is counting toward the goal. This may include first, second, third, and other lower tier subcontractors and/or suppliers. The proposer and all subcontractors using lower tier DBE subcontractors and/or suppliers must sign the Letter(s) of Intent. The Letter(s) of Intent must be submitted with the proposal.

For each Letter of Intent, the proposer must also provide the written quote or proposal from the DBE or other communication from the DBE upon which the scope of work and dollar value contained in the Letter of Intent is based (“quote/proposal”).

All portions of the Letter(s) of Intent must be completed (including the description of work, the estimated contract amount, and the estimated dollar value of DBE participation for counting and goal purposes) before the Letter(s) of Assurance Statement is signed by either the DBE or the proposer.

Nashville MTA reserves the right to ask questions of the proposer, investigate and require additional information as it determines necessary in its sole discretion to ensure that theregulations and Nashville MTA’s rules are followed as it relates to DBE participation.

2. DBE Goals Accomplishment Statement

The proposer must submit a signed DBE Goals Accomplishment Statement with the proposal. Failure to submit and/or sign the form may render the proposal non-responsive.

3. DBE Utilization Form

The proposer must submit a fully completed DBE Utilization Form.

C. Definition of Socially and Economically Disadvantaged

The rules that govern eligibility and certification of DBE are found generally at 49 CFR Part 26.5 and 26.61 through 26.73. These rules define a DBE as a for-profit, small business concern which is at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged individuals.

In the case of any publicly owned business, at least fifty-one percent (51%) of the stock must be owned by one or more socially and economically disadvantaged individuals. In addition, the personal net worth of the socially and economically disadvantaged owners of the small business concern must not exceed one million three hundred twenty thousand dollars (\$1,320,000).

As defined by 49 CFR, Part 26.5, a socially and economically disadvantaged individual is any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is –

- (1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- (2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) “Black Americans” which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) “Hispanic Americans” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) “Native Americans” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (iv) “Asian-Pacific Americans” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U. S. Trust Territories of the Pacific islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (v) “Subcontinent Asian Americans” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives islands, Nepal or Sri Lanka;
 - (vi) Women;
 - (vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

D. DBE Liaison Officer

The DBE Liaison Officer, Amber Gooding, is responsible for developing, implementing, and monitoring the DBE program on a day-to-day basis in coordination with other appropriate officials; carrying out technical assistance for a DBE ; and, disseminating information on available business opportunities so that a DBE is provided an equitable opportunity to proposal on Nashville MTA contracts. For questions or information related to the DBE program, contact Rachel Johnson, DBE Compliance Officer at Rachel.johnson@nashville.gov or 615-862-5618.

E. DBE Certification

Nashville MTA certifies all of its DBEs through internal processes. The TNUCP is a cooperative of entities

which are recipients of federal funds that have developed a “one-stop shop” for certification throughout the State of Tennessee of which Nashville MTA is a certifying member. In order to be considered as meeting the DBE goal for a contract, each business wishing to participate as a DBE or a joint venture DBE, must be certified as a DBE by the Tennessee Uniform Certification Program (TNUCP) and must have current certification at the time of proposal submission. The link to the DBE Directory is <https://www.tdot.tn.gov/applications/dbedirect/>.

Persons or entities who consider themselves a DBE but who are not certified by Nashville MTA, the TN UCP as a DBE, have not received affirmation from the Nashville MTA or the TN UCP that their certification from another entity is consistent with and acceptable to the Nashville MTA or the TN UCP will not be considered. Unless a firm meets the criteria above by the time the responses to this solicitation are due, its participation will not be considered as meeting the DBE goal in the solicitation. Each business wishing to participate as a DBE or a joint venture DBE must be certified at the time of proposal opening and a current copy of the DBE’s certification must be attached to the Letter of Intent.

F. Identification of Contract Goal and Requirements

For this contract, there is no DBE goal established. In order for the proposal to be responsive, the proposer must either meet the goal or make good faith efforts to do so. Good faith efforts are defined in Appendix A to 49 CFR Part 26 and discussed in the following section.

If a proposer’s DBE Accomplishment Statement proposes a DBE percentage less than the established goal, the proposer must, at the time of making the response, submit appropriate documentation justifying its submitted DBE percentage. Nashville MTA reserves the right to request additional documentation or information from Respondent regarding its DBE Accomplishment Statement, Utilization plan or Letters of Intent, and, if applicable, any good faith efforts documentation. If Nashville MTA enters into a contract based on the proposer’s DBE Goals Accomplishment Statement and documentation, the DBE percentage accepted by Nashville MTA will become a contractual requirement.

Proposers shall not contract with, demand, require or coerce a DBE into any agreement or into the signing of any Letter of Intent or any other document which prohibits the DBE from providing subcontracting quotations or doing business with other proposers. The DBE shall be free to provide their services to any number of proposers. To ensure that all obligations under subcontracts awarded to a DBE are met, the Nashville MTA will review the agreement between the proposer and DBE, and proposer’s DBE involvement efforts during the performance of the contract. The proposer shall bring to the attention of the Nashville MTA any situation in which regularly scheduled progress payments are not made to a DBE. If, in the opinion of the Nashville MTA, the proposer has made significant deviations from the DBE program commitments, it shall be considered a breach of contract.

G. Good Faith Efforts Statement and Requirements

In order to be responsive, Proposers must either meet the DBE goal or make good faith efforts to meet the goal. Proposers who do not meet the goal must establish adequate good faith efforts (GFE) by submitting documentation (**Use GFE Form**) along with the DBE Goals Accomplishment Statement. This statement should show that the proposer took all necessary and reasonable steps to achieve the DBE goal, which could reasonably be expected to obtain sufficient DBE participation, even if the proposer was not fully successful. The DBE Goals Accomplishment Statement and supporting documents should conform to the good faith requirements outlined in Appendix A of 49 CFR Part 26.

The following is a list of types of actions that may be part of a proposer's efforts to obtain DBE participation and may be included in the DBE Goals Accomplishment Statement and documentation. This list 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 as a DBE who have the capability to perform the work of the contract. The proposer must solicit this interest within sufficient time to allow the DBE to respond to the solicitation and take appropriate steps to follow-up initial solicitations to determine interest.
- (b). Selecting portions of the work to be performed by a DBE in order to increase the likelihood that the goals of the will be achieved.
- (c). Providing any interested DBE with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to asolicitation.
- (d) Negotiating in good faith with any interested DBE. 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.
- (e) Not rejecting any DBE as being unqualified without sound reasons based on a thorough investigation of their capabilities.
- (f) Making efforts to assist any interested DBE in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- (g) Making efforts to assist any interested DBE in obtaining necessary equipment, supplies, materials, or related assistance or services.
- (h) 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 any DBE.
- (i) Making efforts to identify and assist eligible firms, which are not yet certified by the Nashville MTA or the TN UCP as a DBE, to obtain certification. These types of efforts will have special weight where it appears that the relevant firms will be certified in time for the execution of the contract.

If a proposer has not met the DBE goal and submits the DBE Goals Accomplishment Statement and documentation, the proposer should summarize in detail all good faith efforts taken by the proposer, including, but not limited to, the activities listed above in A through I, and supporting documentation. While the proposer should submit documentation to support its good faith efforts at the time of proposal submission, Nashville MTA may ask questions of proposer or request additional documentation after review of proposer's DBE Goals Accomplishment Statement and any documentation. In submitting the information required under this section, proposer understands and agrees that the determination of whether proposer has met the DBE goal or established good faith efforts to meet the goal is a judgment

call that Nashville MTA will make.

The Contractor shall not terminate the DBE subcontractor(s) listed in the DBE Utilization Plan without Nashville MTA's prior written consent. Nashville MTA may provide such written consent only if the Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The Contractor shall give the DBE five (5) days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify Nashville MTA in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Nashville MTA.

H. Counting DBE Participation

DBE participation shall be counted toward meeting the DBE goal as outlined in 49 CFR Part 26, especially 26.55. When the proposer completes a Letter of Intent, the proposer must include not only the total value of the work to be performed and/or the materials to be supplied by the DBE but also the total amount of DBE participation that should be counted toward meeting the goal. For example, if a DBE is a regular dealer or supplier of pipe but does not install the pipe, then the proposer can generally count the dollar value spent on the pipe at 60%. This would mean that if the DBE was supplying \$100,000 of pipe then the contract amount would be \$100,000 but the total amount of DBE participation would be \$60,000 for counting and meeting the goal purposes.

