

REQUEST FOR PROPOSALS (RFP) 2022071

Curator and Historian

Proposal Due: *June 7, 2022, NLT 12:00pm*

Facilitator:

Rachel Johnson

Procurement Business Diversity Manager

Rachel.Johnson@nashville.gov

615-862-5618

Addenda Request Submittal Deadline	Tuesday, May 24, 2022: NLT 12:00p.m.
Question/Clarification Submittal Deadline	Tuesday, May 24, 2022: NLT 12:00p.m.
Proposal Submittal Deadline	Tuesday, June 7, 2022: NLT 12:00p.m.
Presentation/Interviews	INITIATIVE DATE: Monday, June 13, 2022

Date Issued: May 10, 2022

REQUEST FOR PROPOSALS

MTA Main Office
430 Myatt Drive
Nashville, TN 37115

PROPOSALS DEADLINE
June 7, 2022 @
12:00p.m.
PROPOSAL NUMBER
2022071

INSTRUCTIONS:

1. SUBMIT (1) HARDCOPIES AND (1) 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 Public Transit, (hereafter may be referred to as the "Agency," the "Authority," or "WeGo") is seeking proposals from qualified professionals to provide art curation services, historical content development and participation in the selection process of artwork and artist. 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 12:00p.m. Central Time (CT), June 7, 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 Rachel Johnson, Procurement Business Diversity Manager, **no later than 12:00p.m. Central Time (CT), May 24, 2022**, via e-mail at Rachel.Johnson@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.

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.

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, 12:00p.m. CT, May 24, 2022**, via e-mail at Rachel.Johnson@nashville.gov.

Company Name

Phone Number

Address

Point of Contact

Email

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I. INTRODUCTION

1.1 GENERAL

The mission of 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. WeGo Public Transit is the brand entity for the Nashville Metropolitan Transit Authority (Nashville MTA). Nashville MTA, which is a component unit of the Metropolitan Government of Nashville and Davidson County, presently operates 25 bus routes within the Metropolitan Nashville area, and is funded with federal, state, and local funds, as well as farebox revenue.

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

Additional information regarding Nashville MTA is available at: <https://www.wegotransit.com/>.

1.2 OVERVIEW

Nashville MTA intends to award a contract to the successful proposer who shall provide **Curator and Historian** services. Refer to Section III of this RFP for an expanded description of the scope of work and requirements.

Nashville MTA shall enter into a Fixed Price Contract for Art Curation for the North Nashville Transit Center project. The contract and/or purchase order shall be for a term of **two (2) 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: www.wegotransit.com

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Presentation/Interviews	INITIATIVE DATE: Monday, June 13, 2022

All questions must be submitted in writing, via email (recommended), to Rachel Johnson, rachel.johnson@nashville.gov. The answers to the questions will be posted on the Nashville MTA website: www.wegotransit.com. 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.

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 twenty days (120) from the date of the opening of proposals.

1.5 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 twenty days (120) from the date of the opening of proposals.

1.6 DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

In connection with this project, the Nashville MTA has not established a specific goal for Disadvantaged Business Enterprise (DBE) participation. DBE participation is encouraged either in the capacity of the prime contractor or subcontractor. Proposers are encouraged to document their activities and selection of any subcontractor(s) to ensure that the process is nondiscriminatory. To be considered a certified DBE the organization must be registered with the Tennessee Uniform Certification Program (TNUCP). Utilize the following website for a comprehensive list of the certified DBE's:

<https://www.tdot.tn.gov/APPLICATIONS/DBEDIRECT/Search>.

Nashville MTA operates a federally regulated Disadvantaged Business Enterprise (DBE) Program. The objectives of the program are:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT- assisted contracts;
- To promote the use of DBEs in all types of Federally assisted contracts and procurement activities conducted by recipients;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

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 (TNUCP), as identified below, will be considered certified as a Disadvantaged Business Enterprise.

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, 12:00pm Central Time (CT), May 24, 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) Hardcopies and (1) Electronic Copy (USB or Email) of your proposal including **ALL** required forms by 12:00pm (CT), June 7, 2022, to the following address:

Rachel Johnson, Procurement Business Diversity Manager
Nashville MTA
430 Myatt Drive
Nashville, TN 37115

The sealed envelope, box, or appropriate package must be clearly marked with “**PROPOSAL 2022017–Curator and Historian**” 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****

2.3 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 Rachel Johnson, 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.

2.4 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.

2.5 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.

