



# REQUEST FOR PROPOSAL

**SUBJECT:** TROLLEY AND STREETCAR REHABILITATION PROJECT

**DATE:** APRIL 28, 2023

**PROPOSAL NO.:** 23-08

**PROPOSAL DUE:** JUNE 8, 2023      **TIME:** 11:00 a.m. C.S.T.

The Memphis Area Transit Authority invites proposals for supplies and/or services set forth above in accordance with the specifications enclosed herewith.

Proposals **MUST** be received at MATA by the date and time set forth above.

Sincerely,  
*Ashley Best*  
Ashley Best  
Contract Administrator

## COMMON PROBLEMS WITH PROPOSAL SUBMITTALS

- Missing or unsigned copies of certain forms and certifications. The following must be included in the proposal:
  - Addenda Acknowledgement Form
  - Affidavit of Non-Collusion (Exhibit I)
  - Buy America Certificate (Exhibit II)
  - Certification of Primary Participation Regarding Debarment, Suspension, and Other Responsibility Matters (Exhibit III)
  - Certification of Lower-Tier Participants (Subcontractors), Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Exhibit III)
  - Certification of Restrictions on Lobbying (Exhibit IV)
  - Performance Bond (Exhibit V)
  - Transit Vehicle Manufacturers (TVM) Certification (Exhibit VII)
  - Safety Certification (Exhibit VII)
  - Certification of FMCSS Inapplicability (Exhibit IX)
  - Price Proposal Form
  - Explanation of "No Response"
  
- Incomplete or outdated information on client references and/or sufficient number of references provided.
  
- Submittal of too few copies. The RFP specifies the number of originals and number of copies of the bid to be provided.
  
- Failure to properly label the proposal package with bid/proposal label.
  
- Proposal received late. All proposals must be in MATA's possession by the deadline shown in the RFP. All proposals received after the deadline will be returned unopened.

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**MEMPHIS AREA TRANSIT AUTHORITY  
LEGAL NOTICE TO PROPOSERS**

Proposals will be received by the Memphis Area Transit Authority (MATA) at its Purchasing Offices, 1330 Levee Road, Memphis, TN 38108, **until 11:00 AM, local time Thursday, June 8, 2023**, for furnishing the following:

**TROLLEY AND STREETCAR REHABILITATION PROJECT**

A pre-proposal conference / walkthrough of the site will be held on Tuesday, May 9, 2023, at 10:00 a.m. at 547 North Main Street, Memphis, TN 38105. Though attendance at the pre-proposal / walkthrough is not required, MATA highly recommends any proposed contractors to attend it as it will be the only one for this project.

MATA hereby notifies all proposers that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, sex, religion, age, political affiliation or national origin in consideration of an award.

Any Name appearing on the Comptroller General's list of ineligible contractors is not an eligible bidder. The contractor will be required to comply with all applicable Equal Employment Laws and Regulations.

Further information and proposal requirements may be obtained by contact Ashley Best, Contract Administrator at 901-722-7182 or email [abest@matatransit.com](mailto:abest@matatransit.com).

Award of the contract will be made based on the evaluation criteria established in the RFP, as selected by MATA, provided it is in their best interest to do so.

MATA reserves the right to reject any and all proposals, and to waive any informality.

April 28, 2023 – June 1-2, 2023

Gary Rosenfeld  
CHIEF EXECUTIVE OFFICER

# **PART I**

## INSTRUCTIONS TO PROPOSERS

## INSTRUCTIONS TO PROPOSERS

### 1.0 GENERAL

- 1.1 The Memphis Area Transit Authority (herein-after referred to as MATA) seeks proposals from qualified contractors capable of providing the scope of services described in Section B for the Rehab Three (3) U2 Trolley Cars. These instructions provide detailed legal and technical requirements for the renewal of these vehicles. The Contract shall be a firm-fixed price Contract.

MATA is a public agency responsible for providing public transportation services within the City of Memphis and surrounding communities.

- 1.2 "Purchaser", "Procuring Agency" "Authority" or "Grantee" means MATA. The words "proposal", "bid", and "offer" are synonymous and it is understood that once MATA accepts the same, the document will constitute the contract contemplated by these instructions. The words "Proposer", "Offeror", "Bidder", "Contractor", and Vendor" are also synonymous. The words directed, ordered, designated, prescribed, or words of like meaning refer to actions by MATA. Similarly, the words approved, acceptable, satisfactory, or words of like meaning refer to actions by MATA.

- 1.3 The terms "Trolley", "Vintage Trolley", "Streetcar", "Car" or "Vehicle" are synonymous.

- 1.4 A pre-proposal conference / walkthrough of the site will be held on **Tuesday, May 9, 2023, at 10:00 a.m.** at 547 North Main Street, Memphis, TN 38105. Though attendance at the pre-proposal /walkthrough is not required, MATA highly recommends any proposed contractors to attend it as it will be the only one for this project.

- 1.5 This Request for Proposal (RFP) does not commit MATA to award a contract or pay any costs incurred in preparation of proposals in response to the RFP or to procure or contract for services. Proposers shall be responsible for all costs incurred as Part of their participation in the pre-award process.

- 1.6 Proposals will be received by MATA at its offices located at its Purchasing offices located at 1330 Levee Road, Memphis, TN 38108 until 11:00 a.m. local time on Thursday, June 8, 2023. Proposals received at 11:01 a.m. or later will be returned unopened.

All Proposals shall be deemed received at the above address. Proposers are solely responsible for ensuring that his/her Proposal is timely delivered. Proposers who rely on overnight delivery services, the United States mail, private mail services, local couriers or delivery services remain solely responsible for timely delivery of the Proposal and assume all risk of late delivery, mis-delivery and non-delivery. All Proposals will be date/time stamped, logged and deposited by MATA Staff.

Proposers are reminded that all Proposals must be securely sealed, have the enclosed label attached and be clearly marked "Proposal".

Please note that the Purchasing Department's hours are 8:00 a.m. to 4:30 p.m. Acceptance of sealed bids and proposals will only be made during these hours. If you choose to use a delivery service, please note the deliveries must be made within these hours. Proposers are reminded to examine each page carefully and execute/sign all sections that apply to this solicitation and their sole responsibility for ensuring that their proposal is deposited in the Purchase Department.

Proposers may verify receipt of Proposals by contacting Ashley Best at (901) 722-7102 or by email at [abest@matatransit.com](mailto:abest@matatransit.com);

- 1.7 All correspondence, communication and/or contact in regard to any aspect of this solicitation or

offers shall be with Ashley Best, Contract Administrator. Offerors and their representatives shall not make any contact with or communicate with any members of MATA, or its employees and consultants, other than Ms. Best in regard to any aspect of this solicitation or offers. At any time during this procurement up to the time specified below, Offerors may request, in writing, a clarification or interpretation of any aspect, or a change to any requirement of the RFP or any addenda to the RFP as described in Section 4.3.

- 1.8 All proposals and related documents shall be based on the conditions of a financial assistance contract between MATA, the State of Tennessee, and the United States Department of Transportation, under the Federal Transit Act, as amended. Terms and conditions established under the Act and the regulations implementing the Act will apply. Compensation for travel, meals, and/or lodging shall be in the amount of actual cost to the contractor subject to the maximum amounts and limitations specified in the State Comprehensive Travel Regulations.

## **2.0 PROPOSAL REQUIREMENTS**

- 2.1 Proposals must concisely set forth full, accurate, and complete information required by this RFP, including any attachments.
- 2.2 Proposers shall provide a proposal on the forms provided. All proposals shall give the proposed price and shall be signed by the proposer or his authorized representative. If the proposal is made by either: (1) the Contractor, firm, partnership, or corporation, they shall provide their corporate name and post office address; (2) a corporation, the proposal shall show the title of the person who signs on behalf of the corporation.
- 2.3 The price to be quoted in any proposal shall include all labor, materials, tools, equipment, delivery and other costs necessary to fully complete the work as set forth in the Technical Specifications. Anything omitted from such specifications that are clearly necessary for completion of the work shall be considered a portion of such proposal. All parts shall be new and in no case will used, reconditioned, or obsolete parts be accepted unless allowed on the technical specifications or approved by MATA.
- 2.4 The intent of these specifications is to define top quality equipment, which is capable of delivering maximum performance with high reliability. Equipment shall be of design, manufacture, and proven reliability through previous application in similar daily transit service to that for which it is intended. Equipment shall be so designed and constructed that ready access for operations, maintenance, and renewal is provided.
- 2.5 MATA has prepared and attached to these instructions the required Price Proposal Form. This price proposal form and all other accompanying documents or materials submitted by the proposer will be deemed to constitute Part of the proposal.
- 2.6 MATA reserves the right to amend the RFP at any time. Any amendments to or interpretations of the RFP shall be described in written addenda. MATA shall provide copies of Addenda to all prospective Offerors known to have received the RFP. The addendum will be mailed or delivered to all such prospective Offerors officially known to have received the RFP and to the address provided by each prospective Offeror. Failure of any prospective Offeror to receive the notification or addendum shall not relieve the Offeror from any obligation under its proposal as submitted or under the RFP, as clarified, interpreted, or modified. All addenda issued shall become Part of the RFP. Prospective Offerors shall acknowledge the receipt of each individual addendum and all prior addenda in their proposals. Failure to acknowledge in the proposals receipt of addenda may at MATA's sole option disqualify the proposal.



### 3.0 PROPOSAL FORMAT

3.1 Proposals shall be submitted in a sealed package clearly marked to reflect the contents. **One (1) original proposal and one (1) electronic copy (flash drive) shall be submitted.** The price proposal form shall be submitted in a separate sealed envelope.

3.1.1 Technical Proposal - A technical proposal shall provide the following information as a minimum:

- A. A listing of properties in the United States to which proposers completed delivery of similar trolley(s). Such listing shall cover a period of no less than the most recent 5 years of production. As a minimum the listing shall indicate the number of units in the delivery, the date of the contract, the date of delivery, the date of acceptance, description of the major components and systems as well as ancillary equipment (i.e., wheelchair ramps, fareboxes, radios, public address systems), and client reference to include contact person, position title, daytime telephone number and email address.
- B. A complete description of the proposed vehicle in sufficient detail to permit MATA to determine conformance with the specifications including drawings and technical specifications for the vehicle body and all major components, including wiring layout and circuit breaker specifications. (See Part III)
- C. A proposed interior seating layout showing all seating positions, dimensions, locations and aisle widths, including a summary indicating the number of seating positions (excluding the driver position) and standing capacity.
- D. A report indicating financial stability and capability of the company to obtain resources to fully perform the contract.
- E. A description of the manufacturing facilities to be used to manufacture the vehicles, including location, square footage, and special tooling available to construct the vehicles in a timely manner.
- F. A description of support for the proposed vehicles and all major components, including parts support and technical assistance.
- G. The recommended preventative maintenance schedule for the trolleys.
- H. Required Forms and Certifications
  - Addenda Acknowledgement Form
  - Affidavit of Non-Collusion (Exhibit I)
  - Buy America Certificate (Exhibit II)
  - Certification of Primary Participation Regarding Debarment, Suspension, and Other Responsibility Matters (Exhibit III)
  - Certification of Lower-Tier Participants (Subcontractors), Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Exhibit III)
  - Certification of Restrictions on Lobbying (Exhibit IV)
  - Performance Bond (Exhibit V)
  - Transit Vehicle Manufacturers (TVM) Certification (Exhibit VII)
  - Safety Certification (Exhibit VII)
  - Certification of FMCSS Inapplicability (Exhibit IX)
  - Price Proposal Form
  - Explanation of "No Response"
- I. Contractor shall submit a proposed delivery schedule and provide schedule milestones.

- J. Time of Completion – A project management timeline shall be submitted with the proposal. The work shall begin immediately upon date indicated on the Notice to Proceed.
  - K. Contractor shall submit a comprehensive test plan that will cover testing of all major components, system and vehicle level at Contractor's plant and a test report provided before acceptance of the first vehicle by MATA.
- 3.1.2 Price Proposal - The price proposal shall include all elements of cost for providing the proposed vehicles and shall include the following:

- A. Price proposal form

- 3.2 Information contained in the proposals will not be released by MATA prior to contract award in order to protect the integrity of the procurement process. Submission of information relative to this RFP subsequent to the proposal opening date shall not be released by MATA during the evaluation process or prior to contract award unless required by applicable laws. Proposers are further advised that MATA may be required to release proposal information after contract award.

If a Proposer feels that any information is confidential or proprietary in nature, the Proposer must submit all such information in a separately sealed envelope prominently marked with the Proposer's name and "PROPRIETARY INFORMATION". MATA shall not release or divulge such information to third parties without the consent of the Proposer unless required to do so by applicable law or order of a court of competent jurisdiction.

#### **4.0 PROPOSAL PROCEDURES**

- 4.1 MATA reserves the right to postpone the proposal opening date for its own convenience and to waive any minor informality that does not go to the heart of the proposal or prejudice other proposers or to reject for good and compelling reasons any and all proposals submitted.
- 4.2 Changes to these instructions will be made by written addendum by MATA and will be forwarded to all persons and firms to whom these instruction documents have been submitted.
- 4.3 Requests for clarification or approved equal must be submitted in writing to Ashley Best, Contract Administrator, Memphis Area Transit Authority, 1370 Levee Road, Memphis, Tennessee 38108, [abest@matatransit.com](mailto:abest@matatransit.com) and **must be received no later than 11:00 a.m., local time, Monday, May 22, 2023**, in accordance with the approved equal procedures described in the General Contract Provisions, Section 45. Any unapproved deviations, exceptions, substitutes, alternates or conditional qualifications contained in a proposal may be cause for its rejection. MATA's replies to such requests will be postmarked at least seven days before the date scheduled for proposal opening. A notice of clarification or approved equals will be furnished to all parties receiving specifications so that all Proposers may prepare their proposals accordingly.
- 4.4 Proposers shall submit **one original and one electronic copy (flash drive)** of their respective proposals. Proposals shall be securely sealed to prevent access prior to the proposal opening date. Proposals shall have the enclosed label attached to the proposal package.
- 4.5 Proposals shall be valid for a minimum period of 90 days subsequent to the proposal opening date. Proposals offering less than 90 days for acceptance from the proposal opening date may be considered non-responsive.

#### **5.0 PROPOSAL EVALUATION/BASIS FOR AWARD**

- 5.1 MATA shall employ competitive negotiation procurement process in making a contract award. The award of this contract will be made to the Proposer whose proposal, in the opinion of MATA; best

meets the established criteria and is most advantageous to MATA with price and other factors considered. Price evaluation shall not begin until the technical evaluation is completed. An evaluation team shall evaluate proposals.

5.2 Proposals will be evaluated on the basis of the factors described below in the following order of descending priority:

- A. Technical – Rehabilitation Plans, Experience & Qualification.
- B. Schedule
- C. Addressing the Scope of Work in Part II

5.3 The evaluation team will provide a tabulation of the technical merits of the proposal with the lowest points designating the worst and the highest points designating the best relative to the criteria.

5.4 The evaluation team may recommend that the contract award be made without negotiations provided that the acceptance of the most advantageous initial proposal will result in a fair and reasonable price. The evaluation team may recommend that a contract be awarded subsequent to negotiations. If negotiations are used at all, the Contracting Officer will negotiate with all the proposers that are in the competitive range and have a reasonable chance of being selected.

5.5 Negotiations will be in conformance with applicable federal, state, and local laws, regulations, and procedures. The objective of the negotiations will be to reach agreement on all provisions of the proposed contract, including contract price. MATA reserves the right to request documentation supporting the proposed contract price including overhead rates for the firm. Such information shall include but not be limited to:

- A. An overview of the accounting system and its capability to project contract costs;
- B. Chart of accounts including a definition of what is included in each account;
- C. A statement indicating the basis of the overhead rate and whether it is historical information or projections. (The proposer shall certify that the overhead burden rate(s) separates direct and indirect charges and that indirect charges do not include any unauthorized charges per Federal Acquisitions Regulations Part 31.)

