



Request for Proposals

City of Midland Dial-A-Ride is seeking bids from firms that provide scheduling, dispatching, mapping, vehicle location, GPS and mobile data terminals (MDTs) for transit authorities.

Background

City of Midland provides same-day, demand response service within the city limits of Midland. Currently the service provides an average of 500 daily trips and totals approximately 150,000 annual trips. Bus service operates Monday - Friday from 6:30 a.m. to 10:30 p.m., Saturdays from 9:00 a.m. to 8:00 p.m., with a fleet of fourteen (14) vehicles – all lift equipped. This service is available for regular fare riders, senior riders and riders with disabilities. Service is provided curb to curb. The current customer database contains approximately 2,500 active customers. Approximately 30% of all service provided is subscription in nature.

The City of Midland licensed a Scheduling and Dispatch software solution from PCTrans in 2008. This solution includes a rider database, dispatch software, MDOT and other user reports, daily reconciliation of rides and money. The purpose of this proposal is to add AVL/MDT functionality to our operations. The proposed solution may expand, interface to, or replace the current scheduling/dispatch software.

Special attention is drawn to the fact that funding for this project is provided by a grant from ARRA (American Reinvestment and Recover Act) funds.

Proposal

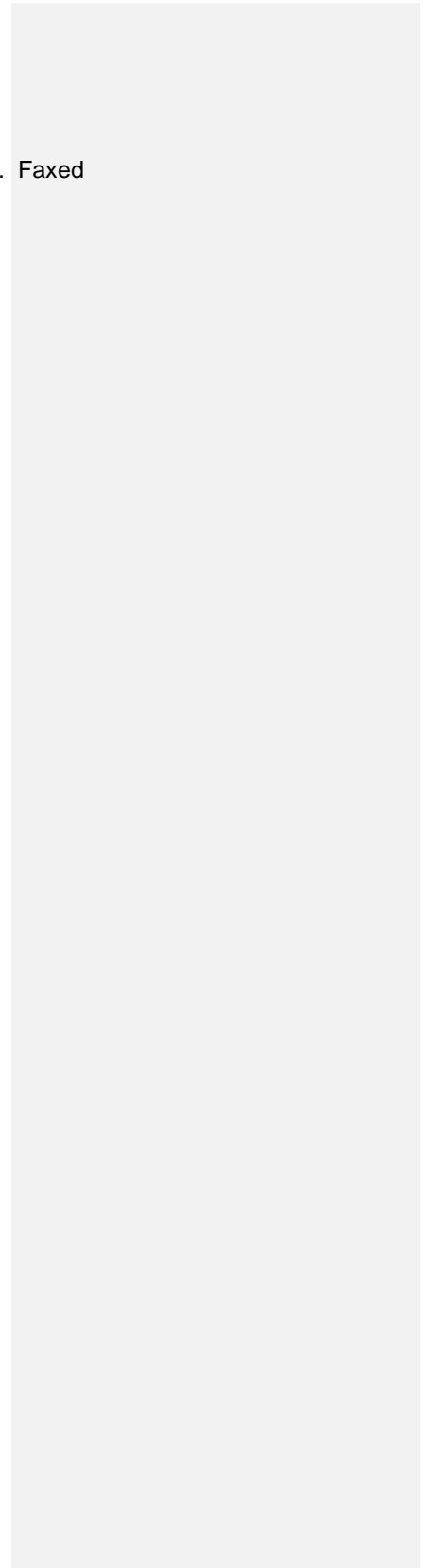
Please provide four (4) copies and limit your Proposal to twenty (20) pages while answering all questions. In order to facilitate the analysis of responses to this RFP, Proposers are required to prepare their proposals in accordance with the instructions outlined in this section. A proposal which deviates from these instructions, may be considered non-responsive and may be disqualified at the discretion of the City of Midland

Proposals should be presented on 8 ½ x 11 paper, single spaced with an easily legible font size. Proposals should be prepared as simply as possible and provide a straightforward, concise description of the Proposer's capabilities to satisfy the requirements of the RFP.

Please send your proposal by March 1, 2011, to:

Mr. Mike Meyer
City of Midland
333 W. Ellsworth
Midland, MI 48640

Proposals must be received by 2:00 p.m. on the due date. Late proposals will not be opened. Faxed or electronic submission proposals will not be accepted.



**CITY OF MIDLAND, MICHIGAN
STANDARD INSTRUCTIONS TO BIDDERS**

1. Receipt and Opening of Bids: Sealed bids will be accepted and date/time stamped upon receipt in the office of the City Clerk, City Hall, 333 West Ellsworth, Midland, MI 48640-5132, until the time indicated on the attached Invitation to Bid for goods or services listed in the specifications and will be publicly opened and read aloud.

2. Form of Bid: Bids shall be submitted on the enclosed form with any exceptions, deviations or modifications to the published requirements clearly noted and explained.

3. Submission of Bids:

A) Envelopes containing bids shall be sealed and clearly marked on the outside of the envelope with the name and address of the bidder, the title and bid number of the project, and the date and time of the scheduled bid opening.

B) Any bid received after the scheduled opening time will not be accepted and will be returned unopened.

C) Any bidder may withdraw their bid response by written request at any time prior to the scheduled bid opening.

D) Telephonic or faxed bids will not be accepted and telephonic, telegraphic, or faxed amendments to bids or withdrawals will not be accepted under any circumstances.

E) Unless otherwise specified, no bid may be withdrawn, changed, or modified in any way for a period of One hundred and twenty (120) calendar days from the date of the bid opening.

F) Negligence on the part of the bidder in preparing the bid confers no rights for the withdrawal of the bid after opening.

G) Bids received prior to the time of bid opening will be securely kept unopened. No responsibility will attach to any officer or employee of the City for the premature opening of a bid not properly addressed or identified.

H) In case of a discrepancy between unit prices and their extensions, the unit price bid shall govern.

4. Brand Names: Wherever in the specifications or proposal form brand names, trade names, manufacturer, or catalog numbers are called, it is for establishing a grade or quality level only and the phrase "or equal" is deemed to follow unless a prequalified list or the term "only", "no exceptions", or similar phrase is included.

5. Taxes: The City of Midland is exempt from State and Federal taxes. However, property purchased by a contractor to be used in the construction, alteration, repair, or improvement of property owned by the City is taxable to the contractor. Therefore, the price bid for contracts other than construction contracts must be exclusive of taxes and will be so construed. Construction contracts will be construed to include all applicable taxes unless the contract specifies otherwise.

6. Acceptance of Bids: The City will award to the lowest, responsive, responsible vendor that provides the best value with regard to functional requirements and needs expressed by the specifications. Tie bids will be awarded based on the most favorable terms for payment and/or delivery schedule or other costs associated with the award process. Receipt of a

purchase order or properly executed contract covering the materials or services as described in the bid will indicate the award of bid and contract of purchase.

7. City's Rights: The City reserves the right to accept or reject any or all bids, to waive irregularities or defects, to award on a split-order or lump-sum basis, and accept other than the low bid when deemed to be in the City's best interests.

8. Delivery: Bids shall include all delivery charges with terms of Freight Prepay - FOB Midland, MI.

9. Laws: The laws of the State of Michigan shall govern the rights, obligations, and remedies of the Parties under this bid and any agreement reached through this process. The City of Midland is a Michigan municipal corporation.

10. Disclosure: All of the information included in your bid response is subject to the "Freedom of Information Act" and may be disclosed in its entirety after the formal, public bid opening has been completed. Bid tabulations will be available at our website, www.midland-mi.org in the Purchasing section of the Fiscal Services Department under the City Government tab.

11. Independent Price Determination: By submission of this proposal, the bidder certifies that the pricing structure offered has been arrived at independently without consultation, communication, or agreement of such prices for the purpose of restricting competition with any other bidder or competitor.

