

**KETCHIKAN GATEWAY BOROUGH
INVITATION FOR BID**

**PURCHASE OF TWO ADA MINI-VANS
WITH IN-FLOOR SIDE-ENTRY RAMP**

RELEASE DATE: May 13, 2022

THIS IS NOT AN OFFER

The Ketchikan Gateway Borough (Borough) is soliciting sealed bids from qualified individuals, firms, or companies for:

**PURCHASE OF TWO ADA MINI-VANS
WITH IN-FLOOR SIDE-ENTRY RAMP**

To receive the Invitation for Bid (IFB), please contact: 907-228-6637, Procurement Office, Ketchikan Gateway Borough, 1900 First Avenue, Suite 118, Ketchikan, Alaska 99901. Requests for the IFB documents may be faxed to 907-228-6698 or emailed to amyb@kgbak.us. The IFB documents will also be posted on the Borough's website, <http://www.kgbak.us/>. Even though the IFB documents are provided online, each firm must register with the Borough by sending an email to: Amy Briggs, Purchasing Officer amyb@kgbak.us. Bids from unregistered bidders will not be accepted. The required email must include the firm name, address, telephone number, and fax number. No faxed or oral bids will be allowed.

Bid Submission Deadline: To be considered, a complete sealed bid package in the format requested must be received at the Office of the Borough Clerk, 1900 First Avenue, Suite 115, Ketchikan, Alaska 99901 by 2:00 PM local time, June 7, 2022.



Amy Briggs
Procurement Officer

SUBMITTALS

DEADLINE

All Bids must be received by the Borough no later than the date outlined in this IFB.

SUBMITTALS

One copy of the bid documents, including the price proposal, must be submitted in a sealed envelope or box clearly marked on the outside with the project name, and must be delivered to the address outline, and in the required format, on or before the deadline.

Each price-proposal component must be signed and dated by the person who prepares it. If that person is not authorized to bind the bidder, the price-proposal component must also be signed by a person who is authorized to bind the bidder.

Bidder's failure to submit its bid prior to the deadline will cause the bid to be disqualified. Late bids or amendments will not be opened or accepted for evaluation. Bids submitted by fax will not be accepted.

BID DOCUMENTATION FORMS

To be considered, bidders must complete, sign, and include the bid Documentation Forms provided in the IFB with submitted bids.

REQUIRED SIGNATURES

NOTE: The price-bid component forms must be signed and dated by a person who is authorized to bind the bidder.

In addition to the price-bid component, the bid itself must also be signed by a person who is authorized to bind the bidder. Specifically:

- A. A bid by a corporation shall be executed in the corporate name by the president, vice-president, or other corporate officer. Evidence of authority to sign must also be provided. Such evidence may be in the form of a copy of the corporate bylaws, articles of incorporation, resolution of the board, corporate certificate, or other reliable evidence.
- B. A bid by a partnership shall be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. Evidence of authority to sign may be in the form of a copy of the partnership agreement or other reliable evidence.
- C. A bid by a limited liability company shall be executed in the name of the firm by a member and accompanied by evidence of authority to sign. Such evidence may be in the form of a copy of the corporate bylaws, articles of incorporation, resolution of the board, corporate certificate, or other reliable evidence.

D. A bid by an individual shall show the bidder's name and business address.

Failure to provide evidence of authority to sign on behalf of the bidder will not be grounds for rejection if the Borough is able to confirm the authority of the signer to bind the bidder.

INQUIRY DEADLINE

Questions, objections, or protests relating to defects, errors, omissions regarding the project or this IFB should be submitted in writing no later than the date and time specified in this IFB. Substantive issues will be addressed in a written addendum to the IFB.

Address questions to:

Borough Procurement Officer
Amy Briggs
Telephone: 907-228-6637
Fax: 907-228-6684
E-mail: amyb@kgbak.us

DELIVERY INSTRUCTIONS

Bids must be received by the Borough Clerk by the deadline specified in this IFB.

Be aware that Ketchikan is considered a remote location and, as such, mail and special deliveries by couriers to Ketchikan are commonly delayed beyond the advertised guaranteed arrival of carriers and couriers.