5.6 MATA reserves the right to reject any and all proposals or to waive minor informalities and irregularities in offers received.

5.7 A written notice of award and acceptance of offer mailed or otherwise furnished to the successful proposer within the time specified in the proposal shall be deemed to result in a binding contract.

5.8 MATA reserves the right to award this contract in any manner which MATA deems to be in its best interest.

## **6.0 PROTESTS**

6.1 MATA will consider all protests filed in a timely manner regarding the award of a contract, whether submitted before or after award. All protests are to be submitted in writing, in accordance with the protest procedures described in the General Contract Provisions, Section 51.

6.2 Under certain limited circumstances, a potential proposer may protest to FTA the award of a contract pursuant to an FTA grant. FTA's review of any protest is limited to:

- A. An alleged failure of MATA to have written protest procedures or alleged failure to follow such procedures.
- B. Alleged violations of a specific federal requirement that provides an applicable complaint

procedure, which shall be submitted in accordance with that federal regulation.

## **7.0 PERFORMANCE BOND**

. In lieu of a performance bond the proposer may elect to set up an escrow account to transfer cash to a hold account operated by an Escrow agent, pending satisfaction of contractual obligations, where upon the funds are released to the proposer once all project elements are completed and accepted by MATA. The amount to be placed in the escrow account will be \$100,000 that will be held to the completion of the projects. If the proposer fails to initiate or complete the rehabilitation efforts, then they proposer forfeits the funds. The proposer will be paid 50% for completion of each streetcar or trolley milestone, as scheduled, and the remaining 50% will be held in escrow until MATA verifies, validates the rehabilitation, inspection, testing elements and sub elements, and formal acceptance. (Worked with Bernhard as alternative to a performance bond)

## **8.0 PRE-AWARD AUDIT COMPLIANCE**

Federal regulations require MATA to conduct a Pre-Award Audit before entering into a contract to purchase rolling stock on procurements with funds obligated by FTA on or after October 24, 1991. The Pre-Award Audit includes the following items as stated in 49 CFR Part 663, Pre-Award and Post-Delivery Audits of Rolling Stock Purchases; Final Rule, dated September 24, 1991:

- A. A Buy America Certification as described in Section 663.25;
- B. A Purchaser's Requirements Certification in Section 663.27;
- C. A Manufacturer's Federal Motor Vehicle Safety Standard Certification in Section 663.41 or 663.43.

## **9.0 POST-DELIVERY AUDIT COMPLIANCE**

Post-Delivery Audit – After the vehicle(s) have been shipped, the Contractor shall review the report of its plant inspectors to determine if a variance exists between the material listed on MATA's Pre-Award Buy America audit and the material used by the vehicle manufacturer. Also, the Contractor shall confirm that the vehicle(s) are in absolute compliance to MATA's technical specifications as amended through the Request for Approved Equals process. If a variance exists, the Contractor shall review the resolution of the variance. If necessary, the vehicle supplier will be contracted. Once this review process is complete, the Contractor shall issue a report to MATA stating that the vehicles comply with both the Pre-Award Buy America certification and the technical certification. The report shall also contain a copy of the weekly reports in order to verify that inspectors were present during the manufacturing process. This report shall meet the Post-Delivery audit requirements of 49 CFR, Part 663.

Federal regulations require MATA to conduct a Post-Delivery Audit before title to the rolling stock is transferred to MATA. The Post-Delivery Audit includes the following items as stated in 49 CFR Part 663, Pre-Award and Post-Delivery Audits of Rolling Stock Purchases; Final Rule, dated September 24, 1991:

- A. A Post-Delivery Buy America Certification as described in Section 663.35;
- B. A Post-Delivery Purchaser's Requirements Certification in Section 663.37;
- C. Certification of FMVSS Inapplicability.

## **10.0 DELIVERY OF VEHICLES**

- 10.1 Delivery shall be determined by signed receipt of MATA's designated agent, or his designee, at the point of delivery and may be preceded by a cursory inspection of the vehicles.  
The point of delivery shall be:

Memphis Area Transit Authority Trolley Division  
547 North Main Street  
Memphis, TN 38105

Delivery of the trolleys shall be FOB point of delivery by Common Carrier Driveaway.

## **11.0 PRE-AWARD SURVEY PROCEDURES**

- A. After proposal opening, but prior to award of a contract, MATA shall have the right to conduct a pre-award survey, to evaluate prospective contractor's performance capabilities under the terms and conditions of this proposal request. The pre-award survey will aid MATA in determining the responsibility of the prospective contractor. The evaluation will be conducted on the basis of (1) data on hand, (2) data available from the U.S. Government or commercial sources, (3) if necessary, on-site inspection of plant facilities to be used for performance of the proposed contract, (4) the descriptive literature submitted with the proposal, or (5) any combination of the above.

- B. The pre-award survey will focus on the prospective contractor's ability to manufacture and deliver the equipment specified in the proposal request within the time stated. The survey will include, but not be limited to, the following essential elements:

If the pre-award survey is conducted,

- (1) MATA will require the prospective contractor to furnish engineering and test data that demonstrates that the equipment proposed meets or exceeds the specifications set forth in the proposal request.
- (2) MATA will require the prospective contractor to furnish plans and production schedules which demonstrate the ability of the prospective contractor or meet the delivery schedule specified. MATA shall be permitted to inspect production facilities, if necessary, to determine whether or not the prospective contractor is capable of performing under the terms and conditions of the proposal request.

- C. All data obtained from the pre-award survey shall be kept confidential by MATA and shall not be made available outside MATA except insofar as may be required by the Federal Transit Act and applicable laws and regulations.

## **12.0 CONFLICTING STATEMENTS**

Section A, Instructions to Proposers is the correct language if there are any conflicting statements in this document.

## **13.0 TROLLEY TESTING**

Contractor shall submit a comprehensive test plan that will cover testing of all major components, system and vehicle level at Contractor's plant and a test report provided before acceptance of the first vehicle by MATA.

All tests identified within the following sections: Instructions to Proposers (Section 13), Technical

Sections 3.1.3, 4.3, and as defined in Section IV Acceptance Tests section, General Contract Provisions (Item 30), and certifiable elements list (see Appendix A).

**14.0 PROGRAM MANAGEMENT**

The Contractor shall be required to work with MATA's Project Manager for design reviews, project schedule, status reporting, CDRL submittals and document control and any other requirements pertaining to technical specifications.

**15.0 DISADVANTAGED BUSINESS ENTERPRISE**

15.1 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 Programs.

A. DBE Requirements for Transit Vehicle Manufactures:

Pursuant to Title 49, Code of Federal Regulations, Part 26.49, a Proposer, as a condition of being authorized to respond to this solicitation, must certify by completing the form Transit Vehicle Manufactures (TVM) Certification that it has on file with the Federal Transportation Administration (FTA) an approved or not disapproved annual Disadvantaged Business Enterprise (DBE) subcontracting participation goal.

**\*\*See Part III – Form and Certifications**

# **PART II**

## **SCOPE OF WORK**

# SCOPE OF WORK

## GENERAL OVERVIEW

Memphis Area Transit Authority (MATA) operates a multi-modal transit system that services the Memphis and surrounding communities. MATA is funded with federal, state, and local funds, as well as passenger farebox and advertising revenue. MATA is required to comply with safety, security, accessibility, asset management, and applicable provisions, requirements, regulations, and standards (e.g., FTA, TDOT, ADA, DHS, TSA, OSHA, NFPA)<sup>1</sup> as well as all federal and state laws, regulations, and statutes. MATA strives to conform to industry standards and best practices, as applicable and adopted by MATA (e.g., APTA, AREMA).

MATA's Mission is "We connect people to places", and its Vision is "MATA employees are committed to service excellence, creating and exceptional customer experience, and inspiring the community to invest in our success". As part of MATA ongoing efforts towards its mission, vision, and continuous improvement is to expand MATA's trolley system to include modern light rail vehicle (streetcar) operations onto MATA's existing Madison line, which consists of approximately 2.5 miles of double track, embedded street running rail, seven (7) stations, two (2) power substations, ADA lifts, and communication systems.

MATA also intends to upgrade its existing fleet of Trolley Cars, and to rehabilitate three (3) Charlotte Trolley cars (# 91,92,93) and 1 W2 trolley (#545) to operate on MATA's Main Street and Riverfront Lines. The Main Street Line measure approximately 2.3 miles of double track embedded street running rail, twenty-six (26) station, two (2) mainline substations that also feeds to the Riverfront Line, ADA lifts, and communications systems.

The Riverfront Line totals 2.4 miles of single track, ballasted rail that operates within an FRA regulated corridor alongside Canadian National Railroad (CN), exclusive right-of-way, six (6) stations, ADA ramps, and communication systems. MATA's trolley system is not regulated by the FRA and operates under a waiver.

The trolley fleet is inspected and maintained out of the Trolley Maintenance & Storage Facility (MSF) located on Main Street, which has a substation. MATA intends to extend its access track beyond the MSF into a temporary shelter as an interim measure until it completes and major upgrade of the MSF in the future.

MATA is seeking through this Request for Proposals ("RFP") from highly capable, qualified, and schedule driven firm(s) to rehabilitate, restore, modify, refurbish, modernize, and rebuild, test, commission, and certify its fleet of Trolley Cars and streetcars, as described herein.

## SCOPE OF SERVICES

### A. U2 Streetcar Limited Rehabilitation Project (Phase-1)

MATA purchased eight (8) decommissioned Siemens U2 Streetcars (# 1006, 1010, 1026, 1033, 1035, 1048, 1049, 1052) from the San Diego Metropolitan Transit System that MATA intends to rehabilitate, restore, modify, refurbish, modernize, rebuild, test, and certify ("**Rehabilitate**")

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<sup>1</sup> FTA-Federal Transit Administration, TDOT-Tennessee Department of Transportation, ADA-American Disabilities Act, OSHA-Occupational Safety and Health Administration. NFPA-National Fire Prevention Association



“**Rehabilitation**”) to operate safely, reliably, and sustainable service on its existing rail system, specifically the Madison line.

MATA aims to rehabilitate its U2 Streetcar fleet in phases, starting with Phase-1 to Rehabilitate three (3) of the most suitable U2 Streetcars<sup>2</sup> that will undergo limited Rehabilitation activities to provide 3 to 5 years of safe, reliable, and sustainable interim service. MATA will introduce the three (3) U2 Streetcars to operate MATA’s existing rail system on a temporary basis as the remainder of the U2 Streetcar fleet undergoes a major Rehabilitation.

MATA requests that qualified firm(s) inspect, assess, and select three (3) of MATA’s eight (8) U2 Streetcar fleet to provide a detailed Phase-1 U2 Streetcar Interim Rehabilitation proposal to rehabilitate the selected streetcars to operate safely, reliably, and sustainably for three to five years.

Delivery of first article U2 Streetcar #1035 to MATA for static, dynamic, integration testing, and commissioning within 9 months of awarding the contract and completion of all U2 Streetcars within 18 months.

## **B. U2 Streetcar Major Rehabilitation Project (Phase-2)**

Phase-2 involves a major Rehabilitation of MATA of six (6) of the eight (8) to provide twelve (12) years of safe, reliable, and sustainable service, with an option to restore an additional two (2) U2 Streetcars. The three (3) U2 Streetcars selected as part of the Phase 1 Interim Rehabilitation Project will also be included in the Phase-2 Major Rehabilitation Project as part of the later stages of the Phase-2 project and part of a rotation of the fleet.

MATA requests that qualified firm(s) inspect and assess MATA’s eight (8) U2 Streetcar fleet to provide a detailed Phase-2 U2 Streetcar Major Rehabilitation proposal to Rehabilitate the selected streetcars to operate safely, reliably, and sustainably for 12 years.

Delivery of first article U2 Streetcar to MATA for static, dynamic, and integration testing will be within 24 months of awarding the contract and completion of all U2 Streetcars within 48 months.

- a. U2 Streetcar Rehabilitation Plan: The proposal will include a U2 Car Rehabilitation Plan (“Rehabilitation Plan”) to include the proposer’s expertise, approach, recommendations, scope, specifications, tasks, activities, and schedule (“Specifications”) to Rehabilitate eight (8) Siemens U2 Streetcars. The Rehabilitation Plan will include as a minimum the following requirements as detailed below:
  - a. **Rehabilitation Plan:** The Rehabilitation Plan will include Specifications for the Phase-1 - U2 Streetcar Interim Rehabilitation project and the Phase-2 - U2 Streetcar Major Rehabilitation project as envisioned by the proposer to meet MATA’s expectations of safe, reliable, and sustainable streetcars.
  - b. **Proposer’s Expertise:** MATA relies on the proposer’s expertise to present a detailed Rehabilitation Plan, to include but is not limited to provide a detailed approach to Rehabilitating every system, subsystem, component,

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<sup>2</sup> **Note:** MATA has selected U2 Streetcar 1035 as one of the three (3) U2 Streetcars to undergo interim Rehabilitation activities.

subcomponent, assemblies, and subassemblies {"System(s)"}<sup>3</sup> to ensure operational readiness, safety & security certification, and revenue service of the U2 Cars to operate three (3) to five (5) years for Phase-1 U2 Streetcars and 12 years for Phase-2 U2 Streetcars.

- c. **Vital, Crucial, & Critical Systems:** Identify and detail within the Rehabilitation Plan, vital, crucial, and critical Systems that may require more extensive rehabilitation specifications and procedures to rehabilitate, update, rebuild, modify, test and other assurances to achieve optimal levels of operational effectiveness, safety, security, emergency preparedness, and ADA accessibility.
- d. **Structural Components:** Identify and detail inspection, testing, and other procedures to ensure design function, integrity, and performance of all structural Systems.
- e. **OEM/LKQ Parts, Materials, and Products:** Describe the process proposer will use to identify and ensure that all OEM parts, LKQ parts, materials, and products used meet or exceed manufacturer design specifications.
- f. **Appearance/Esthetics:** Identify and detail within the Rehabilitation Plan interior and exterior visual features to be inspected, cleaned, reconditioned, replaced, refurbished, installed, and or applied to achieve an esthetically appealing on a **scale**<sup>4</sup> described below through suitable, cost effective, and practical means.
- g. **Drawings/Plans/ Specifications:** Detail within the plan efforts that will be used, and deliverables provided to MATA to ensure that all Systems are supported with existing drawings, plans, and specifications. Identify and create adequate drawings, plans, specifications for Systems that do not have drawings, plans, or specifications. Develop, catalog, organize, and generate an electronic user-friendly library of all existing and new drawings, plans, and specifications for project and MATA use.
- h. **Quality Assurance/Quality Control:** Describe the proposer's strategy, plans, and processes, that will be used towards the development, implementation, reporting, and control of a robust project specific Quality Assurance and Quality Control (QA/QC) plan or Quality Management System.
- i. **Inspection & Maintenance Plan, Schedule & Procedures:** Describe the proposer's process to provide MATA with an inspection, maintenance, schedules, procedures, plans and other aspects of a preventative and life cycle maintenance program. Include a sample of what this would look like.
- j. **Inspection & Maintenance Services:** MATA intends to perform scheduled inspection and light maintenance activities as part of MATA's ongoing maintenance program. MATA seeks inspection and maintenance management support services to educate, assist, manage, and oversee its

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<sup>3</sup> System: U2 Car as a whole

<sup>4</sup> **Condition Scale:** 1. "New"- unused and original. 2. "Like New"-reconditioned, functional, minor flaws or defects. 3. "Good"-functional with a few flaws or defects. 4. Fair-functional with multiple flaws or defects. 5. Poor-not functional, damaged, major flaws or defects.

U2 Streetcar inspection and maintenance functions, performance, documentation, and other processes over a 2-year period, with an option to extend the service contract for up to one additional year. Describe the proposer's recommendation and approach to providing the services to provide support, education, assistance, management, and oversight of MATA's U2 Streetcar Inspection & Maintenance Program.