If a proposer has any questions about counting, Nashville MTA advises the proposer to consult 49 CFR Part 26. The following may be helpful in counting DBE participation and in determining which sections of Part 26.55 a proposer needs to review in more detail:

- (a) When a DBE participates in a contract or subcontract, the Contractor will count only the value of the work actually performed by the DBE toward the DBE goals. In a construction contract (and other similar contracts), this will include the work performed by the DBE's own forces and supplies purchased or equipment leased by the DBE as described below, especially (d) (but not supplies or equipment the DBE subcontractor purchases from the prime contractor or its affiliate.) The Contractor will count the entire amount of fees or commissions charged by a DBE for providing a bona fide service toward goals provided that Nashville MTA determines the fees to be reasonable and not excessive. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the subcontractor is itself a DBE.
- (b) When a DBE performs as a participant in a joint venture, a portion of the total dollar value of the contract equal to the distinct, the clearly defined portion of the work of the contract that the DBE performs with its own forces count toward DBE goals.
- (c) The proposer will count expenditures to a DBE contractor toward DBE goals only if the DBE is

performing a commercially useful function on that contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract or subcontract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the proposer will evaluate industry practices, the amount of work subcontracted, whether the amount the firm is to be paid under the contract is commensurate with work it is actually performing, and the DBE credit claimed for its performance of the work, and other relevant factors. The proposer will determine questions of commercially useful function with regard to trucking companies under 49 CFR Part 26.55 (d).

- (d) The proposer will count expenditures with the DBE for materials or supplies toward DBE goal in the manner described in 49 CFR Part 26.55 (e). **Note:** proposers should review Part 26.55(e) carefully. It is important to note that the rule counts expenditures differently based upon whether the DBE is a manufacturer as defined by the rule (normally counted at 100% percent of the cost), a regular dealer as defined by the rule (normally counted at 60% of the cost) or neither of the two (normally counted at the entire amount of fees or commissions, or fees or transportation charges, provided they are reasonable). It is important to note that materials and supplies provided by a DBE that is not a regular dealer in those materials and supplies do not count toward meeting the goal. For example, if the DBE is a regular dealer of piping, the DBE cannot purchase office equipment and then supply that office equipment to the prime and count any portion of the cost of the office equipment toward meeting the goal. Such conduct for DBE counting purposes is prohibited by the rules and is considered to be an impermissible and illegal pass-through.
- (e) If a firm is not currently certified as a DBE, in accordance with the standards of subpart D of this part, at the time of the execution of the contract, the proposer will not count the firm's participation toward any DBE goals, except as provided for in 49 CFR Part 26.87(i).
- (f) The proposer will not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward any goals except as provided in 49 CFR Part 26.87(j).

I. Prompt Payment and Retainage

The Contractor agrees to pay each subcontractor under this prime contract for invoices submitted or normal progress payments for work completed satisfactorily or supplies provided satisfactorily pursuant to its contract and no later than thirty (30) days from the receipt of each payment it receives from the Nashville MTA.

There is no retainage or other sums allowed to be withheld from progress payments or any other payments and any exceptions to this prompt pay/retainage provision must be requested in writing by the Contractor and approved in writing.

The Contractor will include the following paragraphs in all contracts and/or agreements related to the work under this Contract with subcontractors or suppliers and will require all its subcontractors and suppliers to include this paragraph in any contracts and/or agreements related to the work under this Contract with any other third parties and any other lower tier subcontractors or suppliers:

“It is understood and agreed by all involved parties that payment for work completed satisfactorily or supplies provided satisfactorily will be made to the appropriate party no later than thirty (30)

days from receipt of payment for that work or those supplies.

There is no retainage or other sums allowed to be withheld from progress payments or any other payments and any exceptions to this prompt pay/retainage provision must be requested in writing to Nashville MTA and approved in writing.”

J. Termination of DBE Subcontractor

K. Continued Compliance

Nashville MTA shall monitor the Contractor’s DBE compliance during the life of the Contract. The Contractor shall submit monthly written reports to Nashville MTA’s DBE Compliance Officer that provides details on DBE participation for that month.

L. 49 CFR Part 26

The Contractor shall carry out the applicable requirements of 49 CFR Part 26 in the award and administration of Nashville MTA contracts. The proposer agrees to provide all its subcontractors and suppliers and to require all its subcontractors and suppliers on this project to provide a complete copy of the **Disadvantaged Business Enterprise (DBE) Requirements** of this contract to all those who provide supplies or work related to this Contract and to require all those providing supplies or work to be bound by these requirements as it relates to their work related to this Contract.

2.8 PUBLIC RECORDS/CONFIDENTIALITY

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

2.9 FORMS PROVIDED

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

END SECTION II

III. SCOPE OF WORK, PROPOSAL FORMAT & GENERAL TERMS AND CONDITIONS

Nashville MTA is soliciting proposals from professional and qualified, Certified Public Accountant firms to audit Nashville MTA's financial statements for the three (3) fiscal years ending June 30, 2022, June 30, 2023 and June 30, 2024 with two additional one (1) year options for fiscal years ending June 30, 2025 and June 30, 2026. These audits are to be performed in accordance with generally accepted auditing standards, Government Auditing Standards (updated revision), the Title 2 U.S. Code of Federal Regulations (CFR), Part 200, Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards (Uniform Guidance), as well as the State of Tennessee Comptroller of Treasury Audit Manual. Audit fieldwork is generally scheduled to begin around the 3rd week in August (approximately August 20th) each year. Interim fieldwork has been done and may be scheduled in May or June prior to year-end.

MTA's financial statements include, on a combined basis, the operations of MTA's employment arm, Davidson Transit Organization ("DTO"). In addition to the audit of the consolidated financial statements of MTA/DTO, the scope of service shall also include an audit of the National Transit Database (NTD) report as prepared by Nashville MTA staff. The preparation of the NTD report and the audit of the NTD report are to be completed after the release of the audited financial report. Additionally, a separate audit of DTO's Employee Benefit Trust shall be performed and filed along with the completion of the 5500, also completed after the release of the combined MTA/DTO audited financial report.

Nashville MTA's purchasing procedures are governed by the State of Tennessee, Metropolitan Government of Nashville-Davidson County, and various Federal laws, executive orders, and regulations, by Office of Management and Budget Circular A-102, Executive Order 12612, Federalism and Federal Transit Administration Circular 4220.IF "Third Party Contacting Requirements". These require, among other things, that purchases be made according to approved plans and specifications, which become a part of the Contract between the Nashville MTA and the successful Proposer.

The auditor, as part of the written audit report, shall submit to the organization's governing body a report containing an expression of an unmodified or modified opinion on the financial statements. This report shall state that generally accepted government auditing standards have been followed in the audit, except when a disclaimer of opinion is issued. As a part of the written audit report, the auditor shall include reports to the organization's governing body setting forth findings, recommendations for improvement, concurrence or nonconcurrence of appropriate management with the audit findings, comments on corrective action taken or planned by management, and comments on the disposition of prior year findings. These findings and recommendations shall be part of the report on internal control and compliance with applicable laws and regulations.

If a management letter or any other report or correspondences relating to matters involving internal controls and recommendations are issued in connection with this audit, a copy shall be filed with the Comptroller of the Treasury. Such management letters, reports, or correspondences shall be consistent with the findings published in the audit report.

The auditor shall furnish 25 copies of the report to the organization's governing body. The MTA/DTO consolidated audit report must be completed and filed with:

- The Metropolitan Government of Nashville & Davidson County by October 31st of each year.
- The State Comptroller of the Treasury no later than December 31st of each year

The *Data Collection Form* (for the Federal Government) must be filed no later than 30 days following the opinion date of the audit and the DTO Employee Benefit Trust Audit along with the annual 5500 filing is due no later than March 31st each year.

Any evidence of fraud, such as defalcation, misappropriation, misfeasance, malfeasance, embezzlement or other illegal acts shall be reported by the auditor, in writing immediately upon discovery, to the Comptroller of the Treasury, State of TN, who shall under all circumstances have the authority, at the discretion of the Comptroller, to directly investigate such matters. If issues or circumstances discovered during the audit require a more detailed investigation by the auditor than was necessary under the original scope of the audit, the auditor shall inform the organization's governing body in writing of the need for such additional investigation and the additional compensation required to complete. Upon approval, an amendment to the contract may be made by the organization's governing body and the auditor for such additional investigation.

The Agencies may request additional services or advice from an auditor's perspective. All additional service must be approved by the Agencies prior to rendered services.

1. The solicitation schedule is below; please confirm that you are good with these dates.

C. PROPOSAL FORMAT

proposers shall include all of the items listed below in the order shown, in their proposals. Each section should be clearly labeled, with pages numbered and separated by tabs. This format is necessary for evaluation purposes. A more detailed explanation of the requested services is found in Section III A, the Scope of Work. Proposers shall utilize Cost Form, Form 1, located in Section IV, to provide compensation in response to the suggested requirements, to indicate the cost of services.

proposals shall be prepared simply and economically, providing a straightforward, concise description of capabilities to satisfy the requirements of this proposal. Emphasis should be on completeness and clarity of content with sufficient detail to allow for accurate evaluation and comparative analysis.

Please be advised each Part referenced below is the minimum requirements requested by Nashville MTA.