12. Acceptance of Materials: All components used in the manufacture or construction of materials, supplies, and equipment, and all finished goods, shall be new, the latest make/model, of the best quality, and highest grade workmanship. In the event the delivered material is found to be defective or does not conform to specifications, the City reserves the right to cancel the order upon written notice to the bidder and return the materials to the bidder at the bidder's expense.

1. Scheduling and Dispatch Software

State whether your solution would use, interface with or replace our existing Scheduling and Dispatch software. Please confirm that your solution meets the following requirements.

1. Windows™ based. City is currently migrating to Windows 7 so XP option will not be supported in the future.
2. Preference to solution being implemented on Microsoft SQL 2005/2008 Relational database.
3. Passenger information, including at least:
 - name
 - age (under 11, adult, senior)
 - passengers that need the lift, are in a wheelchair or scooter
 - specialty needs
 - emergency contact
 - fare type
 - suspension
4. Third party agencies that are paying for trips.
5. Fast, efficient booking of trips including:
 - listing of current trips booked by passenger when booking new trips for same passenger
 - unpaid no show information, including date, time and destination by a passenger when booking new trips for same passenger
 - pickup and destination information
 - pick up time
 - name of 3rd party paying for a trip (if applicable)
 - applicable fare
 - route/vehicle may be chosen by Dispatcher at the time of booking or assigned later
 - having the route/vehicle chosen by the computer is not a requirement; selection of this by the computer is only acceptable if it can be provided instantaneously (while on the phone with customer), with logical and efficient route selection schedules and the ability to be overridden quickly and easily (in cases where the Dispatcher wants to put the trip on a specific vehicle) and disabled (in case the computer is not making good selections for whatever reason)
 - return trip
 - specific messages relating to individual trips
 - subscription trips (e.g. every Monday)
6. Currently the City of Midland Dial-A-Ride does scheduling in 30-minute blocks, i.e. every 30 (thirty) minutes each driver is given a set of trips and the driver chooses the best order for the pickups and drop offs. Please state whether or not your system supports this, either as a transition or on an ongoing basis.
7. Easy modification of trips, especially choosing which vehicle will do each trip.
8. Map display integrated with the software to add riders and stops and to book trips, i.e. embedded in the actual window.
9. Standalone map display.
10. Reports, including at least:
 - driver daily manifest printing (in case the driver is not trained on the MDT or the MDT is not working)
 - reports for invoicing third party paying for rider service
 - tracking and reporting vehicle mileage
 - all quarterly MDOT reporting requirements for ridership, miles driven, etc.

- reports for the number of trips based on age (0-11 years, adult, senior) and disabled (yes/no), lift
- number of trips booked by half-hour, by day, by week, by month, by quarter, etc.
- vehicle and system productivity and performance
- personnel management
- daily reconciliation of fares
- electronic export of reports, e.g. to .pdf or Excel

2. Data conversion/entry

If your solution would replace the existing Scheduling and Dispatch software, would existing data for riders and stops be exported from our current system and imported into yours or would our staff have to re-enter the data? If the data would have to be re-entered, please estimate the time it would take to enter 2,500 riders, including addresses and 1,000 additional stops such as restaurants, stores, doctor's offices, etc.

3. GIS

Please note that the City of Midland has a GIS system using industry standard ESRI software. Please provide information with regard to your solution integrating with the current GIS system.

4. AVL-MDT in Vehicle Software

The vendor will provide the interface between the customer's dispatching and routing software and the cellular wireless data communications system. The middleware package must operate on a PC with a node on the same local area network as the routing and scheduling package. The MDT software must meet the following requirements. Please confirm you meet these requirements and provide any additional information you think may be of interest to us.

1. The software must have an easy to use graphical user interface.
2. The software fonts must be easy to read by the drivers. Font attributes such as strike-out must be clearly visible. Fonts of varying sizes can be used to add to legibility.
3. The software must use graphical icons to facilitate data entry.
4. The software must require entry of the odometer at start and end of a shift.
5. The software must display trips and cancellations.
6. The software must display passenger name, origin, destination and special mobility needs.
7. The software must display unpaid no show information when booking new trips.
8. The software must allow drivers to record whether each passenger gets on the bus.
9. The software must allow the driver to respond to a message and provide basic feedback to progress of rides dispatched.
10. The software must allow drivers to record payments by cash, check, full fare ticket, half ticket, reduced ticket and prepaid rides (cash or ticket).
11. The software must handle groups of riders and allow the driver to enter the number of riders based on age range and disability status.
12. The software must send in GPS location of each vehicle in lat/long format.
13. The software must allow canned messages to be sent to drivers and dispatcher. What is the limit of canned messages?
14. The software must require driver to acknowledge rides added after initial transmission.
15. The software must interface to the Scheduling and Dispatch System described above.
16. Is GPS functionality included?

5. In-Vehicle Hardware

1. The in-vehicle mobile data terminal display must be capable of running the graphical user interface described above.

2. The terminal must have a touch screen.
3. Rugged ABS enclosure.
4. Dimensions of proposed MDT.
5. Keypad with adjustable back-lighting, audible and tactile feedback.
6. Adjustable back-lighting for visibility in low-light environments.
7. Adjustable contrast.
8. LSC display heaters for operation in cold temperatures.
9. A terminal with built in TCP/IP networking is desired to communicate with network capable components.

10. A cellular modem capable of acting as a firewall separating the cellular internet connection from the in vehicle LAN is desired.
11. A GPS receiver integrated within other components or separate is required.
12. Roof mounted cellular and GPS antennas are desired to facilitate signal transmission and reception.
13. Protective housing and voltage regulation equipment is desirable.
14. The vendor shall provide and install adjustable pedestal or dash mount, depending on vehicle type.
15. The vendor shall provide cabling for connections to the applicable on-board data modem equipment, power and any desired peripherals.
16. The Vendor shall provide additional antennas required for data modem or the GPS receiver.
17. Please describe the hardware you would be supplying.

6. In-vehicle equipment Installation

1. Which firm would be doing the hardware installation?
2. Where would the installation of in-vehicle equipment be done?
3. How long does installation of in-vehicle equipment take for each vehicle?
4. If installation is not done at our site do you provide a driver to pick up and return vehicles after installation is completed in each vehicle?

7. Integrated AVL-MDT/Scheduling and Dispatch/Mapping software

1. The AVL-MDT sub system must integrate seamlessly with scheduling and dispatch software. No additional action should be required of the dispatcher to cancel or book a trip. The appropriate driver should be informed automatically.
2. Changes to trips (such as times, origins and destinations) made by the dispatchers after the trip is sent to the driver must be sent to the drivers automatically and the driver must confirm transmission.
3. Data entered by the driver should automatically be filled in on the appropriate dispatcher screens.
4. When/where appropriate the vehicle location(s) should automatically show up on the map displays.
5. The dispatchers should not have to follow any new procedures or start any new processes to have the AVL/MDT sub system work.

8. Testing Plan

Proposals shall include a detailed Testing Plan that describes how all components and capabilities will be tested to verify that all are operating according to project design and that the system is performing effectively and as required by the City of Midland.

9. Computer hardware and system software

Additional computer hardware may be necessary because of changes to our system requested in this RFP. A description of our current hardware follows.

- Windows Server 2003
- Microsoft SQL Server 2005
- 6 Workstations OS-Win XP Pro
- Intel processor
- 100 MB Ethernet
- LAN – Switched 100Mbs Ethernet
- Internet – 10 Mbit

What local area network computers and network equipment changes are recommended as part of the proposal?

10. Training

Scheduling and Dispatch Software

We have a total of eight (8) individuals who would need to be trained in using this software. Proposals shall include the cost of training all personnel who will be operating and supporting the equipment proposed. Proposals shall also include a detailed training schedule and curriculum outline and discuss how the proficiency of participants will be tested during the training program.