- k. **Static, Dynamic & Integration Testing:** Describe the proposer's strategy, plans, and processes that will be used to develop, implement, verify, and validate the U2 Streetcar's static, dynamic, and integration testing of its various Systems.
- l. **Tools, Training, & Calibration:** Describe the proposer's strategy, plans, and processes to ensure that MATA is provided the proper tools, training, and calibration procedures to inspect, test, calibrate, and maintain the various Systems of the U2 Streetcar.
- m. **ADA Compliance:** Describe the proposer's vision and plan to design, modify, install, or build an accessibility system that meets or exceeds ADA Compliance regulations and standards, and interfaces with MATA existing stations. MATA intends to install accessibility ramps at each station to interface with the U2-car.
- n. **Industry Safety Standards:** Describe the proposer's vision and plan to ensure that MATA conforms to applicable safety, security, emergency preparedness/egress, standards, guidance, or best practices {"Safety Standard(s)"}. The Rehabilitation Plan shall detail the relevant standards the proposer intends to follow and their application to each System, as applicable.
- o. **Regulatory Standards:** Describe the proposer's vision and plan to ensure that MATA complies with all applicable safety, security, and emergency preparedness/egress Federal, State, and local regulatory laws, regulations, standards, directives, by-laws, ordinances, and other applicable regulations {"Regulation(s)"}. The Rehabilitation Plan shall detail the relevant Regulations the proposer intends to follow and their application to each System, as applicable.
- p. **Asset Management:** Describe the proposer's vision and plan to ensure the MATA complies with applicable Federal (FTA) and State (TDOT), asset management regulations, standards, and guidance, and industry best practices to include Asset Life-cycle Planning, including management, measurements, metrics, and benchmarks for each applicable Systems, and to provide within the Inspection & Maintenance Plan, Schedule & Procedures life cycle planning standards of Vital, Crucial, and Critical Systems, and to adhere to a risk-based inspection approach to managing applicable Systems ("**Life Cycle Planning**").
- q. **Operational Readiness:** Describe the proposer's plan to collaborate with MATA, develop, and execute an operational readiness plan to include but not limited to operational, maintenance, and support functions, including but not limited to training, rules, procedures, and other parameters to ensure a safe, reliable, and sustainable approach towards revenue readiness and continued operations.

- r. **Safety & Security Certification:** Describe the proposer's plan to manage, collaborate with, and support MATA's Safety & Security Certification to meet Federal and State regulations, guidance, and industry best practices to itemize, verify, and validate safety critical criteria, items, elements, and sub elements of Systems, including hazard analysis of safety, security, and emergency management risks.
- s. **Management of Change:** Describe the proposer's plan to manage and oversee configuration changes in collaboration with and approval of MATA, and the controls in place to ensure adequate documentation and other measures to reflect approved changes in design, drawings, plans, operationally, and other documents.
- t. **Interface Management:** Describe the proposer's plan to analyze interface Systems (e.g., wheel, track, stations, ADA accessibility, wayside structures, roadways, bridges, and other interfaces) with MATA's existing system.
- u. **Warranty:** describe warranty terms
- v. **Available Spare Parts:** should be used if in good condition

### C. Trolley Car Limited Upgrade Project:

MATA owns and operates six (6) Trolley Cars, four (4) Melbourne W2's (#234, 455, 539, 540), one (1) Birney Replica (#453), and one (1) Melbourne W4 W2. The existing trolley fleet consists of five (5) operational trolley cars that are not equipped with Heating, ventilation, and air conditioning (HVAC) systems.

MATA intends to upgrade its current trolley fleet with HVAC systems, reconfigured operator seat, speedometer, and other minor improvements and upgrades that require limited conversions and upgrades to include:

1. **Master Controller:** Design, test, install, and replace the trolley's high-voltage K-35 Master Controller (high-voltage drum) to a safe, reliable, sustainable, and ergonomically improved digital modulated PWM Master Controller system to provide traction power, direction, and braking capabilities. The digital modulated PWM Master Controller should be identical on all trolleys (234, 455, 539, 540, 453, 799, 91, 92, 93 and 545).
2. **HVAC System:** Design, configure, test, and install HVAC system to provide effective trolley streetcar heating, ventilation, and cooling for passengers and operator. The HVAC system should be identical on all trolleys (234, 455, 539, 540, 453, 799, 91, 92, 93 and 545). The system should include reasonable and practical sealing/weather stripping improvements around doors and windows.
3. **Truck Assembly:** Modify, reconfigure, and replace spring, suspension, and air drier placement to alleviate suspension bottom out conditions and to improve air drier clearance.
4. **Passenger Stop Request System:** Upgrade, modify, or install on-board passenger stop request system.

5. **Speedometer:** Upgrade, modify, or install trolley speedometer system to provide accurate speed indication for operator. The system could include alerts if the speed exceeds a set limit (i.e., 25 MPH)

#### **D. Trolley Car Major Rehabilitation Project:**

MATA purchased three (3) decommissioned from Charlotte and one (1) W2 car already in MATA's possession, that MATA intends to rehabilitate, restore, modify, refurbish, modernize, rebuild, test, and certify ("Rehabilitate" "Rehabilitation") to operate safely, reliably, and sustainable service on its existing rail system.

The Trolley Car Major Rehabilitation Project will Rehabilitate four (4) Trolley cars to provide twelve (12) years of safe, reliable, and sustainable service. The trolley cars consist of three (3) Birney Replica's (#91, 92, 93) and one Melbourne W2 (#454).

MATA requests that qualified firm(s) inspect and assess MATA's four (4) eight (8) U2 Streetcar fleet to provide a detailed Rehabilitation proposal to rehabilitate trolley cars to operate safely, reliably, and sustainably for 12 years.

Delivery of first article Trolley Car #91 to MATA for static, dynamic, and integration testing we be within 24 months of awarding the contract and completion of all U2 Streetcars within 48 months.

1. **Rehabilitation Plan:** The proposal will include a U2 Car Rehabilitation Plan ("Rehabilitation Plan") to include the proposer's expertise, approach, The Plan shall include as a minimum:
  - a. **Rehabilitation Plan:** The Rehabilitation Plan will include Specifications for Trolley Limited Upgrade Project and the Trolley Major Rehabilitation project as envisioned by the proposer to meet MATA's expectations of safe, reliable, and sustainable streetcars.
  - b. **Proposer's Expertise:** MATA relies on the proposer's expertise to present a detailed Rehabilitation Plan, to include but is not limited to provide a detailed approach to Rehabilitating every system, subsystem, component, subcomponent, assemblies, and subassemblies {"**System(s)**"<sup>5</sup> to ensure operational readiness, safety & security certification, and revenue service of the Trolley Cars to operate 12 years.
  - c. **Vital, Crucial, & Critical Systems:** Identify and detail within the Rehabilitation Plan, vital, crucial, and critical Systems that may require more extensive rehabilitation specifications and procedures to rehabilitate, update, rebuild, modify, test and other assurances to achieve optimal levels of operational effectiveness, safety, security, emergency preparedness, and ADA accessibility.
  - d. **Structural Components:** Identify and detail inspection, testing, and other procedures to ensure design function, integrity, and performance of all structural Systems.

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<sup>5</sup> System: U2 Car as a whole

- e. **OEM/LKQ Parts, Materials, and Products:** Describe the process proposer will use to identify and ensure that all OEM parts, LKQ parts, materials, and products used meet or exceed manufacturer design specifications.
- f. **Appearance/Esthetics:** Identify and detail within the Rehabilitation Plan interior and exterior visual features to be inspected, cleaned, reconditioned, replaced, refurbished, installed, and or applied to achieve an esthetically appealing on a **scale**<sup>6</sup> described below through suitable, cost effective, and practical means.
- g. **Drawings/Plans/ Specifications:** Detail within the plan efforts that will be used, and deliverables provided to MATA to ensure that all Systems are supported with existing drawings, plans, and specifications. Identify and create adequate drawings, plans, specifications for Systems that do not have drawings, plans, or specifications. Develop, catalog, organize, and generate an electronic user-friendly library of all existing and new drawings, plans, and specifications for project and MATA use.
- h. **Quality Assurance/Quality Control:** Describe the proposer's strategy, plans, and processes, that will be used towards the development, implementation, reporting, and control of a robust project specific Quality Assurance and Quality Control (QA/QC) plan or Quality Management System.
- i. **Inspection & Maintenance Plan, Schedule & Procedures:** Describe the proposer's process to provide MATA with inspection and maintenance standards, checklist, schedules, procedures, plans and other aspects of a preventative and life cycle maintenance program, including providing collaboration and inclusion of inspection and maintenance criteria into MATA software maintenance management system.
- j. **Inspection & Maintenance Services:** MATA intends to perform scheduled inspection and light maintenance activities as part of MATA's ongoing maintenance program. MATA seeks inspection and maintenance management support services to educate, assist, manage, and oversee its U2 Streetcar inspection and maintenance functions, performance, documentation, and other processes over a 2-year period, with an option to extend the service contract for up to one additional year. Describe the proposer's recommendation and approach to providing the services to provide support, education, assistance, management, and oversight of MATA's U2 Streetcar Inspection & Maintenance Program.
- k. **Static, Dynamic & Integration Testing:** Describe the proposer's strategy, plans, and processes that will be used to develop, implement, verify, and validate the U2 Streetcar's static, dynamic, and integration testing of its various Systems.
- l. **Tools, Training, & Calibration:** Describe the proposer's strategy, plans, and processes to ensure that MATA is provided the proper tools, training,

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<sup>6</sup> **Condition Scale:** 1. "New"- unused and original. 2. "Like New"-reconditioned, functional, minor flaws or defects. 3. "Good"-functional with a few flaws or defects. 4. Fair-functional with multiple flaws or defects. 5. Poor-not functional, damaged, major flaws or defects.

and calibration procedures to inspect, test, calibrate, and maintain the various Systems of the U2 Streetcar.

- m. **ADA Compliance:** Describe the proposer's vision and plan to design, modify, install, or build an accessibility system that meets or exceeds ADA Compliance regulations and standards, and interfaces with MATA existing stations. MATA intends to install accessibility ramps at each station to interface with the U2-car.
- n. **Industry Safety Standards:** Describe the proposer's vision and plan to ensure that MATA conforms to applicable safety, security, emergency preparedness/egress, standards, guidance, or best practices {"**Safety Standard(s)**"}. The Rehabilitation Plan shall detail the relevant standards the proposer intends to follow and their application to each System, as applicable.
- o. **Regulatory Standards:** Describe the proposer's vision and plan to ensure that MATA complies with all applicable safety, security, and emergency preparedness/egress Federal, State, and local regulatory laws, regulations, standards, directives, by-laws, ordinances, and other applicable regulations {"**Regulation(s)**"}. The Rehabilitation Plan shall detail the relevant Regulations the proposer intends to follow and their application to each System, as applicable.
- p. **Asset Management:** Describe the proposer's vision and plan to ensure the MATA complies with applicable Federal (FTA) and State (TDOT), asset management regulations, standards, and guidance, and industry best practices to include Asset Life-cycle Planning, including management, measurements, metrics, and benchmarks for each applicable Systems, and to provide within the Inspection & Maintenance Plan, Schedule & Procedures life cycle planning standards of Vital, Crucial, and Critical Systems, and to adhere to a risk-based inspection approach to managing applicable Systems ("**Life Cycle Planning**").
- q. **Operational Readiness:** Describe the proposer's plan to collaborate with MATA, develop, and execute an operational readiness plan to include but not limited to operational, maintenance, and support functions, including but not limited to training, rules, procedures, and other parameters to ensure a safe, reliable, and sustainable approach towards revenue readiness and continued operations.
- r. **Safety & Security Certification:** Describe the proposer's plan to manage, collaborate with, and support MATA's Safety & Security Certification to meet Federal and State regulations, guidance, and industry best practices to itemize, verify, and validate safety critical criteria, items, elements, and sub elements of Systems, including hazard analysis of safety, security, and emergency management risks.
- s. **Management of Change:** Describe the proposer's plan to manage and oversee configuration changes in collaboration with and approval of MATA, and the controls in place to ensure adequate documentation and other measures to reflect approved changes in design, drawings, plans, operationally, and other documents.

- t. **Interface Management:** Describe the proposer's plan to analyze interface Systems (e.g., wheel, track, stations, ADA accessibility, wayside structures, roadways, bridges, and other interfaces) with MATA's existing system.
- u. **Warranty:** Describe warranty terms

**E. Penalties:**

The proposer will perform inspection, rehabilitation, and testing for each milestone as scheduled within the proposer's project timelines. Any delays or potential delays will be reported to MATA in a timely fashion. Delays that extend beyond the project timelines will result in penalties of \$100,00 per quarter. In the event of an extraordinary event such as a pandemic that impacts work force or generate supply chain delays the proposer may request an extension. The proposer will present its justifications to MATA for consideration of an extension. At the discretion of MATA, MATA will grant an extension as deemed appropriate but no more than six (6) months. MATA reserves the right to provide additional time for extraordinary events beyond the control of the proposer as it deems appropriate.

**D. Warranties:**

Proposer will provide warranty for parts, condition, labor, and performance of at least one year after final testing and acceptance and the beginning of revenue service.

**E. Additional Assurances:**

The proposer will ensure that all aspects of the inspection, rehabilitation, and testing elements of the projects will at minimum meet the following requirements:

- Are a good fit for the intended use.
- Represent good value for the product selected.
- Meet the specified requirements of the RFP and Proposers Rehabilitation Plans.
- Include the most appropriate technologies.
- Conform to Federal Requirements.



**PART III**  
**FORMS AND CERTIFICATIONS & GENERAL**  
**CONTRACT PROVISIONS**

**MEMPHIS AREA TRANSIT AUTHORITY**  
**ADDENDA ACKNOWLEDGEMENT FORM**

Addenda received (if none received, write "none received")

Addendum No: \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No: \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No: \_\_\_\_\_ Date Received: \_\_\_\_\_

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Addendum No: \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No: \_\_\_\_\_ Date Received: \_\_\_\_\_

Name of individual, partner or corporation: \_\_\_\_\_

Street Address: \_\_\_\_\_

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

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

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

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

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

**EXHIBIT I**  
**MEMPHIS AREA TRANSIT AUTHORITY**  
**AFFIDAVIT OF NON-COLLUSION**

Affidavit of Non-Collusion:

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

- (1) That I am the proposer (if the proposer is an individual), a partner of the proposer (if the proposer is a partnership), or an officer or employee of the proposing corporation with authority to sign on its behalf (if the proposer is a corporation);
- (2) That the attached proposal or proposals have been arrived at by the proposer independently, and have been submitted without collusion with, and without any agreement, understanding, or planned common course of action with any other contractors of materials, supplies, equipment, or services described in the request for proposal, designed to limit independent proposing or competition.
- (3) That the contents of the proposal or proposals 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 or bids; and
- (4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

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

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

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

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

My Commission expires \_\_\_\_\_

Proposer's E.I. Number: \_\_\_\_\_  
(Number used on Employer's Quarterly Federal tax return)

**EXHIBIT II**

**MEMPHIS AREA TRANSIT AUTHORITY**

**BUY AMERICA CERTIFICATE**

**Certificate of Compliance**

The bidder hereby certifies that it shall comply with the requirements of 49 U.S.C. Section 5323(j), and the applicable regulations of 49 C.F.R. 661.11:

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

**Certificate of Non-Compliance**

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j), but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(C), and the applicable regulations in 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

[71FR 14117, Mar. 21, 2006, as amended at 72 FR 53698 Sept. 20, 2007; 74 FR 30239, June 25, 2009]

**EXHIBIT III**

**MEMPHIS AREA TRANSIT AUTHORITY**

**CERTIFICATION OF PRIMARY PARTICIPANT  
REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The Primary Participant (potential contractor for a major third-party contract), \_\_\_\_\_ certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission or any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(If the primary participant (potential third-party contractor) is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification.)

