

PROJECT #2022-20



ISSUED BY:

Interurban Transit Partnership
300 Ellsworth Ave., SW
Grand Rapids, MI 49503-4018
(616) 456-7514

**REQUEST FOR PROPOSALS
FOR
INVESTMENT ADVISOR PROFESSIONAL SERVICES**

PLAN OF ACTIVITIES:

Date Issued:	Tuesday October 11, 2022
Questions Due:	Tuesday, October 18, 2022
Proposals Due:	Tuesday, November 8, 2:00 pm EDT
Anticipated Award Date:	Friday, November 18, 2022

NOTICE
REQUEST FOR PROPOSAL (RFP)
FOR
INVESTMENT ADVISOR PROFESSIONAL SERVICES

PROJECT 2022-20

The Interurban Transit Partnership (ITP) (DBA The Rapid) invites proposals from qualified firms for provision of investment advisor professional services.

Proposals are due Friday, November 8, 2022, ET posted to MITN. ITP has joined the Michigan Inter-governmental Trade Network (MITN). This is a group of agencies that joined forces to create a regional bid notification system to notify companies of new bid opportunities. Register with MITN here. <https://www.bidnetdirect.com/mitn> All documents and submittals will be processed through MITN. There are no fees related to registration on this site.

Proposals shall be subject to all applicable State and Federal laws and subject to financial assistance contracts between the ITP Board and the United States Department of Transportation under the Urban Mass Transportation Act of 1964, as amended, and the Michigan Department of Transportation. The selected contractor(s) will be required to comply with all applicable Equal Employment Opportunity laws and regulations. All respondents will be required to certify that they are not on the Comptroller General's list of ineligible contractors.

ITP Board hereby notifies all respondents that it will affirmatively ensure, in regard to any contract entered into pursuant to this advertisement, that Disadvantaged Business Enterprises will be afforded full opportunity to submit proposals in response to this Request for Proposal and will not be discriminated against on the grounds of race, religion, color, sex, handicap, or national origin, in consideration for an award.

The ITP Board reserves the right to postpone, accept, or reject any and all proposals in whole or in part on such basis as the ITP Board deems to be in its interest to do so, subject to the rules and regulations set forth by the Federal Transit Administration and the Michigan Department of Transportation.

No proposal may be withdrawn for at least ninety (90) days after the scheduled closing time of the proposals. A digital copy of the proposal must be submitted through MITN. (Link provided above). **Please submit your bid as a single PDF file with all information scanned in the order requested.**

Kevin Wisselink
Director of Procurement and Capital Planning
kwisselink@ridetherapid.org

Interurban Transit Partnership
300 Ellsworth Ave. SW
Grand Rapids, Michigan 49503

TABLE OF CONTENTS

SECTION 1: INTRODUCTION-----1

SECTION 2: SCOPE OF WORK -----3

SECTION 3: SUBMITTAL REQUIREMENTS -----6

SECTION 4: EVALUATION/SELECTION CRITERIA-----9

SECTION 5: ADDITIONAL INSTRUCTIONS TO PROPOSERS ----- 10

SECTION 6: ITP & FTA CONTRACT PROVISIONS ----- 18

SECTION 7: REQUIRED FEDERAL CERTIFICATES ----- 30

SECTION 1: INTRODUCTION

The Interurban Transit Partnership (ITP) (dba The Rapid) is issuing this Request for Proposal (RFP) to obtain proposals for Investment Advisor Services from experienced and qualified companies which will satisfy the requirements described in this RFP. The Advisor will be expected to provide objective independent, third-party counsel that will enable ITP to make well-informed decisions regarding the investment and management of invested financial assets. This RFP is not a contractual offer or commitment to purchase services. Respondents must be bona fide providers of the products and services requested. This signed and completed RFP document, along with the submitted proposal response and submittals, will form the contract document for the awarded vendor.

BACKGROUND

ITP was formed in 2000 to operate a public transportation system they named The Rapid to provide services for the Grand Rapids metro area and beyond. It is organized and operates under Michigan Public Act 196 of 1986 with a 15-member board of directors representing the six municipalities in the service area.

Beyond its fixed routes, ITP also operates demand response services for people with disabilities, and for those living outside the fixed-route service area, on-demand services, senior mobility services, ride share, and vanpooling programs.

1.1 REQUESTS FOR CLARIFICATION

All questions regarding the RFP or requests for clarification of the requirements must be posted through MITN on or before Tuesday, October 18, 2022 at the following link:

<https://www.bidnetdirect.com/mitn>

1.2 SUBMISSION OF PROPOSAL

ITP will receive digital proposals until Tuesday, November 8, 2022, by 2:00 p.m. EST. **A digital copy shall be posted to the MITN website.** [Register with MITN here.](#)

Procurement Lead: Kevin Wisselink – Director of Procurement & Capital Planning
Interurban Transit Partnership
300 Ellsworth Ave., S.W.
Grand Rapids, Michigan 49503

Phone: 616-774-1190

Email: kwisselink@ridetherapid.org

All communications must be made through the Procurement Lead or posted to MITN as directed. ***No direct contact with other ITP staff members or officers will be permitted unless authorized***

by the Procurement Lead. All correspondence to the Procurement Lead must be done in writing (e-mail is preferred).

A signed statement acknowledging the receipt of any addenda issued to the RFP must accompany proposals.

The preferred method of bid or proposal submission is via the MITN website. **If this method is not possible contact the Procurement Lead prior to submission deadline for alternate submittal instructions.**

1.3 PROJECT NUMBER

All respondents and contractors will include the FTA Project Number in all correspondence with ITP and with the FTA. The FTA Project Number for this Project is #2022-20.

1.4 TERM OF AGREEMENT

The term of the agreement will be three (3) years beginning December 15, 2022 through December 14, 2025 and includes two (2) one (1) year extension options.

SECTION 2: SCOPE OF WORK

Background

ITP is issuing this Request for Proposal (RFP) to obtain proposals for Investment Advisor Professional Services from experienced and qualified companies which will satisfy the requirements described in this RFP. The Advisor will be expected to provide objective independent, third-party counsel that will enable ITP to make well-informed decisions regarding the investment and management of ITP's invested financial assets.

The primary objectives of ITP with regard to these investments are to simultaneously:

1. Protect the invested funds;
2. Meet the daily cash flow needs of ITP;
3. Provide the highest possible investment return;
4. Protect investment gains;
5. Minimize administrative costs and fees;
6. Conform to all statutes governing the investment of public funds; and
7. Develop a new ITP Investment policy including asset allocation strategies.
8. Evaluate and assist ITP in selecting money managers for actively traded portfolios.

ITP is a local unit of government in the State of Michigan providing transportation services in West Michigan. The principal source of revenue is property taxes and as a result, there is a large variation in the amount of cash reserves. It is ITP's practice to invest monies from these funds not currently needed for payment of obligations.

ITP also maintains two single employer defined benefit pension plans: Interurban Transit Partnership and Amalgamated Transit Union Plan with approximately \$11.2 million in plan assets; and the Interurban Transit Partnership Plan with approximately \$1.8 million in plan assets.

