



Rock Region  
**METRO**

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**Solicitation No. 20-018**

**RFQ – On-Call Marketing & Communications Services**

**IMPORTANT DATES:**

|  |                            |
|--|----------------------------|
| <b>Date Issued:</b>  | November 6, 2020           |
| <b>Inquiries and/or Requests for Clarification Due to METRO:</b> | December 1, 2020, 2:00 PM  |
| <b>METRO Responses to Inquiries Due:</b>                         | December 4, 2020, 2:00 PM  |
| <b>Statements of Qualifications Due:</b>                         | December 14, 2020, 2:00 PM |

## GENERAL GUIDELINES FOR COMPLETING METRO'S SOLICITATION PACKAGE

*This document is intended as a guideline to assist Proposers in successfully completing the necessary paperwork. You are strongly encouraged to read the document very carefully. This document is NOT intended to replace the more detailed instructions that are included in the solicitation.*

- Please remember that it is your primary responsibility to make yourself aware of any addenda.
- Be sure to regularly check the Rock Region METRO procurement website at <https://rrmetro.procureware.com> for any changes or updates to the solicitation.
- It is extremely important that all required forms be completed. **Failure to complete all required forms may result in your Statement of Qualifications ("SOQ") being ruled non-responsive. Non-Responsive SOQs will not be evaluated.**
- Please read the document to make sure that you have returned your SOQ in the correct format.
- **Restrictions on Communications with METRO during Solicitation, Offer & Award Period.** All requests for clarification or modification of the RFQ shall be made using the question submittal process in the ProcureWare system.

From the date of issuance of this solicitation through the date of contract award by METRO, all official communications to and from METRO will be transmitted in writing and shall only be with METRO's Procurement Manager. Oral communications regarding this solicitation shall not be considered official communications. METRO is not responsible for any oral statements made by its employees regarding this solicitation.

- Make sure the SOQ is uploaded into the ProcureWare system by the designated date and time. **Late SOQs will not be accepted.**

## PART I – SOLICITATION, OFFER & AWARD

### **1. GENERAL INFORMATION TO THE PROPOSER**

- 1.1 Purpose of Procurement.** Rock Region METRO (“METRO”) is soliciting Statements of Qualifications (“SOQs”) from highly qualified Marketing and Communications firms within the Marketing and communications industry interested in providing on-call work for various projects.
- 1.2 Type of Procurement.** This solicitation is a qualifications-based procurement utilizing a Request for Qualifications (RFQ) process. METRO will evaluate firms based on their qualifications, taking into consideration the evaluation factors set forth in this RFQ.
- 1.3 Tentative Solicitation Schedule.**

| <b>Request for Qualifications (RFQ) Phase</b> | <b>Date</b>                        |
|---|------------------------------------|
| RFQ Issued                                    | November 6, 2020                   |
| Requests for Clarifications Due               | December 1, 2020, 2:00 PM Central  |
| METRO Responses to Clarifications Due         | December 4, 2020, 2:00 PM Central  |
| Statements of Qualifications Due              | December 14, 2020, 2:00 PM Central |
| Tentative Contract Award Date                 | January 20, 2021 5:00 PM Central   |
| Tentative Contract Start Date                 | February 1, 2021                   |

METRO reserves the right to adjust, change or cancel any of the scheduled dates above without prior notice.

- 1.4 Restrictions on Communications with METRO during Solicitation, Offer & Award Period.** All requests for clarification or modification of the RFP shall be made using the question submittal process in the ProcureWare system.

From the date of issuance of this solicitation through the date of contract award by METRO, all official communications to and from METRO will be transmitted in writing and shall only be with METRO’s Procurement Manager. All verbal and written communications will be considered unofficial and non-binding unless issued as an addendum to this RFQ. Oral communications regarding this solicitation shall not be considered official communications. METRO is not responsible for any oral statements made by its employees regarding this solicitation.