THE PRIMARY PARTICIPANT (POTENTIAL CONTRACTOR FOR A MAJOR THIRD-PARTY CONTRACT), \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTION 3801 ET. SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_  
Signature and Title of Authorized Official

\_\_\_\_\_  
Date

**EXHIBIT III**

**MEMPHIS AREA TRANSIT AUTHORITY**

**CERTIFICATION OF LOWER-TIER PARTICIPANTS REGARDING  
DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

The Lower Tier Participant (potential third-party contractor, or potential subcontractor under a major third-party contract), \_\_\_\_\_, certifies, by submission of this bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(If the Lower Tier Participant, (potential third-party contractor or potential subcontractor under a major third-party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this bid).

The LOWER-TIER PARTICIPANT, POTENTIAL THIRD-PARTY CONTRACTOR, OR POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD-PARTY CONTRACT, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET. SEQ. ARE APPLICABLE THERETO.

\_\_\_\_\_  
Signature and Title of Authorized Official

\_\_\_\_\_  
Date

**EXHIBIT IV**

**MEMPHIS AREA TRANSIT AUTHORITY**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

I, \_\_\_\_\_, hereby certify on behalf of \_\_\_\_\_  
Name of Official Name of Contractor

that:

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

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title of Authorized Official

**EXHIBIT V**

**PERFORMANCE BOND**

STATE OF TENNESSEE ( \_\_\_\_\_ COUNTY)

KNOW ALL MEN BY THESE PRESENT, THAT:

We, \_\_\_\_\_ (Herein called the "Contractor") of \_\_\_\_\_ County, \_\_\_\_\_ a (Partnership or Corporation) organized and existing under and by virtue of the Laws of the State of \_\_\_\_\_ as principal, and \_\_\_\_\_, as surety, do hereby acknowledge ourselves indebted and firmly bound and held unto \_\_\_\_\_ (Hereinafter called the "Owner"), a corporation existing under and by virtue of the laws of Tennessee, for the use and benefit of those entitled thereto, in the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) (Dollars) for the payment of which well and truly to be made, in lawful money of the United States we do hereby bind ourselves, successors, assigns, heirs, and personal representatives.

BUT THE CONDITION OF THE FOREGOING OBLIGATION OR BOND IS THIS:

WHEREAS, The Owner has engaged the said Contractor, for the sum of \_\_\_\_\_ (\$ \_\_\_\_\_) (Dollars) as more fully appears in a written agreement or contract bearing date of \_\_\_\_\_. A copy of which said agreement or contract is by reference hereby made a part hereof, and it is the desire of the said Owner that the said Contractor shall assume all undertaking under said agreement or contract, and shall assure and protect all laborers and furnishers of material on said work as provided by Chapter 182 of the Acts of the General Assembly of Tennessee of 1899, and any and all amendments thereto, including without being limited to Chapter 121 of the Public Acts of 1923, and Chapter 121 of the Public Acts of 1925, all of which were codified, as required by Tennessee Code Annotated Sections 12-417 through 12-424, as amended, and also independently of said statutes.

NOW, THEREFORE, if the said Contractor shall fully and faithfully perform all undertakings and obligations under the said agreement or contract hereinbefore referred to and shall fully indemnify and save harmless the said Owner from all costs and damage whatsoever which it may suffer by reason of any failure on the part of said Contractor so to do, and shall fully reimburse and repay the said Owner any and all outlay and expense which it may incur in making good any such default, and shall fully pay for all of the labor, materials, and work used by said Contractor any immediate or remote Contractor or Furnisher of material under him in the performance of said Contract, in lawful money of the United States, as the same shall become due, then this obligation or bond shall be null and void, otherwise to remain in full force and effect.



AND, for value received, it is hereby stipulated and agreed that no change, extension of time, alteration to the terms of the said agreement or contract or to the work to be performed thereunder or the specifications accompany the same shall in anywise affect the obligations under this obligation or bond, and notice is hereby waived of any such change, extension of the time, alteration or addition to the terms of the agreement or contract or to the work or to the specifications.

IN WITNESS WHEREOF, the said Contractor has hereunder affixed its signature and said surety has hereunto cause to be affixed its corporate signature and seal, by its duly authorized officers, on this

\_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

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

\_\_\_\_\_  
President

ATTEST: \_\_\_\_\_  
Corporate Secretary

SURETY: \_\_\_\_\_

BY: \_\_\_\_\_  
Attorney in fact

APPROVED: \_\_\_\_\_  
Chief Executive Officer  
Memphis Area Transit Authority

COUNTERSIGNED:  
BY: \_\_\_\_\_  
Tennessee Agent

APPROVED: \_\_\_\_\_  
Legal Counsel  
Memphis Area Transit Authority



Exhibit VII

**Memphis Area Transit Authority**

**SAFETY CERTIFICATION**

The \_\_\_\_\_ hereby certifies that the  
(Name of Proposer)

Vehicles offered in this bid comply with the Motor Safety Standard as established by the Department of Transportation and with requirements of the laws of the State of Tennessee, all as are in effect at the time of delivery of the vehicles, as to lighting equipment and all warnings, operating and safety devices.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Date

**EXHIBIT IX**

**CERTIFICATION OF FMVSS INAPPLICABILITY**

\_\_\_\_\_ (the Proposer) acknowledgement

That the vehicles being renewed under this procurement are not subject to the Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 CFR, Part 571.

Date \_\_\_\_\_

Recipient Authorized Signature \_\_\_\_\_

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

Title \_\_\_\_\_

PRICE PROPOSAL FORM  
RFP# 23-08  
**TROLLEY AND STREETCAR REHABILITATION PROJECT**

TO: Public Agency: Memphis Area Transit Authority (MATA)

- In compliance with your Request for Proposals relating to the purchase of vintage trolleys, the undersigned, having become thoroughly familiar with the terms and conditions of the RFP, hereby proposes, and agrees to furnish the equipment within the time stated and in strict accordance with the RFP (which will become part of the contract), including all labor and materials for the following sums of money:

Description of Equipment	Qty.	Unit Price	Total Price	Delivery Schedule (days after NTP)
<b>Car 1</b>	1	\$ _____	\$ _____	_____
<b>Car 2</b>	1	\$ _____	\$ _____	_____
<b>Car 3</b>	1	\$ _____	\$ _____	_____

PRICE IS VALID FOR \_\_\_\_\_ (Days)

- I understand that MATA reserves the right to reject this proposal, but that this proposal shall remain open and not be withdrawn for a period of 90 days from the date prescribed for its opening.
- I understand the successful proposer will provide no later than the date of contract execution an escrow account of \$100,000 to MATA in accordance with Paragraph 7.0, of the Instructions to Proposers.
- Notice of acceptance, or request for additional information, may be addressed to the undersigned at the address set forth below.
- The undersigned understands that any conditions by the proposer or modifications to items not requested may render the proposal non-responsive.
- The names of all persons interested in the foregoing proposal as principals are:  
Note: If proposer is a corporation, set forth in the space below the following information.
  - The legal name of the corporation.
  - The state where it is incorporated.
  - The name of the president of the corporation.
  - The name of the secretary of the corporation.
  - Signatures of officer(s) authorized to sign contracts on behalf of the corporation.

If proposer is a partnership, provide:

1. Name of the firm.
2. Names of all individual partners.

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Signature(s): \_\_\_\_\_

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

Business Address: \_\_\_\_\_

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

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

Email Address: \_\_\_\_\_

**NO RESPONSE**

\* PLEASE EITHER PRINT OR TYPE INFORMATION ON THIS FORM \*

TO: Memphis Area Transit Authority (MATA)

Our company is submitting a "NO RESPONSE" on RFP# 23-08 Trolley and Streetcar Rehabilitation Project for the reason indicated below.

- Product or service is not available.
- Cannot provide required bonds.
- Other obligations - cannot make deadline.
- Other (please explain below)

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FROM:

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

Representative: \_\_\_\_\_

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

Phone Number: \_\_\_\_\_

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

- Please keep our name on the Proposer's list for this item.
- Please remove our name from the Proposer's list for this item.

**FAILURE TO RETURN EITHER A PROPOSAL OR THIS FORM MAY RESULT IN  
REMOVAL FROM THE PROPOSER'S LIST.**

**MEMPHIS AREA TRANSIT AUTHORITY  
GENERAL CONTRACT PROVISIONS**

**1. No Government Obligation**

a. MATA and the CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to MATA, the CONTRACTOR, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

b. The CONTRACTOR agrees to include the above clause in each subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who shall be subject to its provisions.

c. Once the specifications of vintage trolley(s) being offered are established, MATA will consult APTA Heritage Trolley Task Force.

**2. False or Fraudulent Statements or Claims**

The CONTRACTOR acknowledges and agrees that:

The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.* and U.S. Department of Transportation (DOT) regulations "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the Project. Accordingly, by executing the Contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make in connection with the Project covered by the Contract. In addition to other penalties that may apply, the CONTRACTOR also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

If the CONTRACTOR makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement with the Federal Government in connection with a project authorized under 49 U.S.C. chapter 53 or any other Federal law, the Federal Government reserves the right to impose on the CONTRACTOR the penalties of 49 U.S.C. § 5323(1), 18 U.S.C. § 1001, or other applicable Federal law to the extent the Federal Government deems appropriate.

**3. Access to Records**

a. The CONTRACTOR shall permit MATA, the Secretary, and Comptroller General of the United States or any of their duly authorized representatives' access to all CONTRACTOR records as they request for audits and inspections related to any Contract not awarded on the basis of competitive bidding for a capital or improvement project, as needed for compliance with 49 U.S.C. § 5325(a). The CONTRACTOR shall permit said persons to inspect all work materials, payrolls, and other data with regard to the project, and to audit the books, records, and accounts pertaining to such Contracts with regard to the project. The CONTRACTOR shall provide sufficient access to contract records as needed for compliance with federal



regulations or to assure proper project management as determined by FTA.

b. The CONTRACTOR shall maintain documentation for all charges against MATA under this Contract. The books, records, and documents of the CONTRACTOR, insofar as they relate to work performed or money received under the Contract, shall be maintained in conformity with generally accepted accounting principles for a period of three full years from the date of final payment, and shall be subject to audit, at any reasonable time upon reasonable notice, by MATA, the State of Tennessee or the Comptroller of the Treasury or their duly appointed representatives, or a licensed independent public accountant. Further, the records shall be maintained for a period not less than that recommended in the Uniform Manual for Development Districts of Tennessee, published by the Comptroller of the Treasury, State of Tennessee, but not less than three years from the date of final payment.

c. In the event any Federal or State agency audits MATA, the CONTRACTOR shall provide whatever records, information, and assistance as MATA may reasonably require.

d. The CONTRACTOR shall provide information and assistance requested by MATA for progress reports required of MATA by Federal or State Government, or agencies.

**4. Federal Changes**

The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form (18) FTA Master Agreement dated October 1, 2011) between MATA and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

**5. Nondiscrimination in Federal Public Transportation Programs**

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with the provisions of 49 U.S.C. § 5332, which prohibit discrimination on the basis of race, color, creed, national origin, sex, or age, and prohibits discrimination in employment or business opportunity.

**6. Nondiscrimination - Title VI of the Civil Rights Act**

The CONTRACTOR shall comply and will assure the compliance by subcontractors under this project with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. Section 2000d *et seq.*, and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21 and the assurances by MATA pursuant thereto.

**7. Equal Employment Opportunity.**

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly, the CONTRACTOR agrees that it shall not discriminate against any employee or

applicant for employment because of race, color, creed, sex, disability, age, or national origin. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, disability, age, or national origin. Such action shall include, but not be limited to, employment, upgrading, demotions or transfers, recruitment or recruitment advertising, layoffs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

**8. Disadvantaged Business Enterprises (DBEs)**

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantage Business Enterprises in Department of Transportation Financial Assistance Programs.

A. DBE Requirements for Transit Vehicle Manufacturers:

Pursuant to Title 49, Code of Federal Regulations, Part 26.49, a Proposer, as a condition of being authorized to respond to this solicitation, must certify by completing the form Transit Vehicle Manufactures (TVM) Certification that it has on file with the Federal Transportation Administration (FTA) an approved or not disapproved annual Disadvantaged Business Enterprise (DBE) subcontracting participation goal.

**9. Termination Provisions – (Applicable to Contracts Exceeding \$10,000)**

MATA may terminate this Contract without cause by giving 15 days written notice to the CONTRACTOR thereof and specifying the effective date of termination.

If the Contract is terminated by MATA as provided herein, the CONTRACTOR will be paid for its satisfactory services completed through the date of termination specified by MATA.

a. If, through any cause, the CONTRACTOR shall fail to fulfill in a timely and proper manner its obligations under this Contract, or shall violate any of the covenants, agreements, or stipulations of this Contract by giving written notice to the CONTRACTOR for such termination and specifying the effective date of such termination. In the event of termination, the CONTRACTOR shall be entitled to just and equitable compensation for any satisfactory work through the date of termination specified by MATA.

b. In the event of default by the CONTRACTOR, MATA shall be entitled to all of its reasonable expenses, and its cost to include, but not limited to its reasonable attorney's fees incurred by reason of such default.

In addition to the foregoing, MATA reserves the right to cancel any services or portion of services to be provided hereunder upon written notice to the CONTRACTOR specifying the cancelled services and the effective date of such cancellation. In the event of such cancellation, the CONTRACTOR shall be compensated for satisfactory work completed and, further, the compensation due to the CONTRACTOR hereunder shall be reduced accordingly effective said cancellation date.

**10. Debarment and Suspension Requirements (Applicable to Contracts Exceeding \$25,000)**

Unless otherwise permitted by law, any person that is debarred, suspended, or voluntarily excluded may not take Part in a federally covered transaction, either as participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, neither FTA nor MATA may enter into any transaction with such debarred, suspended, or

voluntarily excluded persons during such period.

A certification process has been established by 49 CFR, Part 29 as a means to ensure that debarred, suspended, or voluntarily excluded persons do not participate in a federally assisted project. Each CONTRACTOR and subcontractor must provide to MATA a signed certification in compliance with 49 CFR, Part 29, as Part of this Contract. (Exhibit III)

**11. Buy America Requirements (Applicable to Contracts for \$100,000 or greater)**

The CONTRACTOR agrees to comply with 49 U.S.C. § 5323(j), FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and implementing guidance FTA may issue. A Buy America certificate (Exhibit II), as per attached format, must be completed and submitted with the Proposal or the Proposal shall be considered non-responsive.

A waiver from the Buy America provision may be sought by MATA if grounds for the waiver exist. Section 165a of the Surface Transportation Assistance Act of 1982 permits FTA's participation in this Contract only if iron, steel, and manufactured products used in the Contract are produced in the United States.

**12. Provisions for Resolution of Disputes, Breaches, or Other Litigation (Applicable to Contracts Exceeding \$100,000)**

Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract, which is not disposed of by agreement, shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the CONTRACTOR. The Contracting Officer may consult with the Construction Manager if one has been appointed for this project. The decision of the Contracting Officer shall be final and conclusive unless, within 10 days from the receipt of such copy, the CONTRACTOR mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Chief Executive Officer of MATA. The Chief Executive Officer shall review the dispute, related documents, and the Contracting Officer's Final Decision. The Chief Executive Officer may consult with the Construction Manager and the Contracting Officer. The decision of the Chief Executive Officer shall be final and conclusive unless, within 10 days from the date of the receipt of such copy, the CONTRACTOR mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the Board of the Memphis Area Transit Authority. The decision of the Board of its duly authorized representative for the determination of such appeals shall be final and conclusive unless in proceedings initiated by either party for review of such decision in a court of competent jurisdiction, the Court determines the decision to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith or is not supported by substantial evidence. In connection with any appeal proceeding under this Article, the CONTRACTOR shall be afforded an opportunity to be heard and to offer evidence in support of his appeal. Pending final decision of a dispute hereunder, the CONTRACTOR shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision.

This section does not preclude consideration of questions of law in connection with decisions provided for in the above paragraph. Nothing in this Contract, however, shall be construed as making final the decisions of the Board or its representative on a question of law.

