



## **REQUEST FOR PROPOSALS (RFP) FOR TRANSIT SERVICES**

**For**

**City of Plymouth, Minnesota**

**Issue Date: Wednesday May 11, 2016**

**Mandatory Pre-Proposal Conference: Wednesday May 18, 2016**

**Proposals due: Wednesday June 15, 2016 by 2:00 p.m.**

**Proposals that are late, for any reason, will not be accepted.**

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# INSTRUCTIONS FOR PREPARATION OF PROPOSALS

## 1. REQUEST FOR PROPOSALS

The City of Plymouth is requesting proposals from qualified proposers to provide transit services (See Attachment A: Scope of Work) for its operations which include fixed route, primarily commuter service, and small bus services including local routes and dial-a-ride service. Plymouth provides service within the City of Plymouth to and from Minneapolis and other locations in the Twin Cities Greater Metropolitan Area. SouthWest Transit (SWT) is under contract by the City of Plymouth to manage the day to day activities of the Plymouth system.

Copies of the Request for Proposals (RFP) will be available on the City of Plymouth website at [www.plymouthmn.gov/transitrfp](http://www.plymouthmn.gov/transitrfp). Addenda will also be posted at this website. All parties interested in submitting a proposal must register their name, address, phone number and email address with the RFP administrator in order to receive any addenda and/or answers to submitted questions.

Any questions regarding this RFP must be made by email and sent to Mr. Luke Fischer at [Lfischer@plymouthmn.org](mailto:Lfischer@plymouthmn.org). All questions not submitted via email will be disregarded. Emailed questions must be received by Mr. Fischer no later than 4:00 p.m. on Wednesday May 25, 2016. All registered RFP recipients will be provided with an addendum containing the response to the written inquiries by 4:00 p.m. on Wednesday June 1, 2016.

A **mandatory** pre-proposal conference will be held at 2:00 p.m. on Wednesday May 18, 2016 at the Plymouth City Hall located at 3400 Plymouth Blvd, Plymouth, MN 55447. Please come to the information desk located in the reception area off of the front door for additional instructions of where the conference will be located within the building.

To be considered, a sealed proposal consisting of one original and six (6) copies along with an electronic copy must be received at Plymouth City Hall by 2:00 p.m. by Wednesday June 15, 2016. All proposals must be sealed and marked ***“Proposal for City of Plymouth Transit/Bus Service”***. The City of Plymouth reserves the right to reject any or all proposals submitted. Oral, facsimile, electronic-mail, telephone or telegraphic proposals are invalid and will not receive consideration. Plymouth is asking that Revenue Hour pricing be used. Pricing sheets are attached to this RFP. A **Revenue Hour for this RFP is defined as the first scheduled passenger picked up to the last scheduled drop off of a passenger for each block of scheduled work for each vehicle/driver.**

All proposals must be addressed as follows:

Administrative Services Director  
Attention: Mr. Luke Fischer  
City of Plymouth  
Proposal for City of Plymouth Transit/Bus Service  
3400 Plymouth Blvd  
Plymouth, MN 55447

A four-year contract term with two options to renew, each for an additional four year term, is the work being proposed. Award of the contract is subject to satisfactory negotiation of terms, approval of the Plymouth City Council, and annual availability of funds in the operating budget. Plymouth also reserves the right to increase or decrease the number of hours of work based on funds available and transit service demand.

Submission of a proposal indicates acceptance by the proposer of the conditions contained in this request for proposals.

Proposers will not be reimbursed for any expenses incurred in preparing proposals in response to this request.

No proposal may be withdrawn for a period of 120 days after the proposal due date. More than one proposal from an individual, firm, partnership or corporation under the same or different names will not be considered. Evidence that any vendor is interested in more than one proposal for the same work will be considered sufficient cause for the rejection of all proposals so affected.

## **2. CITY OF PLYMOUTH'S RIGHTS**

Plymouth reserves the right to cancel this RFP in writing or postpone the date and time for submitting proposals at any time prior to the proposal due date. Plymouth shall have the right to accept or reject any or all proposals. Plymouth is not obligated to accept the lowest cost proposal. Plymouth may select the proposal which provides the best value to the City of Plymouth. Plymouth specifically reserves the right to reject any or all proposals; to waive any or all informalities or irregularities in the proposals received; to investigate the qualifications and experience of any Proposer; to reject any provisions in any proposal; to modify RFP contents; to obtain new proposals; to negotiate the requested services and contract terms with any Proposer; and/or to proceed to do the work otherwise.

## **3. PROJECT TIME FRAME**

| <b><u>Project Milestones</u></b>     | <b><u>Tentative Date</u></b> |
|--------------------------------------|------------------------------|
| Issue the RFP                        | Wednesday May 11, 2016       |
| Mandatory Pre-proposal conference    | Wednesday May 18, 2016       |
| Final questions due from proposers   | Wednesday May 25, 2016       |
| Final Plymouth response to questions | Wednesday June 1, 2016       |
| Proposals due to Plymouth            | Wednesday June 15, 2016      |

Interviews (if necessary)  
Notice of award  
Contract begins at 12:01 am

Week of June 20, 2016  
Wednesday July 13, 2016  
December 4, 2016

Completion dates for the project milestones in this section are tentative only and are subject to modification by Plymouth.

#### **4. BACKGROUND**

Plymouth Metrolink is a public transit provider for the city of Plymouth, Minnesota. Metrolink was founded in 1986 after enabling legislation by the Minnesota State Legislature. The transit service provided is currently approximately 82 percent express service to primary locations of downtown Minneapolis. Metrolink also provides dial-a-ride services. Please check the Plymouth website at [www.plymouthmn.gov](http://www.plymouthmn.gov) for current service levels. SouthWest Transit (SWT) is under contract to manage the day to day operation for Plymouth and Metrolink and will be the entity the service provider reports to.

Metrolink currently operates its weekday service from its contractor's garage facility on Como Avenue in Minneapolis. Plymouth's administrative offices are located at 3400 Plymouth Blvd, Plymouth, MN. In addition to Plymouth City Hall, there are three park and ride facilities located at:

1. Station 73 is a parking ramp located on Highway 55 and County Road 73 with 288 spaces;
2. St Philip Park and Ride is a surface lot located at County road 6 and Olive Lane (Messiah Methodist Church) with 100 spaces; and
3. Nathan Lane Park and Ride is a surface lot located at 45<sup>th</sup> Avenue and Nathan Lane with 120 spaces.

Currently, Metrolink operates up to 42 (30 fixed and 12 D-A-R) peak weekday buses in regularly scheduled service. These buses operate approximately 148 fixed 61 dial-a-ride platform daily hours. Additionally, as part of the community and Plymouth, the provider will be asked to provide other services as directed by the City of Plymouth through SWT. Metrolink is considering performing additional services such as concerts and other functions. There may be potential plans to expand service to weekends in future years.

#### **5. RFP ADMINISTRATOR; PROPOSAL QUESTIONS; ADDENDA**

The RFP administrator for the Request for Proposals is:

Luke Fischer  
[lfischer@plymouthmn.gov](mailto:lfischer@plymouthmn.gov)  
763-509-5051

The RFP administrator shall serve as the contact person and will send and receive all communications regarding the RFP between Proposers and the Evaluation Panel for this

procurement, except for those communications which may be permitted by section 11.B of this RFP.

**All proposers will be given the same opportunity and access. All communications regarding this Scope of Services and RFP from proposers are restricted solely to the RFP Administrator, listed above. This restriction will be in effect for proposers or anyone associated with proposers from Wednesday May 11, 2016 through the Notice to Proceed or Award of Contract as granted by the City Council. Communications related to this Scope of Services during the proposal process with an employee or representative of the City other than the designated RFP Administrator may result in the offending proposer being disqualified from further consideration. Communication with the City Manager and/or City Council is strictly prohibited without prior approval of the RFP Administrator. Any such communication will result in the offending proposer being disqualified from further consideration.**

If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of the Scope of Work, or other RFP documents, or finds discrepancies in or omissions from the specifications, the person shall submit to the RFP administrator a written request for an interpretation or correction by the date indicated in Section 3 of this RFP. **Only emailed requests will be accepted.** The person submitting the request will be responsible for its prompt delivery. If the RFP administrator elects to answer any questions, all registered RFP recipients will receive a written response.

Any corrections or changes to this RFP, including any changes made as a result of the pre-proposal conference, will be made by written addendum only and will be distributed to all registered recipients of the RFP document at the address provided by the recipient. The City of Plymouth shall not be bound by any oral representations.

## **6. PROPOSAL FORMAT**

Each proposal shall consist of the five parts listed below. All five parts must be placed in a sealed container and marked ***Proposal for City of Plymouth Transit/Bus Service***, along with the name of the Proposer.

- A. Proposal Information.** One original, six copies, and one electronic copy of the Proposal Information are required. The Proposal Information must be clearly marked *Proposal Information*. See Section 8 A of this RFP for the content requirements of the Proposal Information.
- B. Proposal Information - Alternate: Vehicle Maintenance Services.** One original, six copies, and one electronic copy of the Proposal Information for the Alternate are required. The Proposal Information for the Alternate must be clearly marked *Proposal Information – Alternate: Vehicle Maintenance Services*. See Section 8 B of this RFP for the content requirements of the Proposal Information for the Alternate.

- C. Certifications.** One original of each certification is required. The Proposer Certifications must be clearly marked *Proposer Certifications*. See Section 8 C of this RFP for required certifications.
- D. Cost Proposals – 1) Fixed Route, 2) Dial-A-Ride or 3) Blended.** One original, six copies and one electronic copy of the Cost Proposal are required. The Cost Proposals (revenue hour) must be sealed in a separate envelope marked *Cost Proposals*. See Section 8D of this RFP for the content requirements of the Cost Proposals.
- E. Cost Proposal - Alternate: Vehicle Maintenance Services.** One original, six copies and one electronic copy of the Cost Proposals for the Alternate are required. The Cost Proposal (revenue hour) for the Alternate must be sealed in a separate envelope marked *Cost Proposal – Alternate: Vehicle Maintenance Services*. See Section 8 E of this RFP for the content requirements of the Cost Proposal.

The electronic copies shall be in the form of a USB drive and enclosed with the proposal --- do not email an electronic form of any part of the proposal.

The City of Plymouth will take the best service combination between 1) fixed price; 2) Dial-A-Ride price; and/or 3) Blended using one vendor.

Cost of services plus the maintenance alternative will provide total cost by proposer.

## **7. SUBMISSION OF PROPOSALS**

Proposals must be **physically delivered** to the offices of the City of Plymouth at the address by the date and time indicated in Section 1 of this RFP. Proposals received after the specified time and date will not be considered. **If proposals are sent by U.S. mail or other delivery service, it is wholly the responsibility of the Proposer to ensure that the proposal package is properly addressed and physically delivered on time.**

The submission of a proposal shall constitute an acknowledgment upon which Plymouth may rely that the Proposer has thoroughly examined and is familiar with the RFP, the attachments (including the Scope of Work and the Sample Contract), the addenda (if any), and work sites as applicable, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions dealing with or related to the services to be provided. The failure or neglect of a Proposer to do so shall in no way relieve the Proposer from any obligations with respect to the proposal or the contract issued as a result of this RFP. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any aspect of the RFP, attachments (including the Scope of Work), addenda (if any), work sites, statutes, regulations, ordinances or resolutions.

## **8. ITEMS REQUIRED TO BE SUBMITTED WITH THE PROPOSAL**

Items listed in this section must accompany the proposal. If any required item is omitted, the proposal may be rejected and returned without further consideration. See the referenced sections for additional details on some requirements.

## **A. Proposal Information**

Information in this part of the proposal must be organized based on the following sections. Proposers who do not submit a proposal in this form may have the proposal deemed non-responsive and rejected, in particular, if the Evaluation Panel is unable to locate requested or required information. The information should provide concise and to-the-point details as appropriate, demonstrating Proposer qualifications related to the response items.

[NOTE: the term “project” in the following list of information refers to the transit services to be provided in response to this RFP and the term “contract” refers to the contract or contracts to be entered into between the City of Plymouth and the successful Proposer to provide the transit services described in this RFP.]

### **1. Transmittal Letter**

The proposal shall be accompanied by a transmittal letter signed by an officer or managing principal who can bind the proposer to the offer presented and provide a personal commitment to the success of the project. The transmittal letter must acknowledge review, by number, of all addenda issued.

### **2. Proposer Description**

- a. Identify the Proposer’s organization, including:
  - the complete legal name of the Proposer;
  - the Proposer’s complete business address; and
  - the name, address, phone number, e-mail address, and position of the Proposer representative to be contacted regarding this proposal.
- b. Describe the Proposer’s organization, including:
  - the number of, names of, and organization of staff located in the Twin Cities area available to support this project; and
  - the number of, names of, and organization of staff located elsewhere available to support this project.
- c. Describe how this project will be managed if the Proposer does not currently have and does not intend to establish a Twin Cities-based office during the term of the contract.
- d. Describe the Proposer’s history, financial resources, capabilities and stability. Include the previous three years of audited financial statements if a publicly owned entity. If a privately held firm, include the prior year’s audited financial statements and the previous two years of income/expense sheets and balance sheets for the end of each fiscal year and two years of debt/equity ratios.



- e. Provide information demonstrating the Proposer's ability to fiscally manage and monitor contracts of the type to be entered into for the described transit services.
- f. Describe your company's philosophies/values as it relates to delivering transit services.
- g. Provide at least two examples of company innovation describing what the situation was and what innovation that your company did to better service delivery.
- h. Describe your company's flexibility to different aspects of transit service delivery. Please provide at least two examples of your company's flexibility.
- i. For any subcontractor proposed to work on this project, provide the following:
  - the complete legal name of the firm, business address, and phone number;
  - a description of the subcontractor's organization, including number and organization of staff in the Twin Cities area available to support this project, and number and organization of staff if located elsewhere available to support this project;
  - the work that each subcontractor will perform on this contract; and
  - an estimate of the percent of the work on this project the subcontractor will perform.

### **3. Qualifications**

- a. Clearly and completely describe the Proposer's general and specialized qualifications to undertake this project, both from the aspect of providing project management of the assembled team and the aspect of providing the services required for this project. The proposal must demonstrate that the Proposer has the qualifications to successfully prosecute and complete this project.
- b. If any subcontractors are proposed to be used in this project, clearly and completely describe each subcontractor's general and specialized qualifications to undertake this project. The proposal must demonstrate that all subcontractors to be used have the qualifications to successfully execute and complete their identified portion of this project.

### **4. Experience**

- a. Provide a description of the specialized experience and competence of the Proposer and its personnel to provide the services of this project including experience with providing suburban express and suburban dial-a-ride in the Twin Cities market.
- b. Provide records of Proposer performance on **all** transit service contracts performed from 2013 to the present date, including:
  - the contract name;
  - client name, address and phone number; and
  - the date the project started and was completed.

- c. Provide the identical information in the previous two clauses for any subcontractors proposed to be used on this project including the role of each subcontractor on the projects described.
- d. Provide a description of any defaults on previous contracts including a full explanation of the circumstances surrounding the default.
- e. Provide a description of quality of service issues on previous contracts including:
  - provide a plan to ensure that all members of the proposer working on this project will perform customer services to the riding customer at the highest levels possible.
  - an explanation of any quality of service issues evidenced in the performance of previous passenger transportation contracts, such as on-time performance and responsiveness to user needs;
  - how such issues were resolved; and
  - challenges in performing the service and resolving customer complaints.