The investments of these three pools of funds must not be co-mingled; however, the investment strategies and investments could be similar for the two pension plans. ITP is committed to the following investment objectives, in descending order of priority: safety and protection of principal; liquidity; and finally yield. That said, it is ITP's desire to improve overall long-term investment results.

It is ITP's intent that the Advisor will be an independent third-party entity and shall not receive any direct or indirect compensation related to the investment of ITP's Investments other than the fees agreed to for the performance of the financial investment advisory services requested by this RFP.

ITP recognizes that it is unlikely that any single individual can have the full scope of knowledge that will be required to fully meet ITP's needs under this Contract. Therefore, the Advisor selected will most likely be a firm which intends to assign a team of individuals to work with ITP on various aspects of the Work.

Scope of Services:

ITP believes that an independent Advisor should offer guidance which could help ITP better meet its overall goals for Investments. The Advisor will be expected to offer advice and guidance to ITP's Treasurer to help achieve the desired outcomes.

The Advisor services under this contract may include but not be limited to the following:

1. Investment Policy, Objectives and Guidelines: Assist ITP in reviewing and improving (as required) ITP's Investment Policy, and in developing objectives and guidelines which properly reflect ITP's tolerance for risk, objectives for rate-of-return and administrative expense, and compliance with applicable laws, ordinances, and regulations.
2. Asset Allocation Studies: Conduct an asset allocation study to evaluate if the current asset allocation provides ITP with the best performance of its investments and whether the current allocation falls within the investment objectives and guidelines developed because of the effort cited in paragraph 1 above. If, because of this study, it is mutually agreed between ITP and the Advisor that changes should be made, assist ITP in developing and implementing a revised asset allocation model, and modifying the Investment Policy accordingly.
3. Cash Flow Management: Assist ITP with the evaluation of cash flow needs and assist in establishing a method to allow internal evaluation and management of cash flow on a periodic basis.
4. Fund Diversification and Structure Design: Assist ITP in analyzing its investments and in determining the need for an investment management structure. If recommended by the Advisor and agreed to by ITP, assist in the development of an investment strategy that would use a multi-manager structure to provide adequate diversification with respect to the number and types of investment managers to be retained.
5. Investment Manager Search and Selection: If requested by ITP (based on the outcome paragraph 4 above), assist in the search for, due diligence regarding, and selection of investment manager(s), including presentation of recommendations to ITP's Finance Committee and/or Board of Directors as requested.
6. Investment/Investment Manager Performance Standard and Guidelines: If applicable, assist ITP in the development of performance standards and guidelines with which ITP can measure the performance of its investments and/or any investment manager's results.
7. Performance Measurement & Monitoring: Monitor the performance of the investment and/or investment manager(s) and submit regular reports on their performance with measurement against agreed upon benchmarks and assist ITP in evaluating its progress toward the investment objectives. Provide monthly statements of the total investment portfolio that allow internal record-keeping of the portfolio's activity during the period and its period-end value. Provide

quarterly performance reports for presentation to ITP's Finance Committee and/or appear before ITP's Finance Committee to report performance upon request. Communicate as necessary with the Investment Managers regarding their performance, compliance with all applicable laws and compliance with the contract for their services.

8. Legal Compliance: Monitor and report regularly upon ITP's compliance with all applicable laws, rules, and regulations regarding its Investments.
9. Employee Education: Provide employee education on cash flow management and investment policy in determining balances of liquid funds and reserve funds that may be invested.
10. General: Provide general advisory services to ITP staff on any matter related to investments as requested. Attend quarterly or special meetings as requested by ITP's staff or Board of Directors to provide advice and counsel.
11. Other: Recommend additional actions that would be beneficial to the management and use of ITP's Investments and cash resources. Respond to requests by ITP for information or counsel, and provide recommendations, best practices, and other information related to the management of investments and cash resources.

SECTION 3: SUBMITTAL REQUIREMENTS

Responding firms/organizations shall include the following information, at a minimum, in their proposals. Emphasis should be on completeness and clarity of content. Proposals must be assembled and **labeled as follows:**

3.1 Cover Letter

The proposal must include a cover letter which identifies the respondent firm/organization, mailing address, contact person and telephone number. The cover letter must acknowledge the receipt of all addenda issued to this RFP and be signed by the individual who is authorized to negotiate and execute a contract on behalf of the proposing firm/organization. The letter should also contain a commitment that the proposed pricing will be valid for not less than 90 days.

3.2 Project Approach

Describe the respondent's approach to providing these services, including its proposed method of interacting with the Committee. This section should identify the estimated number of times the respondent expects to meet with the Committee in person. Each respondent should provide a preliminary work plan addressing the respondent's proposed administrative, managerial, and organizational processes to complete the Scope of Services and present a proposed schedule for the entire recruitment process for each position. The respondent should also include a schedule of its current commitments, identifying any that may impact its ability to complete this assignment in accordance with the proposed schedule.

3.3 Firm Qualifications and Experience

Provide a description of the responding firm's prior and current experience with comparable recruitments with agencies similar to ITP. Contact information (name, title, mailing address, email, and telephone numbers) for each ITP should be included. This section should also include professional memberships and certifications held by the firm or its key personnel, and a statement of the ethical and professional guidelines to which the firm adheres.

3.4 Staffing

Include a narrative description of the proposed staffing for this assignment, including resumes of key personnel, including their titles, proposed roles in the project, and prior relevant experience. If appropriate, an organization chart showing the proposed project organization and its relationship to the respondent's overall organization may be included.

3.5 Insurance Certificate

The Contractor shall maintain such insurance as will protect it from claims under Workers' Compensation Acts and other employee benefit acts; from claims for damages because of bodily injury, including death, to its employees and all others and from claims for damages to property;

any or all of which may arise out of or result from the Contractor's operations under the Contract, or from any subcontractor or anyone directly or indirectly employed by either of them. This insurance shall be written for not less than the limits specified below. ITP shall be named as additionally insured in respect to all liability insurance policies. All policies shall contain an endorsement that written notice shall be given to ITP prior to termination, cancellation, or reduction in coverage in the policy. Certificates of such insurance shall be filed with ITP prior to the start of the Contract. They can be emailed to purchasing@ridetherapid.org.

Type of Insurance		Limits category	Coverage Amounts
Commercial General Liability	Occur, General Aggregate Limit per Policy	Each occurrence	1,000,000
		Personal & Adv Injury	
		General Aggregate	2,000,000
		Products/Completed Ops	2,000,000
Automotive Liability		Combined Single Limit, Each Accident	1,000,000
Umbrella Liability	Occur	Each Occurrence	5,000,000
		Aggregate	5,000,000
Worker's Compensation Insurance		Each Accident	1,000,000
		Disease – Policy Limit	1,000,000
		Disease – Each Employee	1,000,000

3.6 Federal Certifications

- DBE Certification
- Debarment & Suspension Prime Contractor
- Department & Suspension Sub-Contractor
- Federal Lobbying
- Certificate of Compliance with FTA Clauses

3.7 Exceptions to Contractual Terms

The respondent may identify any proposed exceptions to ITP's terms and conditions as contained in this RFP, or to propose any additional terms it considers appropriate. Such proposed exceptions or additional terms must be specific and include a clear explanation of the reasons for the exception or addition. Please note that certain terms contained herein are required by law or regulation and cannot be modified.