**13. Lobbying Requirements (Applicable to Contracts Exceeding \$100,000)**

Federal regulations require MATA to include certifications from contractors. Accordingly, the CONTRACTOR must sign the attached certification. (Exhibit IV)

By executing this Contract, the CONTRACTOR certifies to the best of its knowledge and belief that:

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

b. If any funds other than Federal appropriated funds have been paid or shall be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the CONTRACTOR shall complete and submit Office of Management and Budget Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

c. The CONTRACTOR shall insert the language of this certification in all subcontracts and require that all subcontractors at any tier shall certify and disclose accordingly.

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

#### **14. Environmental Requirements**

a. The CONTRACTOR agrees to comply with all applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended (NEPA), 42 U.S.C. §§ 4321 through 4335 (as restricted by 42 U.S.C. § 5159, if applicable); Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements at 49 U.S.C. § 5324(b); U.S. Council on Environmental Quality regulations pertaining to compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622, and other applicable Federal environmental protection regulations that may be promulgated at a later date. The CONTRACTOR agrees to comply with the applicable provisions of 23 U.S.C. § 139 pertaining to environmental procedures, and, as applicable, 23 U.S.C. § 326, pertaining to State responsibility for categorical exclusions, in accordance with the provisions of joint FHWA/FTA final guidance, "SAFETEA-LU Environmental Review Process (Public Law 109-59)," 71 *Fed. Reg.* 66576 *et seq.*, November 15, 2006, and any applicable Federal directives that may be issued at a later date, except to the extent that FTA determines otherwise in writing.

#### **b. Air Quality (Applicable to Contracts Exceeding \$100,000)**

Except to the extent the Federal Government determines otherwise in writing, the CONTRACTOR agrees to comply with all applicable Federal laws and regulations and follow applicable Federal directives implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. Specifically:

1. The CONTRACTOR agrees to comply with the applicable requirements of subsection 176(c) of the Clean Air Act, 42 U.S.C. § 7506(c); with U.S. EPA regulations, "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93, Sub-Part A; and with any other applicable Federal conformity regulations that may be promulgated at a later date. To support the requisite air quality conformity finding for the Project, the CONTRACTOR agrees to implement each air quality mitigation or control measure incorporated in the applicable documents accompanying the approval of the Project. The CONTRACTOR further agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure shall be wholly consistent with the design concept and scope of the Project described in the SIP.

2. U.S. EPA also imposes requirements implementing the Clean Air Act, as amended, that may apply to public transportation operators, particularly operators of large public transportation trolley fleets. Accordingly, to the extent they apply to the Project, the CONTRACTOR agrees to comply with U.S. EPA regulations, "Control of Air Pollution from Mobile Sources," 40 C.F.R. Part 85; U.S. EPA regulations, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," 40 C.F.R. Part 86; and U.S. EPA regulations "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600, and any revisions thereto.

3. The CONTRACTOR agrees to comply with the notice of violating facilities provisions of section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7414, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

c. Clean Water Requirements (Applicable to Contracts Exceeding \$100,000)

Except to the extent the Federal Government determines otherwise in writing, the CONTRACTOR agrees to comply with all Federal laws and regulations and follow applicable Federal directives implementing the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377. Specifically:

1. The CONTRACTOR agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300f through 300j-6.

2. The CONTRACTOR agrees to comply with the notice of violating facilities provisions of section 508 of the Clean Water Act, as amended, 33 U.S.C. §§ 1368, and facilitate compliance with Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.

d. Use of Certain Public Lands. The CONTRACTOR agrees that in implementing its Project, it shall not use any publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, unless the Federal Government makes the findings required by 49 U.S.C. § 303. The CONTRACTOR also agrees to comply with joint FHWA/FTA regulations, "Parks, Recreation Areas, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 774, and referenced in 49 C.F.R. Part 622.

e. Wild and Scenic Rivers. The CONTRACTOR agrees to comply with applicable provisions of the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 through

1287, relating to protecting components of the national wild and scenic rivers system, with applicable implementing U.S. Forest Service regulations, "Wild and Scenic Rivers," 36 C.F.R. Part 297, and with applicable implementing U.S. Bureau of Land Management regulations, "Management Areas," 43 C.F.R. Part 8350.

f. Coastal Zone Management. The CONTRACTOR agrees to assure Project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 through 1465.

g. Wetlands. The CONTRACTOR agrees to comply with the protections for wetlands addressed in Executive Order No. 11990, as amended, "Protection of Wetlands," 42 U.S.C. § 4321 note.

h. Floodplains. The CONTRACTOR agrees to facilitate compliance with the flood hazards protections in floodplains in accordance with Executive Order No. 11988, as amended, "Floodplain Management" 42 U.S.C. § 4321 note.

i. Endangered Species and Fisheries Conservation. The CONTRACTOR agrees to comply with applicable protections for endangered species of the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 through 1544, and the Magnuson Stevens Fisheries Conservation Act, as amended, 16 U.S.C. §§ 1801 *et seq.*

j. Historic Preservation. The CONTRACTOR agrees as follows:

1. The CONTRACTOR agrees that in implementing its Project, it shall not use any land from a historic site that is on or eligible for inclusion on the National Register of Historic Places, unless the Federal Government makes the findings required by 49 U.S.C. § 303.

2. The CONTRACTOR agrees to encourage compliance with the Federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f; Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note; and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. §§ 469a through 469c as follows:

(a) In accordance with U.S. Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 C.F.R. Part 800, the CONTRACTOR agrees to consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project and agrees to notify FTA of affected properties.

(b) The CONTRACTOR agrees to comply with all applicable Federal regulations and directives to avoid or mitigate adverse effects on those historic properties, except to the extent the Federal Government determines otherwise in writing.

k. Indian Sacred Sites. The CONTRACTOR agrees to facilitate compliance with the preservation of places and objects of religious importance to American Indians, Eskimos, Aleuts, and Native Hawaiians, pursuant to the American Indian Religious Freedom Act, 42 U.S.C. § 1996, in accordance with Executive Order No. 13007, "Indian Sacred Sites," 42 U.S.C. § 1996 note, except to the extent that the Federal Government determines otherwise in writing.

l. Mitigation of Adverse Environmental Effects. Should the Project cause or result in

adverse environmental effects, the CONTRACTOR agrees to take all reasonable steps to minimize the impact of those adverse effects, as required by 49 U.S.C. § 5324(b), and other applicable Federal laws and regulations, including 23 C.F.R. Part 771, 23 C.F.R. Part 774, and 49 C.F.R. Part 622. The CONTRACTOR agrees to implement all environmental mitigation measures that may be identified as commitments in applicable environmental documents (such as environmental assessments, environmental impact statements, memoranda of agreement, and other documents required by 49 U.S.C. § 303). The CONTRACTOR also agrees to comply with any conditions the Federal Government might impose in a finding of no significant impact or a record of decision. The CONTRACTOR agrees that those mitigation measures are incorporated by reference and made Part of the Contract. The CONTRACTOR agrees that any deferred mitigation measures shall be incorporated by reference and made Part of the Contract as soon as agreement with the Federal Government is reached. The CONTRACTOR agrees that any mitigation measures agreed on may not be modified or withdrawn without the express written approval of the Federal Government.

**16. Cargo Preference – Use of United States Flag Vessels**

The CONTRACTOR agrees to comply with U.S. Maritime Administration regulations, “Cargo Preference – U.S. Flag Vessels,” 46 C.F.R. Part 381, to the extent those regulations apply to the Project. Specifically, the CONTRACTOR agrees:

a. To utilize privately owned United States Flag Commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates to United States Flag Commercial vessels.

b. To furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment originating outside the United States, a legible copy of a rated, On-Board Commercial Ocean Bill-Of-Lading, in English, for each shipment of cargo described in paragraph one above to MATA (through the prime CONTRACTOR in the case of subcontractor Bill-of-Lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, S.W., Washington, DC 20590, marked with appropriate identification of the project.

**17. Fly America**

The CONTRACTOR understand and agrees that the Federal Government shall not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S. flag air carriers to the extent service by U.S. flag air carriers is available, consistent with the requirements of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40117, and U.S. General Services Administration (U.S. GSA) regulations “Use of United States Flag Air Carriers,” 41 C.F.R. §§ 301.131 through 301.143.

**18. Davis-Bacon Act, as amended - (Applicable to Construction Contracts Only)**

**19. Contract Work Hours and Safety Standards Act**

The CONTRACTOR agrees to comply, and assures the compliance of each subcontractor, lessee, third party contractor, and other participant at any tier of the Project, with the employee protection requirements for non-construction employees of the Contract Work Hours and

Safety Standards Act, as amended, 40 U.S.C. §§ 3701 *et seq.*, in particular with the wage and hour requirements of section 102 of that Act at 40 U.S.C. § 3702, and with implementing U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. Part 5.

**20. Copeland Anti-Kickback Act – as amended - (Applicable to Construction Contracts Only)**

The CONTRACTOR shall comply with the Copeland “Anti-Kickback” Act, 18 U.S.C. 874 and 40 U.S.C. 276c, and U.S. Department of Labor (DOL) regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”, 29 C.F.R. Part 3. In addition to other requirements that may apply:

The CONTRACTOR shall not induce, by any means, any person employed in the construction, completion, or repair of public work, to give up any Part of the compensation to which that employee is otherwise entitled.

MATA agrees to report every suspected or reported violation of the Copeland “Anti-Kickback” Act or its Federal implementing regulations to FTA.

**21. Bonding Requirements**

Bid Bond. No bid bond is required for this RFP.

**22. Seismic Safety (Applicable to Design and/or Construction Contracts Only)**

The CONTRACTOR agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 U.S.C. §§ 7701 *et seq.*, with Executive Order No. 12699, “Seismic Safety of Federal and Federally-Assisted or Regulated New Building Construction,” 42 U.S.C. § 7704 note, and with U.S. DOT regulations, “Seismic Safety,” 49 C.F.R. Part 41, (specifically, 49 C.F.R. § 41.117), and any implementing guidance FTA may issue.

**23. Patent Rights Requirements – (Applicable to Contracts For Planning, Research, Development and/or Demonstration Projects Only)**

a. General. If any invention, improvement, or discovery of the CONTRACTOR or of any subcontractor, lessee, third party contractor, or other participant at any tier of the Project is conceived or first actually reduced to practice in the course of or under the Project, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Recipient agrees to notify FTA immediately and provide a detailed report in a format satisfactory to FTA.

b. Federal Rights. The CONTRACTOR agrees that its rights and responsibilities, and those of each subcontractor, lessee, or other participant at any tier of the Project, pertaining to that invention, improvement, or discovery shall be determined in accordance with applicable Federal laws and regulations, including any waiver thereof. Absent a determination in writing to the contrary by the Federal Government, the Recipient agrees to transmit to FTA those rights due the Federal Government in any invention, improvement, or discovery resulting from that subcontract, lease, or arrangement, as specified in 35 U.S.C. §§ 200 *et seq.*, and U.S. Department of Commerce regulations, “Rights to Inventions Made by Nonprofit Organizations



and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” 37 C.F.R. Part 401, irrespective of the status of the CONTRACTOR, subcontractor, lessee, third party contractor or other participant in the Project (*i.e.*, a large business, small business, State government, State instrumentality, local government, Indian tribe, nonprofit organization, institution of higher education, or individual).

c. License Fees and Royalties. FTA considers income earned from license fees and royalties for patents, patent applications, and inventions produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the CONTRACTOR has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq.*, which applies to patent rights developed under a research project.

**24. Rights in Data and Copyrights Requirements – (Applicable to Contracts for Planning, Research, Development and/or Demonstration Projects Only)**

a. Definition. The term “subject data,” as used in this Section 18 of the FTA Master Agreement means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Grant Agreement or Cooperative Agreement for the Project. Examples include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information. “Subject data” do not include financial reports, cost analyses, or other similar information used for Project administration.

b. General. The following restrictions apply to all subject data first produced in the performance of the Contract for the Project:

(1) Except for its own internal use, the CONTRACTOR may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the CONTRACTOR authorize others to do so, without the prior written consent of the Federal Government, unless the Federal Government has previously released or approved the release of such data to the public.

(2) The restrictions on publication of Paragraph 18(b)(1) of the FTA Master Agreement, however, do not apply to a Contract with an institution of higher learning.

c. Federal Rights in Data and Copyrights. The CONTRACTOR agrees to provide to the Federal Government a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for Federal Government purposes the subject data described in this Subsection 18.c of the FTA Master Agreement. As used herein, “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 provide or otherwise extend to other parties the Federal Government’s license to:

(1) Any subject data developed under the Contract for the Project, or under a subcontract, lease, third party contract or other arrangement at any tier of the Project, supported with Federal assistance derived from the Contract for the Project, whether or not a copyright has been obtained; and

(2) Any rights of copyright to which a CONTRACTOR, subcontractor, lessee, third party contractor, or other participant at any tier of the Project purchases ownership using Federal assistance.

d. Special Federal Rights in Data for Research, Development, Demonstration, and Special Studies Projects. In general, FTA's purpose in providing Federal assistance for a research, development, demonstration, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project-to-Project participants. Therefore, when the Project is completed, the CONTRACTOR agrees to provide a Project report that FTA may publish or make available for publication on the Internet. In addition, the CONTRACTOR agrees to provide other reports pertaining to the Project that FTA may request. The CONTRACTOR agrees to identify clearly any specific confidential, privileged, or proprietary information it submits to FTA. In addition, except to the extent that FTA determines otherwise in writing, the CONTRACTOR to support a research, development, demonstration, or a special studies Project agrees that, in addition to the rights in data and copyrights that it must provide to the Federal Government as set forth in Subsection 18.c of the FTA Master Agreement, FTA may make available to any FTA CONTRACTOR, subcontractor, or other participant at any tier of the Project, either FTA's license in the copyright to the subject data or a copy of the subject data. If the Project is not completed for any reason whatsoever, all data developed under the Project shall become subject data as defined in Subsection 18.a of the FTA Master Agreement and shall be delivered as the Federal Government may direct. This Subsection 18.d, however, does not apply to adaptations of automatic data processing equipment or programs for the CONTRACTOR's use when the costs thereof are financed with Federal assistance through an FTA capital program.

e. License Fees and Royalties. FTA considers income earned from license fees and royalties for copyrighted material, or trademarks produced under the Project to be program income. Except to the extent FTA determines otherwise in writing, as provided in 49 C.F.R. Parts 18 and 19, the CONTRACTOR has no obligation to the Federal Government with respect to that program income, apart from compliance with 35 U.S.C. §§ 200 *et seq.*, which applies to patent rights developed under a research project.

f. Hold Harmless. Except as prohibited or otherwise limited by State law or except to the extent that FTA determines otherwise in writing, upon request by the Federal Government, the CONTRACTOR agrees to indemnify, save, and hold harmless the Federal Government and 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 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 the Project. The CONTRACTOR shall not be required to indemnify the Federal Government for any such liability caused by the wrongful acts of Federal employees or agents.

g. Restrictions on Access to Patent Rights. Nothing in Section 18 of the FTA Master Agreement pertaining to rights in data shall either imply a license to the Federal Government under any patent or be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent.

h. Data Developed Without Federal Funding or Support. In connection with the Project, the CONTRACTOR may find it necessary to provide data to FTA developed without any Federal funding or support by the Federal Government. The requirements of Subsections 18.b, 18.c, and 18.d of the FTA Master Agreement do not apply to data developed without Federal funding or support by the Federal Government, even though that data may have been used in connection with the Project. Nevertheless, the CONTRACTOR understands and agrees that the Federal Government shall not be able to protect data from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential."

i. Requirements to Release Data. To the extent required by U.S. DOT regulations,

“Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations,” at 49 C.F.R. § 19.36(d), or other applicable Federal laws or Federal regulations, the CONTRACTOR understands and agrees that the data and information it submits to the Federal Government may be required to be released in accordance with the Freedom of Information Act (or another Federal law or Federal regulation providing access to such records).