END SECTION II

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

3.1 Project Background Information

The North Nashville Transit Center, to be located at Clarksville Pike and 26th Ave North, project is part of a bold, comprehensive, 25-year transit plan adopted by the Agency in 2016. The nMotion strategic plan recommended the construction of transit centers throughout the Agency's service area to increase bus transfer route connections beyond the WeGo Central location in Downtown. Transit centers serve as convergence locations for multiple bus routes, enabling riders to get to their final destinations more quickly, particularly if their final destination does not require a stop Downtown. Transit Centers also offer customers secure waiting areas and can serve as a focal point within a neighborhood.

The North Nashville Transit Center will provide a secure and convenient transfer point for customers using service along Routes 22, 21, 25, 9, and 42, as well as future service without having to first travel to WeGo Central for bus transfers. The North Nashville Transit Center is one of the Agency's first neighborhood mobility centers designed specifically to create and enhance multimodal transportation options and connections in North Nashville. The planned 3,000 square foot facility will include on-street boarding platforms along Clarksville Pike for the frequent service and five covered bus bays interior to the site for connecting routes and paratransit services, an enclosed waiting area, ticket vending machines, next bus and system information, bicycle storage, transportation network company pickup/dropoff areas, employee facilities, and public space.

Once completed, the North Nashville Transit Center will greatly improve access to job opportunities, workforce skills training for residents, and provide better access to health care and other needed services, creating a level of equity, through transit offerings. To that end, the transit center must be a welcoming community space that celebrates the arts, history and the lifestyle of this beautiful and vibrant neighborhood called home to so many Nashvillians, while also being functional and long-lasting to serve the needs of our customers and the community for generations to come.

3.2 Scope of Work and Deliverables

The Agency is actively seeking a Curator to provide artistic oversight, historical context, and coordination of the four major art elements designed for the North Nashville Transit Center. The Curator is expected to meet with Stakeholders, coordinate with the design team, Smith Gee Studio, and perform other tasks through the completion of construction/art elements. The Curator is responsible for researching historical figures and events that are important to and represent the North Nashville community. The Curator must be able to provide historically accurate information and suggestions for each art element. The ultimate goal of the Curator is to ensure that the final content selection for each art element is historically accurate and acceptable to Stakeholders and the North Nashville community. The Curator will be required to perform the items bulleted below (including but not limited to):

- I. Research and develop historically accurate content dedicated to key figures/persons and events of North Nashville for consideration by Stakeholders

- II. Actively participate in dialogue, shares professional opinions, and advancement of ideas related to project's art elements with WeGo, Stakeholders, Smith Gee Studios (design team) and the construction team
- III. Meet with local artists for each element type to determine availability and compile an artist network list
- IV. Coordinate with the design team to ensure that construction materials are conducive to each art element so that the desired outcome of each element is achieved
- V. Develop scope of work for each art element to be published in the Call for Artist solicitation
- VI. Establish and set appropriate milestones for each art element concurrent with the construction schedule
- VII. Assist with soliciting artist through professional network and promotion of the project
- VIII. Participate in the selection process of the artist; review art proposals and facilitate the Project Advisory Committee review, and assist in present final selection to the MTA Board
- IX. Maintain a visible role including managing artists and their relationships with the design and construction team to ensure artists are informed about project phasing
- X. Additional responsibilities may be assigned by mutual agreement and necessity

3.3 Art Element Details

The concept of the North Nashville Transit Center is to serve as a place that reflects “the voices of North Nashville.” Three primary themes were identified during the design process with business community leaders, North Nashville residents, elected officials, and the recently convened Advisory committee. Each theme creates unique opportunities for interpretation in the final facility, as well as potential for future programming. Those themes are as follows:

THE VOICES OF NORTH NASHVILLE

VOICES OF THE PAST

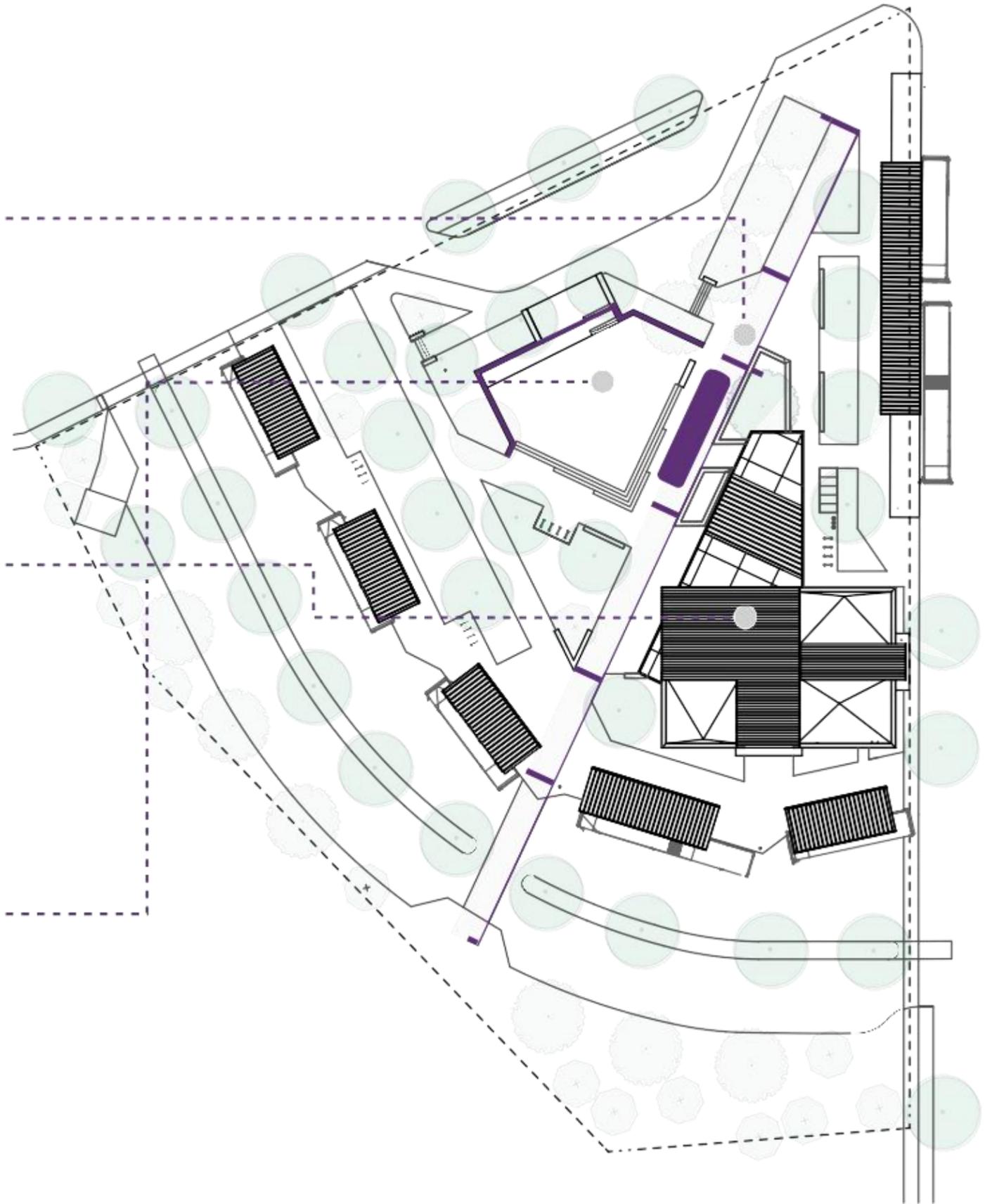
Recognizing North Nashville's roots in the Civil Rights Movement and the role that transit played, the spine of the site memorializes the events and figures of the Freedom Riders. The main promenade through the site will guide riders and visitors through a timeline of key stops along the famous route and at one point honor those from North Nashville who set out to join the Freedom Riders.

VOICES OF THE PRESENT

This transit center is one that residents of North Nashville should be proud to call their own. An interior digital display will allow North Nashville residents to put their personalized mark on what North Nashville means to them. This can be done through the telling of stories, shoutouts, or honoring of present-day residents.

VOICES OF THE FUTURE

As an important node that brings North Nashvillians together, the transit center is a natural place for expression of ideas. Concrete retaining walls will serve as a blank canvas to public art.



VOICES OF THE PAST

(3) INFORMATIONAL PYLONS

This element requires the curation of historic information on the Freedom Riders' movement and how it relates to Nashville.