## **5. References:**

- a. For the Proposer:
  - List the current and past three years of contracts of similar operation. Identification of each reference shall include:
    - the contract title;
    - client name and address;
    - reference contact name and phone number;
    - complete description of the work performed; and
    - start and finish date.
  - Proposer references must be from entities that have contracted with the Proposer and relate to experience in the passenger transportation industry, particularly in regular route public transit or paratransit. Proposer references will be asked to provide:
    - a qualitative assessment of performance on previous and similar contracts;
    - a list of contracts and scope of contracts held by the Proposer;
    - information on any defaults on previous contracts; and
    - information on quality of service issues evidenced in the performance of previous passenger transportation contracts, such as on-time performance and responsiveness to user needs.
- b. For Subcontractors proposed to be used by the Proposer, the Proposer must supply the same information as for Item 5(a), above, for each proposed subcontractor.

## **6. Key Personnel:**

Identify key personnel to be used on the project, and their experience and qualifications, for Proposer and each subcontractor that will be assigned to work on this contract, including:

- name;

- title;
- company affiliation;
- proposed responsibilities;
- detailed description of experience; and
- summary of qualifications.

In addition, attach each individual's resume. Each resume is limited to a maximum of two pages in length.

In order to manage and perform the service required, this proposal will provide and maintain throughout the term of the agreement those individuals identified in your proposal. At a minimum, 1 General Manager, 2 Street Supervisors and an Assistant General Manager/ Safety and Security Manager should be identified for the driver portion of the project. The Shop Manager will be identified in the Vehicle Maintenance alternate.

All Key Personnel shall be one hundred percent (100%) dedicated to the project and the performance of work.

## **7. Start-up Plan**

Provide the following information regarding the Proposer's start-up plan for the project:

- hiring timelines and specific functions of staff to be hired;
- if not the incumbent with this project, please provide a plan providing a hiring preference for the existing driver force at the current seniority levels with comparable wage rates using number 10, Staffing and Administration, below, as the driver wage minimum based on the years of service;
- an estimate of completion dates for important tasks;
- an identification of facilities, materials and equipment to be purchased or leased;
- a description of the Proposer's capability to have a fully trained work force by contract start-up date;

## **8. Service Management and Delivery**

Provide the following information regarding the Proposer's service management and delivery of the project:

- plans for coordination with Plymouth for service delivery;
- the Proposer's policies and procedures;
- a demonstration of a detailed understanding of the required work and services;
- the Proposer's complaint resolution policy, procedures and training.
- a hiring plan for managing outside events potentially using temporary drivers above and beyond the regularly scheduled services.

## **9. Vehicles and Fleet Management:**

Provide the following information regarding the Proposer's vehicle and fleet management for the project:

- the Proposer's pre- and post-trip vehicle inspection policy and evidence that the policy is adhered to;
- the Proposer's three-year accident and safety record; and
- a bus fueling plan based on service provided and vehicles used.

## **10. Staffing and Administration:**

Provide a description of the following matters with respect to the Proposer's staffing and administration for the project:

- proposed organizational and operational structure for this project;
- staff responsibilities of the proposed administrative staff;
- computer systems administration and applications experience;
- personnel practices and employee relations including:
  - total staff turnover ratio for the past year for Minnesota contracts and for National Contracts
  - full time/part time driver ratio
  - benefits package for both drivers and administrative staff
  - hiring practices, procedures and pre-screening
  - identify the number of hours and types of training for each staff member. Once drivers have passed their training needs a competency certificate will be required to ensure each driver is capable of performing that service.
  - Provide a plan for hiring, if not the incumbent, existing driver force using \$16 per hour for the minimum and \$21.25 for the maximum wage for year one of the agreement and project out 3% per year. If the incumbent, please use the same wage rates and submit a plan as well.
- organizational structure;
- the Proposer's licensing or the ability to obtain it to provide the transportation services;
- the Proposer's established and effective record-keeping and accounting practices;
- street supervision and oversight of daily operations performance;
- proposed methods for collecting fares;
- the Proposer's risk management practices;
- the Proposer's accident and safety record for the period of three years preceding the date of this RFP;
- the Proposer's established behind-the-wheel training and customer service curricula and experience in training drivers and other transportation staff in those curricula, including a copy of the Proposer's operator training manual; and
- the Proposer's proactive approach to safety, as well as reactive response to safety issues
- identify driver pre and post trip times
- provide your agency's Safety and Security Plan.

### **11. Key Personnel – Salary**

Under a proprietary page not for public distribution, for each proposed individual identified in response to paragraph 6 of this Section of the RFP, provide their:

- annual salary;
- annual benefit package worth;
- annual paid time off; and
- potential bonus, if any.

### **12. Appendix**

Include any other information the Proposer wishes the City of Plymouth to know and evaluate in an appendix to the Proposal Document.

### **B. Proposal Information – Alternate: Vehicle Maintenance Services**

Information in this part of the proposal must be organized based on the following sections. Proposers who do not submit a proposal in this form may have the proposal deemed non-responsive and rejected, in particular, if the Evaluation Panel is unable to locate requested or required information. The information should provide concise and to-the-point details as appropriate, demonstrating Proposer qualifications related to the response items.

There will be three cost sheets attached to this RFP and relating to the vehicle maintenance sections. The sections are 1) Dial-a-Ride; 2) Fixed Route; and 3) Blended. By dividing them into the different sections allows proposers to propose on a combination of different options or just one option that coincide with the service piece that they also proposed. The cost sheets are attached at the end of this RFP and may be modified to best present the proposer's information. Please note that the spreadsheets must be downloaded from the website in order to open.

#### **1. Transmittal Letter**

The proposal shall be accompanied by a transmittal letter signed by an officer or managing principal who can bind the proposer to the offer presented and provide a personal commitment to the success of the alternate. The transmittal letter must acknowledge review, by number, of all addenda issued.

#### **2. Proposer Description**

Include any information not already provided in the response to Section A.2 above which is relevant to the alternate.

#### **3. Qualifications**

- a. Clearly and completely describe the Proposer's general and specialized qualifications to undertake the alternate. The proposal must demonstrate that the Proposer has the qualifications to successfully fulfill and complete the alternate.

- b. If any subcontractors are proposed to be used in the alternate, clearly and completely describe each subcontractor's general and specialized qualifications to undertake the alternate. The proposal must demonstrate that all subcontractors to be used have the qualifications to successfully execute and complete their identified portion of the alternate.

**4. Experience**

Provide a description of the specialized experience and competence of the Proposer and its personnel to provide the services of the alternate.

**5. References:**

For the Proposer and any subcontractors provide a minimum of 3 references which can provide information in relation to the proposer's vehicle maintenance services. The references may include those references provided in response to Section A.5 above.

**6. Key Personnel:**

Identify key personnel to be used on the alternate, and their experience and qualifications, for Proposer and each subcontractor that will be assigned to the alternate, including:

- name;
- title;
- company affiliation;
- proposed responsibilities;
- detailed description of experience; and
- summary of qualifications.

In addition, attach each individual's resume. Each resume is limited to a maximum of two pages in length.

**7. Start-up Plan**

Provide a hiring timeline and specific functions of staff to be hired and an estimate of completion dates for important tasks for the alternate.

**8. Service Management and Delivery**

Provide information regarding the Proposer's service management and delivery of the alternate.

**9. (RESERVED – THIS SECTION IS UNUSED IN THIS RFP.)**

**10. (RESERVED – THIS SECTION IS UNUSED IN THIS RFP.)**

**11. Key Personnel – Salary**

Under a proprietary page not for public distribution, for each proposed individual identified in response to paragraph 6 of this Section of the RFP, provide their:

- annual salary/hourly wage;
- annual benefit package worth;
- annual paid time off; and
- potential bonus, if any.

## 12. Appendix

Include any other information the Proposer wishes the City of Plymouth to know and evaluate in an appendix to the Proposal Document.

## C. Proposer Certifications

1. **Either:** 1) a currently-effective Affirmative Action Certificate of Compliance, **or** 2) Affirmative Action Certification Statement (see section 17 of this RFP)
2. Subcontractor Information Form (see section 18 of this RFP)
3. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (see section 19 of this RFP)
4. Lobbying Restriction Certification (see section 20 of this RFP)

## D. Cost Proposal

This RFP is requesting a **Revenue hour annual quantification of cost**. Proposers shall submit cost information on the Cost Proposal Forms provided (See Attachment I: Cost Proposal). The cost proposal forms described above are also included in this RFP in electronic format as an Excel Worksheet. **Cost Proposals must be submitted in both in electronic and hard copy form. The electronic form shall be in the form of a USB drive enclosed with the proposal -- - do not email an electronic form of the cost proposal.**

## E. Cost Proposal – Alternate: Vehicle Maintenance Service

This RFP is requesting **Revenue hour annual quantification of cost**. Proposers shall submit cost information related to the Alternate on the Cost Proposal Forms provided (See Attachment J: Cost Proposal – Alternate: Vehicle Maintenance Service). The cost proposal forms described above are also attached to this RFP in electronic format as an Excel Worksheet. **Cost Proposals must be submitted in both in electronic and hard copy form. The electronic form shall be in the form of a USB drive enclosed with the proposal --- do not email an electronic form of the cost proposal.**

## 9. (RESERVED – THIS SECTION IS UNUSED IN THIS RFP.)

## 10. WITHDRAWAL OR MODIFICATION OF PROPOSALS

Proposals which are withdrawn timely shall be returned to the Proposer. If a substitute proposal is submitted timely, Plymouth shall deem a previous proposal submitted by the Proposer to have been withdrawn and the previous proposal shall be returned to the Proposer unopened. A Proposer may submit a substitute proposal only prior to the time proposals are due. A substitute

proposal must be **physically received** by the RFP Administrator prior to the time proposals are due.

## **11. PROPOSAL SELECTION CRITERIA AND PROCEDURE**

### **A. Selection Criteria**

Proposals will be evaluated on the basis of the following criteria:

1. The following criteria are listed in order of ranked importance (most important 1)

| <b>Ranking</b> | <b>Selection Criteria</b>  |
|----------------|--|
| 1              | Proposer experience in providing public transportation services especially in providing suburban express and suburban dial-a-ride in the Twin Cities market;   |
| 2              | Proposer size and scope of past experience, in relation to that required in this RFP including references, especially local;   |
| 3              | Proposer driver training and selection program including work force ability and training;  |
| 4              | Proposer management, administrative, financial and technical capabilities/expertise. Time allocation by proposer staff/or site presence/time percentage dedicated to Plymouth by position/outside assistance by staff; |
| 5              | Garage location (closer to Plymouth preferred);  |
| 6              | Proposer reporting capabilities;   |
| 7              | All other items submitted in the proposal; and   |
| 8              | Proposer compliance with this RFP.   |

2. The **cost** of providing the services. Cost will be equal in importance to all other criteria shown above.

### **B. Evaluation Panel**

The evaluation process shall include the use of an Evaluation Panel consisting of Plymouth staff and others deemed appropriate by the RFP Administrator. The review committee may solicit comment from other Plymouth staff or from outside advisors. The Evaluation Panel shall review the proposals and evaluate each by applying the Selection Criteria. The Evaluation Panel shall rank the proposals using any comparative method; provided that the Evaluation Panel may convert each ranking to a numerical rating for presentation to the Plymouth City Council. The Evaluation Panel may solicit and use staff expertise in making its findings and conclusions, including a proposer's past performance on Plymouth contracts. The Evaluation Panel shall report its findings and conclusions in writing to the Plymouth City Council. The report shall include a recommendation as to which, in its judgment, represents the most advantageous proposal to the City of Plymouth.

1. **Prohibited Contact with Proposers.** Except as otherwise provided, oral communications between Evaluators and Proposers regarding the procurement in



progress is prohibited. Each Evaluation Panel member shall report any such communication, in writing, to the RFP Administrator, who shall determine, in consultation with the City of Plymouth Legal Counsel, any appropriate remedial action.

2. Permitted Contact with Proposers. The Evaluation Panel may conduct written communications through the RFP Administrator to Proposers. In addition, the role of the Evaluation Panel may include formal interviews with the top choice(s). Evaluation Panel members may have contact with proposers only in a meeting of the Evaluation Panel called for the purpose of receiving oral presentations from a Proposer or Proposers. The purpose of the presentation is to permit the Proposers to explain and clarify their written proposals and not to modify any proposals. The proceedings will be formal and structured, consisting of a timed presentation by the Proposer followed by a question and answer session.

### **C. Selection by the City of Plymouth**

The City of Plymouth shall determine which proposal, if any, is the most advantageous and the best value. Additionally, Plymouth reserves the right to negotiate the final terms and contract with the selected Proposer. If Plymouth and the selected proposer are unable to reach agreement, the City of Plymouth reserves the right to reject the selected proposer and begin negotiation with the next selected proposer. Plymouth shall base any selection on the Selection Criteria stated above in conjunction with the report and recommendations of the Evaluation Panel; provided that Plymouth may accept, reject, modify, amend or request clarification of the report of the Evaluation Panel.

### **D. Awarding of Contract**

If a proposal is accepted and award is authorized, in accordance with Plymouth's policies and procedures, a contract for the work will be executed. Until authorization of the award and execution of the contract, Plymouth has no obligation for the cost associated with any work performed.

## **12. ORGANIZATIONAL CONFLICT OF INTEREST**

### **A. Definition of Organizational Conflict of Interest**

An “organizational conflict of interest” exists when, because of existing or planned activities or because of relationships with other persons, a proposer is unable or potentially unable to render impartial assistance or advice to Plymouth, or the proposer’s objectivity in performing the contract work is or might be otherwise impaired, or the proposer has an unfair competitive advantage.

### **B. Warranty against Organizational Conflict of Interest**

By submitting a proposal, each Proposer warrants that, to the best of its knowledge and belief, and except as otherwise disclosed, there are no relevant facts or circumstances that could give rise to an organizational conflict of interest on this project with respect to the Proposer. A

selected Proposer shall have continuing obligations to disclose to Plymouth organizational conflicts of interest which may be later discovered.

### **13. PROTESTS**

Proposers who wish to file a protest regarding the RFP process shall conform in all respects to Plymouth's Protest Procedure. (See Attachment C: Dispute and Protest Procedures) All protests must be addressed to the RFP Administrator at the email address identified in section 5 of this RFP.

### **14. DATA PRACTICES ACT**

The Minnesota Government Data Practices Act provides that the names of Proposers are public once the proposals are opened. With the exception of trade secret information as defined in Minnesota Statutes, section 13.37, all other information submitted by a Proposer in response to this RFP becomes public at the times specified in the act and is then available to any person upon request. Trade secret information is defined in section 13.37 as data, including a formula, pattern, compilation, program, device, method, technique, or process, (1) that was supplied by the Proposer; (2) that is the subject of efforts by the Proposer that are reasonable under the circumstances to maintain its secrecy; and (3) that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

**Any information in its response to this RFP for which the Proposer claims protection as trade secret information in accordance with the above provisions must be limited and set apart in the RFP response on separate pages, with a heading that identifies the information as trade secret information.** Plymouth will make the ultimate determination whether the information meets the applicable definition. Any information submitted in response to this RFP which does not meet the legal definition will be considered public information, regardless of the Proposer's identification of it as trade secret information. **Proposers are advised that blanket-type identification by designating whole pages or sections as containing trade secret information will not assure protection --- the specific information for which the Proposer claims trade secret protection must be clearly identified as such.**

**Submitted proposals shall not be copyrighted. A statement by the Proposer that submitted information is copyrighted or otherwise protected does not prevent public access to the information contained in the RFP response.**

### **15. FORM OF CONTRACTS FOR TRANSIT SERVICES**

A copy of the contract for the transit services to be provided is attached to this RFP (See Attachment D: Sample Contract). The standard contract outlines various legal and administrative duties and responsibilities to be assumed by the person or organization providing the transit

services including, without limitation, insurance requirements and certain federal, state, and local requirements to be met by the contractor.