**25. Energy Conservation Requirements**

The CONTRACTOR agrees to comply with mandatory energy efficiency standards and policies within the applicable Tennessee energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

**26. Requirements for Recycled Products**

The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designed in Subpart B of 40 CFR Part 247.

**27. National Intelligent Transportation Systems Architecture and Standards**

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

**28. ADA Access Requirements**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5301(d) which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The CONTRACTOR also agrees to comply with all applicable requirements of Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires the provision of accessible facilities and services, and with the following Federal regulations, including any amendments thereto:

- a. U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37;
- b. U.S. DOT regulations “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. Part 27;
- c. Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- d. U.S. Department of Justice (DOJ) regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. Part 35;

- e. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F. R. Part 36;
- f. U.S. General Services Administration (GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- g. U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- h. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F.
- i. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.
- j. Any implementing requirements FTA may issue.

**29. Notification of Federal Participation**

To the extent required by law, in the announcement of any contract award for goods or services (Including construction services) having an aggregate value of \$500,000 or more, the CONTRACTOR agrees to specify the amount of Federal assistance intended to be used to finance the contract and to express that amount of that Federal assistance as a percentage of the total cost of the contract.

**30. Bus Testing Certification and Report (NOT APPLICABLE TO THIS PROCUREMENT)**

To the extent applicable the CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323 (c) and FTA regulations, "Bus Testing", 49 C.F.R. Part 665, and any revision thereto.

**31. Buy America Certifications**

The CONTRACTOR agrees to comply with 49 U.S.C. § 5323(j), FTA regulations, "Buy America Requirements " 49 C.F.R. Part 661, and any implementing guidance FTA may issue.

**32. Pre-Award Audit**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

**33. Pre-Award Buy America Certification**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

**34. Pre-Award Purchaser's Requirement**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R.

Part 663, and any revision thereto.

**35. Post-Delivery Audit**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

**36. Post-Delivery Buy America Certification**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

**37. Post-Delivery Purchaser's Requirement**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

**38. On-Site Inspector's Report – Applicable to Rolling Stock Procurements Any Rail Vehicles of 10 or More Revenue Motor Vehicles**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

**39. 49 U.S.C. § 5323(m) and FTA Regulations - (Pre-Award and Post-Delivery)**

The CONTRACTOR agrees to comply with the requirements of 49 U.S.C. § 5323(m) and FTA regulations, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. Part 663, and any revision thereto.

**40. Non-Collusion**

The Proposer guarantees that the Proposal submitted is not a product of collusion with any other Proposer and no effort has been made to fix the Proposal price of any Proposer or to fix any overhead, profit, or cost element of any Proposal price. An Affidavit of Non-Collusion, as per attached format, must be signed and submitted with the Proposal. (Exhibit I)

**41. Proposal Acceptance**

Each Proposal shall be submitted with the understanding that the acceptance, in writing by MATA of the offer to furnish any or all of the items described herein, shall constitute a Contract between the Proposer and MATA, which shall bind the Proposer on his Part to furnish and deliver at his Proposal price and in accordance with said accepted Proposal and specifications.

**42. Pricing**

The price to be quoted in any Proposal submitted shall include all labor, materials, tools, equipment, and other costs necessary to fully complete the project in accordance with the specifications. Anything omitted from such specifications that are clearly necessary for the completion of the item and its appurtenances shall be considered a portion of such Proposal

item although not directly specified or called for in these specifications. All material shall be new and in no case will used, reconditioned, or obsolete material be accepted unless otherwise specified. Proposer should note discounts, if any. Freight charges must be included in the Proposal price.

**43. Terms of Payment**

Payment for the specified items shall be net 30 days after acceptance of each vehicle. Proposer should note any discounts for payment before 30 days.

**44. Acceptance of Trolley(s)**

If the vehicle is not acceptable; MATA will furnish a letter of non-acceptance detailing the deficiencies within 15 days after delivery. Acceptance of delivery of vehicles shall not release the CONTRACTOR from liability for faulty design, workmanship or materials appearing even after final payment has been made.

**45. Approved Equal**

a. In all cases, materials must be furnished as specified. Where brand names or specific items are used in the specifications, consider the term "or approved equal" to follow.

b. Any unapproved deviations, exceptions, substitutions, alternates, or conditional qualifications contained in a Proposal may cause for its rejection.

c. If a potential Proposer feels that his product is an equal to the product specified, he must submit a written request to MATA.

d. Requests for approved equals, clarification of specifications, and protest of specifications must be received by MATA, IN WRITING, NO LATER THAN **11:00 a.m., MONDAY, MAY 22, 2023**, TO ALLOW ANALYSIS OF THE REQUEST. Any request for an approved equal or protest of the specifications must be fully supported with catalog information, specifications, and illustrations or other pertinent information as evidence that the substitute offer is equal to or better than the specifications' requirement. Where an approved equal is requested, the CONTRACTOR must demonstrate the quality of his product to the Authority and must furnish sufficient information to enable the Authority to determine whether the CONTRACTOR'S product is or is not equal to that specified. Such requests may be faxed to Ashley Best, Contract Administrator at (901) 278-9108 or (901) 272-2912 or emailed to [abest@matatransit.com](mailto:abest@matatransit.com).

e. MATA's replies to requests under paragraph (d) above will be post-marked at least 14 days before the date scheduled for Proposal opening.

f. A notice of approved equals shall be furnished to all parties receiving specifications so that all Proposers may prepare their Proposal accordingly.

g. Appeal from the decision of MATA to approve or disapprove approved equal status shall be submitted in writing to the Contracting Officer, MATA, 1370 Levee Road, Memphis, TN 38108, not later than five days from the date of MATA's decision. The appeal shall, at a minimum, identify the decision in questions, specify all reasons why the appealing party disagrees with the decision, and shall include all facts and justification, including technical information, in support of its position. The Contracting Officer may request additional information from the appealing party, and information or a response from the Proposers which

shall likewise be submitted in writing to the Contracting Officer not later than 10 days from the date of MATA's request. So far as practicable, appeals will be decided upon the basis of the written appeal, information and written response submitted by the appealing party and other Proposers; all parties are urged to make written submissions as complete as possible. Failure of any party to timely respond to a request for information may be deemed by MATA that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response; and, in such event, the appeal will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent investigation deemed appropriate by MATA, the Contracting Officer shall either (a) render a decision which shall be final and advise all interested parties of same in writing, or (b) at the sole election of the Contracting Officer, conduct an informal hearing at which the interested participating parties will be afforded an opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedure. Following the informal hearing, the Contracting Officer shall render a decision, which shall be final and advise all interested parties thereof in writing.

h. Changes in the specifications will be made by written addendum by MATA and will be forwarded to all persons and firms to whom Proposal documents have been furnished.

**46. Proposal Withdrawal**

a. Each and every Proposer who submits his Proposal specifically waives any right to withdraw it except as hereinafter provided. Proposers will be given permission to withdraw any Proposal after it has been deposited with MATA, provided any Proposer makes its request by telephone, telegraph, or in writing, twenty-four (24) hours before the time Proposals are due. Requests pertaining to withdrawals by telephone or telegraph must be confirmed in writing by the Proposer and must reach the Office of the Contracting Officer of MATA not later than one hour prior to the time fixed for submission of Proposals.

b. No Proposer may withdraw his Proposal within 90 days after the date Proposals are due.

**47. Proposal Rejection**

MATA reserves the right to waive any minor Proposal informalities or irregularities received which do not go to the heart of the Proposal or prejudice other Proposers, or to reject, for good and compelling reasons, any and all Proposals submitted. Conditional Proposals, or those, which take exception to the specifications, may be considered non-responsive and may be rejected.

**48. Tax Exemption**

MATA is exempt from payment of all Federal, State, and local taxes in connection with the project. Said taxes must not be included in Proposal prices. MATA will provide necessary tax exemption certificate to manufacturer, if requested.

**49. Proposal Evaluation**

a. Consideration will be given to Proposer's previous experience, price, financial responsibility of Proposer, responsiveness to these specifications, including level of participation of DBEs.

- b. Proposers may be required to submit duplicate sworn statements of their financial responsibility, technical qualifications, and performance record before a Contract can be awarded to them.
- c. MATA reserves the right to award Bids singularly or collectively on any of the Bid items.
- d. The Contract shall be awarded according to instructions to proposers.

**50. Proposal Price Form**

If MATA includes a Proposal Price Form in the RFP, prices must be submitted on the form provided. Each item should be listed separately on the form. Proposals submitted in any other form may be considered non-responsive and may be rejected. Proposals may be submitted on any or all of the items in this RFP.

**51. Protest Procedures**

Protests may be made by prospective Proposers whose direct economic interest would be affected by the award of a Contract, or by failure to award a Contract. MATA will consider all protests requested in a timely manner regarding the award of a Contract, whether submitted before or after an award. All protests are to be submitted in writing to the Contracting Officer, Memphis Area Transit Authority, 1370 Levee Road, Memphis, TN 38108. Protest submissions should be concise, logically arranged, and clearly state the grounds for the protest. Protests must include at least the following information:

1. Name, address and telephone number of protester.
2. Identification of the solicitation or Contract Number.
3. A detailed statement of the legal and factual grounds of protest, including copies of relevant documents.
4. A statement as to what relief is requested.

Protests must be submitted to MATA in accordance with these procedures and time requirements. Protests must be complete and contain all issues that the protestor believes relevant.

- a. Proposal protests alleging restrictive specifications or improprieties which are apparent prior to Proposal closing time or receipt of Proposals must be submitted in writing to the Contracting Officer and must be received seven days prior to Proposal closing time or receipt of Proposals. If the written protest is not received by the time specified, Proposals may be received and award may be made in the normal manner unless the Contracting Officer determines that remedial action is required. Oral protests not followed up by a written protest will be disregarded. The Contracting Officer may request additional information from the appealing party and information or a response from other Proposers, which shall likewise be submitted in writing to the Contracting Officer not later than 10 days from the date of MATA's request. So far as practicable, appeals will be decided upon the basis of the written appeal, information, and written response submitted by the appealing party and other Proposers; all parties are urged to make written submissions as complete as possible. Failure of any party to timely respond to a request for information may be deemed by MATA that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response; and, in such event, the protest will proceed and will not be delayed due to



the lack of a response. Upon receipt and review of written submissions and any independent investigation deemed appropriate by MATA, the Contracting Officer shall either (a) render a decision, or (b) at the sole election of the Contracting Officer, conduct an informal hearing at which the interested participating parties will be afforded an opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedures. Following the informal hearing, the Contracting Officer shall render a decision, which shall be final and advise all interested parties thereof in writing but no later than 10 days from the date of the informal hearing.

b. Proposal protest against the making of an award by the MATA Board must be submitted in writing to the Contracting Officer and received by the Contracting Officer within seven days of the award by the MATA Board. The process for resolving protests listed above in Section (a) will be followed for any protest received under this section.

Notice of the protest and the basis therefore will be given to all prospective Proposers. In addition, when a protest against the making of an award by the MATA Board is received and it is determined to withhold the award pending disposition of the protest, the Proposers whose Proposals might become eligible for award shall be requested before expiration of the time for acceptance, to extend or withdraw the Proposal.

Where a written protest against the making of an award is received in the time specified, award will not be made prior to seven days after resolution of the protest unless MATA determines that:

1. The item(s) to be procured or service to be performed is urgently required.
2. Delivery or performance will be unduly delayed by failure to make award promptly; or,
3. Failure to make award will otherwise cause undue harm to MATA or the Federal Government.

c. Protests made after contract award shall be received no later than seven calendar days afterwards. Protests received after award will be reviewed by the Contracting Officer and MATA's General Counsel.

In instances where the award has been made, the CONTRACTOR shall be furnished with the notice of the protest and the basis therefore. If the CONTRACTOR has not executed the Contract as of the date the protest is received by MATA, the execution of the Contract will not be made prior to seven days after resolution of the protest unless MATA determines that:

1. The item(s) to be procured or service to be performed is urgently required.
2. Delivery or performance will be unduly delayed by failure to make award promptly; or,
3. Failure to make award will otherwise cause undue harm to MATA or the Federal Government.

The process for resolving protests listed above in Section (a) will be followed for any protest received under this section.

d. Appeals and requests for reconsideration of the determination of the Contracting

Officer of protests under (a), (b), and (c) must be submitted to the Chief Executive Officer and received within seven days after the date of the written determination by the Contracting Officer. The Chief Executive Officer may request additional information from the appealing party and information or a response from other Proposers, which shall likewise be submitted in writing to the Chief Executive Officer not later than 10 days from the date of MATA's request. So far as practicable, appeals will be decided upon the basis of the written appeal, information, and written response submitted by the appealing party and other Proposers; all parties are urged to make written submissions as complete as possible. Failure of any party to timely respond to a request for information may be deemed by MATA that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response; and, in such event, the appeal will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent investigation deemed appropriate by MATA, the Chief Executive Officer shall either (a) render a decision, or (b) at the sole election of the Chief Executive Officer, conduct an informal hearing at which the interested participating parties will be afforded an opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedures. Following the informal hearing, the Chief Executive Officer shall render a decision, which shall be final and advise all interested parties thereof in writing but no later than 10 days from the date of the informal hearing.

e. Under certain limited circumstances, an interested party may protest to the Federal Transit Administration (FTA) the award of a Contract pursuant to an FTA grant. FTA's review of any protest will be limited to:

1. Alleged failure of MATA to have written protest procedures or alleged failure to follow such procedures.
2. Alleged violations of a specific Federal requirement that provides an applicable compliant procedure which shall be submitted and processed in accordance with that Federal regulation.

f. Protestors shall file a protest with FTA not later than five working days after a final decision of MATA's Chief Executive Officer is rendered under the MATA protest procedure. In instances where the protestor alleges that MATA failed to make a final determination on the protest, the protestor shall file a complaint with FTA not later than five Federal working days after the protestor knew or should have known of MATA's failure to render a final determination on the protest.

g. Submission of Protest to FTA

1. Protests shall be filed with the appropriate FTA Regional Office with a Concurrent copy to MATA.
2. The protest filed with FTA shall:
  - (I) Include the name and address of the protestor.
  - (ii) Identify MATA project number and the number of the Contract Solicitation.
  - (III) Contain a statement of the grounds for the protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully

- supported to the extent possible.
- (iv) Include a copy of the local protest filed with MATA and a copy of the MATA decision, if any.

**52. Correspondence**

The Proposer is required to show all correspondence with MATA and FTA, the following: **RFP No. 23-08**. Communication with MATA should be mailed to Ashley Best, Contract Administrator, MATA, 1370 Levee Road, Memphis, TN 38108, or sent by fax to (901) 274-5866 or (901) 272-2912 or sent by e-mail at [abest@matatransit.com](mailto:abest@matatransit.com).

**53. Contract Subletting**

No Contract may be assigned, sublet, or transferred without the written consent of MATA.

**54. Miscellaneous**

a. CONTRACTOR warrants that it has not been paid any bonus or commission for the purpose of obtaining this Contract.

b. Except as otherwise set forth herein, this Contract shall be governed and construed in accordance with the laws of the State of Tennessee. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation, and enforcement of this Contract shall be instituted and litigated in the courts of the State of Tennessee located in Shelby County, Tennessee, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the State of Tennessee, located in Shelby County, Tennessee.

c. The failure of MATA at any time to insist upon a strict performance of any terms, conditions, and covenants herein shall not be deemed a waiver of any subsequent breach or default of the terms, conditions, and covenants herein contained.

d. CONTRACTOR shall not assign any interest or obligation in this Contract, and CONTRACTOR shall not transfer any interest in the same (whether by assignment or novation), without the prior written consent of MATA.

e. Any proposed change or modification of this Contract shall be submitted in writing to MATA for its prior approval. All changes shall be by written agreement of MATA and CONTRACTOR.

f. The CONTRACTOR acknowledges that MATA is managed and operated by Mid-South Transportation Management, Inc. (MTM). The CONTRACTOR shall cooperate with and abide by the instructions of MATA and MTM personnel.