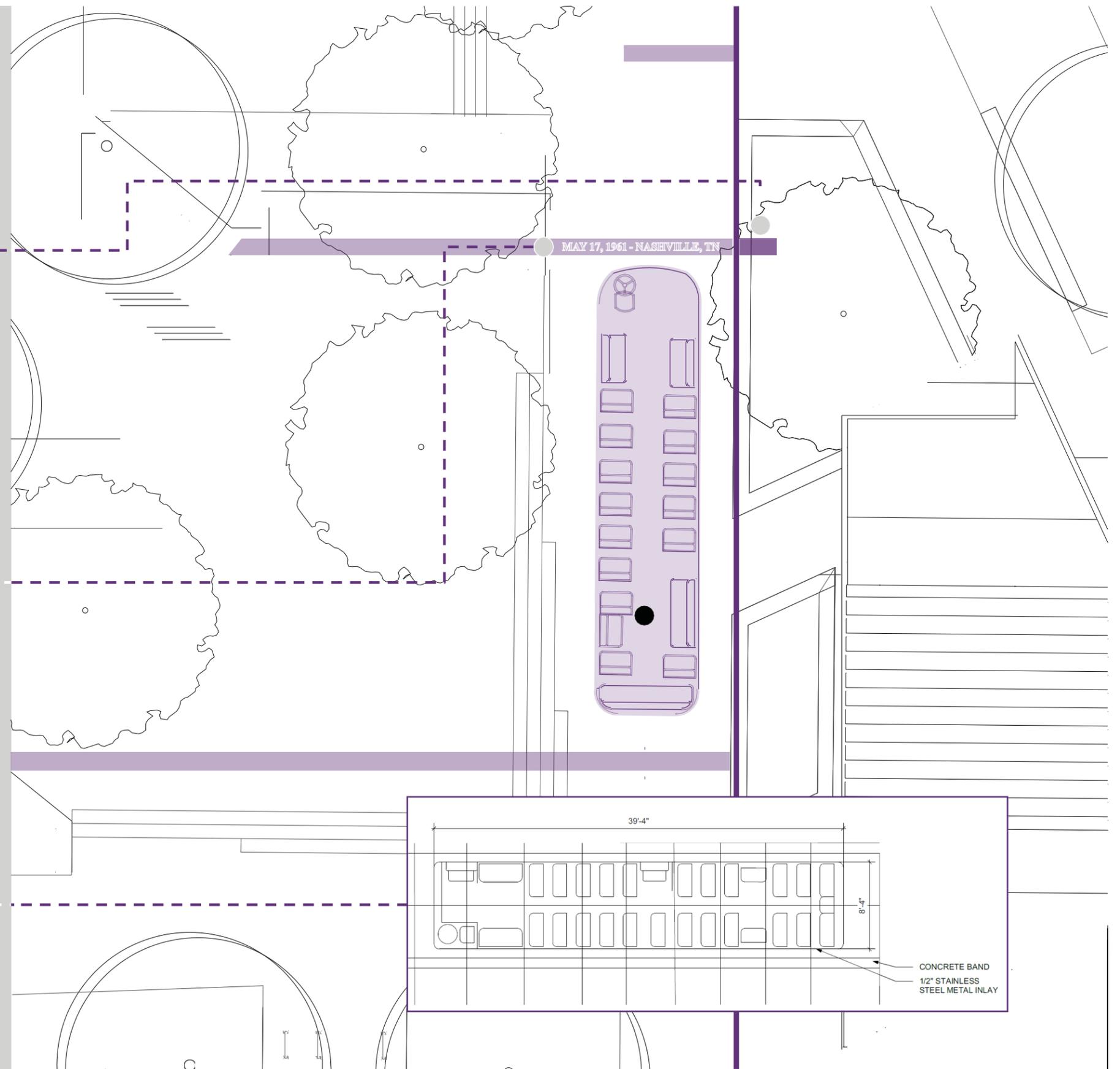
(6) CONCRETE BANDS

A stainless-steel inlay into the concrete bands highlighting important quotes, information, names, dates, etc.