Attachment A: Scope of Work will be attached to the contract as Exhibit A. The contract includes as a part thereof an Appendix of Federally Required Contract Terms.

## **16. INCORPORATION OF AFFIRMATIVE ACTION REQUIREMENTS**

The provisions of Minnesota Statutes, section 473.144, and Minnesota Rules, parts 5000.3400 to 5000.3600 will be incorporated into said contract. The referenced provisions relate to contractor requirements for affirmative action plans for minority individuals, women, and disabled individuals. Copies of the referenced provisions are available upon request from the RFP Administrator. Copies may also be accessed at the following internet web sites:

Minnesota Statutes, section 473.144: [www.revisor.leg.state.mn.us/stats/473/144.html](http://www.revisor.leg.state.mn.us/stats/473/144.html)

Minnesota Rules, parts 5000.3400 - .3600: [www.revisor.leg.state.mn.us/arule/5000/](http://www.revisor.leg.state.mn.us/arule/5000/)

## **17. CERTIFICATE OF COMPLIANCE FOR PUBLIC CONTRACTS**

Under the provisions of Minnesota Statutes section 473.144, Plymouth may not accept a bid or proposal for over \$100,000 from any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has submitted an affirmative action plan to the Minnesota Commissioner of Human Rights for approval. Plymouth may not execute a contract for over \$100,000 with any business having more than forty (40) full-time employees in Minnesota on a single working day during the previous twelve (12) months, unless that business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights. A certificate is valid for 2 years. In addition, for any business which did not have more than forty (40) full-time employees in Minnesota, but which had more than forty (40) full-time employees on a single working day during the previous twelve (12) months in the state in which it has its primary place of business, Plymouth may not execute a contract with such a business unless the business has an approved affirmative action plan, evidenced by a Certificate of Compliance from the Minnesota Department of Human Rights, or the business certifies to Plymouth that the business is in compliance with federal affirmative action requirements.

To ensure compliance with this statute, Proposers must submit with their proposal **EITHER**:

- A. a copy of the Proposer's currently effective affirmative action Certificate of Compliance issued by the Minnesota Department of Human Rights; **OR**
- B. An Affirmative Action Certification Statement (see Attachment E: Affirmative Action Certification Statement) with information which indicates that SWT can accept the Proposer's proposal.

**Failure to submit one of these documents along with the proposal will result in the proposal being rejected and returned to the Proposer without further consideration.** Proposers are

advised that Plymouth may verify representations made by a Proposer in any Affirmative Action Certification Statement which is submitted.

If a Proposer submits an Affirmative Action Plan for approval of the Minnesota Commissioner of Human Rights in order to qualify for acceptance of its proposal by Plymouth and becomes the selected vendor, Plymouth will not execute the contract for services until the Proposer has actually been issued a Certificate of Compliance from the Minnesota Department of Human Rights. Plymouth is under no obligation to delay the award and execution of a contract until a Proposer has completed the human rights certification process. It is the sole responsibility of a Proposer to apply for and obtain a human rights certificate prior to contract award and execution.

## **18. SUBCONTRACTING**

Proposers may subcontract for functions to fulfill the obligations of their proposal. All Proposers **MUST** complete and include the **Subcontractor Information Form** (See Attachment F: Subcontractor Information Form) with their proposal, even if no subcontractors are proposed to be used on this project. Proposers must indicate on the form either:

- 1) that no subcontractors will be used on this project; or
- 2) the name, address, and telephone number of a) each subcontractor proposed to be used on the project AND b) each subcontractor who submitted a bid or quote for the project but was not selected by the Proposer.

Proposers must also complete and execute the certification on page two of the form.

## **19. CERTIFICATION OF NON-DEBARMENT**

Proposers must sign and submit with their proposals the Certification of Non-Debarment (See Attachment G: Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion).

## **20. LOBBYING RESTRICTION CERTIFICATION**

The Proposer must comply with the Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352(b)(5), and 49 CFR part 20, which provide restrictions on lobbying with federally-appropriated funds and impose disclosure requirements for lobbying with non-federal funds. The Lobbying Restriction Certification (See Attachment H: Lobbying Restriction Certificate) must be completed and submitted with proposals equal to or exceeding \$100,000. The certification and disclosures are material representations of fact upon which the Commission will rely in awarding the contract. Upon award of any subcontracts or supply contracts equal to or exceeding \$100,000 under the contract, the successful proposer will be required to obtain the same certification from its subcontractors and suppliers and forward the certification and any disclosures to Plymouth.

## **21. PERFORMANCE AND PAYMENT BONDS**

The selected Proposer shall post a Performance and Payment Bond each in an amount equal to one hundred percent (100%) of the payments due Contractor to insure the prompt and faithful performance of this Contract by the Proposer and to insure prompt payment to the subcontractors and suppliers of the Proposer. The Bonds shall be in a form approved by Plymouth. Proposer shall provide the Bonds to Plymouth before commencing work and together with the executed contract document. If the Performance and/or Payment Bond are not submitted as provided herein, the contract shall be considered void.

### List of Attachments to Proposal Instructions

| Attachment # | Document Title  | Proposal Instructions<br>Section Reference |
|--------------|---|--|
| A            | Scope of Work   | 1  |
| B            | Scope of Work – Alternate: Vehicle Maintenance Service                                  | 1  |
| C            | Dispute and Protest Procedures  | 13   |
| D            | Sample Contract   | 15   |
| E            | Affirmative Action Certification Statement  | 17   |
| F            | Subcontractor Information Form  | 18   |
| G            | Certification Regarding Debarment, Suspension,<br>Ineligibility and Voluntary Exclusion | 19   |
| H            | Lobbying Restriction Certification  | 20   |
| I            | Cost Proposals – Transit Services   | 8 D  |
| J            | Cost Proposals – Alternate: Vehicle Maintenance Service                                 | 8 E  |

## **Attachment A to the Proposal Instructions:**

### **A. SCOPE OF WORK**

(See Proposal Instructions, section 1 of this RFP, for further information)

#### **A.1 Background**

##### **A.1.1 Service Area and Type**

1. The City of Plymouth, at a minimum, provides service within its city limits and to the City of Minneapolis with connections to other locations in the Metropolitan Area. Plymouth operates fixed route, primarily commuter service, and small bus services including local routes, shuttles and dial-a-ride service. This RFP is requesting that cost proposals are submitted. They are: 1) fixed route; 2) dial-a-ride; and/or 3) blended rate of 1 and 2.
2. The City of Plymouth and its designee reserves the right to revise the service, including type, and/or service levels at any time.

##### **A.1.2 Vehicle Compliance and Operation**

All vehicles, whether provided by the contractor or Plymouth shall comply with applicable federal, state and local laws, rules and regulations. Currently all vehicles are provided by Plymouth. Initially, the provider will be solely responsible for maintaining and operating all vehicles in conformance with any lawful orders, rules or regulations of any federal state or local agency having jurisdiction over Plymouth. As the contract continues, there are potential variations where another entity will maintain the vehicles. The contractor shall not use Plymouth vehicles for purpose other than supplying service under the terms of the agreement unless there is prior written approval given by Plymouth or its designee.

##### **A.1.3 Operating Facts of Service**

###### **Operating Data**

- 131 Daily Express Trips
- 99% On Time Departures
- Farebox Recovery Ratio of approximately 30%
- Passengers Per In-Service Hour: 20
- Subsidy Per Passenger: about \$4.70
- 100% Customer Response Rate
- 94% customer satisfaction rate
- Revenue Miles 2015 projected year end to be 460,425 for fixed route and 181,736 for the dial-a-ride services.
- Total fixed Miles for 2015 were 1,038,683
- 2015 fixed ridership was 462,155. 2015 dial-a-ride ridership was 38,778.
- Bus Counts as of February, 2016 are 30, 40 footers and 13 cutaway buses for a grand total of 43 revenue vehicles:

| Quantity/Mfg. Year                | Unit      | Spec - Vehicle Make | Spec - Vehicle Model |
|-----------------------------------|-----------|---------------------|----------------------|
| 11 – 2006                         | Bus-Large | 40 ft New Flyer     | D40LF                |
| 15 - 2009<br>2 - 2011<br>2 – 2013 | Bus-Large | 40 ft Gillig        | Low Floor            |
| 2 – 2009                          | Bus-Small | Glaval              | Titan                |
| 7 - 2012<br>4 – 2014              | Bus-Small | Glaval              | Universal            |

- Plymouth is looking to replace seven (7) cutaway style buses for local and dial a ride service and eleven (11) 40 foot buses by 2018.

## **A.2 Contractor's Responsibility**

### **A.2.1 Provide a "Dedicated" Driver Force**

Those contractor employed drivers that are assigned to drive for Plymouth will not be shared amongst other contracts, garages or properties unless Plymouth's Administrative Services Director or his designee (SWT) agrees in writing and provides prior authorization. Additionally, all drivers must have Commercial Driver License (CDL) and must be able to obtain Special Transportation Services (STS) Certification, if necessary. Additionally, all experienced drivers from other places outside of the existing contractor workforce when hired by the contractor will be placed at comparable ability and wage levels within the existing driver force.

### **A.2.2 Employment and Acceptance**

Plymouth and its management firm (SWT) will engage the contractor as an independent contractor to advise Plymouth and to operate and manage the Transit System on a day to day basis, including additions to and extensions thereof as described in this scope of work. The contractor agrees to supply such services in an efficient and economical manner.

### **A.2.3 Independent Contractor**

In the performance of the contractor's obligations, it is understood, acknowledged and agreed between the parties that the contractor is at all times acting and performing as an independent contractor and Plymouth shall neither have nor exercise any control or direction over the manner and means by which the contractor performs the contractor's obligations except as stated. The contractor understands and agrees that the contractor's employees, agents, servants and other personnel are not City of Plymouth or their designee (SWT) employees. Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to any of the contractor's employees, agents, servants or other personnel performing services or work under this agreement. It is expressly understood and agreed that the contractor's employees, agents, servants or other personnel shall not be entitled to any



Plymouth payroll insurance, unemployment, worker's compensation, retirement or any other benefits whatsoever.

**A.2.4 Policy Direction and Oversight**

Under the direction and oversight of Plymouth acting through Plymouth's Administrative Services Director or his designee (SWT), the contractor through its General Manager will operate, organize and direct the activities of Plymouth's transit system, operate the service at the level of service and for the budget adopted by Plymouth, provide and oversee all contractor employees including bus drivers and contract employees. The contractor shall provide safe, timely, professional and reliable transit services. The contractor shall operate the transit system under the name of "Plymouth Metrolink"; all rights to which are owned by Plymouth.

**A.2.5 Contractor's Advisory, Management and Supervisory Services**

The advisory, management and supervisory services to be furnished by the contractor, subject to the supervision of Plymouth's Administrative Services Director and its management agency, SouthWest Transit (SWT), will include but not be limited to the following: transportation operations, schedule operations, labor relations and labor contract negotiations as may be necessary for the contractor's employees, accounting, income and expense protections, safety, employee selection and training and all other managerial functions normally required in the daily operation of a transit system.

**A.2.6 Complaints**

Complaints received by the City of Plymouth through customer service shall be forwarded to the contractor in a report and shall be responded to within one working day of receipt by the contractor. Complaints received directly by the contractor shall be reported to City or designee and shall be responded to within one working day. Each report shall generate a researched and full response (specific response addressing specific report) by the contractor.

**A.2.7 Contractor Managerial (Administrative) Positions**

The contractor will be responsible for providing qualified personnel capable of performing all of the contractor's responsibilities and obligations of this scope of work. The total number and qualifications of personnel necessary for operations and other service requirements shall be in accordance with this agreement.

The contractor at a minimum shall furnish one full time individual to serve as General Manager and one full time Assistant General Manager/Safety and Security Officer. Additionally, the contractor will provide two street supervisors to cover the morning and afternoon peak periods (5:00 am to 9:00 am and 3:00 pm to 6:30 pm). There will obviously be needed dispatch coverage over the service day and will be the responsibility of the contractor.

Each position is subject to change as directed by the City of Plymouth or its designee upon two-week notice to the contractor. Conversely, the contractor will not eliminate, replace or add any managerial or administrative staff without the City of Plymouth's prior written approval. Finally it is recommended that the administrative positions have a current CDL with airbrakes and passenger endorsements in case there is a need to operate a vehicle in revenue service.

**A.2.8 Administrative Staff Pay and Benefits**

Administrative staff wages and benefits will be part of the Management Fee (profit) section of the proposal and contract. The wage rates for the administrative staff will need to be determined by the proposer, as well as paid time off, health benefits and any potential individual bonuses. This information is requested as part of the proposal.

**A.2.9 Weekend Flexibility**

The City of Plymouth, who plans the service, has the right to add and drop weekend services per the agreement at any time.

**A.2.10 State Fair Service**

The provider of Plymouth service may be providing weekend service to the State Fair with its driver force and vehicle fleet in conjunction with the Plymouth Contract Manager, SWT. The Minnesota State Fair lasts for 12 consecutive days ending on Labor Day. The contractor will be required to perform service as planned. The minimization of overtime is a priority for contractor staff for all special events.

**A.2.11 Bus Driver Wages**

The minimum hourly rate for the proposer's pay scale for year one (1) is \$16.00 per hour. The proposer may not propose an hourly wage lower than \$16.00 per hour. The minimum hourly rate shall increase three percent (3%) per year for the term of the initial four years. The maximum hourly wage for year one (1) will be \$21.25 per hour. Services classified as local or dial-a-ride by the City of Plymouth and its designee shall be staffed by drivers at the entry level wage rate. As part of the cost proposal please identify the number of drivers by hourly wage with there being no more than 40% in the highest hourly wage category. A list of current driver wages is included for your reference at the end of this document in Table H-3 CURRENT DRIVER WAGES AS OF 12/31/15. Wage rates do not preclude the City of Plymouth from adding a split shift differential.

**A.2.12 Maximum Contractor Overtime**

The contractor is responsible to manage workforce overtime. A five percent (5%) annual maximum of overtime is acceptable. Any overtime above and beyond the five percent (5%) is the responsibility of the contractor.

**A.2.13 Temporary Disabled Administrative Employees**

In the event that an individual filling one of the Administrative positions becomes disabled or is going to use paid time off (PTO) for a period in excess of three (3) consecutive

workdays, the contractor agrees to secure a qualified individual to fill the position for as long as such period of time may continue or to replace the individual if necessary, all subject to the advice and consent of the City of Plymouth and its designee (SWT).

**A.2.14 Relocation of Contractor Administrative Staff**

The contractor shall not, during the term of the contract, relocate or assign any of the individuals filling one of the Administrative positions to any other positions or locations without prior written City of Plymouth and its designee (SWT) approval.