Training will take place at the City of Midland in Midland, Michigan. Each individual trained will be provided detailed operating manuals specific to their operational responsibilities describing correct operation of all features of the equipment they will be using, the applicability of these features to the actual work activities of this group of system operators, problem identification and troubleshooting. Spare manuals will be provided including one (1) copy of each manual on reproducible digital media.

The time and detail of training will be as necessary to provide each person operating equipment supplied under this project the knowledge and expertise to be able to perform all tasks necessary for the area of responsibility to which the person is assigned as related to this project. Each individual must demonstrate the ability to correctly operate the equipment he or she will be operating on a daily basis; perform the routine tasks associated with the individual's role in the operation; a general overall knowledge of how the individual's operation of the equipment impacts and enhances the effectiveness of the project and how that has value to each individual; working knowledge of the maintenance and care of the equipment assigned to the individual; how to prevent damage, recognize problems, how and when to perform simple trouble shooting techniques; where to locate help with specific problems or to learn how to improve their proficiency with specific tasks. Supervisors and managers must additionally receive training to general competence in compiling and interpreting data, composing meaningful reports, operation of software and equipment specific to their workstations (fixed and mobile). Additionally, training shall be provided to technical personnel for maintenance of hardware and software.

Use of in-vehicle hardware

1. Please state whether training of the drivers would be done by your staff, our staff or if we have the option to do either.
2. Describe training that maintenance personnel will receive to enable them to change out in-vehicle components as needed for repairs.
3. Describe training to be provided to technical personnel for maintenance of hardware and software.

11. Technical support

1. Describe your support including:

- Hours of availability, and numbers of staff who are regularly available to take calls during those hours.
- Response time.
- What is included in technical support? Does it include software upgrades?
- Is there a limit on the number of calls?
- Is there a charge for support calls and if so, under what circumstances?
- How are software upgrades installed?

2. Modifications, upgrade, enhancements

- Define each type of release and requirement for implementation.
- State policy for providing each type of release.
- Delivery methods for each type of release.
- Cost for each type of release.
- Will the City of Midland be required to implement each new release and if not, what is the Proposer policy concerning this issue?

3. Documentation Updates

- How/when are documentation updates provided?

12. Initial costs

It is anticipated that the contract award will be on a firm fixed price basis, therefore, proposals shall address the pricing with this in mind. No additional charges (e.g., for sales tax, transportation, container packing, installation, training, out-of-pocket expenses, consulting, etc.) will be allowed unless so specified in the proposal and accepted by the City of Midland. All components required to meet contract requirements as proposed must be included in the base price.

Please provide a breakdown of costs at least in the following categories. We have fourteen (14) vehicles and up to six (6) simultaneous users.

- Computer hardware and system software.
- Systems set up and administration. The City of Midland Dial-A-Ride provides technical support from the Information Services Department. Include expectations of any technical services to be provided from the City of Midland and any additional costs that we would incur for work not done by City personnel.
- Application software. If your software is designed as separate modules, please provide the cost associated with each module. If we require customization to reports or software to meet our current needs, what are the charges for customized reports?
- The Contractor will be required to convert the existing demand response system database to the new software database and complete all steps to make the new software ready for live operation. The City of Midland will provide the existing customer and trip data to facilitate the initial set of data files in an electronic format. Please specify data conversion costs, if any.
- Training for Scheduling and Dispatching, including on-site time and associated expenses. If we need additional training beyond what you have included in your proposal, please identify what the costs would be.
- Training on use of in-vehicle hardware. Please state whether this assumes your staff will train all our drivers or whether you would train our staff that would then do driver training.
- Hardware on board the vehicles – purchase and installation costs.

- Please include the costs for two (2) spare MDTs with all cabling as a separate line item.
- Map data. Do you require that we purchase map data through your firm, or can we provide local map data? If we provide local map data, what would the cost be for you to process it?
- Project management or other administrative fees and any administrative expenses.
- Are there any other costs we would incur other than paying staff overtime while training is taking place? If so, please identify those costs and provide an estimate.
- Optional costs such as extended warranty.

13. Ongoing costs

- What is the warranty period for all hardware and software products quoted?
- What are your ongoing fees after the warranty period for scheduling and dispatch software and are software updates included?
- What are your ongoing fees after the warranty period for vehicle location / MDT software and are software updates included?
- What are the ongoing fees for vehicle location hardware, if any? Provide costs for extended warranties, if available, and/or an estimate of repair costs, if possible.
- What are the ongoing costs for map data? Can local map data be used and if so is there an ongoing cost for data processing?
- What are the estimated ongoing fees for data transmission?
- What are the estimated ongoing fees for GPS?

14. Future costs

- If we expand our operations in the future (e.g. add other vehicles and/or other users), would there be additional costs and if so, what would they be? Are these costs based on number of workstations or vehicles, users or trips or other criteria and if so, what?
- If we needed future customizations, e.g. reports requested by the City of Midland, what would the cost be?

15. References & Company Background

- Describe the company's experience in public transportation routing software.
- A brief description of the company, including past history, present status, future plans, etc.
- Provide information on the size of your company and an organization chart.
- Please provide at least five (5) references for your firm. If possible, provide at least two (2) references from Michigan transit operations.
- Where is the nearest place to our office we could go to see your software in operation?
- Have any client(s) stopped using software from another vendor in favor of yours? If so, please list the client name(s) and contact information and the name of the vendor(s) whose software was replaced.
- Has your software ever been removed by a client and replaced by another vendor's software? If so, please list the name(s) of those agencies and a contact number.

16. Timing

This proposal will be funded by a grant under ARRA (American Reinvestment and Recovery Act) and timing is important. We have an obligation to complete the project in a timely manner, but we would not wish to have operations suffer because of implementation of new technology. If your firm is selected please provide a timetable and identify the deliverables and details of the process for each stage of implementation based on a contract signing date of April 1, 2011.

17. Why should we buy a system from your firm?

18. Payment terms

The payment terms for this project will be included in the final contract between the City of Midland and the Proposer. Bidders are required to submit a progress payment schedule, based upon milestones, for consideration along with their proposal.

Permits and Licenses

The successful Proposer must be responsible for obtaining all necessary city and state permits/licenses and must comply with all local codes and ordinances. Copies of such permits/licenses shall be made available to the City of Midland upon request.

Selection Criteria

The selected system must be affordable, both initially and ongoing, must meet the requirements outlined in this RFP, and must present the best value for the City of Midland. Proposals will be evaluated on the criteria below (listed in order of importance)

- Initial Costs
- On Going costs
- References
- Ease of Use
- Training
- Technical Support
- Data Conversion
- Documentation

Right to Reject Proposals

The City of Midland reserves the right to reject any proposal, to waive minor defects or technicalities, or to solicit new proposals on the same project or on a modified project which may include portions of the originally proposed project as the City of Midland may deem necessary and in its best interest. Proposers must comply with all the terms of the RFP and all applicable local, state, and federal laws, codes and regulations. The City of Midland may reject any proposal that does not comply with all the material and substantial terms, conditions, and performance requirements of the RFP. Proposers may not restrict the rights of the City of Midland nor qualify their proposal. If a Proposer does so, the City of Midland may determine the proposal to be a non-responsive counter offer and the proposal may be rejected.

Minor informalities that do not affect responsiveness; that are merely a matter of form or format; that do not change the relative standing or otherwise prejudice other offers; that do not change the meaning or scope of the RFP; that are trivial, negligible, or immaterial in nature; that do not reflect a material change in the work; or, that do not constitute a substantial reservation against a requirement or provision may be waived by the City of Midland.