3.8 Financial Statements

This section shall include a certified, audited financial statement for the respondent's latest available fiscal year.

3.9 Conflict of Interest

The respondent shall disclose any financial, business, or other relationship with ITP, or any of its Trustees, managers, employees, agents, or representatives, which may have an impact upon the

outcome of the work. The respondent shall also list current clients who may have a financial interest in the outcome of the work.

3.10 Past, Present and Pending Legal Actions

The respondent shall list all claims and legal actions within the last five years related to its recruitment and/or consulting services, including identifying the parties, a factual summary of the claim or action, the contentions of the parties, and outcome(s).

3.11 Cost Proposal

Rates proposed shall be an all-inclusive cost to The ITP. Rates proposed shall support individual's resumes as provided in the Proposal. Proposers may provide other rates for positions and services that may be available to the ITP. Rates should be provided for the initial three year term and the two option years. Pricing shall be on a basis consistent with industry standards. ITP will not reimburse respondents for any costs incurred in preparing a proposal and such costs should not be included. No pricing or price-related information should appear elsewhere in the proposal.

The ITP desires complete transparency concerning all costs and fees proposed. To ensure accurate comparability of bidders, provide all costs and fees pertaining to the project in a clear, concise manner, including but not limited to:

- Lump Sum cost for Investment Policy rewrite;
- Cost each for Money Manager Search;
- Annual fee for quarterly reports on investment managers performance and portfolio performance;
- Hourly rates for "as needed" additional services (include titles and descriptions); any per diems and travel expenses; retainers, etc.
- Also provide details and costs associated with any optional services or items that may be available to the ITP.

SECTION 4: EVALUATION/SELECTION CRITERIA

The contract shall be awarded based on the proposal determined to be the most responsive to the needs of ITP.

The ITP Evaluation Committee will review and evaluate all proposals. Based on the results of this evaluation, the committee may elect to award a contract (subject to Board approval) or to conduct further evaluation. ITP may negotiate with those respondents within an acceptable range and request a Best and Final Offer prior to contract award.

Proposals will be evaluated using the following criteria in their relative order of importance.

- a) Compliance with Requirements
- b) Firm Qualifications
- c) Financial Proposal

***NOTE - SUBCONTRACTING

If any **subcontractors** are to be used, the respondent must submit a description of each person or firm, the work to be done by each **subcontractor** and the cost of the work. All **subcontractors** must be approved by ITP. In no event shall the **Contractor** subcontract more than 49% of the work and/or cost of the contract. No additional work may be subcontracted without prior written approval of ITP.

SECTION 5: ADDITIONAL INSTRUCTIONS TO PROPOSERS

5.1 FUNDING

This Project will be funded with the assistance of capital improvement grants from the Federal Government under the Federal Transit Act and the Michigan Department of Transportation (MDOT). The successful bidder will be required to comply with all terms and conditions prescribed for third party contracts in a grant contract between the United States of America and ITP. This grant contract is available for examination by prospective bidders at the ITP offices.

5.2 PROJECT BUDGET

The budget for this Project will be funded through financial assistance grants from the Federal Transit Administration (FTA) and Michigan Department of Transportation (MDOT). The total Project budget will be determined by the final negotiated price between ITP and the successful bidder.

5.3 APPROVED EQUALS AND DEVIATIONS

All Proposals must be in strict compliance with the requirements and provisions of these specifications, including the provisions herein regarding "approvals", "approved equals", and "deviations". Where a feature, component or item is specified by brand name in these specifications, the words "or approved equal" will apply. Where the approval of ITP is specifically required by these specifications in connection with a particular feature, or if the bidder proposes to submit a proposal containing "approved equals" or "deviations" from specific requirements of these specifications, the bidder must obtain such approval, confirmed in writing, prior to the date for the receipt of proposals. With respect to "approved equals" or "deviations", the details of same and the reasons and justifications therefore must be submitted to ITP, including a statement whether the bidder has previously furnished or offered to furnish the item in question, is herein specified. Proposals may be submitted containing such "approvals", "approved equals", or "deviations", as are specifically approved by ITP, confirmed in writing, prior to the date for receipt of proposals. Each proposal must be accompanied by documentation regarding any such approvals granted by ITP for the proposal. Notice of any such approvals required by and/or granted to a bidder shall be furnished by ITP to other prospective bidders prior to the date for receipt of proposals. Any unapproved deviations, exceptions, substitutions, alternates, or conditional qualifications contained in a proposal may be cause for its rejection. The decision of ITP, as represented by the CEO, shall be final with respect to whether any proposed deviations from the specifications are acceptable. It should be understood that specifying a brand name, components, and/or equipment in this specification shall not relieve the supplier from his responsibility to produce the product in accordance with the performance warranty and contractual requirements. The supplier is responsible for notifying ITP of any inappropriate brand name, component, and/or equipment that may be called for in the specifications, and to propose a suitable substitute for consideration.

5.4 TYPE OF CONTRACT

The Contract for this Project shall be a firm fixed price type.

5.5 USE OF "INTERURBAN TRANSIT PARTNERSHIP" NAME IN CONTRACTOR ADVERTISING OR PUBLIC RELATIONS

ITP reserves the right to review and approve any advertising copy related to this Project in any way prior to publication. The successful bidder will not allow such copy to be published in their advertisements or public relations programs until submitting such copy and receiving prior written approval from ITP. The successful bidder agrees that published information relating to this Project will be factual and in no way imply that ITP endorses the successful bidder's firm, service, or product.

5.6 INTENT OF SPECIFICATIONS

It is the intent of these specifications to provide completed Project of substantial and durable construction in all respects, which will be most suitable and advantageous for ITP.

5.7 PROTEST PROCEDURES

The following terms, conditions and appeal procedures will apply:

- (a) ITP reserves the right to postpone the bid opening or receipt of proposals for its own convenience.
- (b) Changes to the specifications will be made by addendum only.
- (c) Prime Contractors and subcontractors may make appointments to discuss the Project specifications. This, however, does not relieve them from the written documented requests required by paragraphs (d) and (f), following.
- (d) Requests for approved equals, clarification of specifications, and protest of specifications must be received by ITP in writing not less than nine (9) working days before the date of the scheduled bid opening or closing date for receipt of proposals. Any request for an approved equal or protest of the specifications must be fully supported with technical data, test results or other pertinent information as evidence that the substitute offered is equal to or better than the specification requirement.
- (e) ITP's replies to requests under paragraph (d) above will be postmarked at least five (5) working days before the date scheduled for the bid opening or receipt of proposal.
- (f) A protest by any adversely affected person regarding restrictive specifications or alleged improprieties in the solicitation must be made in writing and received by the ITP Purchasing department two (2) working days before the date scheduled for bid opening or receipt of proposal. The formal written protest shall state the name of the protester, a description of the Project, and the facts and law upon which the protest is based, and a statement as to what relief is requested.
- (g) Upon receipt of a protest, ITP shall immediately determine if the date for the bid opening or closing date for receipt of proposals should be postponed. If the bid opening or closing date is postponed, ITP will contact all Contractors and subcontractors who were furnished a copy of the specifications by ITP that an appeal has been filed and that the bid opening or receipt of proposals is postponed until a decision has been issued. Notice of the postponement will be made in writing by addendum.
- (h) Representatives of ITP and the protester shall meet within twenty-four (24) hours after receipt of the protest or at such a time as mutually agreed, to discuss all substantive issues

raised in the protest. Upon completion of discussion between ITP and the protester, the ITP Chief Executive Officer will transmit a final decision in writing to the protester within five (5) working days. The final decision will respond to each substantive issue raised in the protest. If the written decision cannot be issued within this time-period, the protester will be notified in writing of the time extension. Upon issuance of the written decision, ITP will then issue appropriate addendum to reschedule the date for the bid opening or closing date for the receipt of proposal.