**A.2.15 Minimum Responsibilities of the Contractor Administrative Staff**

The responsibilities of the contractor through its on-site General Manager shall include, but not be limited to, the following:

1. Daily operation and service activities of the City of Plymouth's transit system in accordance with Plymouth, FTA/DOT policies and regulations and maintain records to document compliance.
2. Manage the contractor's employees assigned to the contract.
3. Implement the City of Plymouth's adopted system plans and policies.
4. Make daily driver work assignments.
5. Assist in evaluation and preparation of routes and schedules subject to City of Plymouth and its designee direction and approval, if requested.
6. Prepare operating budget recommendations for the City of Plymouth and its designated staff.
7. Assist in preparing specifications for capital equipment and supplies.
8. Provide to the City of Plymouth monthly cost analysis of operations budget.
9. Manage the contractor's personnel and labor relations.
10. Manage other contractor employee personnel matters including training and development.
11. Hire, assign, supervise and dismiss all contractor employees.
12. Project and monitor monthly cash flow.
13. Handle contractor's accident reporting, safety and security.
14. Implement the contractor's administrative policies and procedures and record keeping.
15. Advise the City of Plymouth and its designee (SWT) on matters of importance to the transit system making recommendations to both.
16. Approve bills and initiate purchase order requisitions.
17. Review system operations manual, procurement code, personnel manual, and work rules and recommend modifications as appropriate.
18. Monitor efficiency and cost effectiveness of transit services and provide routine reports and recommendations relating to service modifications, route planning and service design.
19. Oversee the contractor's Drug and Alcohol policies.
20. Allow for non-driving needs such as detailing buses or washing buses.
21. Working with the Plymouth and its designee develop an emergency plan relating to bus operations.

**A.2.16 Administrative Staff Periodic Responsibility Review**

The responsibilities of the contractor through the General Manager will be determined from time to time jointly by the City of Plymouth's Administrative Services Director and designees, contractor's General Manager and the contractor's Regional Manager.

**A.2.17 Routing and Service Recommendations**

The contractor through its General Manager shall make to the City of Plymouth and its designee periodic recommendations as requested by Plymouth or designees concerning any deletions, additions or changes in the service and routing of the transit system. The City of Plymouth's Administrative Services Director or their designee shall have final determination authority over all routes, fares and schedules.

**A.2.18 Budgets and Recommendations**

The contractor through their General Manager agrees to prepare projections, or may be, required by the City of Plymouth and its designee for budget purposes and to assist Plymouth in the preparation of an annual report of operations. The contractor through the General Manager will also furnish periodic reports and recommendations to the City of Plymouth relating to service extensions, route planning and service policies.

**A.2.19 Pre- and Post-Trip Inspection Required**

All vehicles used to provide service under this agreement shall receive a "pre and post-trip inspection" by the driver each day. The contractor will allow for a maximum 15 minute pre- and a 15 minute post- trip inspection.

The operator shall immediately inform his or her supervisor of any suspected faulty or unsafe conditions discovered during the inspection. Under no circumstances shall an operator operate the vehicle until the faulty or unsafe condition(s) have been resolved. The contractor will keep written records of all such inspections. All records and procedures are subject to inspection and audit by the City of Plymouth and its designee.

**A.2.20 Technology on Buses**

All those individuals performing revenue service in the buses provided by the City of Plymouth shall be able to understand and maximize all technologies on the vehicles to ensure maximum driver safety, customer satisfaction, fare collection and operating data.

**A.2.21 Training**

All personnel providing transit services shall know and understand the transit system, including the entire range of services provided by the City of Plymouth. To accomplish this, the contractor shall provide training for all personnel. All training programs are to be developed in concert with the City of Plymouth and its designee and are subject to the approval of Plymouth. The contractor shall provide the following minimum training schedule unless otherwise directed by the City of Plymouth and its designee.

Employee Group  
All employees:

Minimum Annual Training Schedule  
Four (4) hours of customer relations

As needed regarding any and all changes to the service, fare structure, fare payment system procedures, routes and schedule(s).

Drivers:

Vehicle operational procedures, including emergency medical procedures, training required by the Americans with Disabilities Act (ADA) and any other training required by Minnesota Law.

Additionally, for new drivers hired by the contractor, there will be an additional 16 hours of training as follows:

- 8 hours: Customer Service training
- 8 hours: Emergency Preparedness Plan (EPP) training

The contractor will provide to City of Plymouth and its designee a semi-annual written report summarizing training activities for all of the contractor's personnel providing transit service under the terms of this agreement. The training report shall be in a format approved by the City of Plymouth and shall be provided to the City by June 30 and December 31 of each year.

#### **A.2.22 Drivers and Dispatchers**

The contractor shall provide trained, qualified, uniformed and licensed drivers as needed and as deemed necessary by the City of Plymouth and its designee for the safe and timely operation of vehicles used in providing the service.

The contractor will provide dispatching throughout the service day. An assigned dispatcher will provide service during the morning (5:30 am to 9:30 am) and afternoon (3:00 pm to 7:30 pm) peak periods. The times outside the identified peak periods will be the responsibility of one of the administrative staff. Dispatchers will also provide bus assignments. Times maybe modified to meet demand and service needs.

As part of the contractor's hiring process, the contractor shall: conduct criminal checks on all driver and other personnel candidates selected to provide Plymouth service; conduct drug testing pursuant to the requirements of federal and state law to insure that all personnel meet any applicable federal, state and local drug testing or other requirements; and hire drivers who possess all licenses, permits and medical certificates required by law. The contractor shall provide to the City of Plymouth and its designee a written report of the driving record of all drivers three times annually on or before April 15, on or before July 15 and on or before December 15 of each year. The contractor shall conduct, and provide a written report to City of Plymouth and its designee of, annual criminal history record checks on or before May 15 of each year.

**A.2.23 Observations by Administrative Personnel**

Each of the contractor's administrative personnel shall annually complete a minimum of eight (8) ride-a-longs, sixteen (16) field observations and five (5) pre-trip inspections. Each of the management personnel shall devote a minimum of 60 hours per month to these tasks.

**A.2.24 Assignment of New Employees**

The contractor shall not assign a new employee to perform work under the Plymouth's Agreement without the City of Plymouth and its designee approval. If the individual is unable to perform their duties, they will need to be retrained to a satisfactory level established by the City of Plymouth and its designee or moved away from the Plymouth operation.

**A.2.25 Transfer or Reassignment of Employees**

The contractor shall not transfer or reassign, in or out, a contractor employee from/to the Plymouth project without City of Plymouth and its designee approval.

**A.2.26 Plymouth's Requested Contractor Personnel Removal**

It is specifically understood and agreed that in the event a current individual filling one of the Administrative positions or any other personnel assigned to the project is determined by Plymouth or its designee to be incapable of performing their duties in a manner acceptable to Plymouth, the contractor will be so advised by Plymouth or their designee in writing. In this event, Plymouth may require the individual's removal from Plymouth's Transit System. The contractor will affect the removal immediately upon the receipt of Plymouth's written notice. A qualified replacement individual, acceptable to Plymouth, will be assigned by the contractor in accordance with the provisions of the final executed agreement. In the event a replacement individual is not approved by Plymouth or its designee, Plymouth reserves the right to terminate the contract for convenience. The contractor shall have a minimum of thirty (30) days, but not more than sixty (60) days to propose a replacement individual.

**A.2.27 Collection of Fares**

The contractor shall collect, via installed technology, fares from each passenger using the service. Such fares are determined by City of Plymouth and its designee.

**A.2.28 Reciprocity**

Transfer reciprocity will be accepted from Metro Transit and other providers as approved by Plymouth or its designee.

**A.2.29 Operational Records**

The contractor agrees to maintain operational records (including video) documenting the performance and operation of the transit service. Operational records shall include but not be limited to:

Problem areas: Documentation of all operational problems and significant variations in ridership and revenues.

Daily Ridership Records: Daily ridership records and specifically the following: number of passengers trips, method and amount of payment collected, pickup and destination point, the time of day of each trip and other reasonable information deemed necessary by City of Plymouth and its designee.

Other Information: The contractor shall provide any other information relating to the system operations requested by City of Plymouth and its designee.

**A.2.30 Record Keeping and Data Collection**

The contractor shall keep complete records as required by City of Plymouth and its designee (SWT), for State of Minnesota, Federal Transit Administration and any other organization requiring record retention. All such records shall be retained by the contractor in accordance with The City of Plymouth's adopted retention schedule for records. All records pertaining to the transit service, regardless of format or media and including electric records, will be open to inspection by Plymouth or its designee during regular business hours during the term of this agreement. The contractor agrees to comply with all record keeping and data collection requirements of Minnesota Statutes for all records, regardless of format or media, including electronic records. The contractor acknowledges responsibility and agrees to comply with the provisions of the Minnesota Data Practices Act.

**A.2.31 Policy and Procedures**

The contractor shall maintain a Policy and Procedure Manual. The manual shall provide detailed procedures to be followed by the contractor's employees in the course of performing work for this agreement. This manual shall be made available to Plymouth or its designee upon request and upon each update.

**A.2.32 Notification of Plymouth after Vehicle Accidents**

The contractor shall notify Plymouth or its designee in writing of any employee vehicular accidents, either during performance of Plymouth service or otherwise, within 24 hours after the contractor receives knowledge thereof.

**A.2.33 Marketing**

The contractor agrees to participate in all marketing plans as set forth by Plymouth or its designee. The contractor will do no marketing unless pre-approved by Plymouth or its designee.

**A.2.34 Programming of Bus Destination Signs**

The contractor, unless otherwise notified, will be responsible for the programming of route destination signs. Currently, Plymouth uses Luminator models. In the future Twin Vision,

now part of Luminator, or another destination sign that is found effective may be purchased for the buses and incorporated into the programming process.

**A.2.35 Computer Hardware and Software**

The contractor will use a combination of City of Plymouth and its designee and their own hardware (computers and printers, cables, etc.) and appropriate software. However, these computers must also be able to be used in concert with the City of Plymouth and its designee. Microsoft products are recommended.

**A.2.36 Materials and Supplies**

The contractor will procure all materials and supplies to perform the work identified in this scope of work and contract.

**A.2.37 Operator Uniforms**

The contractor will provide operator uniforms. The uniforms will be pre-approved by the City of Plymouth and its designee (SWT) prior to any purchase/lease/rental.

**A.2.38 (RESERVED – THIS SECTION IS UNUSED IN THIS RFP.)**

**A.2.39 (RESERVED – THIS SECTION IS UNUSED IN THIS RFP.)**

**A.2.40 Vehicle Insurance**

The City of Plymouth will provide vehicle insurance. However, the contractor will be responsible for paying the deductible for its operators for each and every incident that is chargeable to the contractor. In areas of question, Plymouth or its designee will have final say. Currently, the deductible that the City of Plymouth carries is \$2,500 per occurrence.

**A.2.41 Service Implementation**

The contractor will implement the plan of service established by Plymouth or its designee. Implementation includes updating paddleboards, training drivers, assisting Plymouth or its designee with putting workpieces together, etc.

**A.2.42 New Dial-A-Ride (D-A-R) Services**

In the event Plymouth chooses to implement a “new style” dial-a-ride (“D-A-R”) service using Ridecell or another software which is different than what is currently being used, the contractor will continue to be responsible for providing staff, taking rider reservations, scheduling trips, dispatching vehicles and general operation of the program. As part of any D-A-R program (either current or new) the contractor will use their entry level drivers at \$16.00 per hour to deliver those trips. Doing this provides entry-level drivers an opportunity to get experience prior to operating a large bus.

As part of the cost proposal, please cost out what the D-A-R program would cost, keeping in mind the restrictions placed on delivery identified earlier in this section. Currently Plymouth dial-a-ride operates 15,118 annual platform hours using six (6) vehicles.



#### **A.2.43 Housing of the Contractor**

The contractor will provide a garage location that is large enough to accommodate all staff and the ability to perform any needed maintenance. A location close to Plymouth is preferred.

#### **A.2.44 Corporate Support**

As part of the agreement, the contractor shall not include in its personnel costs or corporate support expenses charged to the City of Plymouth any time spent by the local contracted management team other than the performance of services for the City of Plymouth under this agreement.

#### **A.2.45 Personnel Standards**

The contractor shall require that all personnel engaging in providing any services for the City of Plymouth under this agreement maintain a professional, courteous attitude toward Plymouth customers, including answering to the best of their ability all customer questions (including questions about schedules) and performing other tasks as directed. The contractor will use appropriate employee screening and selection criteria such as background checks applicable with State and Federal laws using a licensed background check vendor; National Incident Management System (NIMS) training; City of Plymouth and contractor policies, procedures and protocol training; security orientation/awareness training for all employees, position appropriate; terrorism training; OSHA required training; sensitive security information training; follow all pre-hire and employment drug and alcohol testing, driver training programs; maintaining appropriate staffing levels as outlined by the contract and the service plan; and all other personnel related laws.

### **A.3 City of Plymouth's Responsibility**

#### **A.3.1 City of Plymouth Provided Vehicles**

The City of Plymouth intends to provide the vehicles required to perform this agreement. Upon specific request from Plymouth or its designee the contractor will provide additional vehicles, if available, at rates to be negotiated by the parties. Any contractor provided vehicles shall be of a type acceptable to Plymouth or its designee for use in operation of the Transit Service. All vehicles provided by the City of Plymouth or the contractor to be used in the operation of the Transit Service shall be used exclusively for such service unless otherwise approved by Plymouth or its designee. Each vehicle shall display Plymouth's identification and phone number of sufficient size to be acceptable to Plymouth or its designee. No commercial advertising shall be permitted on the interior or exterior of the vehicles unless specified and approved by Plymouth or its designee (SWT). The current Plymouth revenue bus inventory is identified in Section A.1.3.

#### **A.3.2 Days and Hours of Service**

Program operating hours shall be established by Plymouth or its designee and may be changed by Plymouth or its designee to provide the best possible service to the public. As the agency grows, planned service may be required on weekends and holidays and special events. Additionally, times of service may vary throughout the operating day. For planning /scheduling purposes, reasonable advance notice of changes to operating hours shall be given to the contractor. The current schedule can be found at [www.plymouthmn.gov/transit](http://www.plymouthmn.gov/transit).

#### **A.3.3 Holidays**

The City of Plymouth currently recognizes the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day and Christmas Day and reserves the right to revise the list of recognized holidays at any time. The operating schedule for all holidays shall be determined by Plymouth or its designee and shall be provided by the contractor with at least 30 days advance notice for planning/scheduling purposes.

#### **A.3.4 Marketing**

Plymouth or its designee will perform all marketing for Plymouth service. However it is up to the discretion of Plymouth or its designee to incorporate the contractor for ideas and support purposes.

#### **A.3.5 Revenue Collection**

All operating revenues are, shall be and remain the property of the City of Plymouth. The handling of these revenues including the banking and accounting shall be as directed by Plymouth or its designee.

#### **A.3.6 Emergency Preparedness**

Plymouth or its designee will be responsible for the annual updating of its Emergency Preparedness Plan. However, the contractor may be asked to assist with the updating of the plan.

#### **A.3.7 Supplemental Uniform Apparel**

Plymouth or its designee will provide supplemental uniform apparel appropriate for the season for all transit vehicle operators and street supervisors (i.e. winter coats). All uniforms shall be maintained by the contractor in a clean, pressed and professional manner and appearance.

#### **A.3.8 Choice of Drivers**

Plymouth or its designee shall have the right to select specific employees of the contractor to perform special activities such as group rides and non-regular route activities, such as farebox probing and dumping. Plymouth or its designee also reserves the right to augment driving staff through direct employment or contracting.