Proposals shall include (Part 1, Part 2, Part 3, Part 4, Part 5, Part 6 and Part 7) shall be indexed in the order outlined below. Proposals shall list answers and responses and/or attachments as numbered listed within each section. The contents of each section should be concise and should address the Evaluation Criteria, Project Goals and Objectives, and Scope of Work.

PART 1: **Cover Page and Cover Letter**

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

1. Qualifications, Experience, References and Samples

1. Briefly introduce the Proposer, providing a summary of the Proposer's administration, organization and staffing, including multiple offices, if applicable.
2. Clearly state the contact person title and contact information.
3. Describe the Proposer's qualifications for successfully completing the project's tasks and accomplishing the project's goals and objectives.
4. Describe the Proposer's experience in the *thirty-six (36) months* in performing services of similar size and scope.
5. Provide references for similarly successful projects from at least three governmental agencies (or regional districts), including the name of the agency, contact name, telephone, fax and email address.

PART 2:

Understanding of the RFP

1. This section should include a detailed discussion of the Proposer's approach to the project and how the approach will meet the project's goals and objectives. The approach should include, at minimum a service plan according to the scope of work.
2. This section should also include the Proposer's expectations of Nashville MTA, including support from staff and other resources.

PART 3:

Project Team

1. This section should include a detailed discussion of the full proposal team including the relationship between subconsultants and the prime, how the team will be integrated to ensure a cohesive work product, and a representation of each team member's qualifications. At minimum, this section must include:
 2. A Project Team Organization Chart and identify key individuals and include resumes for key individuals. The proposing team must include diversity members.
 3. A detailed availability for Project Team and key individuals;
 4. An explanation of how Nashville MTA will be able to identify authorized staff;
 5. A detailed explanation of the roles of subconsultants, including small business firms, and discuss the process for overseeing and integrating subconsultants' work into the final product; and
 6. An acknowledgement that key individuals named in the proposal will not be replaced without advance notice and approval by Nashville MTA and that replacement personnel will be subject to Nashville MTA's approval.

PART 4:

Schedule/Timeline

2. This section will discuss the schedule and timeline for accomplishing each task's deliverable and how the proposed schedule will lead to the timely fulfillment of the project's goals and objectives. This section should include, at minimum:

1. A detailed timeline for each task and the overall project;
2. An identification of relationships between tasks and include review time for Nashville MTA personnel;
3. An outline of the major steps of each component and a schedule estimating the length of time required to complete each step.

PART 5:

Cost

Nashville MTA requires Proposers to submit complete Form I Cost proposal Form(s), located in Section IV. If a discount off retail pricing for items not specifically listed on Form I is available, please provide that information. Also include any other pricing discounts or offers that will assist Nashville MTA in obtaining the best possible pricing for the services provided.

3. Rates and Expenses

1. Provide detailed information and pricing.
 2. In this section, provide proposed rates and expenses. Proposers are encouraged to offer more options in addition to what is listed in the Scope.
 3. Provide any discount for non-standard services, volume discounts or any other special price offered.
4. Proposers must identify in their cost proposal all direct costs they anticipate they will incur. Nashville MTA reserves the right to reject the request for payment of any direct cost item that was not submitted with the cost proposal or that was not expressly approved by Nashville MTA in advance of the cost being incurred.

PART 6:

FTA REQUIRED FORMS

Nashville MTA requires Proposers to complete the following forms located in Section IV FTA Model Clauses and Required Forms.

5. Forms

1. Please review, sign and submit forms. If a form is not applicable to the proposal or the proposing organization, ***please indicate not applicable and SUBMIT.***

*Proposal Forms, Licensing, and Permits

Cost Form	DBE Compliance Statement	References	Buy America
Acknowledgment of Addenda	Affidavits of Compliance DBE	Notice to Proposers	Insurance Certificate
Affidavit & Information Required for Proposers	Certificate of Authority	Certification Debarment, Suspension Lower-Tier	DBE Certificate
Proposer's Certification of Eligibility	Certification of Restrictions on	Certification of Debarment, Suspension	License

	Lobbying	Primary	
Compliance Specifications	Affidavits	Subcontractors	Permits

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

PART 7:

ACCEPTANCE OF THE PROPOSED CONTRACT TERMS AND CONDITIONS

This section will indicate any exceptions to the Scope of Work, general terms and conditions or other requirements listed in the Proposed Contract.

6. Overall compliance to requirements and acceptance.

1. Signature is not required on the Proposed Contract included in the proposal; however, any exceptions or proposed changes to the terms and conditions must be proposed on a separate attachment and **must be submitted with the proposal** in order to be considered. Nashville MTA reserves the right to make changes to the Proposed Contract and to reject or accept any changes the Proposer may propose.

End of text on this page

D. GENERAL TERMS AND CONDITIONS

1. GENERAL REQUIREMENTS

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

2. PROPOSER'S AFFIDAVITS NON-COLLUSION

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

3. INSURANCE REQUIREMENTS

During the term of this Contract, Proposer shall, at its sole expense, obtain and maintain in full force and effect for the duration of the Contract and any extension hereof the types and amounts of insurance identified below by a **check mark**.

a) ☐ Products Liability Insurance in the amount of one million (\$1,000,000) dollars (If the Contractor will be shipping to a receiving department at Nashville MTA)

b) ☒ General Liability Insurance in the amount not less than one million dollars (\$1,000,000) combined single limits each occurrence for bodily injury and property damage.

c) ☒ Professional liability insurance, errors & omissions insurance, or malpractice insurance, whichever may be customary in the professional field, in the minimum amount of one million dollars (\$1,000,000.00) per claim/annual aggregate. Such coverage must be maintained for a period of three (3) years following termination of this Contract or final acceptance by Nashville MTA of the Services, whichever is later. This provision shall expressly survive the termination of the Services or the Contract.

d) ☒ Automobile Liability Insurance in the amount not less than a combined single limit of one million dollars (\$1,000,000) covering Contractor's owned, non-owned, leased or rented vehicles.

e) ☒ Worker's Compensation Insurance with statutory limits required by the State of Tennessee or other applicable laws and employer's liability insurance with limits of no less than one hundred thousand (\$100,000) dollars, as required by the laws of Tennessee. (Not required for companies with fewer than five (5) employees).

f) ☐ Other insurance

g) ☐ Such insurance shall:

1. Contain or be endorsed to contain a provision that includes Covered Entities as additional insureds and loss payees with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with

such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the Covered Entities.

2. For any Claims related to this Contract, Contractor's insurance coverage shall be primary insurance as respect to the Covered Entities. Any insurance or self-insurance programs covering the Covered Entities shall be excess of Contractor's insurance and shall not contribute with it.

3. Regarding Automotive Liability Insurance including vehicles owned, hired, and non-owned, said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the Covered Entities as additional insureds with respect to Claims and liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Contractor.

4. Contractor shall maintain workers' compensation insurance, if applicable, with statutory limits as required by the State of Tennessee or other applicable laws and liability insurance. Contractor shall require each of its subcontractors to provide workers' compensation insurance for all of the latter's employees to be engaged in such work unless employees are covered by Contractor's workers' compensation insurance coverage.

5. Other Insurance Requirements. Contractor shall:

a) Prior to commencement of the Services, furnish Nashville MTA with original certificates and amendatory endorsements effecting coverage required by this **Section 16** of the proposed contract and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on thirty (30) days' prior written notice to Nashville MTA.

b) Provide certified copies of endorsements and policies if requested by Nashville MTA in lieu of or in addition to certificates of insurance.

c) Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

d) Maintain such insurance from the time the Services commence until completed. Failure to maintain, renew coverage or provide evidence of renewal as required by Nashville MTA may be treated by Nashville MTA as a material breach and Default under this Contract.

e) Place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon written appeal to the Nashville MTA Director of Risk Management Services.

f) Require all subcontractors to maintain during the Term of this Contract Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractors' employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall file subcontractor's certificates of insurance as required by Nashville MTA.

g) Disclose any deductibles and/or self-insured retentions greater than ten thousand dollars (\$10,000) and obtain Nashville MTA's written approval of such deductibles and/or self-insured retentions prior to the commencement of the Services.

h) Not have, if Contractor has or obtains primary and excess policies, any gap between the limits of the primary policy and the deductible features of the excess policies.

Upon request, the Proposer will provide a Certificate of Coverage with the Nashville Metropolitan Transit Authority named as Certificate Holder.