Bids must be delivered to:

Borough Clerk
Kacie Paxton
Ketchikan Gateway Borough
1900 First Avenue, Suite 115
Ketchikan, Alaska 99901

INSURANCE AND LEGAL REQUIREMENTS

INSURANCE

Before execution of a contract, and during the entire period of the project, the contractor shall provide the types of insurance listed below. All policies shall have a mandatory 30-day cancellation clause. The Borough shall be named as additional insured on all insurance policies except professional liability policies. Insurance certificates will be required to be submitted for review by the Borough's Risk Manager before the Borough will issue a notice to proceed. Unless specifically marked "not applicable" or "n/a", the following insurances are required:

Workers' compensation as required by law and employer's liability coverage at a minimum of \$1,000,000. The Workers' compensation policy shall include a Waiver of

Subrogation in favor of the Ketchikan Gateway Borough.

Commercial general liability insurance, not excluding explosion, contractual liability or product/completed operation liability insurance - \$1,000,000 per occurrence and \$2,000,000 aggregate.

Comprehensive automobile liability, bodily injury and property damage, including all owned, hired and non-owned, automobile - \$1,000,000 per each accident.

LICENSES AND REGISTRATION

Before execution of a contract, the successful bidder must have a current State of Alaska business license; must have a current sales tax registration on file with the Borough, and must be in good standing in terms of sales tax, property tax, and all other taxes, fees, and monies due to the Borough.

COMPLIANCE WITH LAWS

The Contractor shall observe and abide by all applicable laws, regulations, ordinances and other rules of the State of Alaska and/or any political subdivisions thereof, or any other duly constituted public authority wherein work is done or services performed, and further agrees to indemnify and save the Borough harmless from any and all liability or penalty which may be imposed or asserted by reason of the Contractor's failure or alleged failure to observe and abide thereby.

BIDDER CERTIFIES

The bidder certifies that any and all prices which may be charged under the terms of this bid request do not and will not violate any existing federal, state, or municipal laws or regulations concerning price discrimination and/or price fixing. The bidder agrees to indemnify, exonerate, and hold harmless the Borough from liability for such violation now and throughout the term of the contract.

BIDDER RESPONSIBLE

It is the responsibility of the Bidder to investigate and acquaint themselves with the conditions relating to the work and labor, including (if required) site visits, soil sampling, or other tests.

REJECTION OF BIDS

The Ketchikan Gateway Borough (Borough) reserves the right to reject any or all bids. The Borough also reserves the right to reject any bid which is non-responsive, incomplete, obscure or irregular; any bid which omits any one or more items on which the bids are required;; and any bidder who previously failed to perform properly or to complete on time contracts of any nature.

ADDENDA ACKNOWLEDGMENTS

Addenda must be acknowledged in order for the bid to be deemed responsive. Addenda may also be acknowledged by written or facsimile notice to (907) 228-6697, provided such notice is received two (2) hours prior to the date and time set for receipt of bids, and,

provided further, a written confirmation of the acknowledgment is mailed or shipped via overnight services to the Borough prior to the bid closing time.

WRITTEN WORDS

In the case of a difference between written words and figures, the amount stated in written words shall govern. In the case of a difference between a unit price and the extended price, the unit price shall govern.

MODIFICATIONS

Bids may be modified by written or facsimile notice to (907) 228-6697, provided such modifications are received prior to the date and time set for receipt of bids, and, provided further, a written confirmation of the modification is mailed or shipped via overnight service to the Borough prior to the bid closing time. The modification should not reveal the proposal price, but should provide the addition or subtraction (or other modification) so that the final price or terms will not be known to the Borough until the sealed price documentation is opened.

WITHDRAWAL OF BIDS

Bids may be withdrawn only by written or facsimile notice to (907) 228-6697, provided such notice is received prior to the date and time set for receipt of bids, and, provided further, a written confirmation of the withdrawal is mailed or shipped via overnight service to the Borough prior to the bid closing time. Notice of withdrawals received after the bid opening will not be considered.

BID CANCELLATION

The Borough reserves the right to cancel the procurement, IFB, or award without liability to the Bidder, except return of the bid security, at any time before the Agreement has been fully signed by all parties, including the Borough.

BID PROTEST

An aggrieved bidder may file a bid protest within ten (10) calendar days after the Notice of Intent to Award the contract is mailed.