#### **A.3.9 Driver Incentive Programs**

Plymouth or its designee may develop and implement various incentive programs. If implemented, Plymouth or its designee at its sole discretion may choose to terminate the program at any time.

**A.3.10 Operational Standards**

Plymouth or its designee may develop for the contractor certain operating standards that are required. At a minimum, the provision will relate to quality transit service.

**A.3.11 Fuel and Lubricants**

The City of Plymouth will procure, pay for and receive any federal, state and local fuel tax rebates for fuel and lubricants depending on final arrangements. This assumes the contractor has a fuel tank and will be responsible for the ability to account for the fuel used for Plymouth service. It is also possible after the contract has begun that the fueling process including storage location and procurement may change to better enhance the City's overall fueling position.

## **Attachment B to the Proposal Instructions:**

B.

### **SCOPE OF WORK – ALTERNATE: VEHICLE MAINTENANCE SERVICE**

(See Proposal Instructions, section 1 of this RFP, for further information)

Plymouth is seeking maintenance and repair for its service fleet of buses. A maintenance program must be established and available to be put into place upon the start of the contract. A fully equipped maintenance facility capable of conducting bus inspection and maintenance must be provided.

- All maintenance activities are to be conducted as per the Master Lease Agreement by and between Metropolitan Council and the City of Plymouth for Public Transit Vehicles where applicable.
- The garage facility needs to be available 365 days a year, 24 hours a day. Current operation hours are Monday through Friday 4:00 A.M. to 9:00 P.M. to the City of Plymouth and staff.
- Maintenance Staff must be available for scheduling to accommodate changes for operations and special events.
- Proposer is to adhere to the suggested minimum the number of technicians, utility – helpers, supervisors, and management required to service and maintain the vehicles at or above the maintenance standards established by the Federal Transportation Administration, Metropolitan Council, and the City of Plymouth. The minimum number of technicians can be no lower than one per six transit buses. The current fleet count is thirty transit buses and thirteen cut-away buses.
- **Technician staffing requirements:**  
**7 Technicians for blended proposal total. At a minimum the following schedule will need to be filled:**

#### **First Shift:**

**1- A Level Technician**

**1- B Level Technician**

**1- C Level Technician**

#### **Second Shift:**

**1- A Level Technician**

**1- B Level Technician**

**1- C Level Technician**

**\*A lead person is required for each shift**

- If contract awards are made to one transit bus provider and one cut-away provider, the number of technicians will be 5 technicians (two A, one B and two C) for transit buses and 2 technicians (one A and one C) for cut-away style buses. Again, a lead person is required.

**A level Technician** – Performs thorough and efficient preventive maintenance and advanced levels of diagnostics and repairs on fleet vehicles with no assistance. Has the ability to perform internal engine and transmission repairs that are within the capabilities of the department. Recommends required repairs or if replacement of parts are needed. An A level technician is required to hold current certification as an ASE Master Transit Bus Technician or Master Medium/Heavy Vehicle Technician.

**B Level Technician** - With minimal technical assistance from an A level technician performs most routine and advanced diagnostics and vehicle repairs. B level technician performs thorough and efficient preventative maintenance on fleet vehicles. B level requires certification through ASE in H4 Transit Bus Brakes, H5 Transit Bus Suspension and Steering, H7 Transit Bus HVAC, and H8 Transit Bus Preventive Maintenance Inspections.

**C Level Technician** - Performs assigned preventative maintenance, minor diagnostics, and assigned minor repairs on fleet vehicles. Performs intermediate diagnostics and repairs with guidance from an A level technicians or supervisor. Incumbent work as assistant to other technicians on projects that require more than one person. Requires ASE certification H4 Transit Bus Brake Systems and H8 Preventative Maintenance & Inspection.

**Lead Technician** - The Lead Technician is responsible for supervising the work of technicians and utility workers on their work shift, Communicates problems and issues to management, and provides direction and assistance to B and C Technicians and Utility Workers and assist in establishing priority work tasks and schedules. A Lead technician is must be a level B technician or higher.

- A valid Drivers Health Card and Minnesota self-certification in good standing.
- A valid Class B Commercial Driver's license with passenger and air brake endorsement's or greater.
- Hand and power tools must be owned by technician or provided by proposer.
- Possesses basic computer skills with ability to proficiently utilize Vehicle Maintenance Software (VMS) and communication software, such as Microsoft Outlook.
- Contractor will be responsible to provide management oversight assuring:
- All Preventative Maintenance Inspections (PMI) are performed at or before required inspection interval. Inspections and repairs are to be performed correctly and in accordance with Original Equipment Manufacturers specification.
- Maintaining the fleet road call breakdown ratio at less than 1 in 30,000 miles traveled.
- All Local, State, and Federal regulatory, permitting, licensing, and OSHA requirements are adhered to and documented.
- Conducting the repair activities in a safe and efficient manner.
- Providing month end reports (i.e. accident report card, miles run, fuel usage, road call reports) no later than the fifteenth day of each month. This report can submitted on paper or by email.
- The above listed jobs are considered "safety sensitive" and will be required to adhere to all established rules, requirements, and regulations.
- Maintenance activities will focus on performing PMI, correction of defects identified during the PMI, correction of defects and items identified through pre-trip and post-trip inspections, and driver vehicle condition reports. Major repairs are to be completed as soon as possible given staff, parts, and space constraints. If vehicle is to be out of service longer than two days, maintenance management will be responsible to inform the City of Plymouth or its designee.

When necessary and approved, the vehicle may need to be sent to an approved outside vendor for repair.

- Major vehicle repairs are expected to be done in house by technicians qualified for such repairs. Qualification will be based upon ASE certification for the repair function and demonstrated ability to perform those repairs in a safe and efficient manner. In such cases when the work is not practical or requires special knowledge or tools, once approved may be performed by an authorized outside vendor. This will include obtaining estimates and approval for the repair, scheduling and tracking of the vehicle while it out of service. Inspection to assure quality and completion of repairs before return to service. Processing of invoices and relating the paperwork to the repair. The maintenance staff will be responsible to move the vehicle to and from the repair facility.
- Uniforms must be provided to all staff and will be required to be worn at all times while performing maintenance and subsequent duties. All uniforms and apparel must be approved by the City of Plymouth or its designee.
- A Vehicle Maintenance Software (VMS) capable, at a minimum, of recording repair orders, repair history, labor hours, parts usage, and inventory. All Local, State & Federal vehicle maintenance record keeping requirements must be satisfied. VMS must be provided, utilized, and maintained by the proposer.
- Repair parts procurement, storage, and inventory controls will be the responsibility of the proposer.
- Maintenance staff will be responsible to conduct in-house warranty when approved. Any dollars recovered from warranty activities are to credit the vehicle to which such work was performed. In such cases when warranty work is not practical or requires special knowledge or tools, once approved may be performed by an authorized outside vendor. This will include obtaining estimates and approval for warranty repair. Scheduling and tracking of the vehicle while it's out of service. Inspection to assure quality and completion of repairs before return to service. Processing of invoices and relating the paperwork to the warranty claim. The maintenance staff will be responsible to move the vehicle to and from the warranty repair facility.
- Refilling of consumables such as, but not limited to, windshield washer fluid and diesel exhaust fluid (DEF) will be the responsibility of the maintenance staff.
- Maintenance repair, and insurance of the maintenance facility and its equipment is the responsibility of the proposer.
- All waste disposal, including hazardous materials, is the responsibility of the proposer and must be done in accordance with all federal, state, and local laws and ordinances.
- Maintenance staff will be responsible to maintain the appearance of the vehicles. This will include obtaining estimates and approval for repair of physical damage. Scheduling and tracking of the vehicle while it's out of service. Inspection to assure quality and completion of repairs before return to service. Processing of invoices and relating the paperwork to the insurance claim. The maintenance staff will be responsible to move the vehicle to and from the warranty repair facility.
- Performs and documents quality inspections a minimum of one monthly to assure maintenance and repairs meet high expectations of maintenance, cleanliness and rider comfort.
- Buses are to have the exterior washed each day that they are used for revenue service or special events. Frequency of washes may be increased as needed or directed. The floors of the buses are to be swept and mopped daily. Other interior surfaces are to be cleaned monthly or as needed should they become soiled or unsightly.
- Proposer will be responsible to train the maintenance personnel to keep them in accordance with advances and changes in the industry.

- Proposer will provide a minimum of 32 hours per year per technician for training to allow for technicians to grow their skills and abilities. The training must be documented and show relevance to skill and knowledge improvement. The City of Plymouth reserves the right to direct the quantity and quality of training if it deems repair skills and work quantity and quality are not adequate. A training tracking report must be available upon request and updated at a minimum twice a year.
- Maintenance staff will be required to perform road calls when necessary to diagnose breakdown situations to determine if vehicle can be repaired on roadside and returned to service or if the vehicle can safely return to the maintenance garage. Minor repairs, tires repair or replacement are to be done roadside whenever safe and practical to do so. A “response vehicle” equipped with safety equipment, tools and machinery making it capable to perform roadside repairs. (i.e. tire removal & replacement, lighting system issues, windshield wipers, etc.) must be provided. A report must be provided no later than the fifth day of each month disclosing the number of road calls received, number of road calls responded to, who responded (i.e. maintenance staff, outside vendor or wrecker service, etc.), what the failure was, what the correction was, and if the failure was driver error or maintenance related. This report can submitted on paper or by email.
- All repair and maintenance activity records will be immediately available for inspection upon request by the City of Plymouth or its designee.

## **Attachment C to the Proposal Instructions:**

### **C. DISPUTE AND PROTEST PROCEDURES**

(See Proposal Instructions, section 13 of this RFP, for further information)

The City of Plymouth desires to have the opportunity to know about and resolve controversies and disputes concerning its procurements, prior to commencement of actions in court. Therefore, it establishes the administrative remedies and procedures set forth herein.

Any actual or prospective bidder, proposer, or contractor who is aggrieved in connection with the solicitation or award of a City of Plymouth contract may protest in accordance with these Dispute and Protest Procedures. The City of Plymouth will endeavor to fairly resolve protests that conform to the requirements of these procedures.

Protests will be decided by the Administrative Services Director (ASD). A protester may request review of the ASD's decision by the City Manager.

If the procurement is funded in whole or in part by the Federal Transit Administration ("FTA"), interested persons are hereby notified that a protester must exhaust all administrative remedies with Plymouth before pursuing a protest with FTA. Reviews of protests by FTA will be limited to:

1. Plymouth's failure to have or follow its protest procedures, or its failure to review a complaint or protest; or
2. violations of Federal law or regulation; or
3. violations of State or Local Law or Regulation.

An appeal to FTA must be received by the appropriate FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by Plymouth or other basis of appeal to FTA.

#### **C.1 Purpose**

The Dispute and Protest Procedures provide a process for a full and fair consideration of controversies or disputes concerning procurement, without allowing protesters to exploit protest procedures to obtain a competitive advantage or obstruct procurement. The requirements herein are intended to serve important public purposes. Protesters are cautioned that noncompliance will result in waiver of protest rights. Protesters should review the Dispute and Protest Procedures carefully before filing a protest.

#### **C.2 Definitions**

The words defined in this section shall have the meaning set forth below when they appear hereafter:



- a) *Procurement* means buying, purchasing, renting, leasing, or otherwise acquiring any supplies, services, or construction. The term includes all functions that pertain to the obtaining of any supplies, services, or construction, including descriptions of requirements, selection, solicitation of sources, and preparation and award of contracts.
- b) A *protest* is a written objection by an interested person to a City of Plymouth procurement. Plymouth will not consider or respond to oral protests.
- c) *Solicitation* means the process under which City of Plymouth invites interested persons to bid or make proposals in connection with its procurement.
- d) A *solicitation phase protest* is a protest based on alleged improprieties in a solicitation, including, but not limited to, exclusion of proposers and objections to pre-evaluation processes.
- e) An *award phase protest* means all protests other than solicitation phase protests.
- f) An *interested person* is an actual or prospective proposer, or contractor who alleges that it has been aggrieved in connection with the solicitation or award of a City of Plymouth contract.
- g) A *working day* is an office business day for City of Plymouth staff.

### **C.3 Specific Procedures**

*City of Plymouth requires strict compliance with the following procedures. Failure to comply with these procedures will result in a waiver of protest rights.*

An interested person desiring to protest must file a written protest, by certified mail, with the City of Plymouth contact person designated in the solicitation issued by Plymouth, with a copy to the ASD. If the contact person cannot be identified in the solicitation or is otherwise unavailable, the protest should be filed with the ASD, 3400 Plymouth Blvd, Plymouth, MN 55447.

The written protest must include the following information:

- a) The protester's name, the protester's company name, address, telephone and fax numbers, and, if available, email address.
- b) The project name and number (if any) and the contract name and number (if any) or other solicitation identifier.
- c) Information establishing that the protester is an interested party for the purpose of filing a protest and that the protest is timely.

- d) A detailed statement of the legal and factual grounds for the protest, including a description of the alleged injury or prejudice to the protester.
- e) Identification of evidence known to support allegations in the protest, including, but not limited to, names of the persons involved; a description of relevant occurrences; the documents upon which the protester relies; and the particular aspects or language, if any, in the solicitation documents which are alleged to be defective or illegal. To the greatest extent reasonably practicable, copies of relevant documents should be furnished with the protest.
- f) A statement identifying the requested relief or remedy.

#### **C.4 Deadlines**

The following deadlines apply to protests:

- a) All protests *must* be filed within seven (7) working days after the basis of the protest is known or should have been known, whichever is earlier.
- b) A solicitation phase protest *must* be filed before the bid opening or the closing date for the receipt of proposals. If a solicitation phase protest is not filed before the bid opening or the closing date for the receipt of proposals, a protester's right to bring a protest is waived.
- c) A request for review by the City Manager of the ASD's decision *must* be filed within three (3) working days after the protester's receipt of the ASD's decision.
- d) Failure to file a protest or request for review by the City Manager within the time periods indicated *shall* result in a waiver of the protest.

#### **C.5 Designated Contact Person**

Once a written protest is filed with the designated contact person, the protest will be given to the ASD for review and consideration.

In the case of a timely solicitation phase protest, the designated contact person initially will determine if the scheduled bid opening or proposal due date should be extended pending resolution of the protest and, if so, will issue a notification to all bidders or proposers. The designated contact person will notify funding authorities (such as the FTA) upon protest filing and as required by rule or regulation. Notification to FTA will include a brief description of the protest, the basis of disagreement, the status of the protest, and whether an appeal has been taken or is likely to be taken.

#### **C.6 Consideration by the Administrative Services Director (ASD)**

The will review and consider a timely filed protest and supporting documents, and will render a written decision that addresses the issues raised in the protest. The ASD shall not hold any hearing, and will take action on the basis of such review and investigation as he or she deems appropriate in his or her discretion. The COO will render a final decision no more than ten (10) working days after the filing of the protest.

#### **C.7 City Manager's Review**

Within three (3) working days after receiving the ASD'S written decision, a protester may request that the City Administrator review the ASD's decision. A request for City Manager review must be made in writing to the ASD, by certified mail, and shall include a clear reference to the decision to be reviewed and shall state the legal and factual reasons for disagreement with the City Manger's decision.

The City Manager shall not be required to hold any hearing, and may take action on the basis of such review and investigation as they deem appropriate at their discretion. The City Manager may, as they see fit, accept further written submissions, take testimony, and/or make a transcript of hearings or proceedings. The City Manager will issue a written decision no later than fourteen (14) working days after receipt of the request for review.