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

4. INTEREST OF MEMBERS OF NASHVILLE MTA

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

5. INTEREST OF OTHER LOCAL PUBLIC OFFICIALS AND STATE OFFICIALS

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

6. INTEREST OF MEMBERS, OR DELEGATES TO CONGRESS

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

7. INTEREST OF THE PROPOSER

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

8. WORKERS COMPENSATION ACT

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

9. SOCIAL SECURITIES ACT

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

10. EQUAL EMPLOYMENT OPPORTUNITY

In implementing the Project/Contract, the Proposer may not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age or national origin. The Proposer agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, sex, disability, age or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Proposer shall insert the foregoing provisions (modified only to show the particular contractual relationship) in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

11. AUTHORITY TO ENTER CONTRACT

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

12. AUTHORIZATION OF PROPOSAL

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

13. SUBCONTRACT APPROVAL

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

14. COST/PRICE ANALYSIS

Nashville MTA reserves the right to conduct a cost or price analysis for any purchase or service. Nashville MTA may be required to perform a cost/price analysis when competition is lacking for any purchase. Sole source procurements or procurements which result in a single proposal received, will be subject to a cost/price analysis, which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of the data to determine the effect on proposal prices. Nashville MTA may require a pre-award audit, and potential Proposers shall be prepared to submit data relevant to the proposed work which will allow Nashville MTA to sufficiently determine that the proposed price is fair, reasonable, and in accordance with Federal, State, and local regulations. Procurements resulting in a single proposal will be treated as a negotiated procurement and Nashville MTA reserves the right to negotiate with the single Proposers to achieve a fair and reasonable price. If both parties cannot agree upon a negotiated price, Nashville MTA reserves the right to reject the single proposal.

All contract change orders or modifications will be subject to a cost analysis.

15. PRICING

The price quoted in any proposal submitted shall include all necessary cost to complete the services in accordance with the specifications. Anything omitted from such specifications, which are clearly necessary, shall be considered a portion of such cost although not directly specified or called for in the specifications. Proposers should note discounts.

16. PROMPT PAYMENT

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

17. PROTEST

A. Definitions for Purposes of the section

The term “days” refers to working days of the Authority.

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

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

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

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

C. Submission of Protest

Any interested party may file a protest with the Authority on the basis that the Authority has failed to comply with applicable Federal or State Regulations or with the Authority's Procurement Process. The protest must be filed in accordance with the timing requirements set forth in subsection D. "Types of Protests and Timing" of this section, and must include: **the name, phone number, e-mail and address of the protestor.**

The proposal and proposed contract number of the proposal.

A statement of grounds for the protest, a statement as to what relief is requested, and in particular the Federal or State law or Authority Process alleged to have been violated. This statement should be accompanied by any supporting documentation the protesting party desires the Authority to consider in making its decision. Protest should be submitted to:

Procurement Manager
430 Myatt Drive
Nashville, TN 37115

D. Types of Protests and Timing

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

1. Protest regarding Proposal

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

This type of protest would include any claim that the proposal contained exclusionary or discriminatory specification, any challenge to the basis of award, or any claim that the proposal documents or the

proposal process violated applicable Federal or State law, or that the Authority failed to follow its Procurement Process in the proposal.

2. Protests regarding Requirements and Responsiveness

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

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

3. Protest Regarding Receipt of Non-Award Notification

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

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

E. Authority Response

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

1. Types of Protests

a. Protest regarding Proposal

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

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

designed to exclude a particular competitor, then the Authority will have grounds to deny the protest.

b. Protest regarding requirement and responsiveness

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

c. Protests after non-award notification

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

2. Decisions by Authority

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

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

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

F. FTA Protest Procedure

Reviews of protests by FTA will be limited to claims that the Authority failed to have or follow protest procedures, or claims the Authority failed to review a complaint or protest. A protestor must exhaust all administrative remedies with the Authority before pursuing a protest with FTA. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protestor knew or should have known of the violation.

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

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

18. ADDITIONAL SERVICES REQUEST

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

19. PROPOSED CONTRACT ALTERATIONS

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

20. ASSIGNABILITY

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

21. PUBLICATION AND MEDIA RESTRICTIONS

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

22. GRATUITIES AND KICKBACKS

It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling,

determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any proposal or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Nashville MTA contracts.

END SECTION III

IV. FEDERAL TRANSIT ADMINISTRATION CLAUSES AND FORMS

1. CONTRACT DOCUMENTS

Any contract resulting from this Proposal shall include the following;

- Request for Proposal No 2021027 and all addenda
- Proposer's Accepted Offer and Guarantee
- Proposal Award/Contract

The Proposer ("contractor") and appropriate parties of Agencies will sign to execute contract.

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

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

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

2. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

- a) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may

be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

- b) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.
- c) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

4. ACCESS TO RECORDS AND REPORTS

The following access to records requirements applies to this Contract:

- a) Where the purchaser is not a State but a local government and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 18.36(l), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
- b) Where the purchaser is a State and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a) 1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
- c) Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- d) Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC

5302(a)1) through other than competitive process, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

- e) Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- f) Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i) (11)

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

5. FEDERAL CHANGES

All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

6. TERMINATION

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

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor,

the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

- c) Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.
- d) Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e) Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

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

7. CIVIL RIGHTS REQUIREMENTS

- a) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Sec. 303 of the Age Discrimination Act (1975), as amended, 42 USC 6102, Sec. 202 of the Americans with Disabilities Act (1990), 42 USC 12132, and 49 USC 5332, contractor shall not discriminate against any employee or applicant for employment because of race, color, creed,

national origin, sex, age or disability. Contractor shall also comply with applicable Federal implementing regulations and other requirements FTA may issue.

- b) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
- c) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and 49 USC 5332, contractor shall comply with all applicable equal employment opportunity requirements of USDOL, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, USDOL," 41 CFR 60 et seq., (implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 USC 2000e), and any applicable Federal statutes, executive orders, regulations, and policies that may in the future affect construction activities undertaken in the course of the project. Contractor shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, contractor shall comply with any implementing requirements FTA may issue.
- d) Age - In accordance with Sec. 4 of the Age Discrimination in Employment Act (1967), as amended, 29 USC 623 and 49 USC 5332, contractor shall refrain from discrimination against present and prospective employees for reason of age. Contractor shall also comply with any implementing requirements FTA may issue.
- e) Disabilities - In accordance with Sec. 102 of the Americans with Disabilities Act (ADA), as amended, 42 USC 12112, contractor shall comply with the requirements of US Equal Employment Opportunity Commission (EEOC), Regulations to Implement Equal Employment Provisions of the Americans with Disabilities Act, 29 CFR 1630, pertaining to employment of persons with disabilities. Contractor shall also comply with any implementing requirements FTA may issue.
- f) Veterans Preference - As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Agency and its contractor agrees and assures that each of its subcontractors: (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 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.

Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

8. DISADVANTAGED BUSINESS ENTERPRISES

- a) This Contract is not subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Agency's overall goal for DBE participation is **14%**.
- b) The Contractor 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 this DOT-assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Nashville MTA deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c) Proposers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this Contract is conditioned on submission of the following **concurrent with and accompanying the submission of the Proposal**:
 - 1. The names and addresses of DBE firms that will participate in this contract;
 - 2. A description of the work each DBE will perform;
 - 3. The dollar amount of the participation of each DBE firm participating;
 - 4. Written documentation of the Proposer's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
 - 5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
 - 6. If the contract goal is not met, evidence of good faith efforts to do so.
 - i. Proposers must present the information required above as a matter of responsiveness with initial proposals (see 49 CFR 26.53(3)).
 - ii. The successful Proposer will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- d) The Contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from Nashville MTA. In addition, the Contractor may not hold retainage from its subcontractors.
- e) The Contractor must promptly notify Nashville MTA, whenever a DBE subcontractor performing work related to this Contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Nashville MTA.

9. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual

provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

10. GOVERNMENT WIDE 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 contractors, 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 proposal or proposal, the Proposer certifies as follows:

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

11. BREACHES AND DISPUTE RESOLUTION

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

Performance During Dispute - Unless otherwise directed by the recipient, Contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

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

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and

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

12. LOBBYING

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or proposal for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

13. CLEAN AIR

- a) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- b) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

14. CLEAN WATER

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance

15. FLY AMERICA

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

or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

16. PATENT RIGHTS

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

1. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
2. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
3. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

17. RIGHTS IN DATA AND COPYRIGHTS

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

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

1. Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
2. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
 2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.
3. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.
4. Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or

disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

5. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
6. Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.
7. Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

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

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

18. ENERGY CONSERVATION

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

19. CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

National Intelligent Transportation Systems Architecture and Standards:

To the extent applicable, Contractor agrees to conform, and assure its subcontractors' conformity, to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue later, except to extent FTA determines otherwise in writing.

20. NOTIFICATION OF FEDERAL PARTICIPATION FOR STATES

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

STANDARD CLAUSES

To the extent not inconsistent with foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

The following requirements are not federal clauses.

1. FULL AND OPEN COMPETITION

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

2. PROHIBITION AGAINST EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

3. INELIGIBLE CONTRACTORS AND SUBCONTRACTORS

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

4. COMPLIANCE WITH FEDERAL REGULATIONS

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

contract.

5. REAL PROPERTY

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 29 CFR 18.31, 49 CFR 24 Subpart B, FTA Circular 5010.1D, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

6. ACCESS TO SERVICES FOR PERSONS WITH LIMITED ENGLISH PROFICIENCY

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

7. ENVIRONMENTAL JUSTICE

The Recipient agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations," 42 U.S.C. § 4321 note, except to the extent that the Federal Government determines otherwise in writing.