- (i) Protests by any adversely affected person for reasons other than for restrictive specifications or alleged improprieties in the solicitation must be made in writing and received by the ITP Purchasing Department not more than three (3) working days after the posting of the Notice of Award is made to the participating bidders. Upon receipt of a protest after Contract award, ITP shall immediately determine if work on the protested Project should be suspended until such time as the protest is resolved.
- (j) Representatives of ITP and the protester shall meet within twenty-four (24) hours after receipt of the protest or at such time as mutually agreed to by both parties to discuss the protest. Upon completion of discussions between ITP representatives and the protester, ITP will issue a written decision to the protester within five (5) working days. If the written decision cannot be issued within this time-period, the protester will be notified in writing of the time extension.
- (k) Except as noted in paragraph (l), ITP will not open bids, receive proposals or award a contract if a formal written protest has been received and no final decision has been issued by the ITP CEO. After the issuance of a final decision, ITP will wait a minimum of five (5) working days before opening bids or proposals or before awarding a Contract for a Project.
- (l) ITP may open bids, receive proposals, and award a Contract for a Project while a protest is pending final disposition when the ITP CEO determines that:
 - The items to be procured are urgently required.
 - Delivery or performance will be unduly delayed by failure to make an award promptly; or,
 - Failure to make prompt award will otherwise cause undue harm to ITP or the Federal Government.
- (m) Protester may request a reconsideration after a final decision has been issued by the ITP Chief Executive Officer within five (5) working days after the issuance of a final decision if new data or information becomes available that was not previously known, or there has been an error of law or regulation.
- (n) The provisions of Chapter V of FTA Circular 4220.1F (Rev. 4, March 18, 2013), are hereby incorporated and made part of the rules of ITP. Protests to the FTA by a protester must be made in accordance with FTA Circular FTA Circular 4220.1F. FTA will only consider a protest that alleges failure of ITP to have a written protest procedure or failure to follow such procedure. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal regulation. Any appeal or protest may be withdrawn at any time.

5.8 DURATION OF OFFER

All bids or proposals shall remain in effect for a minimum of ninety (90) days from the bid opening date or scheduled date for receipt of proposals. Offers that allow less than ninety (90) days for acceptance by ITP will be considered non-responsive and will be rejected.

5.9 PROPOSAL PRICE – See provided form labeled as APPENDIX A

- (a) Proposal prices shall be submitted in the prescribed form. Prices submitted in any other form may be considered non-responsive and may be rejected.
- (b) Proposal prices shall be based on F.O.B. ITP, Grand Rapids, Michigan.
- (c) The price stated in any proposal submitted shall include all items of labor, materials, equipment, tools, and other costs necessary to fully complete and deliver this Project pursuant to the specifications. It is the intention of these specifications to provide and require a complete Project of the type prescribed. Any item or items omitted from such specifications which are clearly necessary for the completion of such Project and its appurtenances shall be considered a portion of such Project although not directly specified or called for in these specifications.

5.10 TAX EXEMPTION

The ITP is exempt from payment of all Federal, State, and local taxes in connection with this Project. Said taxes shall not be included in the bid or proposal prices. The ITP will provide necessary tax exemption certificates. This provision does not relieve the Contractor from the responsibility to pay all applicable taxes for goods, services, and labor acquired in the performance of this Project.

5.11 DISCOUNTS

Prompt payment discounts will not be considered in the evaluation of proposals or bids. However, any offered discount will form a part of the award and will be taken if payment is made within the discount period indicated in the offer by the bidder. As an alternative to offering a prompt payment discount in conjunction with the offer, bidders awarded Contracts may include prompt payment discounts on individual invoices.

5.12 PAYMENT TERMS

ITP will make payment within thirty (30) days after delivery and final acceptance of the project. The Contractor may submit invoices to ITP prior to or upon delivery. Payment will not be made without an invoice. **Invoices can be mailed (to the attention of Accounts Payable) or emailed (to Payables@ridetherapid.org).**

5.13 LATE PROPOSALS OR WITHDRAWAL OF PROPOSALS

- (a) Late proposals will not be considered.
- (b) A proposal may be withdrawn in person by the bidder or their , provided their identity is made known and a receipt is signed for proposal, and only if the withdrawal is made prior to the time specified for of proposals.

5.14 DETERMINATION OF SUCCESSFUL BIDDER / PROPOSER

In determining the successful bidder/proposer, consideration is given to the qualification, content of proposal, and financial proposal as described in the evaluation criteria. The Contract award for this Project will be made to the bidder/proposer making the best and most advantageous offer, price considered.

5.15 BIDDER QUALIFICATIONS

To be eligible for award, bidders must be responsive and responsible.

- (a) Responsive offers are those complying in all material aspects of the solicitation, both as to the method and timeliness of submission and as to the substance of the resulting Contract. Bids or proposals which do not comply with all the terms and conditions of the solicitation may be rejected as non-responsive.
- (b) Responsible bidders are those prospective Contractors who, at a minimum, must:
 - (1) Have adequate financial resources, as required during performance of the Contract.
 - (2) Are able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
 - (3) Have a satisfactory record of past performance.
 - (4) Have necessary technical capability to perform.
 - (5) Provide evidence satisfactory to ITP that the bidder will comply with the DBE requirements.
 - (6) Certify that they are not on the U.S. Comptroller General's list of ineligible Contractors.
 - (7) Are qualified as a manufacturer or regular dealer of the items being offered.
 - (8) Are otherwise qualified and eligible to receive an award under applicable laws and regulations.
 - (9) All prospective bidders may be requested to submit written evidence verifying that they meet the minimum criteria necessary to be determined a responsible Contractor.

Refusal to provide requested information may cause rejection of the bid or proposal.

5.16 ACCEPTANCE OF PROPOSAL

Each proposal shall be submitted with the understanding that the acceptance in writing by ITP of the offer to furnish any or all goods or services described therein shall bind the bidder on his part to furnish and deliver at the proposal price, in accordance with the conditions of said accepted proposal and specifications.

5.17 WITHOLDING AWARD

This solicitation for bids or proposals does not commit ITP to award a contract, pay any costs incurred in preparation of bid or proposals in response to this solicitation, or to procure or contract for good or services. Bidder shall be responsible for all costs incurred as part of their participation in the pre-award process.