#### **C.8 Effect on Procurement**

The City Manager, as a matter of their sole discretion, may suspend or proceed with the procurement process, pending the outcome of a protest.

#### **C.9 Records Retention**

All protest-related documents must be retained by SWT for six (6) years.

#### **C.10 Deviations**

In the exercise of his or her discretion, and for good cause adequately demonstrated, the ASD may waive stated deadlines and/or insubstantial deviations from the requirements herein.

**Attachment D to the Proposal Instructions:**

**C. SAMPLE CONTRACT**

**TRANSIT SERVICES CONTRACT  
BY AND BETWEEN  
CITY OF PLYMOUTH  
AND**

---

THIS CONTRACT ("Contract") is made and entered into by and between the City of Plymouth ("Metrolink") and \_\_\_\_\_ ("Contractor").

**NOW, THEREFORE, IN CONSIDERATION OF THEIR MUTUAL COVENANTS THE PARTIES AGREE AS FOLLOWS:**

1. **Definitions** For the purposes of this Contract, the following definitions shall apply:
  - 1.1. **Transit System:** As used herein, the term "Transit System" shall mean the fixed route and dial-a-ride public bus service operated for Metrolink.
  - 1.2. **Revenue Hour:** Revenue Hour shall be calculated by the first scheduled pick-up to the last scheduled drop-off on each block of work per driver and vehicle. As used herein, Revenue Hour shall account for all expenses necessary for Contractor's provision of services as required in this Contract and proposed in the Request for Proposals. This includes, but is not limited to: Contractor's employee wages including employee bonus incentives, payroll taxes, workers compensation insurance and fringe benefits for the employment of drivers, support, and management positions; all costs associated with Contractor's transit operations such as training costs, vehicle maintenance, vehicle overhaul, recruiting expenses, and profit; vehicle and employee insurance costs; facilities necessary to support transit maintenance operations, management operations, vehicle storage, fuel storage and pumping, and other space as deemed necessary by Contractor; and all other charges, costs and expenses incident to Contractor's operation of Metrolink's Transit System. Revenue Hour does not include the cost of fuel, as fuel will be purchased by Metrolink.
  - 1.3. **Operating Revenues:** As used herein, the term "Operating Revenues" shall mean and include all revenues derived from the operation of Metrolink's Transit System, including, but not limited to, passenger fares.

2. **Employment and Acceptance:** Metrolink engages Contractor to advise Metrolink and to operate the Transit System on a day to day basis, including additions to and extensions, as described in the Contract Documents. Contractor agrees to supply such services.
3. **Contract Documents.** The following documents shall be referred to as the “Contract Documents”, all of which shall be taken together as a whole as the contract between the parties as if they were set verbatim and in full herein:
  - A. This Contract
  - B. Request for Proposals (“RFP”) for Transit Services including attachments
  - C. Contractor’s Proposal

In the event of a conflict among the provisions of the Contract Documents, the order in which they are listed above shall control in resolving any such conflicts, with Contract Document “A” having the first priority and Contract Document “C” having the last priority.

4. **Independent Contractor:** In the performance of Contractor’s obligations under this Contract, it is understood, acknowledged, and agreed between the parties that Contractor is at all times acting and performing as an independent contractor, and Metrolink shall neither have nor exercise any control or direction over the manner and means by which Contractor performs Contractor’s obligations under this Contract, except as stated herein. Contractor understands and agrees that Contractor’s employees, agents, servants and other personnel are not Metrolink employees. Contractor shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to any of Contractor’s employees, agents, servants or other personnel performing services or work under this Contract. It is expressly understood and agreed that Contractor’s employees, agents, servants or other personnel shall not be entitled to any Metrolink payroll, insurance, unemployment, worker’s compensation, retirement or any other benefits whatsoever.

5. **Scope of Services:**

- 5.1. Under the general policy direction and oversight of Metrolink, acting through Plymouth’s Administrative Services Director or designee, Contractor, through its Manager of Driver Services, will plan, operate, organize and direct the activities of Metrolink’s Transit System, operate the service at the level of service and for the budget adopted by Metrolink, provide and oversee all Contractor employees including bus drivers and contract employees. Contractor shall provide safe, timely, professional and reliable transit services. Contractor shall operate the Transit System under the name “Plymouth Metrolink”; all rights to which are owned by Metrolink.

- 5.2. The advisory, management and supervisory services to be furnished by Contractor, in coordination with Plymouth's Administrative Services Director or designee, will include, but are not be limited to, transportation operations, schedule operations, labor relations and labor contract negotiations as may be necessary for Contractor's employees, accounting, income and expense projections, safety, employee selection and training and all other managerial functions normally required in the daily operation of a transit system.
- 5.3. Contractor shall comply with Exhibit A, Scope of Services, attached hereto and incorporated herein.
- 5.4. The Transit System is operated for Metrolink within the service area. Metrolink shall have the unilateral right to change the service area at any time during the term of this Contract.

**6. Personnel:**

- 6.1. Contractor shall furnish individuals to serve as Manager of Driver Services, Assistant Manager, Safety Manager, two street supervisors, and two dispatchers (collectively "Administrative Positions"). Each Administrative Position shall be full-time, but are subject to change as directed by Plymouth's Administrative Services Director upon four-week notice to Contractor. Contractor shall not eliminate or add an Administrative Position without Metrolink's prior written approval.
- 6.2. Contractor shall furnish individuals to operate the buses of the planned Metrolink service. At least half of the operator wages need to be in the top pay range of the operator scale.
- 6.3. Contractor shall furnish individuals to maintain the bus fleet. The preferred ratio of technicians to buses is one technician for six buses. With a fleet of 43 buses, there will be a First and Second shift. The two shifts are made up of three full time (40 hours) technicians defined below:

First Shift

- 1<sup>st</sup> shift Lead Technician – A level technician
- 1 B level technician
- 1 C level technician

Second Shift

- 1<sup>nd</sup> shift Lead Technician – A level technician
- 1 B level technician
- 1 C level technician

The definitions of the A, B and C level technicians are defined in the RFP which is incorporated into this contract.

- 6.4. If a current individual filling one of the Administrative Positions, or any other person so assigned, is determined by Metrolink to be incapable of performing his duties in a manner acceptable to Metrolink, then Contractor will be notified by Metrolink in writing. In this event, Metrolink shall require the individual's removal from Metrolink's Transit System. Contractor shall effect such a removal within seven (7) days of receipt of Metrolink's written notice. A qualified replacement, acceptable to Metrolink, will be assigned by Contractor in accordance with the provisions of this section. In the event a replacement individual is not approved by Metrolink, Metrolink reserves the right to terminate this Contract for convenience. Contractor shall have a minimum of thirty (30) days, but not more than sixty (60) days, to propose a replacement individual.
- 6.5. If an individual filling one of the Administrative Positions becomes disabled for a period in excess of one (1) weeks, Contractor shall secure a qualified individual to fill the position for as long as such disability may continue or to replace the individual if necessary, all subject to the advice and consent of Plymouth's Administrative Services Director or designee.
- 6.6. Contractor shall not, during the term of this Contract, relocate or assign any of the individuals filling one of the Administrative Positions to any other position or location without prior written Metrolink approval.
- 6.7. The responsibilities of Contractor, through the Manager of Driver Services, shall include, but not be limited to, the following:
  - 6.7.1. Daily operation and service activities of the Transit System in accordance with Metrolink, FTA/DOT policies and regulations and maintain records to document compliance.
  - 6.7.2. Management of Contractor's Transit System employees.
  - 6.7.3. Implementation of adopted Transit System plans and policies.
  - 6.7.4. Assist in evaluation and preparation of routes and schedules subject to Metrolink direction and approval.
  - 6.7.5. Prepare operating budgets recommendations for Metrolink's staff.
  - 6.7.6. Assist in preparing specifications for capital equipment and supplies.
  - 6.7.7. Provide to Metrolink monthly cost analysis of operations budget.
  - 6.7.8. Contractor's personnel and labor relations.

- 6.7.9. Other Contractor employee personnel matters including training and development.
- 6.7.10. Hire, assign, supervise, and dismiss all Contractor employees.
- 6.7.11. Project and monitor monthly cash flow.
- 6.7.12. Handling of Contractor's accident reporting, safety and security.
- 6.7.13. Contractor's administrative policies and procedures and record keeping.
- 6.7.14. Advising Metrolink on matters of importance to the Transit System and make recommendations to Metrolink.
- 6.7.15. Review system operations manual, procurement code, personnel manual, and work rules, and modify as appropriate.
- 6.7.16. Monitor efficiency and cost effectiveness of transit services and provide routine reports and recommendations relating to service modifications, route planning and service design.
- 6.7.17. Abide by the terms of this Contract for the payment of claims and judgments as spelled out in Section 20 herein.
- 6.7.18. Manage fuel storage and pumping facilities.
- 6.8. The responsibilities of Contractor's Manager of Driver Services, Assistant Manager of Driver Services, and Safety Manager will be determined from time to time jointly by Plymouth's Administrative Services Director or designee, and Contractor.

## **7. Compensation:**

- 7.1. In consideration of satisfactory performance of services required by this Contract, Metrolink shall pay Contractor its fee for revenue hours of service provided in the performance of this Contract (i.e. Revenue Hour expense) as set forth in Contractor's Proposal.
- 7.2. On a monthly basis, all Revenue Hour expenses shall be reimbursed to Contractor using the invoice procedures detailed in Section 11 herein.
- 7.3. All expenses, except otherwise noted in this Contract, shall initially be paid by Contractor. Contractor shall keep and maintain the books and records reflecting



Contractor's operation of Metrolink's Transit System in accordance with the requirements of the uniform system of accounts and records. Contractor shall render and certify to Plymouth's Administrative Services Director or designee such full and complete monthly or other operating reports as requested by Metrolink.

- 7.4. Contractor shall be responsible for the payment of wages, benefits, payroll taxes, and other employment costs, for base hours budgeted plus overtime.
- 7.5. Liquidated Damages/Missed Trip Credit. A missed trip credit will be applied for any trip missed in its entirety or that starts its run 15 minutes or more after its first scheduled pick-up point. Contractor will deduct from its monthly bill two times the base operating time/revenue hour scheduled for the run/trip.
- 7.6. During the term of this Contract, Contractor shall provide workers compensation insurance as required under Section 19 herein. This expense shall be included in, and not in addition to, the Revenue Hour expenses.
8. **Routing and Service:** Contractor, through the Manager of Driver Services, shall make to Metrolink periodic recommendations as requested by Metrolink concerning any deletions, additions, or changes in the service and routing of the Transit System. Plymouth's Administrative Services Director, or his/her designee, shall have final determination authority over all routes, fares, and schedules.
9. **Budgets and Recommendations:** Contractor, through the Manager of Driver Services, agrees to prepare projections required by Metrolink for budget purposes and to assist Metrolink in the preparation of an annual report of operations. Contractor, through the Manager of Driver Services, will also furnish periodic reports and recommendations to Metrolink relating to service extensions, route planning and service policies.
10. **Revenues:** All Operating Revenues are the property of Metrolink. The handling of these revenues, including the banking and accounting, shall be as directed by Metrolink. Contractor shall receive, collect, and assist in preparing the deposit of all Operating Revenues of the Transit System in the manner directed by Metrolink.
11. **Invoicing Procedures and Records:**
  - 11.1. Contractor shall submit to Metrolink, on a monthly basis, and by the 10<sup>th</sup> of each month, an invoice for reimbursement for services provided, as measured by Revenue Hour, in the performance of this Contract, minus cash fares collected. Contractor shall submit as documentation for reimbursement, the following:
    - 11.1.1. Revenue Hours performed.
    - 11.1.2. Minus cash fares collected.

11.1.3. Minus reduction/credit per each trip missed in a given month (see Liquidated Damages in Section 7.5).

11.2. Contractor shall maintain records in a manner acceptable to Metrolink for all Operating Expenses incurred under this Contract. At the request of Metrolink, documentation of all labor costs and other costs and information in support thereof shall be made available within a reasonable period during the term of this Contract and for six (6) years after the End Date.

11.3. Metrolink shall pay Contractor by Revenue Hour as described in Section 11.1 within 30 days of receipt of Contractor's invoice. Should Metrolink dispute any item on Contractor's invoice, Metrolink may withhold payment on the disputed amount but shall pay all undisputed portions. Disputes shall be resolved pursuant to Section 24 herein.

**12. Audit and Inspection of Records:**

12.1 Any reports, information, data given to, or prepared or assembled by the CONTRACTOR under this Agreement which Metrolink requests to be kept confidential, shall not be made available to any individual or organization without Metrolink's prior written approval. The books, records, documents and accounting procedures and practices of the CONTRACTOR or other parties relevant to this Agreement are subject to examination by Metrolink and either the Legislative Auditor or the State Auditor for a period of six (6) years after the effective date of this Agreement.

12.2. Metrolink, or its designated agent, accountant or auditor, shall have the right of access to and inspection of all books and records of the CONTRACTOR at any and all reasonable times in order to verify and ascertain Operating Revenues and Revenue Hour services provided under the terms of this Agreement and for any other reasonable purpose including, but not limited to, determining compliance with this Agreement. The books and records of the CONTRACTOR pertaining to this Agreement shall be kept and available at the CONTRACTOR's accounting center in \_\_\_\_\_. If required by Metrolink, the Contractor will furnish an annual audit, prepared and certified to by an independent public accountant selected by Metrolink, certifying CONTRACTOR'S annual Operating Revenues, Operating Expenses, and fuel usage for the past year and certifying such other financial statements as may be required by generally accepted accounting principles. The cost of such audit will be an obligation of CONTRACTOR. The CONTRACTOR shall maintain all data and records with regard to the work and shall preserve and make available all data of final payment under this Agreement, or for such longer period, if any, as is required by applicable statute or by other articles of this Agreement. Upon request, CONTRACTOR shall transport any records and

books from the CONTRACTOR's accounting center to Metrolink's office at the CONTRACTOR's sole expense for review by Metrolink, the State Auditor, the State Legislative Auditor, and any agent designated by Metrolink.

**13. Materials, Equipment and Facilities:**

13.1. Except for any specific requests for additional vehicles under Section 4.3 of the Scope of Services (Exhibit A), Metrolink shall provide all buses and fuel necessary for the operation of the Transit System.

13.2. CONTRACTOR shall keep a perpetual inventory of all Transit equipment belonging to Metrolink or in the lawful possession of Metrolink and being operated by CONTRACTOR. Metrolink reserves the right to have access to and inspect the equipment at any time. Prior to \_\_\_\_\_ the CONTRACTOR in conjunction with a representative from Metrolink, shall conduct an inventory and identify the Transit Equipment which shall be provided to the CONTRACTOR as part of this Agreement.

13.3 The CONTRACTOR shall be responsible to provide all facilities necessary to carry out its operations, with the exception of bus stops, park and ride facilities, and bus stop shelters.

**14. Non — Discrimination/Ethical Standards:** CONTRACTOR shall comply with Title VI of the Civil Rights Act of 1964, as amended (Public Law 88 — 352); all requirements imposed by the U.S. Department of Transportation; Executive Orders 11246 and 11375; and all state, federal, and local regulations and requirements. CONTRACTOR shall have an affirmative action plan that has been approved by the Minnesota Commissioner of Human Rights. The CONTRACTOR shall submit to Metrolink a copy of the Certificate of Compliance issued by the Commissioner signifying that the CONTRACTOR has an Affirmative Action Plan approved by the State Human Rights Department.