8. ENVIRONMENTAL PROTECTIONS

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter

53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

9. GEOGRAPHIC INFORMATION AND RELATED SPATIAL DATA

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

10. FEDERAL SINGLE AUDIT REQUIREMENTS FOR STATE ADMINISTERED FEDERALLY AID FUNDED PROJECTS ONLY

Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are

required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in '3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

11. CATALOG OF FEDERAL DOMESTIC ASSISTANCE (CFDA) IDENTIFICATION NUMBER

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

12. CFDA NUMBER FOR THE FEDERAL TRANSPORTATION ADMINISTRATION

A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

End of Text Section IV

REQUIRED FORMS

FORM 1 -- COST PROPOSAL FORM

Fiscal Year End (June 30th)	Fee
2021-2022	
2022-2023	
2023-2024	
2024-2025	
2025-2026	
<i>Total Cost</i>	

Davidson Transit Organization - Audit of Financial Statements

Fiscal Year End (June 30th)	Fee
2021-2022	
2022-2023	
2023-2024	
2024-2025	
2025-2026	
<i>Total Cost</i>	

Davidson Transit Organization - Preparation of the 5500 Audit

Fiscal Year End (June 30th)	Fee
2021-2022	
2022-2023	
2023-2024	
2024-2025	
2025-2026	

Total Cost	
-------------------	--

Additional Service per Hour Rates

1st Year	2nd Year	3rd Year	4th Year	5th Year

NAME OF PROPOSER: _____

ADDRESS OF PROPOSER: _____

NAME OF AUTHORIZED SIGNATORY OF PROPOSER: _____

TITLE OF AUTHORIZED SIGNATORY: _____

SIGNATURE OF AUTHORIZED SIGNATORY OF PROPOSER: _____

DATE: _____

FORM 2

ACKNOWLEDGMENT OF ADDENDA

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

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

ADDENDUM NUMBER: _____ DATED: _____

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

Company

Authorized Signature /Date

Name Printed

Title

FORM 3

AFFIDAVIT OF NON-COLLUSION

Affidavit and information required for Proposer:

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

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

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

(3) That the contents of the Proposal have 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

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

Proposing Company

Authorized Signature /Date

Name Printed

Title

Subscribed and sworn to before me the _____ day of _____, 20____.

Notary Public

My commission expires: _____

FORM 4

PROPOSER'S CERTIFICATION OF ELIGIBILITY

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

Company

Authorized Signature /Date

Name Printed

Title

SAM Number

DUNS Number

NOTE: The System for Award Management (SAM) is an official website of the U.S. government.

There is no cost to use SAM. You can use this site for FREE to:

- Register to do business with the U.S. government
- Update or renew your entity registration
- Check status of an entity registration
- Search for entity registration and exclusion records

<https://www.sam.gov>

Subscribed and sworn to before me the _____ day of _____, 20____.

Notary Public

My commission expires: _____

FORM 5

COMPLIANCE WITH SPECIFICATIONS

In submitting a Proposal the Proposer is sufficiently informed in all matters affecting the Proposal, and that the Proposer has checked the Proposal for errors and omissions and hereby states that they will comply with the specifications in all areas including addenda that were granted by the Nashville MTA.

Company

Authorized Signature /Date

Name Printed

Title

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Public

My commission expires _____

FORM 6 – A

DISADVANTAGED BUSINESS ENTERPRISE LETTER OF INTENT

SUBMIT ONE FORM FOR EACH DBE SUBCONTRACTOR AND/OR SUPPLIER. IF THE DBE IS A 2nd, 3rd, or LOWER-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE SIGNED BY THE SUBCONTRACTOR THAT IS UTILIZING THE DBE.

PROPOSER:

Name of Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

DBE:

Name of Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE:

The Proposer is committed to utilizing the above-named DBE for the work described above. The estimated dollar value of this work is \$ _____, which is ____% the total base bid proposal.

AFFIRMATION

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

By: _____

Signature of DBE and Title	Date	Name
----------------------------	------	------

By: _____

Signature of Subcontractor and Title	Date	Name
--------------------------------------	------	------

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

By: _____

Signature of Respondent and Title	Date	Name
-----------------------------------	------	------

FORM 6 – B

PROPOSER DBE GOALS ACCOMPLISHMENT STATEMENT

The undersigned Proposer has satisfied the requirements of the proposal specification in the following manner (please complete the appropriate spaces):

_____ The Proposer is committed to a minimum of ____% DBE utilization on this contract.

_____ The Proposer is unable to meet the DBE goal of ____% but is committed to a minimum of ____% DBE utilization on this contract and submits the attached narrative and documentation demonstrating good faith efforts consistent with Appendix A of 49 CFR 26. **The Proposer should attach as many pages as necessary to provide a full and complete narrative and supporting documentation of good faith efforts made (See Form 6-C).**

Please provide an explanation for the percentage quoted above:

If DBE and company will enter into a Joint Venture, please describe the terms of the relationship and attach a copy of the contract between the parties:

It is the present intent of the Proposer to utilize the specific DBE firms identified in this proposal in the execution of this contract. If for any reason, one or more of the DBE identified here are unable or unwilling to participate, the Proposer will make good faith efforts to replace the DBE with a similar DBE.

Proposer's Name:

State Registration No.: _____

Federal Tax ID No.: _____

By: _____
Signature and Title Date

NASHVILLE METROPOLITAN TRANSIT AUTHORITY
CONTRACTOR GOOD FAITH EFFORTS DOCUMENTATION FORM

CONTRACT NAME: _____

NAME OF PROPOSER: _____

In addition to the Disadvantaged Business Enterprises (DBE)s that are listed and proposed for utilization on this contract, the following DBEs were also contacted regarding this contract.

Please use as many sheets necessary to document your efforts.

Firm Name & Address	Contact Person & Phone Number	Requested Bid Items: Supplies, Services or Materials	Bid Amount	Solicitation Method & Date	Reason Rejected

Proposer’s Authorized Signatory

Date

NASHVILLE METROPOLITAN TRANSIT AUTHORITY

DBE UTILIZATION PLAN

CONTRACT NAME: _____

NAME OF PROPOSER: _____

The following Disadvantaged Business Enterprises (DBE)s will be used on this Contract:

Please use as many sheets necessary to document your efforts.

DBE Firm Name & Address	Contact Person & Phone Number	Bid Items Provide by DBE: Supplies, Services or Materials	DBE Contract Value (Required)	Percentage of Total Prime Contract Cost
Total DBE Contract(s) Value & Overall Percentage:				

Proposer's Authorized Signatory
Date

FORM 6-E

AFFIDAVIT OF COMPLIANCE

ATTACH COPY OF TN UCP DBE CERTIFICATION

TO BE COMPLETED BY DISADVANTAGED BUSINESS ENTERPRISE

State of _____ County of _____ I hereby certify that I am the _____
(title) and; duly authorized representative of _____ (name of firm); whose
address is _____.

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

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

Company

Authorized Signature /Date

Name Printed

Title

Subscribed and sworn to before me the _____ day of _____, 20____.

Notary Public

My commission expires: _____

FORM 7

CERTIFICATE OF AUTHORITY

I hereby declare and affirm that I am:

☐ **PROPOSER IS A CORPORATION**

☐ **PROPOSER IS A PARTNERSHIP**

☐ **PROPOSER IS AN INDIVIDUAL**

☐ **PROPOSER IS A JOINT VENTURE**

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

Company

Authorized Signature /Date

Name Printed

Title

Subscribed and sworn to before me the _____ day of _____, 20____.

Notary Public

My commission expires: _____

FORM 8

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I _____ hereby certify on behalf of _____
(Name of Official) (Name of Proposer)

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

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

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

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

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

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

Company

Authorized Signature /Date

Name Printed

Title

FORM 9

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION PRIMARY PARTICIPANT

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

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

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

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

Company

Authorized Signature /Date

Name Printed

Title

FORM 10

CERTIFICATION OF LOWER-TIER PARTICIPANTS

CERTIFICATION REGARDING DEBARMENT AND SUSPENSION

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

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

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

Company

Authorized Signature /Date

Name Printed

Title

FORM 11

CONTACT INFORMATION OF SIMILAR CONTRACTS/REFERENCES

Proposers are requested to supply references for past projects of similar scope. Please provide project name, owner, and contact information for owner including the name, email, and telephone number of the owner's representative that can attest to the work performed. Please include references for subconsultants who are performing key elements of work. References for subconsultants should related specifically to the items of work the subconsultant will be performing in this Proposal.

1. _____

2. _____

3. _____

4. _____

Company Name

Authorized Signature /Date

Name Printed

Title

FORM 12

AFFIDAVITS

State of _____ County of _____

As used herein, "Contractor" will include Proposers and Bidders.

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

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

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

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

Company

Authorized Signature /Date

Name Printed

Title

Sworn to and subscribed before me on this ____ day of _____, 20____.