5.18 PROPOSAL ACCEPTANCE, REJECTION AND POSTPONEMENT

ITP reserves the rights to postpone, accept, or reject any and all proposals in whole or in part, on such basis as the ITP Board deems to be in its best interest to do so, subject to the rules and regulations set forth by the U.S. Department of Transportation. Also, ITP reserves the right to accept an original offer or proposal without negotiation or without calling for a "best and final" offer.

5.19 USDOT/FTA CONCURRENCE FOR CONTRACT AWARD

The award of a Contract for this Project may be subject to review and concurrence by the U.S. Department of Transportation, Federal Transit Administration.

5.20 SINGLE BID RESPONSE

If only one (1) bid is received in response to the Invitation for Bids, a detailed cost proposal may be requested of the single bidder. A cost/price analysis and evaluation and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

5.21 DBE PARTICIPATION

In connection with the performance of this Contract, the successful bidder agrees to cooperate with ITP in meeting its commitments and goals with regard to maximum utilization of Disadvantaged Business Enterprises (DBE). The policy and obligations for maximum utilization of DBE's are herein set forth:

- (a) Policy - It is the policy of the Department of Transportation that Disadvantaged Business Enterprises, as defined in 49 CFR, Part 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or apart with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR, Part 26 apply to this Agreement.
- (b) DBE Obligation - ITP or its Contractor agrees to ensure that Disadvantaged Business Enterprises, as defined in 49 CFR, Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, ITP or its Contractors shall take all necessary and reasonable steps in accordance with 49 CF, Part 26, to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and to perform contracts. ITP and its Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

Requirements and goals for Disadvantaged Business Enterprise participation in this Project are as follows:

A minimum of zero percent (0%) of the total contract price, as awarded, shall be established as a goal to be made available to certified DBE's. Compliance with the percentage goal may be fulfilled by DBE's performing as either:

- 1) A member of a joint venture as a prime contractor.

- 2) An approved subcontractor.
- 3) An owner-operator of equipment.
- 4) A renter of equipment to a prime contractor.
- 5) A firm manufacturing and supplying goods used in the project.
- 6) A firm supplying goods used in the project (when supplying goods, only 60 percent (60%) will be counted).

Prior to Contract award, the apparent successful bidder shall submit a written assurance of meeting the above goals and shall include names of DBE subcontractors, addresses of contact persons, a description of work to be performed and dollar values of each proposed DBE subcontract. This information shall be submitted on the attached 'DBE Participation Form' furnished with this solicitation.

If the goals were not met, the bidder must demonstrate that sufficient good faith efforts were made to meet the DBE contract goals and shall document the steps he has taken to obtain DBE participation.

Failure to provide required documentation of good faith efforts may be reason for disqualification of the Bid / Proposal.

Bidder's good faith efforts will include the following actions.

- Soliciting through all reasonable and available means the interest of all certified DBEs who have the capability to perform work under the contract. This shall include attendance at pre-bid meetings, advertising and /or written notices. The bidder shall allow sufficient time to allow the DBEs to respond to the solicitation.
- Selecting portions of the work to be performed by DBEs.
- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- Negotiations in good faith with interested DBEs. It will be the responsibility of the bidder to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or materials consistent with the available DBEs. Evidence of negotiations shall include the names, addresses, and telephone numbers of DBEs that were considered, and a description of the information provided regarding the plans and specifications for the work selected for subcontractors, and evidence as to why additional agreements could not be reached for DBEs to perform the work.
- Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities.
- Efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required.
- Efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Use of services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices;

- and other organizations that aid in the recruitment and placement of DBE's.
- The prime contractor agrees not to terminate for convenience a DBE subcontractor, and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without ITP's prior written consent. When a DBE subcontractor is terminated or fails to complete its work on the contract for any reason, the prime contractor agrees to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated.

5.22 DEBARMENT

Bidders shall complete and submit as part of their bid, the Certification of Primary Contractor Regarding Debarment, Suspension, and Other Responsibility Matters for all projects when the total aggregate value of the contract exceeds \$100,000. The bidder shall also submit a list of subcontracts and subcontractors which will have a financial interest in this Project which exceeds \$25,000 or will have a critical influence on or a substantive control over the Project. A Certification of Lower-Tier Participants Regarding Debarment, Suspension, And Other Ineligibility and Voluntary Exclusions shall be submitted by the bidder to ITP for each listed subcontractor prior to contract award.

During the term of the Contract the successful bidder will be required to immediately notify ITP of 1) any potential subcontractor that is subject to this provision and to submit the appropriate certification prior to award of a subcontract, 2) any information that its certification or certification of its subcontractors was erroneous when submitted, 3) any information that certifications have become erroneous by reason of changed circumstances.

5.23 LOBBYING CERTIFICATION

Bidders shall complete and submit as part of their bid the Certification of Restrictions on Lobbying for all projects when the total aggregate value of the contract exceeds \$100,000. The Contractor shall also submit a list of subcontracts and subcontractors which will exceed \$100,000. A Certification of Restrictions on Lobbying shall be submitted by the bidder to ITP for each listed subcontractor prior to contract award.

**SECTION 6: INTERURBAN TRANSIT PARTNERSHIP (ITP) AND FEDERAL TRANSIT ADMINISTRATION (FTA)
CONTRACT PROVISIONS – GENERAL**

1. DURATION OF CONTRACT

This Contract shall become effective on December 15, 2022 and shall remain in effect through December 14, 2025. This Contract may be extended for up to two (2) one (1) year options with the concurrence of both parties.

2. PROJECT STARTUP

The Contractor agrees to commence work on this Project immediately upon the signing of this Contract by both parties and the issuance of a Notice to Proceed by ITP.

3. PROJECT COMPLETION – (Notice to Proceed)

This Project shall be completed _____ days after execution of this Contract by both parties and issuance of a Notice to Proceed by ITP.

4. PROJECT COMPLETION - (ITP Board)

This Project shall be completed _____ days after Contract award by the ITP Board.

5. CONTRACT AMOUNT AND PAYMENT – (Lump Sum)

ITP agrees to pay, and the Contractor agrees to accept as payment in full the amount of \$ _____.

6. CONTRACT AMOUNT AND PAYMENT – (Payment Schedule)

ITP agrees to make payments for this Project in accordance with the Payment Schedule included as Exhibit _____. The Contractor agrees to accept these amounts as payment in full.

7. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK

The granting of any progress payment or payments by ITP, or the receipt thereof by the Contractor, shall not constitute in any sense acceptance of the work of any portion thereof, and shall in no way lessen the ability of the Contractor to replace unsatisfactory work or material, though the unsatisfactory character of such work or material may not have been apparent or detected at the time such payment was made. Material, components, or workmanship which does not conform to the instruction of these Contract requirements and specifications or are not equal to the samples submitted to and approved by ITP will be rejected and shall be replaced by the Contractor without delay.