### **2. GENERAL CONDITIONS**

- 2.1 Costs Incurred by Proposer.** Rock Region METRO is not liable for any costs incurred by the Proposer in the preparation of proposals submitted in response to this RFQ, in presentation of the proposals or any other activities related to responding to this RFQ.
- 2.2 Method of Delivery/Location for Submission of SOQs.** Make sure that the SOQ is uploaded into the ProcureWare system by the time and date specified herein.
- 2.3 Inquiries and/or Requests for Clarifications.** Inquiries and/or Requests for Clarifications regarding this solicitation shall be made using the question submittal process in the ProcureWare system by the time and date specified herein. Written inquiries/clarifications must be in the form of questions. There is no additional prescribed format for the submission of written inquiries/clarifications.

METRO staff will review and evaluate all written inquiries and/or requests for clarifications that are received by the submission deadline and will post METRO’s responses in the ProcureWare system. If applicable, an addendum to the RFQ that incorporates the changes necessitated by METRO’s responses to written inquiries will be issued in accordance with Part I, Section 2.6 below.

It is the sole responsibility of the Proposer to make itself aware of METRO's responses to written inquiries/clarifications and their impact on the RFQ.

**2.4 Deadline for Submission of SOQs/Late SOQs.** SOQs submitted in response to this solicitation must be received by METRO by the time and date specified herein. Without exception, SOQs received after the submission deadline will not be evaluated.

**2.5 Amendments to Solicitation (Addenda)/Postponement of SOQ Submission Deadline.** METRO reserves the right to revise or amend the RFQ up to the time set for the submission of SOQs. Such revisions and amendments, if any, shall be announced by written addenda to the RFQ. If an addendum significantly changes the RFQ, the date set for the submission of SOQs may be postponed by such number of days as in the opinion of METRO shall enable potential Proposers to revise their SOQs. In any case, the SOQ submission deadline shall be at least five (5) business days after the last addendum, and the addendum shall include an announcement of the new date, if applicable, for the submission of SOQs.

Upon issuance, addenda will be considered part of the RFQ and will prevail over inconsistent or conflicting provisions contained in the original RFQ. All addenda will be made available in the ProcureWare system.

Proposer shall acknowledge receipt of all addenda by completing and submitting the Certifications Form, included in Part IV of this RFQ as part of its SOQ. As with other required documentation, SOQs that fail to reference receipt of addenda by inclusion of the Certifications Form will be deemed non-responsive.

**2.6 Modification of SOQs.** Except at the written request of METRO, no SOQ may be modified after the deadline for SOQ submission.

**2.7 Conditional SOQs.** Conditional proposals taking exception to these instructions may be considered non-responsive and shall be rejected.

**2.8 Withdrawal of SOQs.** SOQs previously submitted to METRO may be withdrawn upon request by the Proposer prior to the time fixed for the receipt of SOQs. No SOQ may be withdrawn for a period of 90 days after the time set herein for the receipt of SOQs.

**2.9 Proposal Opening.** All SOQs will be automatically logged and time stamped by the ProcureWare system indicating the date and time received, and a unique bid receipt number will be assigned to each SOQ. After the solicitation due date and time, METRO's Procurement Manager will open all submitted SOQs and perform a content verification process to ensure submitted SOQs pre-qualify to proceed to the evaluation phase. SOQ content will not be available for public view until a contract has been awarded as indicated in U.S.C. 49 CFR 26 policies and procedures under the authority of FTA. SOQs will not be opened publicly.

**2.10 Unacceptable SOQs.** METRO will not accept a SOQ or award any contract to any professional, firm or corporation that is in arrears or is in default to METRO upon any debt or contract, has defaulted on surety or other obligation or has failed to perform faithfully any previous contract for METRO. METRO reserves the right to request information related to issues of any past or current contracts.

**2.11 Costs Incurred By Professional.** Rock Region METRO is not liable for any costs incurred by the professional firm(s) in the preparation of SOQs submitted in response to this RFQ, in presentation of the proposals or any other activities related to responding to this RFQ.