Notary Public

My commission expires: _____

FORM 13

NOTICE TO PROPOSER

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

Company

Authorized Signature /Date

Name Printed

Title

FORM 14

BUY AMERICA CERTIFICATE

INTENTIONALLY OMITTED

FORM 15

BUY AMERICA CERTIFICATE

INTENTIONALLY OMITTED

Nashville Metropolitan Transit Authority

Subcontractor Information

Proposer Name				Address			
Contact			Email			Phone	

Please list all subcontractors performing work on the above contract. Use additional sheets, if necessary.

[illegible]**Prime Proposer Signature**

END SECTION IV

V. CONTRACT TERMS AND CONDITIONS (PROPOSED)

NOTE: This is a Proposed Contract. Nashville MTA reserves the right to make changes to this Proposed Contract prior to execution.

CONTRACT NO. 2021027-C

BETWEEN

NASHVILLE METROPOLITAN TRANSIT AUTHORITY

AND

CONTRACTOR NAME

FOR

Financial Auditing Services

This Contract No 2021027-C (hereinafter referred to as “Contract”) is entered into as of the ____ day of _____, _____, by and between Nashville Metropolitan Transit Authority (hereinafter referred to as “Agency”), having its principal office located at 430 Myatt Drive, Nashville, TN 37115, and Contractor Name (hereinafter referred to as “Contractor”), having its principal office located at, Contractors Address.

The following documents constitute the Contract and Contract Documents:

- Contract No. 2021027-c
- Request for Proposed (RFP) No. 2021027
- Contractor’s Proposal dated: Date

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

- Any properly executed amendment to this Contract (most recent with first priority)
- Contract No. 2021027-c
- Request for Proposed (RFP) No. 2021027
- Contractor’s Proposal dated: Date

1. Duties and Responsibilities of Contractor

1.1. Contractor shall provide professional services as detailed in the RFP and this Contract (the “**Services**”) at Nashville MTA’s two (2) facilities located at 430 Myatt Drive, Nashville, TN 37115, and 130 Nestor Street, Nashville, TN 37210 and/or at its Music City Central transit hub (collectively “**Facilities**”). The Services shall be provided as set forth in this Contract, and to the extent not inconsistent with the terms herein, according to the methods set forth in the RFP. Contractor’s duties and responsibilities are more specifically set forth in Section III in the RFP. All deliverables as set forth in the RFP shall be provided in both PDF and originating (e.g, Word, Excel) document format.

1.2. Nashville MTA may purchase additional professional services offered by Contractor under this Contract (“**Additional Services**”). The Additional Services shall be agreed upon in writing with a properly executed amendment between the parties. Additional Services shall be invoiced at the rates as stated in the written amendment as agreed to by both parties. The rights and obligations of the parties in this Contract shall pertain and apply to “Additional Services,” unless stated otherwise in writing.

2. Term

2.1. This Contract shall commence on the ____ day of _____, 20___. The initial term of this Contract shall continue for a five year term unless otherwise terminated as provided herein (the “**Term**”). In the event of uncontrollable delays resulting in the contract term expiring, the Contractor is required to complete all assigned task herein this agreement, executed amendments, and related purchase orders.

3. Compensation/Invoices

3.1 For its Services, Contractor is entitled to receive _____ [refer to cost form, responses, and Contractor’s proposal).

3.2. There shall be no other charges or fees for the performance of this Contract unless otherwise agreed to by both parties in writing. Nashville MTA reserves the right to reject the request for payment of any cost item that was not submitted with the cost proposal or that was not expressly approved by Nashville MTA in advance of the cost being incurred. Nashville MTA shall make reasonable efforts to make payments within thirty (30) days of receipt of approved invoice.

3.3. Contractor shall submit invoices to:

Procurement Department
Nashville Metropolitan Transit Authority
430 Myatt Drive
Nashville, TN 37115

4. Acceptance

4.1. If the Services are not acceptable to Nashville MTA according to the Contract, then Nashville MTA shall submit a letter of non-acceptance to Contractor detailing the deficiencies within sixty (60) days of delivery to Nashville MTA of the deficient Services. Acceptance of delivery of the Services shall not release Contractor from liability for Contractor’s other obligations and duties as provided herein.

4.2. Approval or acceptance by Nashville MTA of any of Contractor’s Services under this Contract shall not constitute, or be deemed, a release of the responsibility and liability of Contractor, its employees, associates, agents or subcontractors for the exercise of skill and diligence necessary to fulfill Contractor’s responsibilities under this Contract. Nor shall Nashville MTA’s approval or acceptance be deemed to be the assumption of responsibility by Nashville MTA for any defect or error in the Services of Contractor, its employees, associates, agents, or subcontractors.

5. Taxes

5.1. Nashville MTA shall not be responsible for any taxes that are imposed on Contractor. Contractor understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to Nashville MTA.

6. Standard of Care and Correction Period

6.1. Contractor will provide Services that reflect normal and customary professional and industry standards, procedures, and performances. Contractor covenants that the preparation of materials, the selection of personnel, the fitness and operation of its recommendations, and the performance of the Services shall conform to a normal and customary standard of performance in the profession. Contractor covenants that it will exercise diligence and due care and perform in a professional manner all of the Services pursuant to this Contract.

6.2. Contractor shall be responsible for using due diligence to correct errors, deficiencies or unacceptable Services. Contractor shall, at no cost to Agency remedy any errors, deficiencies or any service, work or other work products that fail to meet the above standard, as determined in Agency's sole reasonable discretion, as soon as possible, but in all cases within fifteen days of Contractor's receipt of written notice of said errors, deficiencies or unacceptable Services. For the Correction Period, as defined below, Contractor's obligation shall be to replace, resolve, or correct, at Contractor's own expense, any defects in the Services.

6.3. Correction Period is defined as a period of one year beginning on the date Agency accepts the particular Services and continuing until Contractor has remedied all problems of which Contractor was notified prior to expiration of the one-year period after the acceptance of those particular Services ("**Correction Period**"). For the purposes of clarity, this means that the acceptance of Services under a Task Order or otherwise as indicated by the payment of an invoice triggers a Correction Period for the Services for which Contractor has been compensated under that invoice.

6.4. Both parties understand and agree that Contractor's covenants and obligations under this Section are material terms of the Agreement.

7. Encumbrances

7.1. Contractor shall, at its own expense, be entitled to and shall have the duty to defend any suit which may be brought against the Covered Entities, as defined in Section 14, below, to the extent that it is based on a Claim that the Services or other work products furnished contain liens, Claims, or encumbrances of any kind (each an "**Encumbrance Claim**"). The Contractor shall further indemnify and hold harmless, to the fullest extent permitted by law, and as set forth in Section 14, the Covered Entities against any award of damages and costs made against the Covered Entities or in any settlement agreement of any and all Encumbrance Claims authorized in writing by Agency.

7.2. In the event use of the Services are restricted or interfered with as a result of any such encumbrance, Contractor shall, at its cost, procure non-encumbered Services for Agency which are equal substitutes, in Agency's discretion, for the Services in all material respects, or obtain for Agency the right to use the Services without encumbrances, or refund to Agency all monies paid by Agency for such Services. Nothing in this Section 7 shall preclude Agency from exercising any rights or remedies as provided elsewhere in this Contract.

8. Copyright, Trademark, Service Mark, or Patent Infringement

8.1. Contractor shall, at its own expense, be entitled to and shall have the duty to defend any suit which may be brought against the Covered Entities to the extent that it is based on a Claim that the Services or other work products furnished infringe a copyright, trademark, service mark, or patent. The Contractor shall further indemnify and hold harmless to the fullest extent permitted by law, and as set forth in Section 14, the Covered Entities against any award of damages and costs made against the Covered Entities or in any settlement agreement of a Claim authorized in writing by Nashville MTA.

8.2. If the Services or other work products furnished under this Contract are likely to, or do become, the subject of such a Claim of infringement, then without diminishing Contractor's obligation to satisfy the award, Contractor may at its option and expense:

8.2.1. Procure for Nashville MTA the right to continue using the products or services.

8.2.2. Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to Nashville MTA, so that they become non-infringing.

8.2.3. Remove the products or discontinue the services and cancel any future charges pertaining thereto.

8.2.4. Provided, however, that Contractor will not exercise option 8.2.3 until Contractor and Nashville MTA have agreed and determined that options 8.2.1 and 8.2.2 are impractical.

8.3. Contractor shall have no liability to Nashville MTA, however, if any such infringement or Claim thereof is based upon or arises out of:

8.3.1. The use of the Services or other work products in combination with apparatus or devices not supplied or else approved by Contractor.

8.3.2. The use of the Services or other work products in a manner for which the Services or other work products were neither designated nor contemplated.

8.3.3 The claimed infringement in which Nashville MTA has any direct or indirect interest by license or otherwise, is separate from that granted herein.