**15. Conformance with Annual Budget:** Metrolink is operated under, and must comply with, an annual budget and appropriations. Services must be provided within the annually adopted budget. The CONTRACTOR shall comply with the annual budget approved by Metrolink, and the CONTRACTOR further agrees that it shall not exceed such budget except at the written direction of Metrolink.

**16. Public Records:** This Agreement is subject to the Minnesota Government Data Practice Act, Minnesota Statutes Chapter 13 (Data Practices Act). All government data, as defined in the Data Practices Act Section 13.02, Subd 7, which is created, collected, received, stored, used, maintained, or disseminated by Contractor in performing any of the functions of Metrolink during performance of this Agreement is subject to the requirements of the Data Practice Act and Contractor shall comply with those requirements as if it were a government entity. All subcontracts entered

into by Contractor in relation to this Agreement shall contain similar Data Practices Act compliance language.

17. **Continuing Effect:** This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

18. **Commencement and Term:**

18.1. This Agreement shall become effective on 0001 hours, \_\_\_\_\_ and end 2400 hours, December 31, \_\_\_\_\_, subject to the extension and termination provisions of the Agreement.

18.2 Upon mutual agreement of the Parties, Metrolink shall have the option to extend this Agreement up to two additional terms of four years each. In the event that the Agreement is extended, the Parties shall negotiate the Revenue Hour fee.

19. **INSURANCE:**

19.1. **CONTRACTOR:** Contractor shall purchase and maintain in effect during the entire period of this contract, insurance of the types with the minimum limits of liability as stated below. CONTRACTOR shall maintain in effect all insurance coverages required under this Agreement with insurance companies licensed to do business in the state in Minnesota and having a current A.M. Best rating of no less than A-, unless specifically accepted by Metrolink in writing. All policies, except the Worker's Compensation Policy, shall name the "Metrolink" as an additional insured on ISO forms CG 20 10 07 04 or CG 20 10 04 13; and CG 20 37 07 04 or CG 20 37 04 13, or their equivalent. All policies shall contain a waiver of subrogation in favor of Metrolink. All policies shall be primary and non-contributory. All policies, except the Worker's Compensation Policy, shall insure the defense and indemnity obligations assumed by Contractor under this Agreement. Contractor agrees to maintain all coverage required herein throughout the term of the Agreement and for a minimum of two (2) years following Metrolink's written acceptance of the Work. It shall be Contractor's responsibility to pay any retention or deductible for the coverages required herein.

19.1.1. **Automobile Liability:** Contractor shall maintain automobile liability coverage with a limit not less than the maximum tort liability limits set forth in Minnesota Statutes, Chapter 466 on each vehicle that will be used to provide transportation services pursuant to this Agreement. Contractor shall also maintain an automobile liability umbrella policy in an amount not less than \$4,000,000.00 covering each vehicle that will

be used to provide transportation services pursuant to this Agreement. The coverages shall not include an annual aggregate.

The policies providing automobile liability and the umbrella automobile liability coverage shall be endorsed to name Metrolink as an additional insured. These coverages shall apply as primary insurance with respect to any other insurance or self-insurance program maintained by CONTRACTOR, and shall not contribute to it. All coverages shall be applicable to the terms and conditions set forth in Section 20 regarding indemnification.

19.1.2. **Automobile Physical Damage:** CONTRACTOR shall maintain automobile physical damage coverage on all vehicles that will be used to provide transportation services pursuant to this Agreement, with limits equal to at least the actual cash value of each vehicle. Except as provided in this Agreement, CONTRACTOR shall be responsible for any damages to Metrolink's vehicles.

19.1.3 **Commercial General Liability:** CONTRACTOR shall maintain commercial general liability (CGL) and commercial umbrella insurance, with a limit of not less than \$2,000,000.00 each occurrence. Such CGL insurance shall not include an annual aggregate. The Commercial General Liability Policy shall be on ISO form CG 00 01 12 07 or CG 00 01 04 13, or the equivalent. Such insurance shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the Commercial General Liability form arising from pollution, explosion, collapse, underground property damage or work performed by subcontractors.

19.1.4. **Other Coverage:** CONTRACTOR may procure, for its own benefit and in its sole discretion, any additional coverage it deems necessary.

19.2. **CONTRACTOR:** CONTRACTOR shall purchase and maintain in effect during the entire period of this contract, insurance of the types with the minimum limits of liability as stated below. CONTRACTOR shall maintain in effect all insurance coverages required under this Agreement with insurance companies licensed to do business in the state in Minnesota and having a current A.M. Best rating of no less than A-, unless specifically accepted by Metrolink in writing. All policies, except the Worker's Compensation Policy, shall name the "Metrolink Transit" as an additional insured on ISO forms CG 20 10 07 04 or CG 20 10 04 13; and CG 20 37 07 04 or CG 20 37 04 13, or their equivalent. All policies shall contain a waiver of subrogation in favor of Metrolink. All policies shall be primary and non-

contributory. All policies, except the Worker's Compensation Policy, shall insure the defense and indemnity obligations assumed by Contractor under this Agreement. Contractor agrees to maintain all coverage required herein throughout the term of the Agreement and for a minimum of two (2) years following Metrolink's written acceptance of the Work. It shall be Contractor's responsibility to pay any retention or deductible for the coverages required herein.

19.2.1. **Workers' Compensation:** CONTRACTOR shall at all times keep fully insured, at its own expense, all persons employed in connection with the performance of this Agreement as required by the laws of Minnesota relating to workers' compensation insurance. The CONTRACTOR shall provide a certificate of insurance showing evidence of workers' compensation coverage or provide evidence of qualification as a self-insurer of workers' compensation. The CONTRACTOR shall hold Metrolink harmless from any liability, claim, costs or expenses arising from any allegation of injury to an employee of the CONTRACTOR performing work or labor necessary to carry out the provisions of this Agreement.

19.3. **Other Insurance Provisions:**

19.3.1. **Deductibles or Self-Insured Retention:** Any deductibles or self-insured retention of CONTRACTOR must be declared to and approved by Metrolink in writing. At the option of Metrolink, either the insurer shall reduce or eliminate such deductibles or self-insured retention as respects Metrolink and its officers and employees; or the CONTRACTOR shall procure a bond guaranteeing payment of losses and related investigations, claims administration and defense expenses.

19.3.2. **Cancellation:** All insurance policies required by this Agreement shall be endorsed to state that coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits, except after thirty (30) days prior written notice by certified mail to Metrolink. Renewal certificates shall be provided to Metrolink not less than ten (10) days prior to the expiration date of any of the required policies.

19.3.3. **Certificates of Insurance:** Contractor shall furnish Metrolink with certificates of insurance and with endorsements affecting coverage required by this Contract.

19.3.4. **Additional Insurance:** Metrolink does not represent in any way that the insurance specified in this Contract, whether in scope of coverage or limits, is adequate or sufficient to protect Contractor. It is the sole responsibility

of Contractor to determine the need for and to procure additional coverage which may be needed in connection with this Contract.

19.4. **Bonds:**

19.4.1. **Performance and Payment Bonds:** Within fifteen (15) calendar days after the execution of this Contract and before the Effective Date or any work or services are rendered, Contractor shall furnish a performance bond and payment bond each in the amount of four times the total Revenue Hour annual qualification of cost, as submitted in Contractor's Proposal, for all services to be provided under this Contract, insuring the faithful performance of the Contract and payment of all obligations arising thereunder pursuant to Section 574.26 of the Minnesota Statutes.

20. **Indemnification:**

20.1. **Contractor:** Contractor agrees to defend, indemnify, and hold harmless Metrolink and its officers and employees, from and against all suits and causes of action, claims, losses, demands, and expenses, including but not limited to attorney's fees and costs of litigation, damage or liability arising from the performance of Contractor's obligations under this Contract, except to the extent that such claims are caused in whole or in part by the gross negligence or intentional misconduct of Metrolink or its officers and employees.

20.2. **Minnesota Municipal Tort Claims Act:** The tort liability of Metrolink and its officials and employees is governed by the Minnesota Municipal Tort Claims Act, Minnesota Statutes, Chapter 466 ("the Act"). Nothing in this Contract shall be construed to waive the limitations of liability or any immunities provided in the Act for Metrolink and its officials and employees.

21. **Non-exclusive Service Provision:** This Contract does not constitute an agreement by Metrolink that Contractor herein will be the exclusive provider of transportation, maintenance, and dispatch services for Metrolink. Metrolink reserves the right at any time to contract with such other providers that it determines, in its sole discretion, shall provide transportation for one or more of the routes or services herein, subject to the limitations of this Contract.

22. **Termination:**

22.1. **For Lack of Funding:** This Contract may be terminated at any time upon 30 days written notice by Metrolink in the event that Metrolink fails to obtain funding, or in the event funding is reduced, to operate the services provided under the terms of this Contract. In this event, Metrolink shall notify Contractor in writing,

specifying a date of termination. Metrolink shall be responsible for payment of services provided prior to termination.

- 22.2. **Without Cause:** Metrolink may, upon 180 days advance written notice, terminate this Contract for any reason and without cause.
- 22.3. **Failure to Perform:** Should either party ("Non-Complying Party") materially abandon, delay unnecessarily in the performance of, or in any manner refuse or fail to comply with this Contract, the other party ("Disputing Party") shall provide written notice to the Non-Complying Party specifying the portion of this Contract that the Non-Complying Party is not in compliance with. After receipt of this notice the Non-Complying Party shall respond within seven (7) calendar days with one of the following actions: (1) denying the allegations; (2) curing such noncompliance; or (3) setting forth a plan to cure such non-compliance. In the event of a denial of the allegations, the Non-Complying Party shall appeal the notice to the Disputing Party's representative set forth in Section 31 below within the seven (7) day period referred to above pursuant to the dispute procedure set forth in section 23 of this Contract. In the event the non-compliance is cured, there shall be no termination of this Contract on account of such notice of non-compliance. In the event a plan to cure non-compliance is submitted, the Disputing Party shall either accept or reject the plan. If the plan is rejected, the Non-Complying Party shall have three (3) calendar days to submit another plan. In the event the Non-Complying Party fails to respond as required by this section or in the event it fails to perform as agreed to in the plan to cure the non-compliance, then the Disputing Party may terminate this Contract at its sole discretion by giving written notice to the Non-Complying Party.
- 22.4. **Termination Due to Modification or Cessation of Metrolink Transit System:** In the event Metrolink determines, in its sole discretion, to cease operation of its Transit System, Metrolink may terminate this Contract or any portion hereof, upon 30 days written notice to Contractor. Metrolink, at its sole discretion may revise all or part of its routes and schedules at any time.
23. **Law:** This Contract is subject to and shall be interpreted under the law of the State of Minnesota. Contractor shall comply with all applicable local, state, and federal laws and regulations.
24. **Force Majeure:** Either party shall be excused from performing its obligations under this Contract during the time and to the extent that it is prevented from performing by a cause beyond its control, including, but not limited to: any incident of fire, flood, Acts of God, Acts of the Government or shortage of commodity. In this event, the party claiming Force Majeure shall notify the other party in writing of the Force Majeure situation, the extent the party will be prevented from performing and an estimated timetable for resumption of that party's full duties.



25. **Disputes:** In the event either party claims a dispute over the performance of the other party or over the intent of this Contract, the party claiming dispute shall first notify the other party in writing and shall afford the other party a minimum of fourteen (14) days to respond to the dispute in writing. If the dispute cannot be settled through negotiation, suit may be filed District Court, County of Hennepin, State of Minnesota. Punitive damages will not be awarded to either party.
26. **Equal Employment Opportunity:** Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex, religion, sexual orientation, age, national origin, disability, marital status or status with regard to public assistance. Contractor will take affirmative action to insure that applicants are employed and that employees are treated during their employment without regard to their race, creed, color, sex, religion, sexual orientation, age, disability, marital status, status with regard to public assistance 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. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provision of this discrimination clause. The applicable provisions of Presidential Executive Order 11246, as amended, relating to Equal Employment Opportunity, are incorporated by reference herein.
27. **Conflicts of Interest:**
- 27.1. **Prohibited Interests:** No member, officer, or employee of Contractor or its Administrative Positions, during his or her tenure or one year thereafter, may have any interest, direct or indirect, in this Contract or the proceeds thereof.
- 27.2. **Organizational Conflict of Interest:** An “Organizational Conflict of Interest” exists when, because of existing or planned activities or because of relationships with other persons, Contractor is unable or potentially unable to render impartial assistance or advice to Metrolink, or Contractor’s objectivity in performing the contract work is or might be otherwise impaired, or Contractor has an unfair competitive advantage. Contractor is obligated to immediately disclose to Metrolink all Organizational Conflicts of Interest existing during the Term of this Contract.
28. **Waiver and Precedent:** The failure to enforce at any time any of the provisions of this Contract or to require at any time performance by any party of any of the provisions hereof shall in no way be construed to be a waiver or such provisions or to affect either the validity of this Contract, or any part hereof, or the right of each party thereafter to enforce each and every provision in accordance with the terms of this Contract.

29. **Severability.** The provisions of this Contract are severable. If any portion hereof is, for any reason, held by a court of competent jurisdiction to be contrary to law, such decision shall not affect the remaining provisions of this Contract.
30. **Amendments:** All changes to this Contract shall be evidenced by a written agreement duly executed by authorized officials of Contractor and Metrolink. In the event a change in this Contract causes an increase or decrease in the Revenue Hour expenses hereunder, Contractor and Metrolink agree to negotiate an increase or decrease in compensation as appropriate. Administrative Change Orders issued by Metrolink shall be considered amendments to this Contract when agreed to by Contractor.
31. **Final Payment:** Metrolink may withhold from any final payment due Contractor such amounts as are incurred or expended by Metrolink on account of the termination of this Contract for cause.
32. **Notices:** All notices hereunder and all communications made with respect to this Contract shall be deemed to be made when deposited with the United States Postal Service, first class postage prepaid, or transmitted by facsimile with the original delivered by any of the other means set forth in this Section, or delivered by a recognized overnight courier or personally, and addressed as follows:

To Contractor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

To Plymouth Metrolink:  
Administrative Services Director  
City of Plymouth  
3400 Plymouth Boulevard  
Plymouth, MN 55447

With a copy to:  
Roger N. Knutson  
Campbell Knutson P.A.  
Grand Oak Office Center I  
860 Blue Gentian Road, Suite 290  
Eagan, MN 55121

33. **No-Strike.** Contractor agrees that it will ensure there is no strike, slowdown, or stoppage or any other interference with or interruption of the work or operations of Metrolink during the term of this Contract. Should a strike, slowdown, or stoppage or any other interference with or interruption of the work or operations occur, Metrolink retains the right to terminate this Contract upon 24 hours written notice.
34. **Communication.** Communications between Contractor's employees and subcontractors and the public is essential for safe and effective performance of this Contract. Contractor shall ensure that all employees and subcontractors are able to proficiently communicate in English. Fluency in other languages is encouraged.
35. **Federal Provisions.** Contractor shall comply with all federal requirements, statutes, rules, FTA circulars, Executive Orders, and guidance including but not limited to those set forth in Exhibit B, attached hereto and incorporated herein. All such federal requirements set forth in the attached Exhibit B are incorporated herein.
36. **Assignment.** Contractor shall not assign or transfer this Contract to anyone other than an affiliate of Contractor without the prior written consent of Metrolink in each instance; provided, however, that the consent of Metrolink shall not be unreasonably withheld in any case.