Proposal Term

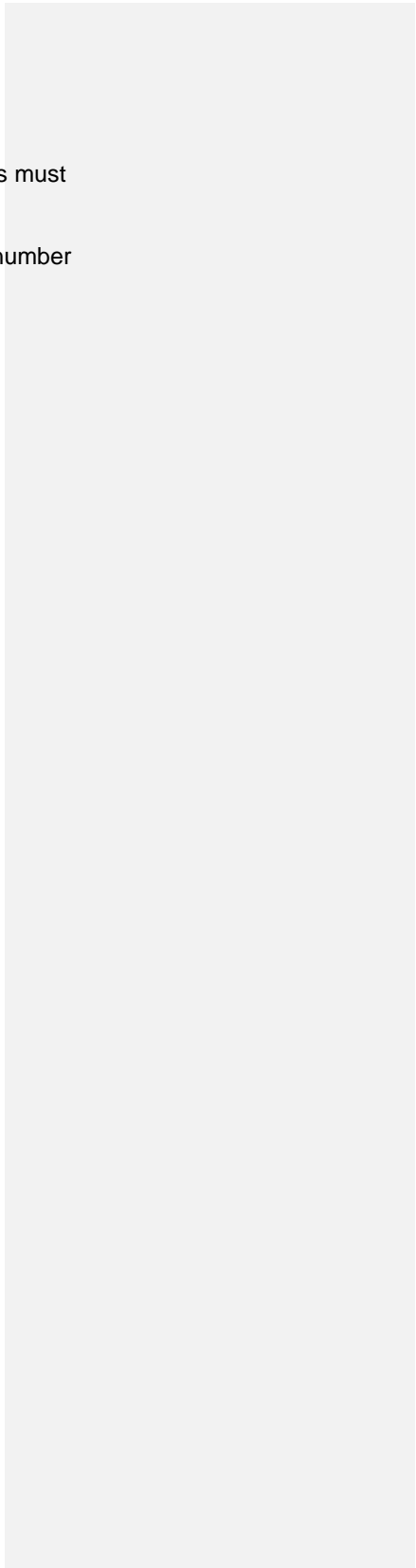
All submitted proposals must remain valid offers for at least one hundred twenty (120) days from the proposal closing date.

Questions

If you have questions relating to this proposal, please send them to me by email. All questions must be received no later than fifteen (15) days in advance of the date the proposals are due.

The proposal review committee may have questions for you. Please provide a name, phone number and email so we can contact you with questions.

Janet Yuergens
Assistant Director of Public Services
juergen@midland-mi.org



City of Midland Dial-A-Ride
333 W. Ellsworth
Midland, MI 48640
Proposal Form
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Comment [A1]: See comment at Factor 1, form should mirror how you ask for costs.

Vendor's Name _____

This Request for Proposal is due by February 15, 2011

Initial Costs

- Scheduling and Dispatch Software License \$ _____
- Maps Software License \$ _____
- AVL Software (per vehicle) maximum 14 \$ _____
- MDT Software (per vehicle) maximum 14 \$ _____

Total Software \$ _____

Training (Total Cost) \$ _____

Hardware on Vehicles

- Data Communication (per vehicle) maximum 14 \$ _____
- Mobile Data Terminals (per vehicle) maximum 14 \$ _____
- 2 Spare Mobile Data Terminals \$ _____

Total Hardware \$ _____

Map Data \$ _____

Project Management Fees \$ _____

Installation \$ _____

Annual Maintenance Costs (Year 1)

- Scheduling and Dispatch Software \$ _____
- Map Software \$ _____
- AVL \$ _____
- MDT \$ _____
- Cellular Service \$ _____

Total Annual Cost (Year 1) \$ _____

City of Midland Dial-A-Ride
333 W. Ellsworth
Midland, MI 48640
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Comment [A2]: See comment at Factor 1, form should mirror how you ask for costs.

Annual Maintenance Costs (Year 2)

- Scheduling and Dispatch Software \$ _____
- Map Software \$ _____
- AVL \$ _____
- MDT \$ _____

Cellular Service \$ _____

Total Annual Cost (Year 2) \$ _____

Annual Maintenance Costs (Year 3)

- Scheduling and Dispatch Software \$ _____
- Map Software \$ _____
- AVL \$ _____
- MDT \$ _____

Cellular Service \$ _____

Total Annual Cost (Year 3) \$ _____

Annual Maintenance Costs (Year 4)

- Scheduling and Dispatch Software \$ _____
- Map Software \$ _____
- AVL \$ _____
- MDT \$ _____

Cellular Service \$ _____

Total Annual Cost (Year 4) \$ _____

Annual Maintenance Costs (Year 5)

- Scheduling and Dispatch Software \$ _____
- Map Software \$ _____
- AVL \$ _____
- MDT \$ _____

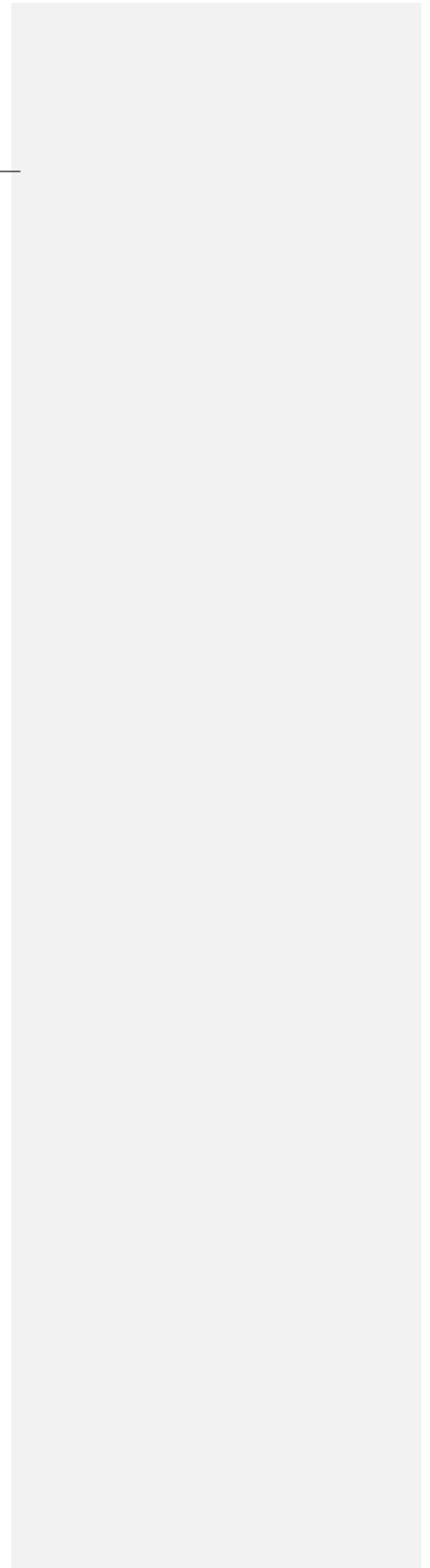
15

Cellular Service

\$ _____

Total Annual Cost (Year 5)

\$ _____



City of Midland Dial-A-Ride
333 W. Ellsworth
Midland, MI 48640

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BIDDER READ AND COMPLETE

The undersigned certifies that he/she offers to furnish materials in strict accordance with the requirements of this bid including:

- * Bid Proposal Form, specifications
- * APPENDIXES A-E
- * APPENDIX F, the FT A Federal Clause Requirements, Terms and Conditions
- * APPENDIX G, H, I, J, K, L

That are attached; that prices quoted are correct; and that this bid may not be withdrawn for a period of (120) days from the time City of Midland Dial-A-Rides notifies you of award of our contract with the state.