Nothing in this Section 8 shall preclude Nashville MTA from exercising any rights or remedies as provided elsewhere in this Contract.

9. Works for Hire and Software License

9.1. Contractor acknowledges that all Services under this Contract are "work(s) for hire" within the meaning of the United States Copyright Act (Title 17 United States Code) and hereby assigns to Nashville MTA all rights and interests Contractor may have in the Services it prepares under this Contract, including any right to derivative use of the Services.

9.2. The term "**Software**" as used herein shall be the set of copyrighted, object code computer programs and databases licensed under this Contract and provided by Contractor at any time, and from time to time under this Contract. Further, the term Software shall include any upgrades, updates, patches, hotfixes, modules, routines, feature enhancements and supplemental or replacement Software and their associated media, printed materials, online or electronic documentation, or other features or components, distributed by or on behalf of the Contractor.

9.3. The term "**Documentation**" as used herein shall mean all user manuals, operating manuals, technical manuals and any other instructions, specifications, documents or materials, in any form or media, that describe the functionality, installation, testing, operation, use, maintenance, support, or technical or other components, features or requirements, of the Software. Contractor shall provide Nashville MTA with complete and accurate Documentation for all Software prior to or concurrently with its delivery, and as necessary from time to time.

9.4. Contractor warrants that the Software and Documentation, and Nashville MTA's use thereof, are and will remain free and clear of all encumbrances, liens and security interests of any kind.

9.5. All Software and related materials developed by Contractor in performance of this Contract for Nashville MTA shall be the sole property of Nashville MTA. Further, Nashville MTA shall own all any and all rights to any information Nashville MTA generates, inputs, prints, copies, or downloads from the Software. Notwithstanding the foregoing, Nashville MTA agrees not to reverse engineer, disassemble, decompile, decode or adapt the Software, or otherwise attempt to derive or gain access to the source code of the Software, in whole or in part, except as and only to the extent: (i) this restriction is prohibited by applicable law; (ii) such action is taken for purposes of ensuring or assessing interoperability or otherwise qualifies as a “fair use” under US Copyright Act or other applicable law or; or (iii) these acts are permitted under the applicable Software license.

9.6. Nashville MTA agrees that the Software will be displayed or read into or used or distributed on computers required to render services under this Contract. Nashville MTA agrees to make no more than two (2) copies of the Software for archival or backup purposes only, all of which copies (together with the original) shall be kept in the possession or direct control of Nashville MTA.

9.7. Contractor hereby grants to Nashville MTA a nonexclusive, perpetual, irrevocable license to the Software for the purposes set out in this Contract.

9.8. Contractor, if requested by Nashville MTA, shall execute all necessary documents to enable Nashville MTA to protect Nashville MTA’s rights under this Section 9.

10. Termination

10.1. Should Contractor fail to fulfill in a timely and proper manner its obligations under this Contract or if it should violate any of the terms of this Contract (“**Default**”), Nashville MTA shall have the right to terminate this Contract provided Contractor fails to cure such Default within thirty (30) days of Nashville MTA’s written notice of Default to Contractor. Such termination shall not relieve Contractor of any liability for damages sustained by virtue of any Default by Contractor.

10.2. Should funding for this Contract be discontinued, Nashville MTA shall have the right to terminate this Contract effective immediately, without penalty, upon written notice to Contractor.

10.3. Nashville MTA may terminate this Contract at any time, without penalty, for its convenience or its best interest upon fifteen (15) days’ written notice to Contractor.

10.4. In the event of a termination under Section 10.2. or 10.3., Contractor will be compensated in accordance with the Services that have been “accepted” in accordance with this Contract.

11. Maintenance of Records and Nashville MTA Property

11.1. Contractor shall maintain documentation for all charges against Nashville MTA. The books, records, and documents of Contractor, insofar as they relate to the Services performed or money received under the Contract, shall be maintained for a minimum period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by Nashville MTA or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles.

11.2. Contractor’s activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by Nashville MTA or their duly appointed representatives.

11.3. Any Nashville MTA property, including but not limited to books, records and equipment that is in Contractor’s possession shall be maintained by Contractor in good condition and repair, and shall be returned to Nashville MTA by Contractor upon termination of the Contract. All goods, documents, records,

work and other work product and property produced by Contractor during the performance of this Contract are deemed to be Nashville MTA property. Upon completion or termination of this Contract, Contractor shall promptly deliver to Nashville MTA all records, notes, data, memorandum, models, and any other material of any nature that are within Contractor's possession or control and that are Nashville MTA property or relate to Nashville MTA or its business.

11.4. Nashville MTA shall retain existing ownership and all proprietary rights to its information and data. Confidential information and data may need to be disclosed to Contractor for purposes necessary to Contractor providing the Services. Contractor shall treat any such data and information as strictly confidential.

12. Independent Contractor/Subcontractors

12.1. Contractor is an independent contractor. Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. It is expressly agreed and understood between the parties that Contractor and any of its subcontractors and suppliers are independent contractors to Nashville MTA and as such shall be viewed in law and equity. No vicarious liability shall be imposed upon the Covered Entities by any action of Contractor, subcontractor or supplier in the performance of this Contract. Neither Nashville MTA nor Contractor shall hold itself out in a manner contrary to the terms of this Section 12 nor shall Nashville MTA or Contractor become liable for any representation, act, or omission of the other party contrary to the terms of this Section 12.

12.2. Neither Contractor nor Contractor's employees, subcontractors or agents are Nashville MTA employees. Contractor shall bear sole responsibility for payment of compensation to its employees and subcontractors. Contractor shall procure and maintain Worker's Compensation Insurance as stated in Section 16.

12.3. In addition to the other requirements of Contractor set forth herein regarding subcontractors, Contractor shall not subcontract any of its rights or responsibilities in this Contract without the prior written approval of the Nashville MTA. Contractor shall remain fully responsible for the Services of the subcontractor and for supervising the performance of the Services by the subcontractor. Nashville MTA is not subject to any liability of any kind with respect to any subcontractor nor do subcontractors obtain any rights against Nashville MTA under this Contract.

12.4. Contractor and its subcontractors shall be appropriately licensed in the State of Tennessee to conduct the Services required by this Contract. Contractor and subcontractors must maintain current Central Contractor Registration ("CCR"), Data Universal Numbering Systems ("DUNS") number, System for Award Management ("SAM"), or registration in other substantially similar registration databases. Contractor must submit to Nashville MTA all Tennessee Department of Transportation letters or certification of any Disadvantage Business Enterprises ("DBEs") participating in the Project. Contractor shall hire reliable and dependable subcontractors. Contractor and its subcontractors found guilty of unethical, irresponsible business practices according to governmental authority will be suspended and debarred from conducting future business with Nashville MTA.

12.5. Subcontractors, if approved in writing, shall be made and are subject to the applicable terms of this Contract in their contractual agreements with the Contractor. Contractor shall include in its subcontracts a similar indemnification provision as set forth in Section 14 running from each subcontractor directly to the Covered Entities.

13. Waiver

13.1. No failure to exercise, and no delay in exercising, on the part of either party, any privilege, any power or any right hereunder will operate as a waiver thereof, nor will any single or partial exercise of any privilege, right or power hereunder preclude further exercise of any other privilege, right or power hereunder.

14. Indemnity and Contractor Responsibility.

14.1. Contractor shall indemnify, defend and hold harmless, to the fullest extent permitted by law, Nashville MTA, Davidson Transit Organization, the Metro Government of Nashville and Davidson County, and their officers, agents, employees and volunteers (“**Covered Entities**”) from:

14.1.1. Any claims, losses, damages, causes of action, suits and liability of every kind, including all expenses of litigation, court costs, and reasonable attorneys’ fees, including, but not limited to third party claims for injury to or death of any person or damage to property (“**Claims**”), arising from the Services under this Contract, and/or from the alleged negligent or intentional acts or omissions of Contractor, its officers, employees and/or agents, including its sub or independent contractors (including third parties), in connection with the performance of this Contract, and,

14.1.2. Any Claims arising from any alleged failure of Contractor, its officers, employees and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.

14.2. The indemnity and release in this Section 14 applies regardless of whether said Claims are covered, in whole or in part, by insurance and regardless of the negligence, if any, of the Covered Entities.

14.3. Contractor assumes full responsibility for the Services to be performed hereunder and hereby releases, relinquishes, and discharges the Covered Entities from all Claims of every kind and character, including the cost of defense thereof, for any alleged injury to or death of any person (including third parties) and damage to property that are caused by or alleged to be caused by, arising out of, or in connection with Contractor’s Services, Additional Services and work to be performed hereunder. This release shall apply regardless of whether said Claims are covered, in whole or in part, by insurance and regardless of the negligence, if any, of the Covered Entities.

14.4. In the event of any Claim against the Covered Entities, the Covered Entities may choose counsel, in the Covered Entities’ sole and absolute discretion, to represent the Covered Entities, and Contractor shall promptly reimburse the Covered Entities for all costs actually incurred, including, but not limited to, all expenses of litigation, court costs, and reasonable attorneys’ fees. The Covered Entities shall be consulted prior to any settlement and approve such settlement in writing.