FREEDOM RIDERS BUS

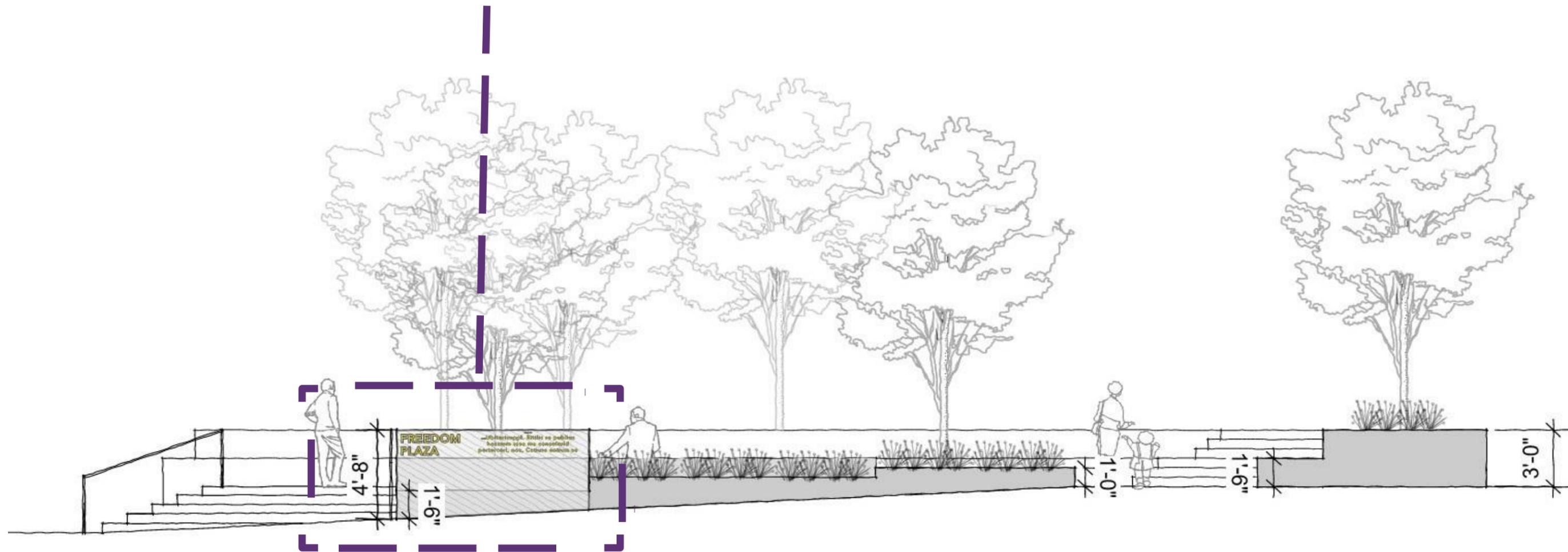
A stainless-steel inlay into the concrete of Freedom Riders Bus. Noting Nashvillians names and seats during the Freedom Ride.





FREEDOM RIDERS' INFORMATION

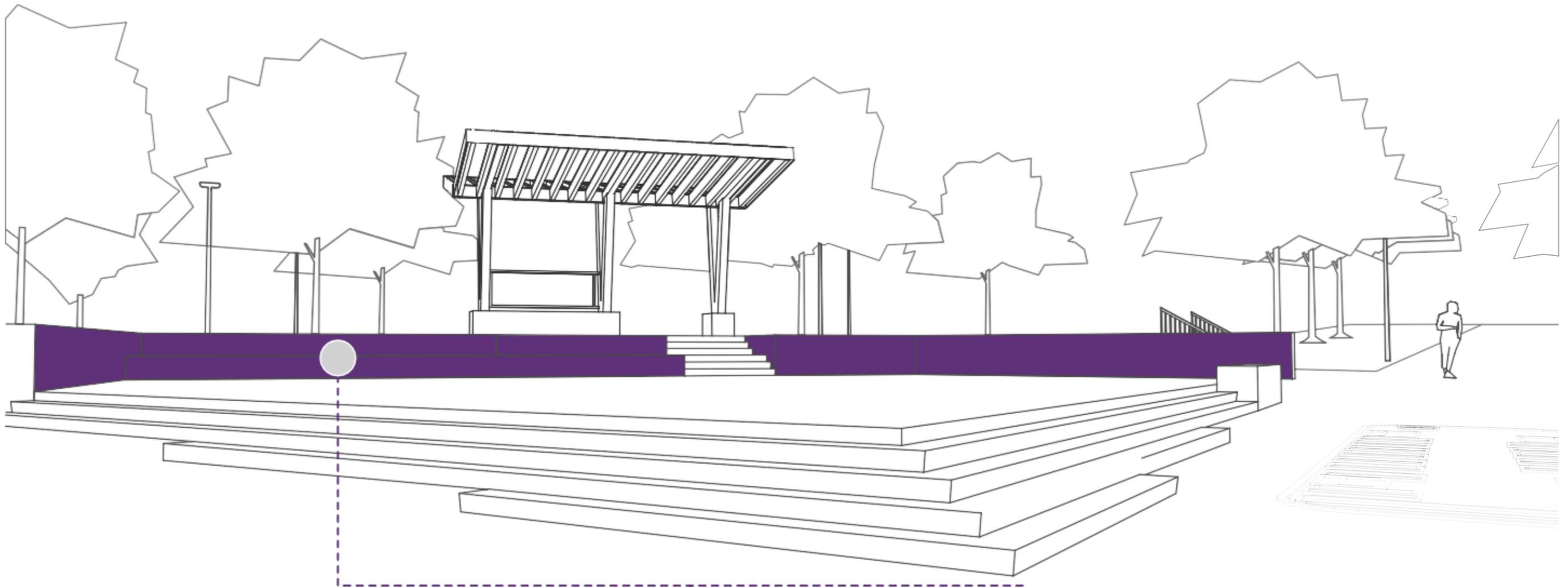
History and curated text highlighting the history of the Nashville Freedom Riders.