Per 4 AAC 31.080(d), local bidder preference does not apply.

PROJECT OVERVIEW

PROJECT

Purchase of two ADA mini-vans with in-floor side-entry ramp.

PROJECT SITE

Cost, insurance and freight to Ketchikan, Alaska 99901

PROJECT SCHEDULE

- Invitation for Bids Issued bidder May 13, 2022
- Deadline for questions, objections, or protests relating to defects, errors, omissions regarding the project or this IFB: Noon/May 22, 2022
- Bids Due: 2:00p.m./June 7, 2022
- Notice of Intent to Award: June 7, 2022
- Deadline for Appeal (10 day appeal period) of Proposed Award): Noon/June 17, 2022
- Approval of Contract Award by Assembly (subject to no appeal): June 16, 2022

SCOPE OF WORK

All specifications will be considered minimum unless stated otherwise.

WHEEL CHAIR ACCESSIBLE MINI-VAN WITH SIDE-ENTRY RAMP:

The following specifications shall apply to the purchase of two (2) ADA mini-vans with side-entry ramp by transit providers receiving Federal Transit Administration (FTA) funds.

The ramp-accessible mobility vehicle must comply with all applicable Federal Motor Vehicle Safety Standards (FMVSS) for this type of vehicle. In addition, the vehicle must comply with Title 49 Code of Federal Regulations / part 38, subpart B, dated September 6, 1991 entitled "Americans with Disabilities Act (ADA) Accessibility Specifications for Buses/ Vans and Systems."

Bidder shall have parts and warranty service available at one or more points in Ketchikan, AK.

The bidder agrees, if their proposal is accepted, to guarantee that the design, materials and workmanship throughout the vehicle will conform to the highest standards of the vehicle bid according to the standard factory warranty.

To take advantage of administrative and cost savings and to ensure that all federal requirements are met, this procurement is assignable to other agencies, organizations and tribal governments funded by the Federal Transit Administration.

NOTE: Any brand names and specifications mentioned within this document are for reference only. Equivalent brands and specifications allowed. Bids will only be considered when brochures/ specifications are included for each Vehicle.

ESTIMATED QUANTITY TO BE PURCHASED

Minimum of two (2) vehicles will be purchased in calendar year 2022. Option for a maximum of one (1) additional vehicle to be purchased in calendar year 2023.

VEHICLE OVERVIEW

- Door opening height - 57.3"
- Door opening width - 30"
- Interior height at center position - 61"

- Interior height at driver/passenger position - 61"
- Length (from back of seat bases to kick-plate) - 65.5"
- Clearance from ground to lowest point of vehicle after ramp installation shall not be less than 5" (This is required to load and off-load from the Ketchikan International Airport Ferry at low tide)
- Overall floor length - 94.5"
- Floor width – 64.6"
- Ramp length (angled ramp and transition plate) - 60"
- Usable ramp width - 30"
- Ramp capacity - 800 lbs.

VEHICLE CONFIGURATION

- 6 total passengers with wheelchair accessibility
- Removable mid-row double fold-away seat to maximize seating potential
- Under-floor accessible (manual preferred but not required) ramp, for unobstructed passenger entrance
- Removable front passenger seat

CHASSIS EQUIPMENT

- Front-wheel drive
- 3.5L V6 gasoline engine, EPA estimated 25 highway MPG base van
- 17" Alloy Wheels with P235/60R17 tires
- Enhanced vehicle stability control
- Traction control
- Antilock brakes
- Electronic brake-force distribution
- Brake assist and Smart Stop technology
- Driver and front passenger head rests
- Advanced airbag System: driver & front passenger seat mounted side, driver knee, front passenger seat cushion & 3 row side curtain airbags
- Projector beam headlights w/ auto on-off
- Dual sliding side doors
- Daytime running lights
- Power outside mirrors with integrated blind spot mirrors
- 6-way adjustable driver's seat
- 4-way manual adjustable front passenger seat
- Freedman removable double foldaway seat in mid-section or approved equal
- 60/40 split & stow
- 3-zone auto A/C- driver, passenger, rear
- 6.1" touch-screen with AM/FM/SB/Bluetooth and integrated backup camera display
- 3.5" LCD multi-info display screen
- Remote keyless entry
- In addition to standard set of 4 tires and rims on each vehicle, one full set of