14.5. The Covered Entities shall not, under any circumstances, indemnify, defend, or hold harmless Contractor from any Claim.

15. Nashville MTA Owned Data

15.1. Nashville MTA will own and retain rights to all of its data. Some data will need to be disclosed to Contractor for purposes necessary for design and implementation. Contractor will treat Nashville MTA information as strictly confidential.

16. Insurance

16.1. During the term of this Contract, Contractor shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract and any extension hereof the types and amounts of insurance identified below by a **check mark**.

- a) ☐ Products Liability Insurance in the amount of one million (\$1,000,000) dollars (If the Contractor will be shipping to a receiving department at Nashville MTA)
- b) ☒ General Liability Insurance in the amount not less than one million dollars (\$1,000,000) combined single limit each occurrence for bodily injury and property damage.
- c) ☒ Professional liability insurance, errors & omissions insurance, or malpractice insurance, whichever may be customary in the professional field, in the minimum amount of one million dollars (\$1,000,000.00) per claim/annual aggregate. Such coverage must be maintained for a period of three (3) years following termination of this Contract or final acceptance by Nashville MTA of the Services, whichever is later. This provision shall expressly survive the termination of the Services or the Contract.
- d) ☒ Automobile Liability Insurance in the amount not less than a combined single limit of one million dollars (\$1,000,000) covering Contractor's owned, non-owned, leased or rented vehicles.
- e) ☒ Worker's Compensation Insurance with statutory limits required by the State of Tennessee or other applicable laws and employer's liability insurance with limits of no less than one hundred thousand (\$100,000) dollars, as required by the laws of Tennessee. (Not required for companies with fewer than five (5) employees).
- f) ☐ other insurance
- g) Such insurance shall:
 - 1. Contain or be endorsed to contain a provision that includes Covered Entities as additional insureds and loss payees with respect to liability arising out of work or operations performed by or on behalf of Contractor including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the Covered Entities.
 - 2. For any Claims related to this Contract, Contractor's insurance coverage shall be primary insurance as respect to the Covered Entities. Any insurance or self-insurance programs covering the Covered Entities shall be excess of Contractor's insurance and shall not contribute with it.
 - 3. Regarding Automotive Liability Insurance including vehicles owned, hired, and non-owned, said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes the Covered Entities as additional

insureds with respect to Claims and liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Contractor.

4. Contractor shall maintain workers' compensation insurance, if applicable, with statutory limits as required by the State of Tennessee or other applicable laws and liability insurance. Contractor shall require each of its subcontractors to provide workers' compensation insurance for all of the latter's employees to be engaged in such work unless employees are covered by Contractor's workers' compensation insurance coverage.

5. Other Insurance Requirements. Contractor shall:

a) Prior to commencement of the Services, furnish Nashville MTA with original certificates and amendatory endorsements effecting coverage required by this Section 16 and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on thirty (30) days' prior written notice to Nashville MTA.

b) Provide certified copies of endorsements and policies if requested by Nashville MTA in lieu of or in addition to certificates of insurance.

c) Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

d) Maintain such insurance from the time the Services commence until completed. Failure to maintain, renew coverage or provide evidence of renewal as required by Nashville MTA may be treated by Nashville MTA as a material breach and Default under this Contract.

e) Place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon written appeal to the Nashville MTA Director of Risk Management Services.

f) Require all subcontractors to maintain during the Term of this Contract Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/Employers Liability insurance (unless subcontractor's employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall file subcontractor's certificates of insurance as required by Nashville MTA.

g) Disclose any deductibles and/or self-insured retentions greater than ten thousand dollars (\$10,000) and obtain Nashville MTA's written approval of such deductibles and/or self-insured retentions prior to the commencement of the Services.

h) Not have, if Contractor has or obtains primary and excess policies, any gap between the limits of the primary policy and the deductible features of the excess policies.

17. Employment and Nondiscrimination

17.1. Contractor shall not discriminate on the basis of age, race, sex, color, national origin, disability or any other classification protected by federal or Tennessee State Constitutional or statutory law in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

17.2. Contractor shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this Contract.

17.3. Violation of these Contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of Nashville MTA.

18. Ethical Standards

18.1. It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand accept or agree to accept from any other person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract, subcontract, solicitation or proposal therefore.

18.2. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order.

18.3. Breach of the provisions of this Section 18 is, in addition to a Default of this Contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Nashville MTA contracts.

19. Assignment-Consent Required

19.1. The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the compensation due to Contractor under this Contract, neither this Contract nor any of the rights and obligations of Contractor hereunder shall be assigned or transferred in whole or in part without the prior written consent of Nashville MTA. Any such assignment of transfer shall not release Contractor from its obligations hereunder.

19.2. Any public agency (i.e., city, district, public agency, municipality, and other political subdivision or any FTA-funded entity) shall have the option of participating in this Contract at the same prices, terms and conditions. Nashville MTA reserves the right to assign any or all portions of the Services awarded under this Contract. This assignment, should it occur, shall be set forth in writing by Nashville MTA and Contractor. Once assigned, each agency will enter into its own agreement and be solely responsible to Contractor for obligations for the Services assigned. Nashville MTA's right of assignment will remain in force over the Term. Nashville MTA shall incur no financial responsibility in connection with agreements issued by another public agency. The public agency shall accept sole responsibility for placing service and payments to the Contractor.

20. Remedies

20.1. In no event shall Nashville MTA be liable for special, incidental, indirect, or consequential damages, including, but not limited to, lost profits arising from the performance of this Contract, whether such damages are based in contract, tort, or any other legal theory.

20.2. In the event of breach or Default of the Contract by Contractor, in addition to any other remedies set forth herein, Contractor shall be liable to Nashville MTA for damages for the breach or Default thereof,

including the costs and reasonable attorneys' fees for the enforcement thereof. The remedies set forth in this Contract shall be cumulative, and no one remedy shall be deemed to be exclusive of any other or of any other remedy in law or equity, and the failure or delay of Nashville MTA to exercise a remedy at any time shall not operate as a waiver of the right to exercise a remedy for the same or subsequent breach or Default at any time thereafter.

21. Governing Law and Venue

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

21.2. The parties consent that any action between the parties arising from this Contract shall be maintained in the state trial courts of Davidson County in the State of Tennessee.

22. Entire Agreement

22.1. This Contract states the entire contract between the parties. No alteration, modification, release, or waiver of this Contract or any of the provisions hereof shall be effective unless in writing, executed by the parties hereto.

22.2. Notwithstanding the foregoing, Contractor agrees that this Contract is subject to modification by Nashville MTA to the extent necessary to comply with federal, state or local regulations, which may govern this Contract. Nashville MTA shall provide written notice to Contractor of any such modification.

23. Compliance with Federal Regulations

23.1. All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F and the FTA contract clauses in the RFP are incorporated by reference. Unless otherwise modified in this Contract, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Contract. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Nashville MTA request that would cause the parties to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between Nashville MTA and FTA, as may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to so comply shall constitute a Default of this Contract.

24. Export

24.1. Contractor represents and warrants that the Services and documentation related thereto shall not be disclosed to any foreign national, firm, or country, nor shall be exported from the United States without first complying with all the requirements of the International Traffic in Arms Regulations and the Export Administration Act, including the requirement for obtaining an export license, if applicable. Contractor shall fully indemnify Nashville MTA for any breach of this representation.

25. Force Majeure

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

26. Severability

26.1. If any provision of this Contract is held invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted and the remainder of this Contract shall remain in full force and effect.

27. Notices

27.1. Any notice or other communication to be made pursuant to this Contract shall be made in writing by United States certified or registered mail, by messenger service or by a nationally recognized overnight courier, and shall be effective (i) upon receipt, if delivered in person, (ii) five (5) business days after deposit into the United States mail, if sent by certified or registered mail, and (iii) at 1:00pm on the following business day, if sent by overnight courier. Notice hereunder shall likewise be effective when actually received by either party. In each case, such notice or other communication shall be made to the address shown below. Either party shall have the right, by written notice to the other party, to change its address for such notice.

Nashville MTA: Nashville Metropolitan Transit Authority
430 Myatt Drive
Nashville, TN 37115
Attn: Procurement Department

Contractor: [Contractor's name]
[Street Address]
[City, State Zip]
Attn: _____

28. Counterparts

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

IN WITNESS WHEREOF, NASHVILLE MTA AND CONTRACTOR HAVE EXECUTED THIS CONTRACT AS OF THE DATE FIRST ABOVE WRITTEN

Nashville Metropolitan Transit Authority

[Contractor]

Stephen G. Bland, Chief Executive Officer

Authorized Signatory

Date: _____

Title: _____

Date: _____

**EXHIBIT A –
SCOPE OF SERVICES**

**EXHIBIT B –
COST FORM**