**2.12 Confidential/Proprietary Information.** Pursuant to Arkansas Freedom of Information Act, ACA § 25-19-101 *et seq.* (FOIA), information contained in any bid, request for proposal (RFP), or Request for Qualifications (RFQ) document submitted to METRO will be available for public review

upon the receipt of a valid FOIA request unless a specific exemption applies to preclude such disclosure. Respondents are encouraged to become familiar with the Arkansas FOIA. If any Respondent is submitting information that is deemed to be exempt from disclosure under the FOIA, such as confidential or proprietary information that would give others a competitive advantage if disclosed, the Respondent may submit both an unredacted and redacted copy of the documents. Please note the following guidelines apply with respect to redacted submissions:

- Except for the redacted information, the redacted copy must be identical to the original document, reflecting the same pagination as the original and showing the space from which information was redacted;
- The vendor shall be responsible solely responsible for applying any applicable redactions. The following information should **never** be redacted:
  - Personnel and resumes
  - Firm's qualifications and experience (excluding any company tax or financial data)
  - Firm's approach to the Scope of Work (excluding any proprietary information or trade secrets)
  - References
  - Pricing information
- The redacted copy generally will be open to public inspection under the FOIA;
- If a redacted copy of the document is not provided with the vendor's response, a copy of the non-redacted documents may be released, in whole or in part, in response to a valid request under the FOIA;
- In all cases, METRO reserves the sole right to determine the scope of information to disclose in response to a FOIA request. In the event that any proposed redactions are challenged or deemed inapplicable, METRO may release, in whole or in part, any or all portions of the unredacted documents. As a courtesy, METRO may—but is not required—to provide notice of its intent to produce information that the vendor provisionally redacted. In all cases, METRO will comply in good faith with the FOIA, and METRO disclaims any and all liability in connection with any information disclosed pursuant to a FOIA request..

**2.13 Reserved Rights.** METRO reserves the right to reject any and all SOQs or any portion of a specific SOQ for any reason. METRO also reserves the right to award a single or multiple contracts as a result of this solicitation; however, issuance of this RFQ and receipt of SOQs does not commit METRO to award a contract or contracts.

METRO reserves the right to waive minor mistakes, minor informalities or minor irregularities in SOQs if such waiver is in the best interest of METRO.

METRO has the sole right to select the successful SOQ(s) for contract award; to reject any SOQ as unsatisfactory or non-responsive due to non-conformance with the requirements of this RFQ; to cancel the solicitation and to advertise for new SOQs; or not to award a contract as a result of this RFQ.

METRO reserves the right to accept any SOQ deemed to be in the best interest of METRO and to waive any irregularities in any SOQ that does not prejudice other Proposers. METRO further reserves the right to negotiate with any source whatsoever. A contract will be negotiated with the Proposer(s) whose SOQ(s) is considered by METRO in its sole discretion to be most advantageous to METRO.

METRO further reserves the rights to retain all SOQs submitted and to use any ideas or concepts in any SOQ for any purpose regardless of whether the SOQ is selected for contract award.

SOQs shall be submitted to METRO on the most favorable of terms possible from the standpoint of quality and technical capability. No Proposer shall have any cause of action against METRO arising out of the methods by which SOQs are evaluated.

- 2.14 Personnel.** The Contractor represents that he/she has, or will secure at his/her own expense, all personnel required in providing the services under the contract. Such personnel shall not be employees of or have any contractual relationship with METRO. All the services required hereunder will be performed by the Contractor or under his/her supervision, and all personnel engaged in the work shall be fully qualified and shall be trained, authorized and/or licensed, if applicable, under state and local law to perform such services. None of the work or services covered by the contract shall be sub-contracted without prior written approval by METRO.
- 2.15 Knowledge of Conditions.** Each Proposer shall thoroughly examine and be familiar with the contract documents, scope of services and all conditions and requirements that may in any manner affect the work to be performed under the contract. The submission of a SOQ shall constitute an acknowledgement that the Proposer has thoroughly examined and is familiar with the contract documents, scope of services, conditions and requirements in every detail. METRO will not adjust the contract value on the basis of Proposer's lack of knowledge of conditions.
- 2.16 Prime Contractor Responsibilities.** The Contractor will be required to assume responsibility for all services offered in its SOQ regardless of who provides them. Further, METRO will consider the Contractor to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract.
- 2.17 No Geographic Preference.** This procurement will be conducted in a manner that prohibits the use of statutorily or administratively imposed in-State or local geographic preferences in evaluation of SOQs or award of contracts, except where federal statutes expressly mandate or encourage geographic preference. This does not preempt State licensing laws.
- 2.18 Conflicts of Interest.** METRO employees engaged in the award and administration of contracts, or any person acting on their behalf, are prohibited from accepting, directly or indirectly, any gifts whatsoever, from any person with whom the employee interacts on official METRO business. Therefore, the Contractor or its sub-contractors may not make gifts or favors to any METRO employee.
- 2.19 Contractual Relationships.** The Contractor's contractual responsibility must solely rest with one firm or legal entity, which shall not be a subsidiary or affiliate with limited resources. METRO will not be a party to agreements between the Contractor and/or any sub-contractors it may choose to employ during fulfillment of the contract.
- 2.20 Responsibility for Compliance with Legal Requirements.** Proposer's services shall be in full compliance with any and all applicable federal, state, and local laws, regulations, ordinances, and standards regardless of whether or not they are referred to in this RFQ.
- 2.21 Protests.** Protests related to this RFQ or resulting contract award must be submitted in writing to METRO's Executive Director. METRO's protest procedures may be found on the ProcureWare website at <https://rrmetro.procureware.com>.