standard tires on rims for each vehicle

VEHICLE SPECIFICATIONS

- Unobstructed entrance for easy ambulatory passenger boarding
- OEM rear bench and full use of cargo bay
- Ramp handle allowing ramp deployment without bending, lifting or straining
- Slip resistant and easy to clean commercial grade altro flooring
- LED floor lighting for ease of wheelchair securement at night
- Minimal ramp footprint for flexibility in tight parking conditions
- ADA/FMVSS and CMVSS Compliant with 2" side rails along with ramp and floor LED illumination providing safety and security
- Manual Sliding doors
- Full cut lowered floor
- Removable front passenger seat
- Three passenger bench seat at rear
- Step flares
- Retractable restraint for wheelchair securement in multiple locations
- Dual mid-row folding seat
- Light Grey Color- AXALTA 820030 EX exterior paint, or approved equal
- Grey interior

WARRANTY

- Bumper-to-Bumper Warranty 3 years or 36,000 miles
- Powertrain Warranty 5 years or 60,000 miles
- Wheelchair Ramp Warranty 5 years or 60,000 miles
- Emissions warranty as mandated by Federal and State
- These warranties shall begin on the date that vehicle delivery is accepted by the agency issuing the purchase order.

ALTOONA TESTING

Either a copy of Altoona Test Report or a certification that the ramp will be installed by the original equipment manufacturer (OEM) or by someone other than the OEM in strict conformance with the OEM modification guidelines must be submitted with the bid.

MANUALS AND INSTRUCTIONS

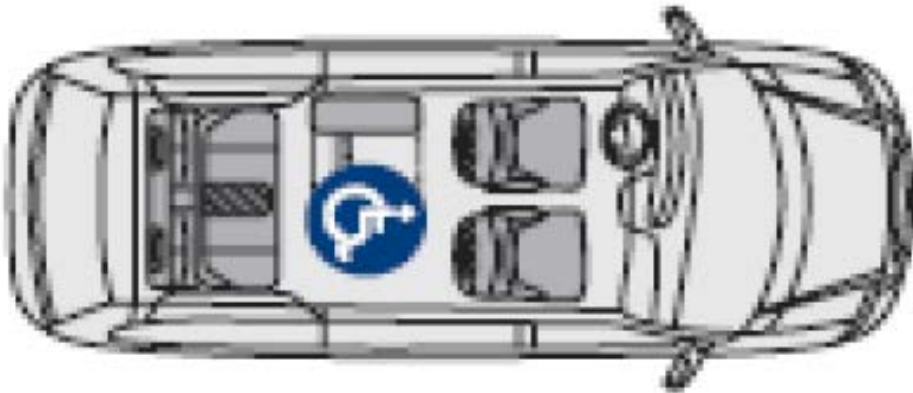
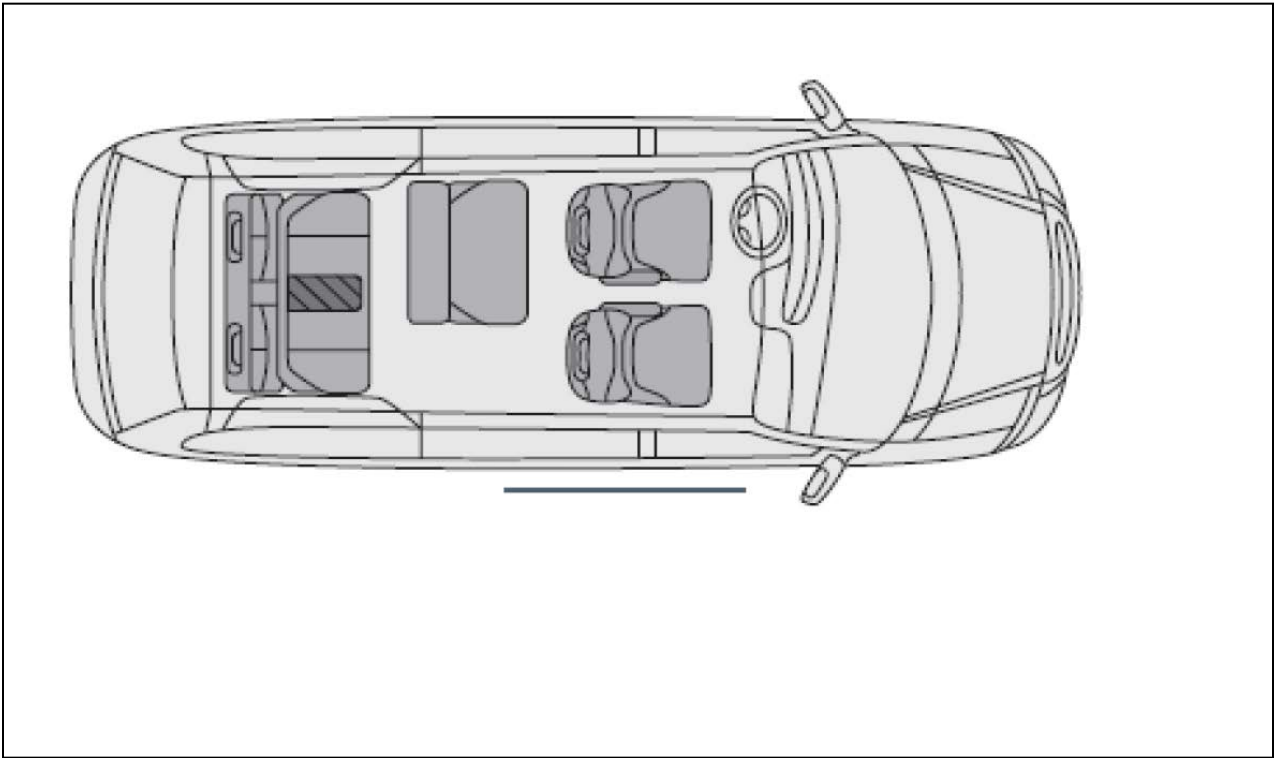
- Operator's manual for vehicle and all add-on equipment.
- Maintenance and inspection schedule incorporating the required maintenance and inspection of the basic vehicle and its sub-systems.
- Warranty information for the vehicle, and additional equipment.
- Vendor will supply written or video instructions on the use of the restraint system.