CURATED DIGITAL ELEMENT

Highlighting present day community voices.



VOICES OF THE **FUTURE**

MURAL / ART WALL

The low foundation walls surrounding the plaza space present an opportunity for a mural or art piece. This will be a concrete wall ready for an artistic expression.



3.4 PROPOSAL REQUIREMENTS

Please read all of the information listed carefully. Incomplete and/or late proposals will not be considered. Interested parties should submit their complete proposal packages to Rachel.Johnson@nashville.gov.

All proposals must be clear, succinct, and not exceed the page limits listed for each item. Items should be organized as separate sections of the proposal. All submittals will be evaluated on the completeness and quality of the content. Only those proposals that provide complete information, as listed below, will be considered for evaluation. The availability to follow these instructions demonstrates attention to detail.

1. COVER LETTER

A cover letter should summarize key elements of the proposal. An individual authorized to bind the consultant must sign the letter. The letter must stipulate that the proposal price will be valid for a period of at least 120 days. Indicate the consultant information, name of the individual or firm, the individual or firm's principal place of business, and the primary email and telephone number of the consultant. (1-page maximum)

2. CURATORIAL STATEMENT

Describe the concept and curatorial vision for the proposed art element designs for the North Nashville Transit Center and a list of potential artists for each art element. Provide an outline of major steps and a schedule estimating the length of time required to complete the requirements for each art element.

3. PROJECT UNDERSTANDING

Provide a detailed description of how the individual or firm will address the Scope of Work. This should include a detailed description of specific tasks or information that you will require from WeGo. Describe any modifications that need to be made to the existing design in order to accommodate the project's intended direction.

4. CONSULTANT IDENTIFICATION

- a. Provide the name of the primary contact for the consultant, the individual or firm's principal place of business address, and the name and telephone. Provide a brief narrative description of the individual or firm and general qualifications. (1-page maximum)
- b. Provide the names of consultant(s) that will perform the services and their resume(s). (4-page maximum, per principal)

5. CURATORIAL PORTFOLIO

Provide a visual portfolio of up to fifteen (15) images of completed projects. Include the specific project name and location, client name/organization and contact person together with title, organization, address, telephone number, email, artist(s) name, artwork title, dimensions, media, year of completion and a brief description of each image.

6. SUB-CONTRACTORS

If it is known that sub-contractors will be hired to perform any part of the work for this project, include their names, contact information, and a resume and/or list of past projects for each subcontractor listed. (4-page maximum, per subcontractor listed)

7. FEE PROPOSAL

- a. Include an itemized, not-to-exceed, project budget for all services and associated fees. The proposal shall include a curator fee, preparation of written art didactics and labels and a contingency.
- b. Provide an explanation of any assumptions made in calculating the project costs.
- c. If a sub-contractor will be utilized, the consultant shall indicate what portion of the work the sub-contractor would be responsible for and include that in the overall budget cost.
- d. The fee proposal must apply over the entire term of the contract.

8. FTA REQUIRED FORMS

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

9. CONTRACT ACCEPTANCE OR EXCEPTION LETTER

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

- a. Signature is not required on the Proposed Contract. 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 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.

3.5 SELECTION PROCESS

All submittals will be evaluated on the completeness and quality of the content. Only those proposals that provide complete information will be considered for evaluation. The ability to follow these instructions demonstrates attention to detail.

The Evaluation Committee will convene to review submissions received by the due date and time to eliminate those which are determined non-responsive to the stated requirements. Evaluation Criteria will be used to evaluate and compare submitted proposals. The criteria listed are not necessarily an all-inclusive list.

While conducting an initial evaluation and scoring of the proposals, a short list of top ranked Proposers will be developed. Proposers on the short list will be invited by the Evaluation Committee to present their proposals for final consideration. Following interviews and presentations, 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.

3.6 EVALUATION SCORING MEASURES

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

Criterion	Standard	Points Value
Curatorial Statement & Project Understanding	Ability to articulate the exhibition concept in a clear and understandable statement: <ul style="list-style-type: none"> • 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? 	30
Consultant Identification & Portfolio	Proven strong professional qualifications and experience as demonstrated through previous work. Experience working with municipalities and/or public agencies is desirable. Demonstrated experience and expertise with similar projects. <ul style="list-style-type: none"> • What is the proposer’s previous experience in projects of this nature? • Does the proposer demonstrate experience in providing all required elements of this project? • Will the key personnel be available throughout the project? • Did the proposer’s references indicate positive experiences with the proposer? 	30
Cost	Are the proposed rates for this project fair and reasonable? <ul style="list-style-type: none"> • What is the cost to perform the project? Does the cost reflect the importance to the overall level of effort that is needed to deliver a successful project? • Does the cost proposal represent the best value for accomplishing the project? • Does the cost proposal demonstrate the appropriate allocation of resources for each task to successfully complete the project? 	25
Overall Merit	The information provided was communicated effectively and efficiently.	15
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.