### **3. Preparation of Qualifications Response & Format Requirements**

- 3.1 Information Required from the Proposer.** Each proposer shall submit one (1) PDF copy of their SOQ into the ProcureWare system. Unnecessarily elaborate or voluminous responses are neither required nor wanted.

Each proposer shall submit a detailed response to the RFQ. The response shall include sufficient information to enable Rock Region METRO to fully evaluate the qualifications and capabilities of the Proposer and its approach to providing the Marketing & Communication services. Discussion of the firm's past experience, which is not germane to the specified services, should not be included. The response shall specifically address information requested.

It is the responsibility of the proposer to examine the entire RFQ package and seek clarification of any item or requirement that may not be clear and to check all responses for accuracy before submitting a SOQ.

### **Section 1 – Cover Letter**

- A. Name of firm
- B. Primary business and corporate mission
- C. Identification of Proposer’s point of contact for all communication regarding this effort
- D. Email address
- E. Phone
- F. All anticipated sub-consultants
- G. Officer or other responsible executive authorized to contractually bind the proposer

### **Section 2 – Firm’s Qualifications and Experience**

Provide a summary of the firm’s qualifications, general information about the firm, location of office(s), years in business and areas of expertise. Provide a brief description of projects that involved a similar scope of service. Include the status or outcome of these projects and their locations along with contact information for the project owner’s manager for the work.

### **Section 3 – Staffing**

Identify key staff by their role in the project and include resumes, descriptions of their abilities, qualifications including any applicable licenses, and experience. Include a proposed project management structure and organizational chart. Please list the number of full-time staff by discipline. Identify any portion of the scope of services that would be subcontracted. Include firm qualifications, key personnel, phone number and contact person for all subcontractors proposed by the firm. Identify subcontractors who qualify as Disadvantaged Business Enterprises (DBE).

### **Section 4 – Required Forms**

As a condition of responsiveness, the following forms must be fully completed, signed, and submitted with the SOQ:

- Attachment A – Proposer Questionnaire
- Attachment B – Certifications Form
- Attachment C – Debarment & Suspension Certification
- Attachment D – Lobbying Certification

### **Section 5 – Additional Information**

Include any additional information that is pertinent but not specifically asked for elsewhere.

## **3.2 Qualification-Based Evaluation.**

### **3.2.1 Evaluation and Award Process.**

The Federal Transit Administration’s enabling legislation at 49 U.S.C. Section 5325 (b)(1) requires the use of the qualifications-based procurement procedures contained in the Brooks Act, 40 U.S.C. Sections 1101 through 1104, to acquire Architectural/Engineering and related services. **Price is excluded as an evaluation factor. Do not include pricing with your statement of qualifications.**

All SOQs will be evaluated by an evaluation committee comprising staff employed by METRO. SOQs will be evaluated and a contract will be awarded in accordance with the following process:

- a. SOQs that are determined to be responsive and that were submitted by responsible firms. Proposers shall be further evaluated by the evaluation committee to select the SOQ that is most advantageous to METRO. To determine the most advantageous SOQ, the evaluation committee will score the SOQs using the following evaluation criteria:

| Weight | Evaluation Criteria  |
|--------|--|
| 40%    | <b>QUALIFICATIONS AND EXPERIENCE OF KEY PERSONNEL</b> – Emphasis will be placed on the experience of the lead account executive and key personnel.         |
| 30%    | <b>ABILITY OF FIRM TO DELIVER SERVICE</b> – Emphasis will be placed on the ability of the firm to service and support the needs of Rock Region METRO.      |
| 30%    | <b>QUALITY OF CASE STUDIES AND WORK SAMPLES</b> – Emphasis will be placed on project measurable objectives and results as well as overall quality of work. |