DELIVERY

Maximum of 120 calendar days from date of the buyers purchase order delivered to Ketchikan, Alaska. Pre-delivery servicing and adjustments: prior to acceptance by the purchaser, the contractor shall service and adjust each vehicle for operation. This process shall include but not be limited to the following:

- All accessories properly adjusted
- Electrical, braking and suspension systems inspected
- Battery checked
- All lubricants checked
- Cooling system level checked
- Exterior and interior cleaned and washed
- A 60-day Temporary Tag must be delivered with each vehicle.

VEHICLE FLOOR PLAN with Jump Seat



BID CHECKLIST

This BID Checklist is a summary of the forms and materials required as part of your firm's bid. Bidders are urged to thoroughly read the entire bid. It may be helpful to use this checklist to help ensure compliance with the submission requirements.

Place a check mark (✓) in the box next to each qualification when completed.

PROCEDURAL QUALIFICATIONS

- Bidders must be registered (company name, address, telephone number, and fax number) with the Borough Procurement Officer as indicated in this solicitation.
- Bids must be received in the Office of the Borough Clerk no later than the date and time indicated in solicitation.

FORM AND CONTENT OF BIDS

- Bids must be in a sealed envelope or box clearly marked with the name of the project on the outside of the envelope or box in order to be considered responsive.
- Bidders must list and acknowledge receipt of any Addenda issued on the Bid Documentation form by signing in the space provided.
- Bidders must fill out the Subcontractors List included in the Bid Documentation indicating the name(s) of any anticipated subcontractors for the proposed project. Use multiple pages if necessary. For portions of the work where a subcontractor will be selected by competitive bids at a later date enter the type of Work to be subcontracted followed by "To be Determined". For example: "Electrical – To Be Determined". If the use of subcontractors is not anticipated, N/A or NONE is to be written on the form.
- The Bid Documentation Forms must be signed by an individual authorized to bind the bidder. All bidders, other than individuals, must include evidence of authorization to sign on behalf of the corporation, partnership, limited liability Company, or other organization. Failure to provide evidence of authority to sign on behalf of the bidder will not be grounds for rejection if the Borough is able to confirm the authority of the signer to bind the bidder.