Authorized Third Party Contact Officer _____

Date _____

Federal ID No. _____

Total Bid Delivered FOB 4811 North Saginaw Road, Midland, Michigan 48640

Delivery Date: _____

Bidder Business Name: _____

Bidder Address: _____

Bidder Telephone: _____

Bidder Fax: _____

CONTRACTOR REPRESENTATIVE:

Please indicate below the person(s) responsible for administering a contract, should one develop as result of this RFP

NAME/TITLE: _____

PHONE: _____

FAX NO: _____

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract, the Contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the Contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980, the Contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment, because of a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The Contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed shall contain a covenant the same as hereinbefore set forth in Section I of this Appendix.
3. The Contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a handicap that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or handicap that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The Contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the Contractor's commitments under this Appendix.
6. The Contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The Contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program and employment statistics of each subcontractor as well as the Contractor himself, and said Contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission, and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, an orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated, and/or declare the Contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the Contractor complies with said order of the Civil Rights. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the Contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The Contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

The Civil Rights Commission referred to is the Michigan Civil Rights Commission.

APPENDIX B

City of Midland Dial-A-Ride
333 W. Ellsworth
Midland, MI 48640

THIRD PARTY CONTRACT

AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2011, by and between The City of Midland Dial-A-Ride, (hereinafter referred to as the "City"), 333 W. Ellsworth St., Midland, MI 48640 and _____, (hereinafter referred to as the "CONTRACTOR"), ADDRESS.

WITNESSETH:

IN CONSIDERATION of the covenants, recitals, promises, representations and agreements herein set forth, the City and CONTRACTOR do hereby expressly agree as follows:

ARTICLE I

SCOPE OF WORK

It is mutually understood and agreed that:

A. The Contractor shall perform, in accordance with this Contract, and shall furnish all materials, performance of work, and services required to perform and complete in a sound, economical and efficient manner, and in accordance with the provisions hereof and all applicable laws, all the work required for the following project:

SCHEDULING AND DISPATCH SOFTWARE, MAP SOFTWARE, AVL SOFTWARE, MOBILE DATA TERMINAL SOFTWARE, SOFTWARE CUSTOMIZATIONS, TRAINING, DATA COMMUNICATION HARDWARE, MOBILE DATA TERMINAL HARDWARE AND INSTALL, MAP DATA OR PROCESSING OF LOCAL DATA, PROJECT MANAGEMENT.

ARTICLE II

COMPONENT PARTS OF THIS CONTRACT

This Contract consists of this agreement and the following component parts, which are incorporated by reference and made part of this Contract even if not attached hereto:

- Request for Proposal
- Contract Clauses
- Bid Response & Evaluation
- Vendor contract

ARTICLE III

TIME

It is mutually understood and agreed that the CONTRACTOR will commence the work to be performed under this Contract on a date specified in writing by City of Midland Dial-A-Ride. This Contract shall be valid for eighteen (18) months after date of execution.

ARTICLE IV

CONTRACT PRICE

It is mutually understood and agreed that the CITY will pay an amount not to exceed \$0.00 for **SCHEDULING AND DISPATCH SOFTWARE, MAP SOFTWARE, AVL SOFTWARE, MOBILE DATA TERMINAL SOFTWARE, SOFTWARE CUSTOMIZATIONS, TRAINING, DATA COMMUNICATION HARDWARE, MOBILE DATA TERMINAL HARDWARE AND INSTALL, MAP DATA OR PROCESSING OF LOCAL DATA, PROJECT MANAGEMENT.**

As outlined in the bid proposal, to the CONTRACTOR, subject to any deductions or additions provided by Change Order. This contract is in effect for contract 2007-0259/Z6.

Scheduling and dispatch software license	(1)	\$
Maps software license	(1)	\$
AVL software License	(1)	\$
MDT software license	(14)	\$
Training		\$
Cellular hardware		\$
Mobile data terminals	(16)	\$
Map data License	(1)	\$
Map data processing		\$
Project management fees and expenses		\$
MDT and Cell modem install	(14)	\$
		\$

The CONTRACTOR agrees that the costs reported to the CITY for this Contract will represent only those items that are properly chargeable in accordance with this Contract. The CONTRACTOR also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this Contract that apply to the reporting of costs incurred under the terms of this Contract.

ARTICLE V

BILLING/PAYMENT

The City shall process payment for delivered and accepted services. The CONTRACTOR will submit an invoice/billing to CITY OF MIDLAND DIAL-A-RIDE, 333 W. Ellsworth Street, Midland, MI 48640, for **SCHEDULING AND DISPATCH SOFTWARE, MAP SOFTWARE, AVL SOFTWARE, MOBILE DATA TERMINAL SOFTWARE, SOFTWARE CUSTOMIZATIONS, TRAINING, DATA COMMUNICATION HARDWARE, MOBILE DATA TERMINAL HARDWARE AND INSTALL, MAP DATA OR PROCESSING OF LOCAL DATA, PROJECT MANAGEMENT** provided to and accepted by City of Midland Dial-A-Ride.

All billings will be submitted to City of Midland Dial-a-Ride who will immediately request payment from the Michigan Department of Transportation (MDOT). All payments will be made to the CONTRACTOR immediately upon receipt of MDOT reimbursement. All efforts will be made to expedite billing/payment.

The CONTRACTOR shall permit the CITY or MDOT to audit all data and records relating to the transit service financed in part or whole by this contract. The CONTRACTOR shall retain and allow access to all data and records pertaining to this Contract until three (3) years after the final payment by MDOT.

ARTICLE VI

NO ASSIGNMENT WITHOUT APPROVAL

Neither this Contract nor any interest herein nor claim hereunder shall be assigned or transferred by the CONTRACTOR except as expressly authorized in writing by the CITY. No such consent shall release the CONTRACTOR from its liability for the performance of its obligations under this Contract. Any such approvals shall not be construed as a warranty of the subcontractor's qualifications, professional standing, ability to perform the work being subcontracted, or financial integrity.

ARTICLE VII

SEVERABILITY

If any provisions of this Contract conflict with laws of the State of Michigan, such conflict shall be interpreted independently of the remainder of this Contract and shall not render the entire Contract invalid, but only that portion in question.

ARTICLE VIII

WAIVER OF BREACH

The waiver by either party hereto of any breach of any provision of this Contract by the other party shall not operate or be construed as a waiver of any subsequent breach of the same or any other provision of this Contract by either party hereto.

ARTICLE IX

MODIFICATION

Any provision of this Contract may be modified, changed, altered or deleted, either permanently or for a stated period of time, only upon written agreement between the CITY and the CONTRACTOR.

ARTICLE X

MISCELLANEOUS

The CONTRACTOR agrees to comply with all terms and conditions of Master Agreement 2007-0259 and all ARRA Provisions as stated in project authorization 2007-0259/Z6 between the City of Midland and the Michigan Department of Transportation.

The CONTRACTOR acknowledges that he/she has not received or relied upon any representation or warranties of any nature whatsoever from the CITY, its agents or employees, and that this Contract is entered into solely upon the CONTRACTOR's own independent business judgment.

This Contract shall be governed by the laws of the State as set forth in the prime Contract. All terms and conditions included in the prime contract are incorporated into the subcontract, and in the event of a conflict, the prime agreement will prevail.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed on the day and year first above written, in several original counterparts, each of which shall be deemed to constitute an original having identical legal effect.

City of Midland Dial-A-Ride

Contractor:

By: _____

By: _____

Title: _____

Title: _____

Attest: _____

Attest: _____

APPENDIX C

ADDITIONAL PROVISIONS

I. The contractor shall indemnify, defend, and hold harmless the City of Midland, its officers, agents, employees, the State of Michigan, the Michigan State Transportation Commission, the Michigan Department of Transportation and all officers, agents and employees thereof:

- A. From any and all claims by persons, firms or corporations for labor, materials, supplies or services provided in connection with the contract, which the contractor shall perform under the terms of this contract: and
- B. From any and all claims for injuries to, or death of any and all persons, for loss of or damage to property, environmental damages, degradation response and cleanup cost, and attorney fees or other related costs arising out of, under, or by reason of this agreement, including manufacturing and delivery of the mobile data terminal.