3.7 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) 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.

b) 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.

c) 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).

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 2022017 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 five (5) 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 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 Agency's overall goal for DBE participation is 14%. A separate contract goal for DBE participation has not been established for this Contract.

- 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) 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.
- d) 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. 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.

16. 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.

17. 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.

18. 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.

REQUIRED FORMS

FORM 1 – COST/FEE FORM

PROPOSAL FOR: RFP 2022017 – Curator and Historian

YEAR 1		
Job Classification/Service	Hourly Rate/Fee	Notes
YEAR 2		
Job Classification/Service	Hourly Rate/Fee	Notes

(IF APPLICABLE)

Overhead Rate %: _____

Fee %: _____

Subconsultant Markup %: _____

The undersigned Proposer hereby declares and represents that she/he; **1)** has carefully examined and understands this Request for Proposal (RFP), **2)** has not received, relied on, or based proposal on any verbal instructions contrary to this RFP or any addenda, **3)** has personally inspected and is familiar with this request for proposal and requirements, and hereby proposes to provide all work and services for the completion of the referenced project in strict accordance with the proposing documents.

NAME OF PROPOSER: _____

ADDRESS OF PROPOSER: _____

NAME AND TITLE 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: _____

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

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FORM 6 – B

BIDDER DBE GOALS – COMMITMENT TO DBE (PARTICIPATION FORM)

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NASHVILLE METROPOLITAN TRANSIT AUTHORITY
CONTRACTOR GOOD FAITH EFFORTS DOCUMENTATION FORM
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NASHVILLE METROPOLITAN TRANSIT AUTHORITY
DBE UTILIZATION PLAN

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FORM 6-E

AFFIDAVIT OF COMPLIANCE

ATTACH COPY OF TN UCP DBE CERTIFICATION

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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 officer 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

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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

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FORM 15

BUY AMERICA CERTIFICATE

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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 _____]

BETWEEN

NASHVILLE METROPOLITAN TRANSIT AUTHORITY

AND [VENDOR NAME]

FOR [_____SERVICES]

This Contract No. _____ (hereinafter referred to as “**Contract**”) is entered into as of the _____ day of 20____, by and between Nashville Metropolitan Transit Authority (hereinafter referred to as “**Nashville MTA**”), having its principal office located at 430 Myatt Drive, Nashville, TN 37115, and _____ (hereinafter referred to as “**Contractor**”), having its principal office located at _____.

CONTRACT

The following documents constitute this Contract, and the order of precedence in resolving any dispute that may arise or conflicting provisions:

1. Any properly executed amendment to this Contract (most recent with first priority),
2. Contract No. _____
3. Response to Request for Additional Information Issued _____
4. Request for Proposal No. _____ (the “**RFP**”)
5. Contractor’s Proposal dated _____ (collectively, the “**Contract**”)

1. Duties and Responsibilities of Contractor

1.1. Contractor shall provide services as detailed in the RFP and this Contract (the “**Services**”) at Nashville MTA’s North Nashville Transit Center location (collectively “**Facilities**”) as set forth in **Exhibit A**.

1.2. Nashville MTA may purchase additional _____ 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____, and shall continue for a ____ (--) year period, unless otherwise terminated as provided herein (the “**Term**”). The terms of the Contract shall also apply during any Correction Period.

2.2. This Contract may be extended by all the required parties with a properly executed amendment to this Contract.

3. Compensation/Invoices

3.1. For its Services, Contractor is entitled to receive \$_____ as set forth in **Exhibit B**.

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 via email: MTA.AccountsPayable@nashville.gov

3.4. Nashville MTA uses an online reporting system: <https://wegotransit.dbesystem.com/to> report contract payments to prime and subcontractors. Each month, Contractor shall report payments received from Nashville MTA as well as payments made to all subcontractors.

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 fifteen (15) 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 warrants that the Services provided by Contractor reflect high professional and industry standards, procedures and performances. Contractor warrants 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 high standard of performance in the profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike 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 Nashville MTA remedy any errors, deficiencies or any service, work or other work products found unacceptable, in Nashville MTA's sole discretion, as soon as possible, but in all cases within fifteen (15) 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 (1) year beginning on the date Nashville MTA accepts the Services, until Contractor has remedied all problems of which Contractor was notified prior to expiration of the correction period ("**Correction Period**").