Completion of this checklist does not guarantee that a bid will be considered to be responsive. The checklist is provided strictly as a courtesy to bidders.

**BID DOCUMENTATION FORMS
GENERAL ACKNOWLEDGMENTS**

**PURCHASE OF TWO ADA MINI-VANS
WITH IN-FLOOR SIDE-ENTRY RAMP**

Award of Project. The Borough shall have the right to reject this bid and such bid shall remain open and may not be withdrawn for a period of sixty (60) days after the date prescribed for its closing.

Notice of Acceptance. Notice of acceptance and award of the project or requests for additional information may be addressed to the undersigned bidder at the business address set forth in this bid.

Minimum Standards. The required work and/or specifications attached herein shall be considered as the minimum standards acceptable to the Borough.

Bidder's Certification.

By signature on this bid documentation, the undersigned bidder certifies that:

- A. The bidder will comply with all insurance requirements in this IFB;
- B. The bidder will comply with all applicable local, state, and federal laws, including but not limited to, wage and hour laws and non-discrimination laws;
- C. The bidder will comply with all terms and conditions set out in this IFB;
- D. The bidder's bid was independently arrived at, without collusion, under penalty of perjury; and
- E. The bid will remain open and valid for at least 60 days from the closing date of the IFB.

Receipt of Addenda. Receipt of the following Addenda to the IFB Documents is hereby acknowledged.

ADDENDA NO.	DATE OF RECEIPT OF ADDENDA	SIGNED ACKNOWLEDGMENT
1	_____	_____
2.	_____	_____
3.	_____	_____
4.	_____	_____

(Note: Failure to acknowledge receipt of any addenda will be considered an irregularity and will result in rejection of the bid.)

BIDDER:

By: _____

Title: _____

Alaska Business License No. _____

Company/Firm Name _____

Telephone _____

Fax No. _____

Mobile No. _____

Business Address _____

Email _____

Pursuant to and in compliance with the Invitation for Bids, the undersigned bidder, being fully familiarized with all the terms of the specifications hereby proposes and agrees to deliver, within the time and in the manner stipulated in the bid for the following:

Signature of Individual Authorized to Bind the Bidder

Printed Name and Title of Individual Authorized to Bind the Bidder

Date

PRICE PROPOSAL FORM

**PURCHASE OF TWO ADA MINI-VANS
WITH IN-FLOOR SIDE-ENTRY RAMP**

Contract Documents which are the basis for this proposal:

1. This IFB and any and all addenda issued

Bid Price Per Vehicle Delivered to Ketchikan, AK:

Cost shall be broken out per vehicle to procure two (2) ADA Mini-Van's with Side-Entry, In-Floor Ramp, with a minimum 3.5-liter V6 gasoline engine 4x2, Single Rear Axle, with capability to accommodate one (1) wheelchair passenger and 3 ambulatory passengers and driver, per the specifications listed in the scope of work.

Body - Year, Make and Model Offered:

Chassis - Year, Make & Model Offered:

Bid Price Per Vehicle:

_____ \$ _____

Price in written word

Price in numbers

Authorized Signor:

Company

Date

Signature and Title

Printed Name

SUBCONTRACTOR LIST

SUBCONTRACTORS: The bidder may not subcontract greater than fifty percent of this project without prior written approval of the Borough. List all subcontractors who will be providing greater than 5 percent of the project work and an approximate percentage of their individual participation by discipline. Use additional copies of this form as needed.

SUBCONTRACTORS:

Company/Firm Name _____

Estimated percentage of subcontractor's participation by discipline _____

Telephone _____

Fax No. _____

Business Address _____

Company/Firm Name _____

Estimated percentage of subcontractor's participation by discipline _____

Telephone _____

Fax No. _____

Business Address _____

Company/Firm Name _____

Estimated percentage of subcontractor's participation by discipline _____

Telephone _____

Fax No. _____

Business Address _____

FEDERAL CLAUSES

1. No Government Obligation to Third Parties

a. PURCHASER and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to PURCHASER, 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 financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the SUBCONTRACTOR who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statements or Related Acts.

a. The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq . and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

b. The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) or other applicable federal law on the CONTRACTOR, to the extent the Federal Government deems appropriate.

c. The CONTRACTOR agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the SUBCONTRACTOR who will be subject to the provisions.