8. LIQUIDATED DAMAGES – Not applicable for this project

In the event of delay in the completion of deliveries of _____ beyond the dates specified in the Contract

(Description of item or product)

and not subject to the Contract's Unavoidable Delay provision, ITP shall assess, as liquidated damages, \$00.00 per calendar day. These damages shall be deducted from any monies due, or which may thereafter become due to the Contractor under this Contract. Further, the Contractor agrees that sums assessed as liquidated damages shall not be considered penalties but reflect the cost to ITP for

(State basis for determining damages)

9. AGREEMENT CHANGES

Additions, deletions, or modifications to this Agreement may be made only in accordance with a written agreement between the parties, signed on behalf of ITP by its CEO or the Project Manager.

10. BREACHES AND DISPUTE RESOLUTION (Applies to all contracts over \$250,000)

(a) Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

(b) Performance during Dispute. Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents, or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

(c) Remedies. Unless this contract provides otherwise, all claims, counterclaims, disputes, and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

11. PATENT AND RIGHTS IN DATA

Research projects in which FTA finances and the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual or to micro-purchases (less than \$10,000)

Patent Rights

(a) General. The Recipient agrees that: (1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery, (2) The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,

(b) Federal Rights. The Recipient agrees that: (1) Its rights and responsibilities, and the rights and responsibilities of each Third Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) 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, and

(c) C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing.

Rights in Data and Copyrights

(a) Definition of "Subject Data" means recorded information: (1) Copyright. Whether or not copyrighted, and (2) Delivery. That is delivered or specified to be delivered under the Underlying Agreement,

(b) Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to: (a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but (2) Do not include: (a) Financial reports, (b) Cost analyses, or (c) Other similar information used for Project administration,

(c) General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) Permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C (1) do not apply to: (a) Publications or reproductions for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release,

(d) Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Nonexclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and

(e) Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's

purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third-Party Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third-Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding,

(f) License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,

(g) Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section G(1) if: (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law,

(h) Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,

(i) Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and

(j) Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

12. INDEMNIFICATION

The Contractor agrees to indemnify and hold ITP, its officers, agents, employees and/or trustees, harmless from and against any and all claims or causes of action brought against ITP and from any and all damages, losses, expenses, attorneys' fees, costs and liabilities sustained by ITP arising out of any claimed defect in the goods or services supplied by the Contractor, any claimed improper manufacture, design, design drawings, specifications, materials or repairs provided by the Contractor pursuant to the Contract, and any claim by a third party for patent, trademark, copyright, or trade secret infringement. The Contractor's obligation under this paragraph shall include the obligation to indemnify and hold ITP harmless for its own negligence whether active, passive, or concurrent, in the performance of ITP's duties and obligations pursuant to the Contract.

13. COVENANT AGAINST GRATUITIES

The Contractor warrants that he or she has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any official or employee of ITP with a view toward securing favorable treatment in the awarding, amending, or evaluating performance of Contract.

14. ASSIGNABILITY

The terms and provisions of the Contract documents shall be binding upon ITP and the Contractor and their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. The rights and obligations of the Contractor under the Contract may not be transferred, assigned, sublet, mortgaged, pledged, or otherwise disposed of or encumbered in any way without ITP's prior written consent. The Contractor may subcontract a portion of its obligations to other firms or parties but only after having first obtained the written approval by ITP of the subcontractor.

ITP may assign its rights and obligations under the Contract to any successor to the rights and functions of ITP or to any governmental agency to the extent required by applicable laws or governmental regulations or to the extent ITP deems necessary or advisable under the circumstances.

15. PRICE WARRANTY AND COMMISSIONS

The price to be paid by ITP shall be that stated in this Contract which the Contractor warrants to be no higher than the Contractor's current prices on orders by others for goods similar to those covered by this Contract for similar quantities under similar conditions and methods of purchase. In the event the Contractor breaches this warranty, the prices of the items shall be reduced to the Contractor's current prices on orders by others, or in the alternative at ITP's sole discretion, ITP may cancel this Contract without liability to the Contractor for breach. The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for commission, percentage, brokerage, or contingent fee excepting bona fide employees of bona fide established commercial or selling agencies maintained by the seller for the purpose of securing business. For breach or violation of this warranty, ITP shall have the right in addition to any other rights, to cancel this Contract without liability and to deduct from the Contract price or otherwise recover from the Contractor the full amount of such commission, percentage, brokerage, or contingent fee.

16. ACCESS TO RECORDS AND REPORTS

As shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)
The following access to records requirements applies to this Contract:

1) Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

2) Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

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 an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4) Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5) Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6) Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i) (11).

FTA does not require the inclusion of these requirements in subcontracts.

17. UNAVOIDABLE DELAYS

If delivery of completed Project under this Contract should be unavoidably delayed, the ITP Project Manager will extend the time for completion of the Contract for the determined number of days of excusable delay. A delay is unavoidable only if the delay was not reasonable expected to occur in connection with or during the Contractor's performance; was not caused directly or substantially by acts, omissions, negligence or mistakes of the Contractor, the Contractor's suppliers, or their agents; was substantial and in fact caused the Contractor to miss delivery dates and could not adequately have been guarded against by contractual or legal means.

18. NOTIFICATION OF DELAY

The Contractor will notify the Project Manager as soon as the Contractor has, or should have, knowledge that an event has occurred which will delay completion of this Project. Within five (5) working days, the Contractor will confirm such notice in writing, furnishing as much detail as is available.

19. REQUEST FOR EXTENSION

The Contractor agrees to supply, as soon as such data are available, any reasonable proofs that are required by the ITP Project Manager to make a decision on any request for extension. The ITP Project Manager will examine the request and any documents supplied by the Contractor and will determine if the Contractor is entitled to an extension and the duration of such extension. The ITP Project Manager will notify the Contractor of the decision in writing. It is expressly understood and agreed that the Contractor will not be entitled to damages or compensation and will not be reimbursed for losses on account of delays resulting from any cause under this provision.

20. CONTRACTOR'S REPRESENTATIVE

Prior to the start of Contract performance, the Contractor shall advise ITP in writing of the primary and alternate representatives (including phone numbers) who will have management responsibility for the total Contract effort to receive and act on technical matters and resolve problems of a contractual nature.

21. INTERURBAN TRANSIT PARTNERSHIP'S REPRESENTATIVES

Prior to the start of Contract performance, the ITP Project Manager will furnish a letter to the Contractor indicating the personnel who will represent ITP in the administration of this Contract to insure successful performance. Such letter shall include the specific duties of each individual and their limits of authority.

22. INSTRUCTIONS BY UNAUTHORIZED THIRD PERSONS

In accordance with the Contract Changes provision of the Contract, The ITP Project Manager or his/her authorized representative are the only persons authorized to make changes within the general scope of the Contract.

Any instructions, written or oral, given to the Contractor by someone other than the ITP Project Manager or his/her authorized representative, which are considered to be a change in the Contract, will not be considered as an authorized Contract Change. Any action on the part of the Contractor taken in compliance with such instructions will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

23. TERMINATION OF AGREEMENT

All Contracts over \$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 contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

(b) Termination for Default [Breach or Cause] (General Provision). If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

(c) Opportunity to Cure (General Provision). The recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions if contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against

contractor and its sureties for said breach or default.