7. Unencumbered Services

7.1. Contractor warrants that it has good title to and/or the right to sell the Services, and represents that the Services delivered to Nashville MTA are free and clear of all liens, Claims or encumbrances of any kind.

7.2. 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 13**, 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 13**, 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 Nashville MTA.

7.3. 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 Nashville MTA which are equal substitutes, in Nashville MTA's discretion, for the Services in all material respects, or obtain for Nashville MTA the right to use the Services without encumbrances, or refund to Nashville MTA all monies paid by Nashville MTA for such Services. Nothing in this **Section 7** shall preclude Nashville MTA 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 13**, 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.

9.7. 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 shall be entitled to compensation for satisfactory, authorized service completed and accepted as of the termination date, but in no event shall MTA be liable to Contractor for compensation for any Service which has not been rendered.

10.5. The provisions of Sections 7, 8, 9, 10, 11, 13, 14, 15, 16, 21 and 26 shall survive the termination of this Contract.

11. Maintenance of Records and Nashville MTA Property

11.1. The Contractor, its subcontractors, and suppliers, shall maintain, accurate and complete financial and employment records of its activities, sufficient to properly reflect all costs claimed to have been incurred or anticipated to be incurred in performing the contract, or relating to negotiating, pricing, or performing a contract change. Such records shall be subject no more than once in any twelve-month period to audits by the Nashville MTA and any auditor appointed by the Nashville MTA or other authorized agencies acting as agents of the Nashville MTA to verify compliance with all contract requirements. Contractor shall maintain documentation for all charges against Nashville MTA. The complete financial and employment records and other documents of Contractor, insofar as they relate to the Services, the Additional Services, or 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 or the date which all pending matters are closed, whichever is later. 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. Accordingly, notwithstanding anything in **Section 11.2** to the contrary, Nashville MTA maintains the right at any time to request copies of records as may be required by law, regulation or MTA's reasonable business needs.

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 the 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.

11.5. Contractor represents and warrants that (1) it is knowledgeable with respect to any legal and regulatory requirements regarding any confidential information, personal information, or other data it may encounter or have access to as a result of this Contract (such laws referred to generally as "**Data Security Laws**") and (2) it will operate with industry best practices with respect to accessing, handling, processing, or in any manner dealing with similar confidential information or other information protected by Data Security Laws.

11.5.1. Data Security Laws may include, but are not limited to, laws known as HIPAA, PCI DSS, the GLB Act, FACTA, the GDPR, the California Privacy Act, and the Tennessee Identity Theft Deterrence Act of 1999 to the extent applicable to the Services and its performance under this Contractor. Contractor assumes full responsibility for adhering to the applicable Data Security Laws.

11.5.2. In the event that Contractor becomes aware of any known or suspected breach of any applicable Data Security Laws, Contractor will promptly inform Nashville MTA and promptly work to remedy such breach, including, without limitation, undertaking in cooperation with Nashville MTA to provide any notices required by any Data Security Law. To the extent that any known or suspected breach of Data Security Laws is a result of the provision of the Services by Contractor, its subcontractors, or any representative or agent of Contractor, Contractor will assume all costs arising from or relating to such known or suspected breach.

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 15**.

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 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 13** running from each subcontractor directly to the Covered Entities.

13. Indemnity and Contractor Responsibility.

13.1. 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:

13.1.1. 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,

13.1.2. 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.

13.2. The indemnity and release in this **Section 13** 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.

13.3. 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.

13.4. 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.

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

14. Nashville MTA Owned Data

14.1. 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.

15. Insurance

15.1. 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) 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.

b) 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.

c) 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).

15.2. Such insurance shall 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.

15.3. 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.

15.4. Prior to commencement of the Services, Contractor shall furnish Nashville MTA with original certificates and amendatory endorsements effecting coverage required by this **Section 15** 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. Contractor may provide certified copies of endorsements and policies if requested by Nashville MTA in lieu of or in addition to certificates of insurance.

15.5. Contractor shall place such insurance with an 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. All subcontractors are required 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.

15.6. Contractor shall 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. Additionally, if Contractor has or obtains primary and excess policies, Contractor shall not have any gap between the limits of the primary policy and the deductible features of the excess policies.

15.7. Regarding Automotive Liability Insurance including vehicles owned, hired, and non-owned, said Contractor's 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.

15.8. 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.

15.9. Contractor shall 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. Contractor must replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of Services.

16. Waiver

16.1. 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.

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 of 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 address here]
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

Vendor Name

Stephen G. Bland, Chief Executive Officer

Authorized Signatory

Date: _____

Title: _____

Date: _____

EXHIBIT A

SERVICES

EXHIBIT B – OPTIONAL