3. Access to Records

The CONTRACTOR agrees to provide PURCHASER, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives

access to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. In accordance with 2 CFR 200.333, the CONTRACTOR agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

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 Department of Transportation, Federal Transit Administration, Master Agreement between Purchaser 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. Civil Rights

The following requirements apply to the underlying contract:

a. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

b. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(i) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. 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, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

(ii) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

(iii) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of 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, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

c. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

6. Disadvantaged Business Enterprises

a. It is the policy of the Department of Transportation and PURCHASER that Disadvantaged Business Enterprises (DBEs) as defined in 49 C.F.R. part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or part with federal funds under this contract. Consequently, the DBE requirement of 49 C.F.R. applies to this contract.

b. The CONTRACTOR or subcontractor shall not discriminate on the basis of race, color, natural origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

c. The CONTRACTOR agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than ten (10) days from the receipt of each payment the prime contractor receives from PURCHASER. The prime contractor agrees further to return retainage payments to each subcontractor within ten (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 the PURCHASER. This clause applies to both DBE and non-DBE subcontractors.

d. The CONTRACTOR or its subcontractors agrees to ensure that DBEs as defined in 49 C.F.R. have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or part with federal funds provided under this contract. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 C.F.R. Part 26 to ensure that DBEs have the maximum opportunity to compete for and perform under this contract. Contractors shall not discriminate on the basis of race, creed, color, age, sex or national origin in the award and performance of DOT-assisted contracts.

e. DBEs will be encouraged and afforded full opportunity to actively solicit information concerning this project and to submit bids and or proposals.

7. Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by U.S. DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by U.S. DOT, as set forth in FTA Circular 4220, 2 CFR 200.318, and subsequent revisions 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 PURCHASER request, which would cause PURCHASER to be in violation of the FTA terms and conditions.

8. Energy Conservation

The CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

9. Termination

a. Termination for Convenience: PURCHASER may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR. The CONTRACTOR shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to PURCHASER to be paid the CONTRACTOR. If the CONTRACTOR has any property in its possession belonging to PURCHASER, the CONTRACTOR will account for the same, and dispose of it in the manner PURCHASER directs.

b. Termination for Cause: If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, PURCHASER may terminate this contract for default. Termination shall be effected by serving a notice of termination on

the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by PURCHASER that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or beyond the control of the CONTRACTOR, PURCHASER, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure: PURCHASER in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR ten (10) business days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If the CONTRACTOR fails to remedy to PURCHASER's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by CONTRACTOR of written notice from PURCHASER setting forth the nature of said breach or default, PURCHASER shall have the right to terminate the Contract without any further obligation to the CONTRACTOR. Any such termination for default shall not in any way operate to preclude PURCHASER from also pursuing all available remedies against the CONTRACTOR and its sureties for said breach or default.

10. Governmentwide Debarment and Suspension

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

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

The bidder or offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions.

11. Notification Related to Fraud, Waste, Abuse, or Other Legal Matters

If a current or prospective legal matter that may affect the Federal Government emerges, the CONTRACTOR must promptly notify PURCHASER so that it can notify the Federal Government. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

The CONTRACTOR agrees to include a similar notification requirement in subcontracts exceeding \$25,000 financed in whole or in part with federal assistance provided by FTA and must require each subcontractor to include an equivalent provision in its federally assisted subcontracts exceeding \$25,000.

12. Lobbying Restrictions

The CONTRACTOR agrees to:

- a. Refrain from using Federal assistance funds to support lobbying,
- b. Comply and assure the compliance of each SUBCONTRACTOR at any tier, with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352.
- c. Comply with Federal statutory provisions to the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence Congress or a State legislature on legislation or appropriations, except through proper, official channels.