2. In connection with the performance of the services under this agreement, the contractor (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "prohibition of discrimination in state contracts" as set forth in Attachment A attached hereto and made a part hereof. The contractor further covenants that he will comply with 1975a- I 975d, and 2000a-2000h-6 and will require similar covenants on the parts of any contractor or subcontractor employed in the performance of this agreement.

3. In accordance with standard accounting practices, the contractor shall keep pertinent books and records during work as set forth in this agreement. The contract shall permit authorized representatives of the City of Midland and the Michigan Department of Transportation to inspect and audit.

4. "Permit the CITY OF MIDLAND or the DEPARTMENT (MDOT) to audit all data and records relating to the transit service financed in part or in whole by this contract. The (insert identifier for subcontractor) shall retain and allow access to all data and records pertaining to this contract until three (3) years after the final payment by the DEPARTMENT (MDOT)."

APPENDIX D

AFFIDAVIT FOR DELIVERY

The following conditions must be met:

1. The bidder accepts all responsibility and liability for the Scheduling and Dispatch Software and Mobile Data Terminals.
2. The requesting contractor must sign the affidavit below and submit this with the bid.

The contractor accepts all responsibility and liability for the Software and Mobile Data Terminals and other material in transit and guarantees aforementioned shall be transported in a safe, proper, and efficient manner.

I understand that the City of Midland may cancel approval of this affidavit at any time during the contract if the contractor fails to meet the above obligations.

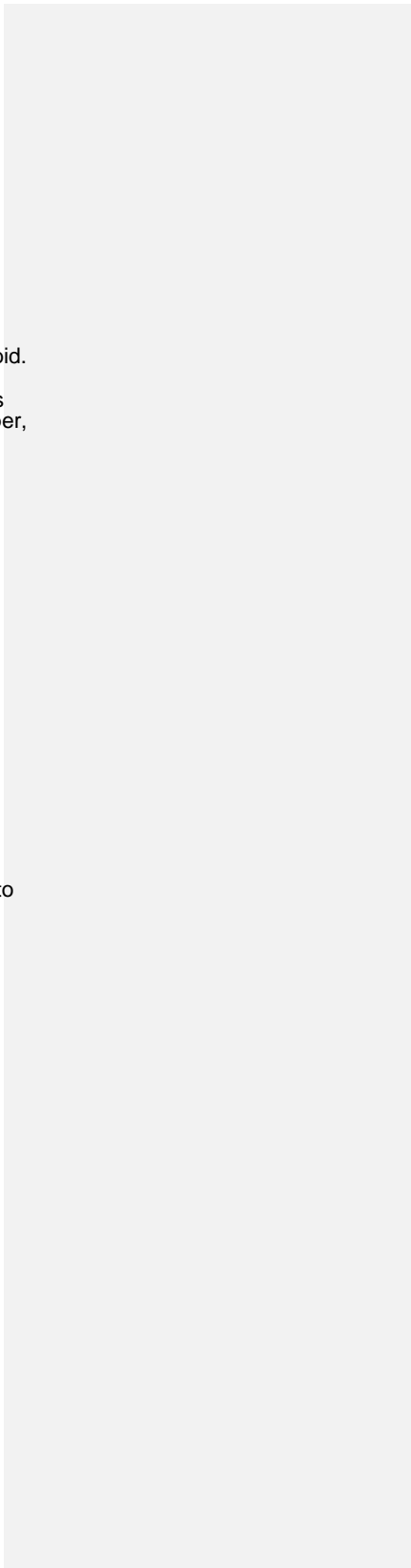
Signature

Title

Contractor

Date

(The signature on this applies to the statement only; the Bid for Proposal Form must be signed to be considered for award.)



APPENDIX E

Master Agreement

To: Michigan Department of Transportation
Passenger Transportation Division
PO Box 30050
Lansing, MI 48909

The City of Midland hereby certifies that it will conduct this procurement in compliance with the Master Agreement between the Federal Transit Administration and the Michigan Department of Transportation.

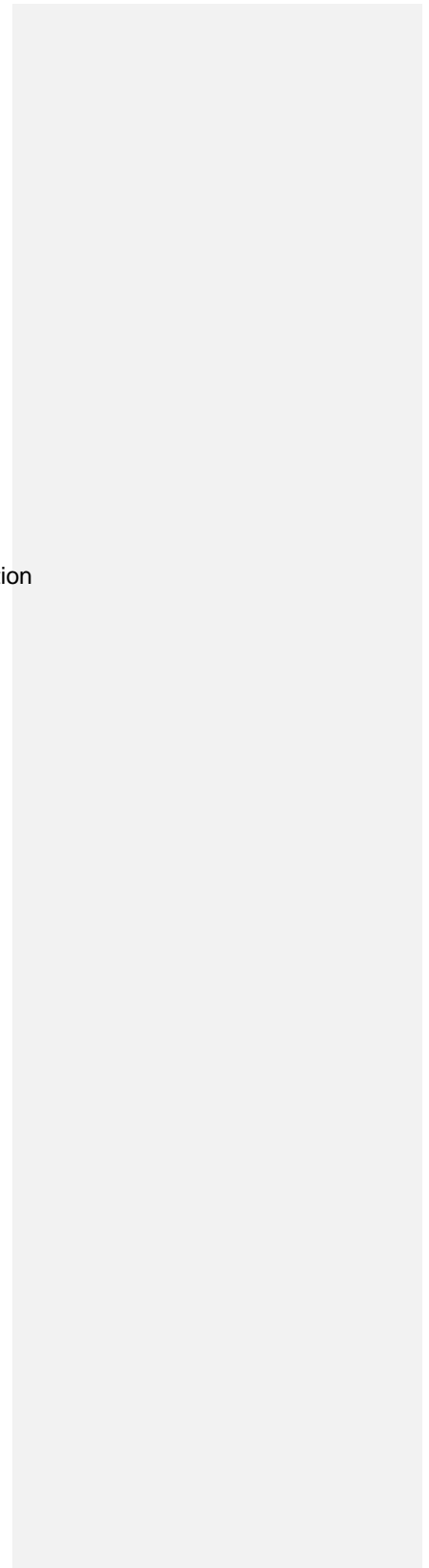
Certification of the City of Midland:

Signature _____

Name (Print) _____

Title _____

Date _____



APPENDIX F
FTA Federal Clause Requirements

FEDERAL TRANSIT ADMINISTRATION

http://fta.dot.gov/funding/thirdpartyprocurement/bppm/grants_financing_6195.html

A.1 – Federally Required and Other Model Contract Clauses

1. Fly America Requirements
2. Buy America Requirements
3. Charter Bus and School Bus Requirements
4. Cargo Preference Requirements
5. Seismic Safety Requirements
6. Energy Conservation Requirements
7. Clean Water Requirements
8. Bus Testing
9. Pre-Award and Post Delivery Audit Requirements
10. Lobbying
11. Access to Records and Reports
12. Federal Changes
13. Bonding Requirements
14. Clean Air
15. Recycled Products
16. Davis-Bacon and Copeland Anti-Kickback Acts
17. Contract Work Hours and Safety Standards Act
18. [Reserved]
19. No Government Obligation to Third Parties
20. Program Fraud and False or Fraudulent Statements and Related Acts
21. Termination
22. Government-wide Debarment and Suspension (Nonprocurement)
23. Privacy Act
24. Civil Rights Requirements
25. Breaches and Dispute Resolution
26. Patent and Rights in Data
27. Transit Employee Protective Agreements
28. Disadvantaged Business Enterprises (DBE)
29. [Reserved]
30. Incorporation of Federal Transit Administration (FTA) Terms
31. Drug and Alcohol Testing

APPENDIX G
DISADVANTAGED BUSINESS ENTERPRISES

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 2.25%.