IN WITNESS WHEREOF, the parties hereto have executed this Contract in duplicate originals on the dates shown below.

Dated: \_\_\_\_\_.

METROLINK  
CITY OF PLYMOUTH

By: \_\_\_\_\_  
Its: Mayor

By: \_\_\_\_\_  
Its: City Manager

Dated: \_\_\_\_\_.

CONTRACTOR

\_\_\_\_\_

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

Its: \_\_\_\_\_

**EXHIBIT A TO CONTRACT  
SCOPE OF SERVICES**

**EXHIBIT B TO CONTRACT  
FEDERAL PROVISIONS**

**EXHIBIT A**

**SCOPE OF SERVICES**

**[INSERT SCOPE OF WORK FROM RFP]**

## **EXHIBIT B FEDERAL PROVISIONS**

### **Definitions**

Recipient means Plymouth

Contractor means \_\_\_\_\_

Contract means that certain agreement between Recipient and Contractor dated \_\_\_\_\_.

### **Fly America**

The Contractor agrees to comply with 49 U.S.C. 40118 (the “Fly America” Act) in accordance with the General Services Administration’s regulations at 41 CFR Part 301-10, which provide that recipients and 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.

### **Buy America**

If the Contract is for construction or for acquisition of goods or rolling stock valued at more than \$100,000, 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 include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. 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 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) 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.

### **Certification requirement for procurement of steel, iron, or manufactured products.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(1)*



The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.5.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

**Certification requirement for procurement of buses, other rolling stock and associated equipment.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

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

Title \_\_\_\_\_

### **Charter Service Operations**

The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

### **School Bus Operations**

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

### **Cargo Preference - Use of United States-Flag Vessels**

The contractor agrees: 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 loading 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.

### **Seismic Safety**

If the Contract is for the construction of new buildings or additions to existing buildings, the contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

### **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.

### **Clean Water**

If the Contract exceeds \$100,000, then the following provisions apply:

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. 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.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

### **Bus Testing**

If the Contract relates to the acquisition of rolling stock or turnkey, the Contractor agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and if applicable shall perform the following:

1) 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 to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.

2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.

3) 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.

4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

#### **CERTIFICATION OF COMPLIANCE WITH FTA'S BUS TESTING REQUIREMENTS**

The undersigned [Contractor/Manufacturer] certifies that the vehicle offered in this procurement complies with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

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

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

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

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

#### **Pre-Award and Post-Delivery Audit Requirements**

If the Contract relates to the acquisition of rolling stock or turnkey, the Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and if applicable to submit the following certifications:

(1) Buy America Requirements: 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.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) 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 CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS  
FOR BUSES, OTHER ROLLING STOCK, OR ASSOCIATED EQUIPMENT**

*(To be submitted with a bid or offer exceeding the small purchase threshold for Federal assistance programs, currently set at \$100,000.)*

**Certificate of Compliance**

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the 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)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

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

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

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

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

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]**

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

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

*(To be submitted with each bid or offer exceeding \$100,000)*

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

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

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

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, 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. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

#### **Access to Records**

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the 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. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

#### **Federal Changes**

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 Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### **Bid Bond Requirements (Construction)**

Bonding requirements may apply to this contract; see the body of the contract for any applicable bonding requirements.

#### **Performance and Payment Bonding Requirements (Construction)**

Bonding requirements may apply to this contract; see the body of the contract for any applicable bonding requirements.



### **Performance and Payment Bonding Requirements (Non-Construction)**

Bonding requirements may apply to this contract; see the body of the contract for any applicable bonding requirements.

### **Advance Payment Bonding Requirements**

Bonding requirements may apply to this contract; see the body of the contract for any applicable bonding requirements.

### **Patent Infringement Bonding Requirements (Patent Indemnity)**

Bonding requirements may apply to this contract; see the body of the contract for any applicable bonding requirements.

### **Warranty of the Work and Maintenance Bonds**

Warranty and/or bonding requirements may apply to this contract; see the body of the contract for any applicable warranty and/or bonding requirements.

### **Clean Air**

If the Contract exceeds \$100,000, then the following provisions apply:

(1) 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 et seq. 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.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

### **Recovered Materials**

If Recipient purchases \$10,000 or more of EPA designated items during the current fiscal year or the prior fiscal year, 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 designated in Subpart B of 40 CFR Part 247.

### **Davis-Bacon and Copeland Anti-Kickback Acts**

If the Contract is for construction in excess of \$2,000 then the following provisions apply:

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in

the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or

disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Recipient may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid

(including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of

Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

**(4) Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the

Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be

grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

**(8) Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

**(9) Disputes concerning labor standards** - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

**(10) Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

#### **Contract Work Hours and Safety Standards**

If the Contract is in excess of \$100,000 and the Contract is for construction or employs laborers or mechanics on public work the following provisions apply:

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

**(2) Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the



overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The Recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

**No Obligation by the Federal Government.**

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

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

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

(1) 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.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

### **Termination**

Termination requirements may apply to this contract; see the body of the contract for any applicable termination requirements.

### **Suspension and Debarment**

If the Contract exceeds \$25,000, then the following provisions apply:

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

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

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

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

### **Contracts Involving Federal Privacy Act Requirements**

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

### **Civil Rights**

The following requirements apply to the underlying contract:

(1) 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.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) 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.

(b) 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 employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) 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.

(3) 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.

### **Breaches and Dispute Resolutions**

Breach and dispute resolution requirements may apply to this contract; see the body of the contract for any applicable breach and dispute resolution requirements.

### **Patent and Rights in Data**

If the contract is for the purposes of development of a product or information the following provisions apply:

#### **CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.**

A. **Rights in Data** - This following requirements apply to each contract involving experimental, developmental or research work:

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

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such

time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

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

**B. Patent Rights** - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S.

Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

**Transit Employee Protective Provisions.**

(1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with

the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

#### **Disadvantaged Business Enterprises**

The Contractor agrees to comply with the following DBE requirements if applicable:

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's goal for DBE participation is 0 %.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Recipient deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Recipient. In addition, the contractor may not hold retainage from its subcontractors.

e. The contractor must promptly notify Recipient, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Recipient.

#### **Incorporation of Federal Transit Administration (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 Circular 4220.1E, 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 Recipient requests which would cause Recipient to be in violation of the FTA terms and conditions.

**Drug and Alcohol Testing**

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of Minnesota, or the Recipient, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before March 31 and to submit the Management Information System (MIS) reports before March 31 to Recipient. To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**FHWA Required Contract Provisions for Federal-Aid Construction Contracts**

If the Contract is a construction contract funded under Title 23, then FHWA – 1273 is hereby incorporated by reference in this Contract.

**Attachment E to the Proposal Instructions:**

**E. AFFIRMATIVE ACTION CERTIFICATION STATEMENT**

(See Proposal Instructions, section 17 of this RFP, for further information)

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

**(NOTE: If the proposal amount exceeds \$100,000, EITHER this form OR a currently effective affirmative action Certificate of Compliance for the Proposer, issued by the Minnesota Department of Human Rights, MUST be submitted with the proposal. See section 17 of this RFP for additional information.)**

**Instructions:** If a proposal is in an amount greater than \$100,000, Plymouth cannot accept the proposal unless the Proposer can affirm either Statement #1 or Statement #2 below. The Proposer must select (by checking the appropriate box) and certify as true one of the two statements below, if it is able to do so. In making its certification, the Proposer should carefully bear in mind the post-submittal requirements noted in connection with each statement. After submittal of the proposal Plymouth reserves the right to require documentation from the Proposer supporting the certification or to otherwise verify the accuracy of the certification. **If neither statement can be affirmed, no proposal should be submitted.**

**CHECK ONLY ONE BOX!**

|                          |   |
|--------------------------|---|
| <input type="checkbox"/> | <p>1. The business executing this certification <u>did have more</u> than 40 full-time employees within the State of Minnesota on one or more working days during the 12 months previous to the date the proposal is due. IN ADDITION, the business either:</p> <ul style="list-style-type: none"><li>a. has submitted an affirmative action plan for the employment of minority persons, women, and qualified disabled individuals to the Commissioner of Human Rights for approval; or</li><li>b. has a currently effective Certificate of Compliance from the Commissioner of Human Rights indicating that it has an approved affirmative action plan.</li></ul> <p><b>Note: Prior to execution of any agreement arising out of this procurement, the Proposer will be required to provide Plymouth with a copy of its currently effective Certificate of Compliance.</b></p>  |
| <input type="checkbox"/> | <p>2. The business executing this certification <u>did not have more</u> than 40 full-time employees within the State of Minnesota on any working day during the 12 months previous to the date the proposal is due.</p> <p><b>Note: Prior to execution of any agreement arising out of this procurement, the Proposer will be required to provide Plymouth with at least one of the following on a form to be provided by Plymouth:</b></p> <ul style="list-style-type: none"><li>a. a certification that the business has a currently effective Certificate of Compliance issued by the Commissioner of Human Rights, along with the copy of that document; or</li><li>b. a certification that the business is in compliance with federal affirmative action requirements; or</li><li>c. a certification that the business's primary place of business is not in the United States; or</li><li>d. a certification that the business did <u>not</u> have more than 40 full-time employees on any working day during the 12 months prior to the date on which it submitted its proposal, in the state where the business has its primary place of business.</li></ul> |

**CERTIFICATION**

On behalf of the Proposer, I certify that the above response is true as of the date this form is signed. I have read and understand the requirements related to this certification statement.

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

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

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

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

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

**Attachment F to the Proposal Instructions:**

**F. SUBCONTRACTOR INFORMATION FORM**

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

**(NOTE: This form MUST be submitted with each proposal.)**

**Check ONE of the following:**

☐ **No subcontractors will be used by Proposer on this project.**

☐ **Subcontractors are proposed to be used on this project. The following is 1) a list of subcontractors proposed to be used on the project AND 2) a list of subcontractors who submitted bids or quotes to the Proposer for the project but were not selected by the Proposer:**

**1) SUBCONTRACTORS PROPOSED TO BE USED ON THE PROJECT:**

| <b>Firm Name</b> | <b>Address</b> | <b>Telephone Number</b> |
|------------------|----------------|-------------------------|
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |

**2) SUBCONTRACTORS WHO SUBMITTED BIDS OR QUOTES BUT WERE NOT SELECTED:**

| <b>Firm Name</b> | <b>Address</b> | <b>Telephone Number</b> |
|------------------|----------------|-------------------------|
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |
|                  |                |                         |

(Use copies of page 1 of this form if space is needed to list additional subcontract firms and attach such copies to the form.)

**CERTIFICATION**

On behalf of the Proposer identified below, I certify that the information provided in this form is true and correct.

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

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

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

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

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

Attachment G to the Proposal Instructions:

**G. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

(See Proposal Instructions, section 19 of this RFP, for further information)

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

**(NOTE: This form MUST be submitted with each proposal if the proposal amount exceeds \$100,000.)**

**INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION:**

1. **By signing and submitting this proposal, the proposer is providing the signed certification set out below.**
2. The certification referred to in this paragraph is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, Plymouth may pursue available remedies, including suspension and/or debarment.
3. The proposer shall provide immediate written notice to Plymouth if at any time the proposer learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered participant," "persons," "lower tier covered transaction," "principal," "Bid," and "voluntarily excluded," as used in this paragraph, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 49 CFR part 29. You may contact SWT for assistance in obtaining a copy of those regulations.
5. The proposer agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by Plymouth.
6. **The proposer further agrees by submitting this proposal that it will include this Certification Regarding Debarment, Suspension, Ineligibility and Voluntary in all lower tier covered transactions and in all solicitations for lower tier covered transactions.**
7. A participant in a covered transaction may rely upon certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principles. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this paragraph. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under subparagraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition

to all remedies available to the Federal Government, Plymouth may pursue available remedies including suspension and/or debarment.

**CERTIFICATION**

1. The proposer certifies, by submission of this proposal, that neither it nor its “principals” (as defined at 49 CFR section 29.105(p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
2. When the proposer is unable to certify to the statements in this certification, such prospective proposer shall attach an explanation to this certification.

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

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

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

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

## Attachment H to the Proposal Instructions:

### H. LOBBYING RESTRICTION CERTIFICATION

(See Proposal Instructions, section 20 of this RFP, for further information)

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

**(NOTE: This form MUST be submitted with each proposal if the proposal amount is equal to, or exceeds \$100,000.)**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federally funded contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. **IF ANY FUNDS** other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federally funded contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, 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 is 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.

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

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

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

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

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

## Attachment I to the Proposal Instructions:

### I. COST PROPOSAL FORMS FOR SERVICE PROVISION

#### Background

The cost proposal method for the scope of work listed in Section A, Scope of Work, is a revenue hour method.

Please note that all cost proposal forms must follow the outline of the included excel spread sheet and be submitted in both paper as part of the proposal and electronic format on a USB drive. Variations to match better with your accounting are acceptable. The forms are attached and all expenses to perform this scope of work must be included and documented. Any expenses not included and documented shall not be paid.

Each proposed cost by the proposer will be for a calendar year. That being said, the following are annual hours (for approximately 50 full and part-time drivers) for the service provided by the incumbent:

|                            |        |
|----------------------------|--------|
| Platform fixed hours       | 38,610 |
| Revenue fixed hours        | 21,205 |
| Platform dial-a-ride hours | 15,118 |
| Revenue dial-a-ride hours  | 12,493 |

As a proposer, the attached spreadsheets will need to be completed:

- Cost proposal; and
- Proposed driver wages using the \$16.00 per hour as the base wage. Please estimate the number of drivers by the proposed wage ranges.

#### I-1 COST PROPOSAL FORMS

There are three different cost proposal forms, depending on how the proposer(s) wish to deliver the service. For example, there could be one firm doing fixed route and dial-a-ride. Other variations could include one company for fixed and one company for dial-a-ride.

The attached service cost sheets are for:

1. Fixed route;



2. Dial-a-ride; and



3. Blended = fixed + dial-a-ride.



The proposers can submit the best combination that provides the best overall service and cost.

**I-2 CURRENT DRIVER WAGE RANGE AS OF 2/1/2016 – FOR REFERENCE ONLY**

\$13.00  
\$13.10  
\$13.20  
\$13.30  
\$13.33  
\$15.38  
\$15.76  
\$16.96  
\$17.00  
\$17.34  
\$17.50  
\$17.60  
\$18.00  
\$18.65  
\$19.75

The most populated wage rates are in the entry and the ceiling ranges. The incumbent is a Teamster shop.



## **Attachment J to the Proposal Instructions:**

### **J. COST PROPOSAL FORMS – ALTERNATE: VEHICLE MAINTENANCE SERVICE**

#### **Background**

The cost proposal method for the scope of work listed in Section B, Scope of Work – Alternate: Vehicle Maintenance Service, is a revenue hour method based on service hours of service.

Please note that all cost proposal forms must follow the outline of the included excel spread sheet and be submitted in both paper as part of the proposal and electronic format on a USB drive. The form is attached and all expenses to perform this scope of work must be included and documented. Any expenses not included and documented shall not be paid.

#### **J-1. MAINTENANCE COST PROPOSAL FORM**

Attached is the maintenance cost proposal forms based on the scope of work outlined in this RFP.

The attached maintenance cost sheets are for:

1. Fixed route;



2. Dial-a-ride; and



3. Blended = fixed + dial-a-ride.



All proposers must submit the maintenance cost sheet(s) that coincide with the service operation(s) that they are proposing.