- b. METRO will first negotiate with the most qualified offeror. Only after failing to agree on a fair and reasonable price may negotiations be conducted with the next most qualified offeror. Then, if necessary, negotiations with successive offerors in descending order may be conducted until a contract award can be made to the offeror whose price METRO believes is fair and reasonable.



## **PART II – SCOPE OF SERVICES**

Rock Region METRO, central Arkansas' public transit system, seeks qualified marketing and communications firms for various on-call marketing and communications project work.

### **INTRODUCTION AND BACKGROUND**

Rock Region METRO is the public transit organization serving central Arkansas. It comprises five services: METRO Local and Express, a fixed-route bus service serving Pulaski County; METRO Streetcar, a rail system operating in downtown Little Rock and North Little Rock; METRO Links, an on-demand paratransit service; METRO Connect, an on-demand ride-hailing service; and METRO Pool, a jobs-access ride-sharing service. METRO carries almost more than 2.5 million passenger trips per year.

The METRO Public Engagement department comprises two full-time staff members that manage and coordinate strategic planning, public relations, collateral and content development, public affairs, media buying, website and social media management, community outreach, and more. This RFQ provides assistance in those areas when needed. The resulting contract(s) from this RFQ will be an Indefinite Delivery/Indefinite Quantity ("IDIQ") contract. Work will be assigned at the sole discretion of the director of public engagement and shall be referred to herein as "Task Orders." This contract will be a non-exclusive contract, and METRO is under no obligation to assign tasks or work to the selected consultant(s). Task Orders will be assigned to the resulting consultant(s) when staff deems it necessary, to use on a case-by-case basis at METRO staff's sole discretion.

### **SCOPE OF SERVICES**

Following contract(s) award, METRO will issue requests for services to one or more of the successful firms when it deems it necessary. The requests will include a Scope of Work for the specific Task Order, deadline for the project, and deadline to respond to the request for service. The Consultant will submit a price proposal and project schedule based on the appropriate level of service required to complete the specific project and the negotiated rates established as a result of this RFQ. After a mutually agreed upon amount is determined, METRO will formally issue a Task Order authorizing the Contractor to begin the work described in the Scope of Work. The Contractor's staff will serve as an extension of METRO staff on an "as needed basis" under the direction of METRO's Director of Public Engagement or duly appointed designee.

All resulting projects tied to this RFQ and its subsequent contract(s) are projects valued at approximately under \$50,000, which account for most of the public engagement department needs. Selected Consultants will be invited to negotiate per hour fees for a variety of services, and METRO will utilize vendors on an as-needed basis. METRO anticipates a variety of emerging marketing and communications needs as it continues to build on its brand, which will include quick turnaround times on the production of various projects, campaigns, and digital assets. Selected vendors will be considered on-call for a five (5) year basis with an annual fee re-negotiation at METRO's discretion.

**NOTE: Because this is an RFQ rates should NOT be included in the Statement of Qualifications. The rates will be negotiated during the contracting phase of any resulting contract(s).**

### **DESCRIPTION OF SERVICES**

Rock Region METRO may have a need for marketing and communications services during the given contract timeframe.

The Contractor shall provide all labor, materials, facilities, transportation, supervision, and necessary management to provide the required Services. The Consultant should have experience and be prepared to assist in disciplines to include but not limited to:

1. Creative Services
  - a. Creative concepting
  - b. Copywriting
  - c. Graphic Design
  - d. Photography
  - e. Videography
  - f. Film editing
  - g. Digital content development
2. Communications
  - a. Reporting
  - b. Writing and editing
  - c. Public relations
  - d. Media monitoring
3. Market Research and Analysis
4. Media Buying
5. Other Marketing and/or Communications Related Services

## PART III – PRO-FORMA CONTRACT

### CONTRACT FOR On-Call Marketing & Communications Services

#### METRO CONTRACT NO. 20-018

This Contract is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020 (“Effective Date”) between the Rock Region Metropolitan Transit Authority (“Rock Region METRO” or “METRO”) and \_\_\_\_\_, a **[Indicate corporation, partnership, joint venture or sole proprietorship]** organized pursuant to the laws of the State of \_\_\_\_\_ (the “Consultant”). METRO and the Consultant may hereinafter from time to time be referred to as “Party” or “Parties”.