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 Clinton Transit deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. A ward of this contract is conditioned on submission of the following concurrent with and accompanying an initial proposal

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. Evidence of good faith effort.
7. Offerors must present the information required above, as a matter of responsiveness with initial proposals (see 49 CFR 26.53(3)). Performance of 1-6 above will be considered when accepting RFP.

APPENDIX H**Whistle Blower Protection for Recipients of Funds**

The AGENCY shall not discharge, demote or otherwise discriminate against an employee for disclosures by the employee that the employee reasonably believes are evidence of: 1) gross mismanagement of a contract or grant relating to Covered Funds; 2) a gross waste of Covered Funds; 3) a substantial and specific danger to public health or safety related to the implementation or use of Covered Funds; 4) an abuse of authority related to an AGENCY contract (including the competition for or negotiation of a contract) or grant, awarded or issued relating to Covered Funds. In this Subsection, "Covered Funds" shall have the same meaning as set forth in Section 1553(g) (2) or Division A, Title XV of the ARRA (American Reinvestment and Recovery Act).

- a. The AGENCY must post notice of the rights and remedies available to employees under Section 1553 of Division A, title XV of the ARRA. A poster can be found at: <http://www.recovery.gov/sites/default/files/Whistleblower+Poster.pdf>
- b. The AGENCY shall include the substance of this clause including this paragraph (b) in all subcontracts.

Janet Yuergens, Assistant Director of Public Services

APPENDIX I
Administrative Remedies

If clarification or administrative remedy is needed, any changes or modification required will be sent to all RFP applicants, with dateline extension as necessary. Please call Janet Yuergens at the City of Midland for discussion on those items of interest at (989) 837-6908.

Protests

Protest See 7.1. of FTA Circular 4220. IE

Written Protest Procedures: Grantees shall have written protest procedures to handle and resolve disputes relating to their procurements and shall in all instances disclose information regarding protests to FTA. All protesters decisions must be in writing. **A protester must exhaust all administrative remedies with the grantee before pursuing a protest with FTA.**

Reviews of protests by FTA will be limited to: (1) a grantee's failure to have or follow its protest procedures, or its failure to review a complaint or protest: (2) violation of Federal law or regulations.

An appeal to FTA must be received by the Marisol Simon, regional administrator for region 5 or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by the grantee or other basis of appeal to FTA.

For pre-award protest contact City of Midland with detailed description of protest, Attention Jim Branson, City Attorney. Protest must be received 5 days before closing of proposal process.

For post-award protest contact Jim Branson, City Attorney. Contact must be made within 7 days of date notified in the Request for Proposal for the closing date.

- List Content of a Protest
 - a. Name of Protester
 - b. Solicitation/Contract Number
 - c. State of grounds for protest and reference section involved.
- Protests are to be filed at 333 West Ellsworth St., Midland, MI 48640

Attempt at resolution shall be made by registered mail. The City of Midland will respond in detail to each substantive issue raised in the protest by letter or in person negotiation. City of Midland's attorney, Jim Branson, will make final determination. The attorney's decision will be final.

FTA will only entertain a protest that alleges the grantee failed to follow their protest procedures and that such a protest must be filed in accordance with the Circular. This protest can be revisited only for reconsideration should previously unknown data becomes available or there has been an error of law or regulation.

Signature and Date

Appendix J

Cost Certification

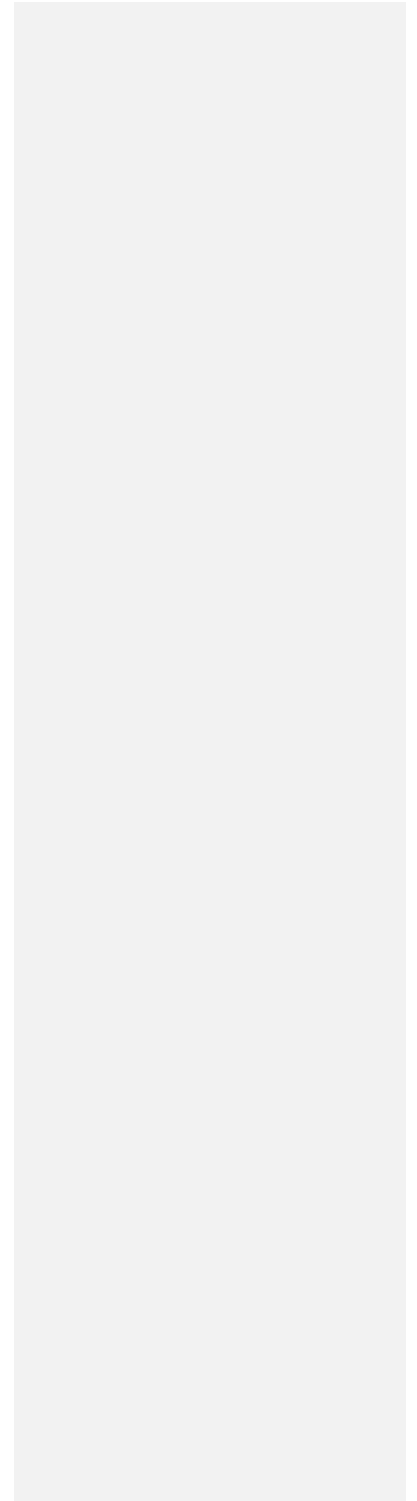
The (insert identifier for subcontractor) agrees that the cost reported to the (insert identifier for the contractor) for this contract will represent only those items that are properly chargeable in accordance with this contract.

Signature and Date

Contract Certification

The (insert identifier for subcontractor) also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

Signature and Date



Appendix K

Certification of Compliance

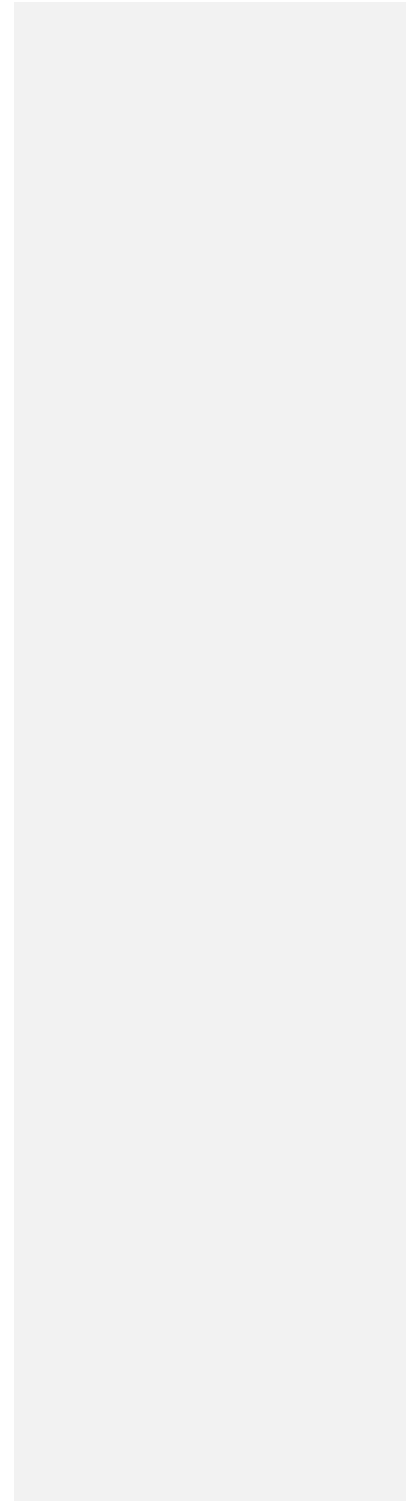
_____ acknowledges receipt of the attached Contract Clauses,
(Company name)

(Appendix L) and certifies compliance with all federal requirements in the manufacturing of

(Product description)

being purchased by The City of Midland Dial-A-Ride under project authorization 2007-0259/Z6.
(Transit Agency)

Signed: _____ Dated: _____



Appendix L
Required Federal Clauses
For Materials and Supplies less than \$100,000

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

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

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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.