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

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

If it is later determined by ITP that the Contractor has 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, ITP, after setting up a new delivery or performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

Termination, revocation, or rescission of this Agreement for default shall not affect or impair any rights or claims of ITP to damages for breach of any covenants of this Agreement by the Contractor. Further, should the Contractor fail to comply with the conditions of the Agreement or fail to complete the specified work or furnish the specified services as stipulated in the Agreement, ITP reserves the right to purchase on the open market, or to complete the required work at the expense of the Contractor and to pursue all other recoveries available to ITP under Michigan law.

In the event of a dispute under this Agreement, ITP and the Contractor agree that proper venue for purposes of litigation shall be Kent County, Michigan.

24. NO FEDERAL GOVERNMENT OBLIGATIONS TO THIRD PARTIES

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

- (1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

25. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n) (1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

26. INTEREST OF MEMBERS OR DELEGATES TO CONGRESS

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

27. DISADVANTAGED BUSINESS ENTERPRISE

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

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 and with section 1101(b) of SAFETEA LU, 23 U.S.C. §101.

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 FTA-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 ITP deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph. The successful proposer/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

28. DEBARMENT AND SUSPENSION

All Contracts over \$25,000

The Recipient agrees to the following:

- (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:
 - (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Government wide Debarment and Suspension (Non-procurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,
 - (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and
 - (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and
- (2) If the Recipient suspends, debars, or takes any similar action against a Third-Party Participant or individual, the Recipient will provide immediate written notice to the:
 - (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project,
 - (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or
 - (c) FTA Chief Counsel.

ITP will not make payment to the Contractor or a subcontractor which 1) does not comply with this contract provisions, or, 2) is not in compliance with the above-cited federal requirements.

29. ENERGY CONSERVATION

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

30. CLEAN AIR

All contracts over \$250,000

(1) Contractor shall comply with all applicable standards, orders or regulations pursuant to Section 306 of the Clean Air Act, as amended, 42 U.S.C. § 7606, and other requirements of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 – 7671q. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

(2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

31. CLEAN WATER

All Contracts and Subcontracts over \$250,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 – 1377. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with FTA assistance.

32. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Contracts over \$250,000

(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 40 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 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor, and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable 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 para. (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 40 hours without payment of the overtime wages required by the clause set forth in paragraph one (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by 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 & 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 para. (2) of this section.

(3) Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

33. CIVIL RIGHTS (TITLE VI, EEO, ADA)

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

(a) The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, requirements, and guidance, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.

(b) Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third-Party Participant, will: (1) Prohibit discrimination based on the basis of race, color, religion, national origin, sex, disability, or age. (2) Prohibit the: (a) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332, (b) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or (c) Discrimination, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332. (3) Follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but (b) FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.

(c) Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant, will: (1) Prohibit discrimination based on race, color, or national origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, and (3) Follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the

extent consistent with applicable federal laws, regulations, requirements, and guidance, (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) All other applicable federal guidance that may be issued.

(d) Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs, (c) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12.a of this Master Agreement, (d) FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients," July 26, 1988, and (e) Follow other federal guidance pertaining to Equal Employment Opportunity laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability, (2) Specifics. The Recipient agrees to and assures that each Third-Party Participant will: (a) Prohibited Discrimination. As provided by Executive Order No. 11246, as amended by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations, ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, (b) Affirmative Action. Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, recruitment, and employment, 2 Rates of pay and other forms of compensation, 3 Selection for training, including apprenticeship, and upgrading, and 4 Transfers, demotions, layoffs, and terminations, but (c) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

(e) Disadvantaged Business Enterprise. To the extent authorized by applicable federal laws and regulations, the Recipient agrees to facilitate, and assures that each Third-Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Underlying Agreement as follows: (1) Statutory and Regulatory Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of the FAST Act, 23 U.S.C. §101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12a of this Master Agreement. (2) DBE Program Requirements. A Recipient that receives planning, capital and/or operating assistance and that will award prime third-party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program meeting the requirements of 49 C.F.R. part 26, that is approved by FTA, and establish an annual DBE participation goal. (3) Special Requirements for a Transit Vehicle Manufacturer (TVM). The Recipient agrees that: (a) TVM Certification. Each TVM, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, and (b) Reporting TVM Awards. Within 30 days of any third-party contract award for a vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third-party contract and notify FTA that this information has been attached to FTA's electronic award and management system, the Recipient must also submit subsequent notifications if options are exercised in subsequent years to ensure the TVM is still in good standing. (4) Assurance. As required by 49 C.F.R. § 26.13(a): (a) Recipient Assurance. The Recipient agrees and assures that: 1 It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT- assisted contracts, 3 Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement, and 4 Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement. (b) Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance. The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs: 1 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable, 3 Failure by

the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 13.d(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable, and 4 The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible. (5) Remedies. Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

(f) Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) 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, and (3) Federal transit law, specifically 49 U.S.C. § 5332.

(g) Nondiscrimination on the Basis of Age. The Recipient agrees to comply with federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of Programs, Projects, and related activities receiving federal assistance, (4) 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, and (5) Federal transit law, specifically 49 U.S.C. § 5332.

(h) Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability: (1) Federal laws, including: (a) section 504 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 federally assisted Programs, Projects, or activities, (b) 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: 1 For FTA Recipients generally, Titles I, II, and III of the ADA apply, but 2 For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of "employer," (c) 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, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable federal laws, regulations and requirements pertaining to access for seniors or individuals with disabilities. (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (d) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (k) Other applicable federal civil rights and nondiscrimination guidance.

(i) Drug or Alcohol Abuse. Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2.

(j) Access to Services for Persons with Limited English Proficiency. The Recipient agrees to promote accessibility of public transportation services to persons with limited understanding of English by following: (1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005.(k) Other Nondiscrimination Laws, Regulations, Requirements, and Guidance. The Recipient agrees to comply with other applicable federal nondiscrimination laws, regulations, and requirements, and follow federal guidance prohibiting discrimination. l. Remedies. Remedies for failure to comply with applicable federal Civil Rights laws, regulations, requirements, and guidance may be enforced as provided in those federal laws, regulations, or requirements.

34. COMPLIANCE WITH LAWS AND REGULATIONS

The Contractor warrants that it is and will remain in compliance with all federal, state, and local laws, regulations, and ordinances relating to the manufacture, sales, and delivery of the goods and services sold to ITP in connection with this Contract.

35. FEDERAL CHANGES

All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

Contractor shall comply with all applicable FTA regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

36. PROHIBITED INTEREST

No ITP employee, officer, or agent, including any member of an evaluation committee for an ITP project, may participate in the selection, award, or administration of an ITP contract if a real or apparent conflict of interest would exist. Such a conflict would exist when any of the parties set

forth below has a material financial or other interest in a firm selected for award:

- any employee, officer, or agent of ITP;
- any member of his/her immediate family;
- his/her partner; or
- an organization employing or about to employ any of the above.

Any interest as owner or stockholder of one percent (1%) or less in such a firm shall not be deemed to be a material financial interest, but serving as Director, officer, consultant, or employee of such an organization would be deemed a material interest.

37. LOBBYING CERTIFICATION

Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000

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.

ITP will not make any payment to the Contractor or a subcontractor which 1) does not comply with this contract provisions, or, 2) is not in compliance with the above-cited federal requirements.