**55. Extent of Agreement**

a. The Proposal submitted by the CONTRACTOR is incorporated herein by reference as fully set forth verbatim herein. In the event of conflict between this Contract and Proposal, the provisions of this Contract shall control.

b. This Contract, except as set forth in the preceding paragraph, represents the entire and integrated Agreement between MATA and the CONTRACTOR, and supersedes all prior negotiations, statements, instructions, and representations or agreements, whether written or

oral. This Contract may not be modified, amended, or assigned except by written agreement duly signed by both parties.

c. At the election of MATA, the invalidity or illegality of any provisions of this Contract, other than arising from the fiscal inability of MATA to pay the compensation due to the CONTRACTOR as same becomes due, as determined by a court of last resort of competent jurisdiction, shall not affect the validity of the remainder of this Contract, and this Contract shall remain in full force and effect as if such illegal or invalid provisions were not contained herein.

**56. Compliance with Applicable Law**

a. In the performance of its obligations pursuant to this Contract, the CONTRACTOR shall comply with all applicable provisions of Federal, State, and local law in any manner affecting the conduct of the work and all prohibitive orders and instructions issued by the State and Federal Government regarding fortifications, military, and naval establishments and other areas. NOT APPLICABLE TO THIS PROCUREMENT.

b. To accommodate changing Federal requirements, the CONTRACTOR agrees that Federal requirements may change, and the changed requirements will apply to the project as required, unless the Federal Government determines otherwise. All standards or limits within FTA's Master Agreement are minimum requirements, unless modified by FTA.

c. The CONTRACTOR agrees to comply with FTA Circular 4220.1F, "Third Party Contracting Requirements", any revisions or replacement thereof, and applicable Federal regulations or requirements, including FTA third party contracting regulations when promulgated.

**57. Equal Employment Opportunity**

In the performance of its duties hereunder, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of disability, race, color, age, creed, sex, religion, or national origin. The CONTRACTOR shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their disability, race, color, religion, sex, 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 CONTRACTOR 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.

**58. Interests of Federal and State Governmental Officials**

a. No member 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 therefrom.

b. No Part of the proceeds hereof 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 consultant to MATA in connection with any work contemplated or performed relative to this Contract.

**59. Contractor Responsibility**

It is the intent of these specifications to provide for goods of first quality and the workmanship

must be the best obtainable in the various trades. The design of the goods, which the manufacturer proposes to furnish, must be of substantial and durable construction in all respects. No advantage shall be taken by the Proposer or manufacturer in the omission of any Part or detail, which goes to make the product complete and ready for installation and use.

The Contractor shall assume responsibility for all materials used in the Proposal item whether the contractor's manufacturers the same or purchased ready-made from a source outside the contractor's company.

**60. References**

The Proposer shall provide with his Proposal at least five references for projects similar to that described in this Request for Proposal. The following must be provided: company name, address and telephone number, fax number, a contact person, and the dates of the contract. The references given should be on contracts within a 12-month period prior to the Proposal due date.

**61. Delivery**

Proposals shall provide for delivery of all equipment to MATA, 1370 Levee Road, Memphis, TN 38108, unless stated otherwise in this solicitation.

**62. Employment of Contractor**

MATA hereby agrees to engage the CONTRACTOR, and the CONTRACTOR hereby agrees to perform the services hereafter set forth in connection with the project.

**63. Interest of the Contractor**

The CONTRACTOR 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 CONTRACTOR further covenants, that in the performance of this Contract no person having any such interest shall be employed.

**64. Independent Contractor**

The CONTRACTOR is at all times an independent contractor and in no wise shall be deemed to be in joint venture, partnership, or other relationship with MATA.

**65. Indemnification**

The CONTRACTOR shall indemnify, save, defend, and hold MATA, the City of Memphis, TN, RATP Dev and MTM, their officers, agents and employees free from all losses, damages, claims, and expenses in any wise arising or resulting from the actions and omissions of the CONTRACTOR, its employees, agents, or contractors in the performance of its services hereunder.

**66. Cost Analysis**

MATA reserves the right to conduct a cost or price analysis for any purchase. MATA is required to perform a cost analysis when competition is lacking for any purchase. Sole source procurements or procurements which result in a single Proposal being received will be subject

to a cost analysis which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of the data to determine the effect on Proposal prices. MATA may require a pre-award audit, and potential contractors shall be prepared to submit data relevant to the proposed work which will allow MATA 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 MATA reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price. If both parties cannot agree upon a negotiated price, MATA reserves the right to reject the single Proposal. Contract change orders or modifications will be subject to a cost analysis.

**67. No Contingency Fees**

The CONTRACTOR shall warrant that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the CONTRACTOR for the purpose of securing business, for the breach or violation of which warranty MATA shall have the right to annul said Contract without liability or, in its discretion, to deduct from the Contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

**68. Excluded Facilities**

The CONTRACTOR shall comply with the provisions of 40 CFR Part 15 which prohibit the use of facilities included on the Environmental Protection Agency's list of violating facilities.

**69. Prompt Payment**

The CONTRACTOR agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from receipt of each payment the prime contractor relieves from MATA. The CONTRACTOR agrees further to return retainage payments to each subcontractor within 10 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of MATA. This clause applies to both DBE and non-DBE subcontractors. If the CONTRACTOR determines the work to be unsatisfactory, it must notify MATA's Contracting Officer, Project Manager and DBE Liaison Officer immediately, in writing, and state the reasons. Failure to comply with this requirement will be construed to be a breach of contract and subject to contract termination.

**70. Incorporation of FTA Terms**

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 Master Agreement (18) dated October 1, 2011, 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 MATA requests, which would cause MATA to be in violation of the FTA terms and conditions.

**71. Veterans Employment. Recipients and sub-recipients of Federal Financial assistance under this chapter shall ensure that contractors working on a capital project funded using such**

assistance give a hiring preference, to the extent practicable, to veterans (as defined in Section 2108 of Title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give 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 former employee.

# **PART IV**

**ACCEPTANCE TESTS**

**MATA QUALITY ASSURANCE PROVISIONS (TROLLEYS)**

**WARRANTY PROVISIONS**

**WARRANTY-RELATED REPAIR PROCEDURES**



## **PART IV**

**1.0 ACCEPTANCE TESTS**

**2.0 MATA QUALITY ASSURANCE PROVISIONS (TROLLEYS)**

**3.0 WARRANTY PROVISIONS**

**4.0 WARRANTY-RELATED REPAIR PROCEDURES**

## 1.0 ACCEPTANCE TESTS

### 1.1 Responsibility

The contractor shall furnish (as part of the Bid) a listing of projected & documented acceptance tests (pre & post-delivery) to be performed on each renewed vintage trolley following renewal (for MATA review and acceptance). At a minimum, the tests shall be inclusive of all “non-struck through” Elements listed in the attached “Certifiable Elements List” used on the current rehabilitation process for present MATA Trolleys. These acceptance tests shall include pre-delivery inspections and testing by the contractor and inspections and testing by MATA under the trolley(s) being delivered.

#### 1.1.1 Certifiable Elements List

Element No.	Element
2.0	Car Body
3.0	Truck System
4.0	Propulsion System
5.0	Electric System
6.0	Brake and Piping System
8.0	Door Control System
9.0	Lighting System
11.0	Current Collection
13.0	Maintenance Procedures
14.0	Operations Procedures
15.0	Training Plans
21.0	System Integration Plan and Testing

### 1.2 Pre-Delivery Tests

The contractor shall conduct acceptance tests at its plant on each vintage trolley following completion of renewal and before delivery to MATA. These pre-delivery tests shall include visual and measured inspections, as well as testing the total vintage trolley operation. The tests shall be conducted and documented in accordance with written test plans. Additional tests may be conducted at the contractor's discretion to insure that the completed vintage trolley(s) have attained the desired quality and have met the requirements in the technical specifications. This additional testing shall be recorded on appropriate test forms provided by the contractor.

The pre-delivery tests shall be scheduled and conducted with sufficient notice so that they may be witnessed by the resident inspectors, who may accept or reject the results of the tests. The results of pre-delivery tests, and any other tests, shall be filed with the assembly inspection records for each trolley. The under-floor equipment shall be made available for inspection by the resident inspectors, using a pit or trolley hoist provided by the contractor. A hoist, scaffold or elevated platform shall be provided by the contractor to easily and safely inspect trolley roofs. Delivery of each vintage trolley shall require written authorization of a resident inspector. Authorization forms for the release of each trolley for delivery shall be provided by the contractor. An executed copy of the authorization shall accompany the delivery of each trolley.

### 1.2.1 *Inspection-Visual and Measured*

Visual and measured inspections shall be conducted with the trolley in a static condition. The purpose of the inspection testing is to verify overall dimensional and weight requirements, to verify that required components are included and are ready for operation and to verify that components and subsystems that are designed to operate with the trolley in a static condition do function as designed.

### 1.2.2 *Total Trolley Operation*

Total trolley operation shall be evaluated during road tests. The purpose of the road test is to observe and verify the operation of the complete trolley as a unit and to verify the functional operation of the subsystem that can be operated only while the trolley is in motion. MATA defines a complete trolley as a trolley ready for shipment with all seats, interior trim and other components installed and functional.

Each trolley shall be driven for a minimum of 15 miles during the road tests. Observed defects shall be recorded on the test forms. The trolley shall be retested when defects are corrected, and adjustments are made. This process shall continue until defects or required adjustments are no longer detected. Results shall be pass/fail for these trolley operation tests.

After the trolley has been driven on the final road test MATA reserves the right to require the trolley to be raised or placed over a pit to allow the resident inspectors to inspect and check the understructure. Defects found on this inspection must be corrected before the trolley is shipped.

## 1.3 Post-Delivery Tests

MATA will conduct acceptance tests on each delivered trolley. These tests will be completed within 30 days after trolley delivery and will be conducted in accordance with written test plans. The purpose of these tests is to identify defects that have become apparent between the time of trolley release and delivery to MATA. The post-delivery tests will include visual inspection and trolley operations.

Trolleys that fail to pass the post-delivery tests are subject to non-acceptance. MATA will record details of all defects on the appropriate test forms and will notify the contractor of non-acceptance of each trolley within five days after completion of the tests. The defects detected during these tests will be repaired according to procedures defined in Solicitation, Offer and Award/Contractual Provisions.

### 1.3.1 *Visual Inspection*

The post-delivery inspection is similar to the inspection at the contractor's plant and shall be conducted with the trolley in a static condition. Any visual delivery damage shall be identified and recorded during the visual inspection of each trolley.

### 1.3.2 *Trolley Operation*

The road tests for total trolley operation are similar to those conducted at the contractor's plant. Operational deficiencies of each trolley shall be identified and recorded.

### 1.3.3 *Acceptance*

Within 30 calendar days after arrival at the designated point of delivery in Memphis, the trolley will undergo a MATA post-delivery inspection and test. If the trolley passes this inspection and test, acceptance of the trolley by MATA occurs on the thirtieth day. Acceptance may occur earlier if MATA notifies the contractor of early acceptance or places the trolley in revenue service. If the trolley fails the inspection test, MATA reserves the right to either have the contractor make the required repairs or make the repairs itself. If MATA makes the repairs, they will be handled in accordance with the Warranty Provisions.

## **2.0 MATA QUALITY ASSURANCE PROVISIONS**

### **2.1 Quality Assurance Organization**

The contractor will establish and maintain an effective in-plant quality assurance organization. It will be a specifically defined organization and should be directly responsible to the contractor's top management.

#### *2.1.1 Control*

The quality assurance organization will exercise quality control over all phases of production from initiation of design through manufacture and preparation for delivery. The organization will also control the quality of supplied articles.

#### *2.1.2 Authority and Responsibility*

The quality assurance organization will have the authority and responsibility for reliability, quality control, inspection planning, establishment of the quality control system, and acceptance/rejection of materials and manufactured articles in the production of the transit trolley(s).

### **2.2 Quality Assurance Organization Functions**

The quality assurance organization will include the following minimum functions:

#### *2.2.1 Work Instructions*

The quality assurance organizations will verify inspection operation instructions to ascertain that the manufactured product meets all prescribed requirements.

#### *2.2.2 Records Maintenance*

The quality assurance organization will maintain and use records and data essential to the effective operation of its program. These records and data will be available for review by the resident inspectors. Inspection and test records for this procurement will be available for a minimum of one year after inspections and tests are completed.

#### *2.2.3 Corrective Actions*

The quality assurance organization will detect and promptly assure correction of any conditions that may result in the production of defective trolley(s). These conditions may occur in design, purchases, manufacture, tests, or operations that culminate in defective supplies, services, facilities, technical data, or standards.

### **2.3 Standards and Facilities**

The following standards and facilities will be basic in the quality assurance process.

#### *2.3.1 Configurations Control*

The Contractor shall maintain drawings and other documentation that completely describes all of the options and special requirements of this procurement. The quality assurance organization shall verify that each trolley(s) is manufactured with these control drawings and documentation.

### 2.3.2 *Measuring and Testing Facilities*

The Contractor shall provide and maintain the necessary gauges and other measuring and testing equipment devices for use by the quality assurance organization to verify that the trolley(s) conform to all specification requirements. These shall be calibrated at established periods against certified measurement standards that have a known valid relationship to national standards. All torque wrenches must be recalibrated at least once a month.

### 2.3.3 *Production Tooling as Media of Inspection*

When production jigs, fixtures, tooling masters, templates, patterns, and other devices are used as media of inspection, they shall be proven for accuracy at formally established intervals and adjusted, replaced, or repaired as required to maintain quality.

### 2.3.4 *Equipment Used By Inspectors*

The Contractor's gauges and other measuring equipment and testing devices shall be made available for use by the Inspectors to verify that the trolley(s) conform to all specification requirements. If necessary, the Contractor's personnel shall be made available to operate the devices and to verify their condition and accuracy.

## 2.4 Manufacturing Control

The Contractor will ensure that all basic production operations, as well as all other processing and fabricating are performed under controlled conditions. Establishment of these controlled conditions will be based on the documented work instructions, adequate production equipment, and special working environments if necessary.

### 2.4.1 *Completed Items*

A system for final inspection and test of completed trolley(s) will be provided by the quality assurance organization. It will measure the overall quality of each completed trolley(s).

### 2.4.2 *Nonconforming Materials*

The quality assurance organization will monitor the contractor's system for controlling nonconforming materials. The system will include procedures for identification, segregation, and disposition.

### 2.4.3 *Statistical Techniques*

Statistical analysis, tests, and other quality control procedures may be used when appropriate in the quality assurance processes.

### 2.4.4 *Inspection Status*

A system will be maintained by the quality assurance organization for identifying the inspection status of components and completed transit trolley(s). Identification may include cards, tags, or other normal quality control devices.

## 2.5 Inspection System

The quality assurance organization will establish, maintain and periodically audit a fully-documented inspection system. The system will prescribe inspection and test of materials, work in progress, and completed articles. As a minimum, it will include the

following controls.

#### *2.5.1 Inspection Stations*

Inspection stations will be at the best locations to provide for the work content and characteristics to be inspected. Stations will provide the facilities and equipment to inspect structural, electrical, pneumatic, and other components and assemblies for compliance with the design requirements.

Stations will also be at the best locations to inspect or test characteristics before they are concealed by subsequent fabrication or assembly operations. These locations will minimally include underbody structure completion, body framing completion, body before paint preparation, engine installation completion, underbody dress-up and completion, trolley(s) before final paint touch up, trolley(s) before road test, and trolley(s) final road test completion.

#### *2.5.2 Inspection Personnel*

Sufficiently trained inspectors will be used to insure that all materials, components, and assemblies are inspected for conformance with the qualified trolley(s) design.