FALSE OR FRAUDULENT STATEMENTS OR CLAIMS

The Recipient acknowledges and agrees that:

(1) **Civil Fraud.** 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 the Recipient's activities in connection with the Project. By executing the Grant Agreement or Cooperative Agreement for the Project, the Recipient certifies or affirms the truthfulness and accuracy of each statement it has made, it makes, or it may make in connection with the Project. In addition to other penalties that may apply, the Recipient also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation to the Federal Government, the Federal Government reserves the right to impose on the Recipient the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, to the extent the Federal Government deems appropriate.

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

ACCESS TO THIRD PARTY CONTRACT RECORDS

The Recipient agrees to require, and assures that its subrecipients require, their third party contractors and third party subcontractors at each tier to provide to the U.S. Secretary of Transportation and the

Comptroller General of the United States or their duly authorized representatives, access to all third party contract records as required by 49 U.S.C. § 5325(g). The Recipient further agrees to require, and assures that its subrecipients require, their third party contractors and third party subcontractors, at each tier, to provide sufficient access to third party procurement records as needed for compliance with Federal laws and regulations or to assure proper Project management as determined by FTA.

CHANGES TO FEDERAL REQUIREMENTS

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 in compliance with 49 CFR Part 18.

TERMINATION (FOR PROJECTS EXCEEDING \$10,000)

a. Termination for Convenience (General Provision) The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest in compliance with 49 U.S.C. Part 18/FTA Circular 4220.1F. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

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

d. Waiver of Remedies for any Breach In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) The (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If

this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work. The Contractor's right to proceed shall not be terminated, nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

a. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of

the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) The (Recipient) may terminate this contract, or any portion of it, by serving a notice of termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor. If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

CIVIL RIGHTS (FOR PROJECTS EXCEEDING \$10,000)

The Recipient agrees to comply with all applicable civil rights laws and regulations, in accordance with applicable Federal directives, except to the extent that the Federal Government determines otherwise in writing. These include, but are not limited to, the following:

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

b. **Nondiscrimination – Title VI of the Civil Rights Act.** The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, third party contractor, or other participant at any tier of the Project, with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C.

§§ 2000d *et seq.*, and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21.

Except to the extent FTA determines otherwise in writing, the Recipient agrees to follow all applicable provisions of the most recent edition of FTA Circular 4702.1A, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," and any other applicable Federal directives that may be issued.

c. **Equal Employment Opportunity.** The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, third party contractor, or other participant at any tier of the Project, with all equal employment opportunity (EEO) provisions of 49 U.S.C. § 5332, with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e *et seq.*, and implementing Federal regulations and any later amendments thereto. Except to the extent FTA determines otherwise in writing, the Recipient also agrees to follow all applicable Federal EEO directives that may be issued. Accordingly:

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

(2) **Equal Employment Opportunity Requirements for Construction Activities.** For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Recipient agrees to comply and assures the compliance of each subrecipient, lessee, third party contractor, or other participant, at any tier of the Project, with all requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*; with implementing Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and with other applicable EEO laws and regulations, and also agrees to follow applicable Federal directives, except as the Federal Government determines otherwise in writing.

d. **Nondiscrimination on the Basis of Sex.** The Recipient agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

e. **Nondiscrimination on the Basis of Age.** The Recipient agrees to comply with all applicable requirements of:

(1) The Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 *et seq.*, and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal financial assistance.

(2) The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

f. **Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections.** To the extent applicable, the Recipient agrees to comply with the confidentiality and civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

g. **Access to Services for Persons with Limited English Proficiency.** The Recipient agrees to facilitate compliance with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and follow applicable provisions of U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005, except to the extent that FTA determines otherwise in writing.

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

i. **Other Nondiscrimination Laws.** The Recipient agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable Federal directives prohibiting discrimination, except to the extent the Federal Government determines otherwise in writing.

DISADVANTAGED BUSINESS ENTERPRISE

To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBEs) in the Project and assures that each subrecipient, lessee, third party contractor, or other participant at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable as follows:

(1) The Recipient agrees and assures that it shall comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26.

(2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any subagreement, lease, third party contract, or other arrangement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and shall comply with the requirements of 49 C.F.R. Part 26.

The Recipient agrees to take all necessary and reasonable steps as set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all subagreements, leases, third party contracts, and other arrangements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26, the Recipient's DBE program approved by U.S. DOT, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative agreement for the Project. The Recipient agrees that it has a legal obligation to implement its approved DBE program, and that its failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or

Cooperative Agreement for the Project and this Master Agreement. Upon notification by U.S. DOT to the Recipient of the Recipient's failure to implement its approved DBE program, U.S. DOT may impose the sanctions as set forth in

49 C.F.R. Part 26 and may, in appropriate cases, refer the matter to the appropriate Federal authorities for enforcement under 18 U.S.C. § 1001, or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 *et seq.*, or both.

ACCESS FOR INDIVIDUALS WITH DISABILITIES

The Recipient agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Recipient also agrees to comply with all applicable provisions of section 04 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Recipient agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are:

- (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
- (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;
- (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and
- (11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

DEBARMENT AND SUSPENSION (FOR PROJECTS EXCEEDING \$25,000)

The Recipient agrees to comply, and assures the compliance of each subrecipient, lessee, third party contractor, or other participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180. The Recipient agrees to, and assures that its subrecipients, lessees, third party contractors, and other participants at any tier of the Project will, review the "Excluded Parties Listing System" at <http://epls.gov/> before entering into any subagreement, lease, third party contract, or other arrangement in connection with the Project.

CARGO PREFERENCE REQUIREMENTS

Use of United States-Flag Vessels - The contractor agrees in compliance with 46 U.S.C. 1241/46 CFR Part 381:

- 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.

FLY AMERICA

The Recipient understands and agrees that the Federal Government will not participate in the costs of international air transportation of any individuals involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air carriers to the extent such service is available, in compliance with section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 through 301-10.143.

ENERGY CONSERVATION

The Recipient agrees to comply with applicable mandatory energy efficiency standards and policies of applicable State energy conservation plans issued in accordance with the Energy Policy and Conservation Act, as amended, 42 U.S.C. §§ 6321 *et seq.*, except to the extent that the Federal Government determines otherwise in writing. To the extent applicable, the Recipient agrees to perform an energy assessment for any building constructed, reconstructed, or modified with FTA assistance, as provided in FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. Part 622, Subpart C.

PREFERENCE FOR RECYCLED PRODUCTS

(Contracts for items designated by EPA, when procuring \$10,000 or more per year)

To the extent applicable, the Recipient agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40

C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the Recipient agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS (For all ITS Projects)

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

STATE, TERRITORIAL, AND LOCAL LAW

Should a Federal law pre-empt a State, territorial, or local law, regulation, or ordinance, the Recipient must comply with the Federal law and implementing regulations. Nevertheless, no provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement requires the Recipient to observe or enforce compliance with any provision, perform any other act, or do any other thing in contravention of State, territorial, or local law, regulation, or ordinance. Thus if compliance with any provision of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement violates or would require the Recipient to violate any State, territorial, or local law, regulation, or ordinance, the Recipient agrees to notify FTA immediately in writing. Should this occur, FTA and the Recipient agree that they will make appropriate arrangements to proceed with or, if necessary, terminate the Project expeditiously.