38. PRIVACY

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000

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.

39. DBE & NON-DBE SUBCONTRACTOR'S PAYMENT & REPORTING REQUIREMENTS

All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)

A) Prompt Payment

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the prime contractor receives from ITP. The prime contractor agrees further to return retainage payments to each subcontractor within 10 days after subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of ITP. This clause applies to both DBE and non-DBE subcontractors.

B) Contractor Reporting Requirements

The prime contractor agrees to count only the value of the work actually performed by the DBE firm toward its overall DBE goal. When a DBE performs as a participant in a joint venture, the prime contractor agrees to count the portion of the work of the contract that the DBE performs with its own forces toward its DBE goal only if the DBE is performing a commercially useful function of the contract. The factors listed in 49 CFR

Part 26 will be used to determine whether a DBE trucking firm is performing a commercially useful function. The prime contractor understands that expenditures with DBEs for materials or supplies toward DBE goals will be counted according to the factors listed in 49 CFR Part 26. The prime contractor agrees to meet with the ITP DBE Liaison Officer for the purpose of verifying contractor reporting requirements prior to the signing of a contract.

C) Legal and Contract Remedies

The prime contractor agrees to report quarterly to the ITP DBE Liaison Officer on all payments made to DBE subcontractors. Further, the contractor shall provide all copies of canceled checks made to DBE subcontractors showing proof of actual payment. The prime contractor understands that failure to report quarterly to the ITP DBE Liaison Officer may result in the termination of this contract or such other remedy as ITP deems appropriate.

The prime contractor understands that ITP will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment of Program Fraud or Civil Penalties rules) provided in 26.109. The prime contractor understands that ITP will consider similar action under their own legal authorities, including responsibility determinations in future contracts.

40. THE MICHIGAN IRAN ECONOMIC SANCTIONS ACT, 2012 P.A. 517

Pursuant to the Michigan Iran Economic Sanctions Act, 2012 P.A. 517, by submitting a bid, proposal or response, Respondent certifies, under civil penalty for false certification, that it is fully eligible to do so under law and that is not an "Iran linked business" as that term is defined in the Act.

41. INDEPENDENT CONTRACTOR

Contractor shall perform all of its services under this Agreement as an independent contractor and not as an employee of ITP. Contractor understands and acknowledges that it shall not be entitled to any of the benefits of a County employee, including but not limited to vacation, sick leave, administrative leave, health insurance, disability insurance, retirement, unemployment insurance, workers compensation and protection of tenure.

42. SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal, or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

43. ENTIRE AGREEMENT

In conjunction with matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties, or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein.

44. NO THIRD-PARTY BENEFICIARY

No person dealing with ITP or Contractor shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a special relationship between ITP or the Contractor and any staff, visitors, residents, or other individuals who may have business through ITP.

SECTION 7: REQUIRED FEDERAL CERTIFICATES

INSTRUCTIONS FOR DBE FORM COMPLETION IS ON THE FOLLOWING PAGE
DBE PARTICIPATION FORM

BLANK forms are NOT acceptable. If DBE subcontractor opportunities are available, please fill out sections 1 thru 5.
If no subcontractor opportunities are available fill out section 6. **SIGNATURES ARE REQUIRED.**

Separate forms are required for each DBE subcontractor. This form may be duplicated as necessary.

1. **DBE Firm Name:** _____
Address: _____

2. **Dollar amount awarded:** _____

3. **Description of work to be performed:** _____

4. **CONTRACTOR'S COMMITMENT TO USE DBE FIRM**

_____, is committed to utilize the DBE contractor to utilize the
(Name of Contractor) above named DBE subcontractor/supplier in the manner
and amount described on this form.

Dated _____ (Authorized Signature) _____

5. **DBE'S COMMITMENT TO PARTICIPATE**

_____, as a DBE firm, is committed to perform the work
(Name of subcontractor/supplier) as described above for the amount specified.

Dated _____ (Authorized Signature) _____

6. **NO SUBCONTRACT OPPORTUNITIES AVAILABLE.**

_____ has no subcontractor opportunities available for work to be
performed.

Dated _____ (Authorized Signature) _____

DBE PARTICIPATION FORM - INSTRUCTIONS

1. **DBE Firm Name:** _____
Address: _____

Sub-contractor
name and address

2. **Dollar amount awarded:** _____

Amount awarded to Sub contractor

3. **Description of work to be performed:** _____

Work description.

4. **CONTRACTOR'S COMMITMENT TO USE DBE FIRM** _____

_____, is committed to utilize the DBE contractor to utilize (Name of Contractor) the above-named DBE subcontractor/supplier in the manner and amount described on this form.

Dated _____ (Authorized Signature)

Prime contractor fills out.

5. **DBE'S COMMITMENT TO PARTICIPATE** _____

_____, as a DBE firm, is committed to perform the work (Name of subcontractor/supplier) as described above for the amount specified.

Dated _____ (Authorized Signature)

Sub-contractor fills out.

6. **NO SUBCONTRACT OPPORTUNITIES AVAILABLE.** _____

_____ has no subcontractor opportunities available for work to be performed.

Prime contractor fills out.

Dated _____

(Authorized Signature)

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

The Primary Contractor, _____, certifies to the best of its knowledge and belief, that it and its principals:

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

If the above-named Primary Contractor is unable to certify to any of the statements in this certification, the Primary Contractor shall attach an explanation to this certification.

The Primary Contractor, _____, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provision of 31 U.S.C. Section 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official

CERTIFICATION OF LOWER-TIER PARTICIPANTS (SUBCONTRACTORS)
REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND
VOLUNTARY EXCLUSION

The Lower Tier Participant (Subcontractor to the Primary Contractor), _____, certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

If the above-named Lower Tier Participant (Subcontractor) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.

The Lower-Tier participant (Subcontractor), _____, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31. U.S.C. Sections 3801 et seq. are applicable thereto.

Signature and Title of Authorized Official

CERTIFICATION OF RESTRICTIONS ON LOBBYING

I, _____, _____, hereby certify on behalf of
(Name) **(Title)**

_____ that:
(Firm)

- (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 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 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the 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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance 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.

Dated _____

(Name)

(Title)

(Firm)

Certificate of Compliance with FTA Clauses

The undersigned certifies that in all aspects of this procurement the vendor will abide by all the applicable third-party contract clauses as specified in the Federal Transit Administrations' Third-Party Contracting Guideline, Circular 4220.1F. The undersigned also acknowledges the receipt of a copy of these clauses from Interurban Transit Partnership in the General Terms and Conditions.

The undersigned understands the noncompliance with these clauses with these clauses 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 Contractor or Manufacturer under the procedures in 49 CFR, part 29.

By execution below by a duly authorized representative(s) of the Proposer, the Proposer hereby offers to furnish equipment and services as specified in its Proposal submitted to Interurban Transit Partnership in response to Request for Proposal No. # 2022-20 in its entirety.

I/We additionally certify that we are fully licensed, insured and have the proper equipment, systems, and personnel to handle the project as specified in this procurement document.

Proposer:

Street address:

City, state, ZIP:

Name and title of Authorized Signer:

Authorized signature

Date