#### *2.5.3 Inspection Records*

Acceptance, rework, or rejection identification will be attached to inspected articles. Articles that have been accepted as a result of approved materials review actions will be identified. Articles that have been reworked to specified drawing configurations will not require special identification. Articles rejected as unsuitable or scrap will be plainly marked and controlled to prevent installation on the trolley(s). Articles that become obsolete as a result of engineering changes or other actions will be controlled to prevent unauthorized assembly or installation. Unusable articles will be isolated and then scrapped.

Discrepancies noted by the contractor or resident inspector during assembly will be entered by the inspection personnel on a record that accompanies the major component, subassembly, assembly, or trolley(s) from start of assembly through final inspection. Actions will be taken to correct discrepancies or deficiencies in the manufacturing processes, procedures, or other conditions that cause articles to be in nonconformity with the requirements of the contract specifications. The inspection personnel will verify the corrective actions and mark the discrepancy record. If discrepancies cannot be corrected by replacing the nonconforming materials, MATA will approve the modification, repair, or method of correction to the extent that the contract specifications are affected.

#### *2.5.4 Quality Assurance Audits*

The quality assurance organization will establish and maintain a quality control audit program. Records of this program will be subject to review by MATA.

### **2.6 Resident Inspector**

MATA may, at its discretion, be represented at the contractor's plant by resident inspectors. They will monitor, in the contractor's plant, any modifications, preparation, and testing, of trolley(s) being supplied under this procurement. The resident inspectors will be authorized to approve the pre-delivery acceptance tests, and to release the trolley(s) for delivery. Upon request to the quality assurance supervisor, the resident inspectors will have access to the contractor's quality assurance files related to this procurement. These files will include drawings, material standards, parts lists, inspection processing and re-

ports, and records of defects.

No less than 30 days before the beginning of trolley(s) manufacture, the resident inspectors will meet with the contractor's quality assurance manager. They will review the inspection procedures and checklists. The resident inspectors may begin monitoring trolley(s) construction activities two weeks before the start of trolley(s) fabrication.

The contractor will provide office space for the resident inspectors in close proximity to the final assembly area. This office space will be equipped with desks, outside and inside telephones, file cabinet, chairs, and clothing lockers sufficient to accommodate the resident inspector staff. The office space will be properly heated and air-conditioned.

The presence of these resident inspectors in the plant will not relieve the contractor of its responsibility to meet all of the requirements of this procurement.



## 3.0 WARRANTY PROVISIONS

### 3.1 Warranty Requirements

Contractor shall provide two (2) years' service, against defective materials and workmanship not arising from abuse, neglect, or normal wear and tear, for all trolleys, trucks, motors and controllers provided starting from the date of the vehicle is placed in revenue service. Any new parts provided shall be warranted as provided by the manufacturer or supplier.

**NOTE:** Warranty shall start upon MATA's final acceptance the vintage trolley(s).

#### 3.1.1 *Corrective Work Requirements*

The Authority will give the Contractor a written notice of observed defects of the failures with reasonable promptness. Unless otherwise directed in the notice. The Contractor shall commence corrective work at time specified by the Authority, but in no event later than five (5) working days after notification by the Authority of the defect or failure. The Contractor shall diligently pursue such corrective work to completion.

Replacement parts and repairs provided pursuant to corrective work hereunder shall be subject to prior approval of the Authority and shall be tendered and performed in the same manner and extent as items originally delivered.

To prevent delays and disruption to the Authority's operations the Authority shall have the right, when practical and feasible, in its opinion, to the continued use of any such goods, materials, supplies, equipment, systems, components, and work deemed defective or unsatisfactory until it can be taken out of service pursuant to the corrective work hereby undertaken by the Contractor. In addition, the following provisions shall be applicable to this Contract:

If a defect or failure, in the opinion of the Authority constitutes an emergency that will jeopardize or impair the operations and schedules of revenue service, the Authority will provide the Contractor both verbal and written notice thereof and the Contractor shall commence corrective work within 24 hours after receiving verbal notice. Nothing herein shall be constructed as preventing the Authority to utilize its forces to immediately commencing corrective work, provided that all such corrective work is performed in accordance with the Operations and Maintenance Manual furnished by the Contractor. The Contractor shall reimburse the Authority or make replacement (at the option of the Authority) for any spare parts or materials required by the Authority to perform any corrective work with which it must proceed. Such corrective work by the Authority's forces shall not be construed in invalidate Contractor's warranties and other provisions contained in this Article.

Under such emergency conditions, the Contractor, with approval of the Authority may utilize spare parts from the Authority's spare parts inventory, provided that the Contractor agrees to replace each spare part used under terms and within the time period to be prescribed by the Authority.

The general and special warranty provisions described above shall be applicable to each spare part replaced by the contractor or parts used pursuant to subparagraph above.

### 3.1.2 *Failure to Perform Corrective Work*

If the Contractor is unable or fails within the time prescribed to commence and diligently pursue and complete the corrective work, the Authority is by this provision authorized by the Contractor at the option of the Authority and upon written notice to the Contractor, to contract with another or use their own forces to perform the warranty work. The Contractor hereby agrees to reimburse the Authority for all costs and expense in connection with such correct work, including, but not limited to, reasonable attorney's fees.

### 3.1.3 *Timeliness*

It is understood and agreed that the time is of the essence with respect to all corrective work to be undertaken pursuant to the warranty herein contained, expressed or implied.

### 3.1.4 *Other Legal Rights*

The rights and remedies of the Authority under this section are not intended to be exclusive and shall not preclude the exercise of any other rights or remedies provided for in this contract, or by law or otherwise.

## 3.2 Voiding of Warranty

The warranty will not apply to any part or component of the trolley that has been subject to misuse, negligence, accident, or that has been repaired or altered in any way so as to affect adversely its performance or reliability, except insofar as such repairs were in accordance with the contractor's maintenance manuals and the workmanship was in accordance with the recognized standards of the industry. The warranty will also be void if MATA fails to conduct normal inspections and scheduled preventive maintenance procedures as recommended in the contractor's maintenance manuals.

## 3.3 Exceptions to Warranty

The warranty will not apply to scheduled maintenance items nor to items furnished by MATA such as trucks, traction motors, air compressors, controllers, line breakers, radios, fareboxes, and other auxiliary equipment, except insofar as such equipment may be damaged by the failure of a part of component for which the contractor is responsible.

## 3.4 Detection of Defects

If MATA detects a defect within the warranty periods defined in Section 1.1.1, it shall promptly notify the contractor's representative. Within five working days after receipt of notification, the contractor's representative shall either agree that the defect is in fact covered by warranty, or reserve judgment until the subsystem or component is inspected by the contractor's representative or is removed and examined at MATA's property. At that time, the status of warranty coverage on the subsystem or component will be mutually resolved between MATA and the contractor. Work necessary to affect the repairs defined in Section 2.2 shall commence within 10 working days after receipt of notification by the contractor.

## 3.5 Scope of Warranty Repairs

When warranty repairs are required, MATA and the contractor's representative will agree

within five days after notification on the most appropriate course for the repairs and the exact scope of the repairs to be performed under the warranty. If no agreement is obtained within the five-day period, MATA reserves the right to commence the repairs in accordance with Section 2.2.

3.6 Warranty after Replacement/Repairs

If any component, unit, or subsystem is rebuilt or replaced by the Contractor or by MATA personnel, with the concurrence of the Contractor, the subsystem shall have the unexpired warranty period of the original subsystem.

3.7 Warranty of Basic Car Body Structure

The Contractor is not liable for warranty if MATA voids the warranty. If the frame or truck fails or shows indication of imminent failure, MATA will immediately notify the Contractor of the said defect. Within ten calendar days the Contractor shall inform MATA on how the Contractor will repair the trolley. Repair of frame and suspension failures shall be the responsibility of the Contractor. Within 20 calendar days from notification of the defect the Contractor shall begin the repair of the frame and suspension defects. If the trolley is out of revenue service for 35 or more calendar days because of the reported defect, the contractor shall have to either provide a substitute vintage trolley of equal seating capacity and quality or directly reimburse MATA for the cost of leasing substitute vehicles. The maximum daily reimbursement shall be \$200. The contractor shall have to continue to provide a substitute vehicle or reimburse MATA until the defect is completely repaired.

3.8 Reduction of Costs/Product Improvements

MATA welcomes suggestions from the Contractor, after contract award, to reduce costs to improve the quality of the product. MATA will review all such suggestions and, if approved, will negotiate with the Contractor a change in contract price that is mutually beneficial to both parties. MATA is under no obligation to accept any offered suggestions.

3.9 Spare Parts List/Supplier List

Proposer shall furnish with the final invoice a list of recommended spare parts and the suppliers from which they may be obtained. This list shall clearly describe each part and quantity recommended. The address, phone number and email of the suppliers shall be shown.

## **4.0 WARRANTY-RELATED REPAIR PROCEDURES**

### **4.1 Repair Performance**

At its option, MATA or its designated representative may require the contractor or its designated representative to perform warranty covered repairs that are clearly beyond the scope of MATA's capabilities. The work may be done by MATA's personnel with reimbursement by the contractor.

### **4.2 Repairs by Contractor**

If MATA requires the contractor to perform warranty-covered repairs, the contractor's representative must begin the work necessary to make the repairs, within 10 working days after receiving notification of a defect from MATA. MATA will make the vintage trolley available to complete repairs timely with the contractor repair schedule.

The Contractor shall provide, at its own expense, all spare parts, tools and space required to complete repairs. At MATA's option, the contractor may be required to complete repairs. At MATA's option, the Contractor may be required to remove the trolley from MATA's property while repairs are being affected. If the vintage trolley is removed from MATA's property, repair procedures must be diligently pursued by the Contractor's representative.

### **4.2 Repairs by MATA**

#### *4.2.1 Parts Used*

If MATA performs the warranty covered repairs, it will correct or repair the defect and any related defects using contractor-specified spare parts available from its own stock or those supplied by the Contractor specifically for this repair. Monthly, or at a period to be mutually agreed upon, reports of all repairs covered by this warranty will be submitted by MATA to the Contractor for reimbursement or replacement of parts. The Contractor shall provide forms for these reports.

#### *4.2.2 Contractor Supplied Parts*

MATA may request that the Contractor supply new parts for warranty covered repairs being performed by MATA. These parts will be shipped prepaid to MATA from any source selected by the Contractor within 10 working days of receipt of the request for said parts.

#### *4.2.3 Defective Components Return*

The Contractor may request that parts covered by the warranty be returned to the manufacturing plant. The Contractor shall pay the total cost of this action. Materials should be returned in accordance with the Contractor's instructions.

#### *4.2.4 Reimbursement for Labor*

The Contractor shall reimburse MATA for labor costs. The amount shall be determined by multiplying the number of man-hours actually required to correct the defect by the current per hour, straight wage rate, plus 38 percent fringe benefits, plus the cost of towing in the vintage trolley if such action was necessary and if the vintage trolley was in the normal service area. These wage and fringe benefit rates shall not exceed the rates in effect in MATA's repair facility at the time the defect

correction is made. MATA will not accept parts credit as reimbursement of labor. The labor rates for MATA's FY17 (July 1, 2016 – June 30 2017) will be **\$120.00/hr**. Rates beyond June 30, 2017 will be determined by the next contract, and the Contractor shall be notified of the new rate, once established.

#### *4.2.5 Reimbursement for Parts*

MATA will be reimbursed by the Contractor for defective parts and for parts that must be replaced to correct the defect. The reimbursement will be at the invoice cost of the part(s) at the time of repair and will include taxes where applicable and 15% handling costs.

# **PART V**

## **TENNESSEE STATE CONTRACT CLAUSES**

## **Tennessee State Contract Clauses**

### **Conflicts of Interest.**

The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract

### **Lobbying.**

The Grantee certifies, to the best of its knowledge and belief, that:

- a. No federally 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.
- b. If any funds other than federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Grantee 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 subrecipients 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 and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352

### **Nondiscrimination.**

The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

### **Public Accountability.**

If the Grantee is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the

operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

**NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.**

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

### **Public Notice.**

All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee, Department of Transportation." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

### **Records.**

The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control -Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury



directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

### **Environmental Tobacco Smoke.**

Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn Code Ann. §§39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract."

(If the Federal Debarment and Suspension option is included in procurement documents, then this state Debarment and Suspension clause is not needed.)

### **Debarment and Suspension.**

The Grantee certifies, to the best of its knowledge and believe, that the Selected Offeror:

- a. is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or state department or agency;
- b. has not within a three (3) year period preceding this Grant Contract been convicted of, or had a civil judgment rendered against them from commission of fraud, or a criminal offence in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or grant under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;
- c. is not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses detailed in section b. of this certification; and
- d. has not within a three (3) year period preceding this Grant Contract had one or more public transactions (federal, state, or local) terminated for cause or default.

The Grantee will provide immediate written notice to the State if at any time it learns that there was an earlier failure to disclose information or that due to changed circumstances, the Selected Offeror is excluded or disqualified, or presently falls under any of the prohibitions of sections a-d.

## **APPENDIX A**

- 1. Sample MATA Contract Change Order Form**
- 2. Sample Contract**
- 3. Request For Proposal (RFP) Modification No. 2, Specification Changes Matrix**

# SAMPLE

## MEMPHIS AREA TRANSIT AUTHORITY CONTRACT CHANGE ORDER

CONTRACT NO \_\_\_\_\_ CHANGE ORDER NO: \_\_\_\_\_ FTA GRANT NO: \_\_\_\_\_

DATE: \_\_\_\_\_ CONTRACT DATE: \_\_\_\_\_

CONTRACT FOR: \_\_\_\_\_

\*\*\*\*\*

TO: \_\_\_\_\_

You are directed to make the changes specified in the subject contract; as authorized by the  
**MEMPHIS AREA TRANSIT AUTHORITY.**

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_ EFFECTIVE DATE: \_\_\_\_\_

\*\*\*\*\*

NATURE OF CHANGE: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**TOTAL AMOUNT OF THIS CHANGE ORDER:** \_\_\_\_\_ \$ \_\_\_\_\_

\*\*\*\*\*

THE CHANGES RESULT IN THE FOLLOWING ADJUSTMENT OF CONTRACT PRICE AND CONTRACT TIME:

Original Contract Price	\$ _____
Previously Executed Changes	\$ _____
Contract Price Prior to This Change	\$ _____
Net Increase/(Decrease) From This Change	\$ _____
Current Contract Price Including This Change	\$ _____
Contract Time Prior to This Change	_____
Net Increase/(Decrease) From This Change	_____
Current Contract Time Including This Change	_____

\*\*\*\*\*

The Above Changes are Accepted: \_\_\_\_\_  
Company

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_ DATE: \_\_\_\_\_

# SAMPLE

## MEMPHIS AREA TRANSIT AUTHORITY SUPPLY AND SERVICE CONTRACT

CONTRACTOR: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

CONTRACT NO: \_\_\_\_\_

CONTRACT DATE: \_\_\_\_\_

CONTRACT FOR: \_\_\_\_\_

CONTRACT PRICE: \$ \_\_\_\_\_

THIS CONTRACT made and entered into at Memphis, Tennessee on the above date by and between MEMPHIS AREA TRANSIT AUTHORITY (hereinafter called "the AUTHORITY"), party of the First Part, a public transportation system and transit authority organized and existing under and by virtue of the laws of the State of Tennessee and of the City of Memphis, Tennessee, a municipal corporation and the above-named CONTRACTOR, party of the Second Part.

The Authority, pursuant to law, has solicited and received quotes, bids or proposals for furnishing the supplies and services herein described, and has heretofore accepted the quote, bid or proposal submitted by the Contractor. In consideration of the covenants contained herein, the sufficiency of which is hereby acknowledged, the Contractor agrees to perform this contract in strict accordance with standards and specifications of the Authority upon which quotes, bids or proposals were invited and the conditions set forth herein.

The following documents are part of this contract:

RFP No. \_\_\_\_\_, including any and all Addenda and Change Orders,

**General Provisions, Specifications, Conditions and the Proposal is incorporated herein and made part of this contract.**

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**MEMPHIS AREA TRANSIT AUTHORITY**

**BY:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