13. Buy America

The CONTRACTOR agrees to comply with 49 U.S.C. §5323(j) and 49 C.F.R. Part 661 which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. §661.7, and includes microcomputer equipment, software, and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 70 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

14. Clean Air

- a. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- b. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

15. Clean Water

- a. The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Water Act, as amended, 33 U.S.C. §§1251 through 1377. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- b. The CONTRACTOR also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

16. Cargo Preference - Use of United States- Flag Vessels

To the extent applicable, the contractor agrees to comply with 46 U.S.C. §55305 and 46 C.F.R. Part 381 which includes, but is not limited to:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments 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 the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.)
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

17. Fly America Requirements

The CONTRACTOR agrees to comply with 49 U.S.C. §40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. §§ 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

18. Recycled Products

To the extent applicable, the CONTRACTOR agrees to comply with U.S. EPA regulations, "Comprehensive Procurement Guidelines for Products Containing Recovered Materials," 40 C.F.R. Part 247, implementing section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and otherwise provide a competitive preference for products and services that conserve natural resources and protect the environment and are energy efficient.

19. Accessibility

The CONTRACTOR agrees to comply with 49 U.S.C. §5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The CONTRACTOR also agrees to comply with all applicable provisions of Section 504 of the Rehabilitation Act, as amended, 29 U.S.C. §794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the CONTRACTOR agrees to comply with applicable implementing Federal regulations and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent the FTA approves otherwise in writing.

20. Bus Testing

The CONTRACTOR [Manufacturer] agrees to comply with 49 U.S.C. §5318(e) and FTA's implementing regulation at 49 C.F.R. Part 665 and shall perform the following.

- a. A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report with the bid or proposal.
- b. If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- c. Buses tested on or after October 31, 2016, must receive a pass/fail test and a passing score.

21. Pre-Award and Post-Delivery Audit Requirements

The CONTRACTOR agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

- a. Buy America Requirements (>\$150,000): The CONTRACTOR shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- b. Solicitation Specification Requirements: The CONTRACTOR shall submit evidence that it will be capable of meeting the bid specifications.
- c. Federal Motor Vehicle Safety Standards (FMVSS): The CONTRACTOR shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

BUY AMERICA CERTIFICATION FOR COMPLIANCE WITH ROLLING STOCK REQUIREMENTS

The Bidder/Proposer hereby certifies that it will comply with the requirements of Title 49 USC § 5323(j) and the applicable regulations of 49 CFR Part 661.11.

Date

Signature of Authorized Official

Company

Name

Title

BUY AMERICA CERTIFICATION FOR NON-COMPLIANCE WITH ROLLING STOCK REQUIREMENTS

The Bidder/Proposer hereby certifies that it cannot comply with the requirements of Title 49 USC § 5323(j), but it may qualify for an exception pursuant to Title 49 USC § 5323(j)(2)(c) and the applicable regulations in 49 CFR 661.7.

Date

Signature of Authorized Official _____

Company

Name

Title

**TRANSIT VEHICLE MANUFACTURER CERTIFICATION OF COMPLIANCE WITH
DISADVANTAGED BUSINESS ENTERPRISE**

The Contractor, a Primary Transit Vehicle Manufacturer, hereby certifies that it has complied with the requirements of 49 CFR Section 26.49, as amended, by submitting an annual Disadvantaged Business Enterprise (DBE) goal, as amended, to the Federal Transit Administration (FTA). The goal has either been approved or not disapproved by the FTA. If approved the responder will provide a copy of the approval letter.

Date

Signature of Authorized Official _____

Company

Name

Title

PARTNERSHIP ACKNOWLEDGMENT (if applicable)

STATE OF _____)
FIRST JUDICIAL DISTRICT) ss.
)

On this _____ day of _____, 20__, before me
appeared _____ and _____
_____ to me personally known, who, being by me duly sworn, did say that they are the
Partners of _____, a _____
_____ (State) Partnership and that said instrument was signed on behalf
of said Partnership and said partner acknowledged said instrument to be the free act and
deed of said Partnership.

NOTARY PUBLIC

Notary Public, State of _____
My Commission Expires _____

(SEAL)

INDIVIDUAL ACKNOWLEDGMENT (If applicable)

STATE OF _____)
FIRST JUDICIAL DISTRICT) ss.
)

THIS IS TO CERTIFY that on this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, duly commissioned and sworn, personally appeared _____ to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged to me that he/she/they signed the same freely and voluntarily for the uses and purposes therein mentioned.

WITNESS my hand and official seal the day and year in this certificate above written.

(Seal)

NOTARY PUBLIC FOR _____
My Commission Expires: _____