#### RECITALS:

**WHEREAS**, METRO desires to enter into a Contract with Consultant to provide On-Call Marketing & Communications Services described in Exhibit A – Scope of Services (“Services”); and

**WHEREAS**, METRO has chosen Consultant to perform the Services following a competitive procurement process wherein METRO issued a Request for Qualifications (“RFQ”), attached hereto as Exhibit B and incorporated herein, and Consultant submitted a Statement of Qualifications (“SOQ”) in response to the RFQ, attached hereto as Exhibit C and incorporated herein, that was determined by METRO to be the SOQ most advantageous to METRO; and

**WHEREAS**, the Consultant has represented to METRO that it is sufficiently qualified and experienced to perform the Services described in Exhibit A and METRO has relied on such representations; and

**WHEREAS**, sufficient authority exists in METRO’s rules and regulations and state statute, sufficient funds have been budgeted for these purposes and are available, and other necessary approvals have been obtained;

**NOW, THEREFORE**, in consideration of the mutual understandings and agreements set forth, METRO and the Consultant agree as follows:

#### ARTICLE 1 – SCOPE OF SERVICES

The required Services are as enumerated and described in Exhibit A – Scope of Services, which document is attached hereto and fully set out herein.

#### ARTICLE 2 – CONTRACT AND CONTRACT DOCUMENTS

The Contract consists of the following documents:

- 1) Contract for On-Call Marketing and Communications Services;
- 2) Exhibit A – Scope of Services;
- 3) Exhibit B – Request for Qualifications for M&C Services; and
- 4) Exhibit C – Statement of Qualifications submitted by Consultant in response to RFQ.

In addition, all modifications to the Contract after contract execution that are made in the form of Contract Amendments in accordance with Article 7 below shall be incorporated into and made part of the Contract.

#### ARTICLE 3 – ORDER OF PRECEDENCE OF CONTRACT DOCUMENTS

In the event of an inconsistency between any provisions of the documents that comprise the Contract as

specified in Article 4 above, the inconsistency will be resolved by giving precedence to the Contract documents in the following order:

- 1) Contract Amendments;
- 2) Contract for M&C Services;
- 3) Exhibit A – Scope of Services;
- 4) Exhibit B – Request for Qualifications for M&C Services; and
- 5) Exhibit C – Statement of Qualifications submitted by Consultant in response to RFQ.

#### **ARTICLE 4 – INDEPENDENT CONTRACTOR**

- 1) Consultant shall provide the Services required under this Contract as an independent contractor, not as an agent or employee of METRO. Consultant has no authority to make any statement, representation, or commitment of any kind or to take any action binding upon METRO, without METRO's written authorization. METRO is only interested in the results achieved by the Services provided by the Consultant; the manner of legally achieving those results is the responsibility of the Consultant.
- 2) All of the Services required by this Contract shall be provided by Consultant or under its supervision, and all personnel engaged in the provision of the Services shall be fully qualified.
- 3) Furthermore, it is understood that METRO will not provide insurance or benefits of any nature to the Consultant, its employees, or subcontractors.
- 4) The Consultant agrees that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with its performance of the Contract. The Consultant further agrees that in the performance of the Contract, no person having any such interests shall be employed.
- 5) During the performance of this Contract, the Consultant agrees to (i) provide a drug-free workplace for the Consultant's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or behalf of the Consultant that the Consultant maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order so that the provisions will be binding upon each subcontractor or Contractor.
- 6) For the purposes of this section, "drug-free workplace" means a site for the performance of work completed in connection with a Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana during the performance of the Contract.
- 7) All Contractors and subcontractors performing services for METRO are required to and shall comply with all Occupational Safety and Health Administration (OSHA), state and local Safety and Occupational Health Standards and any other applicable rules and regulations. Also all Contractors and subcontractors shall be held responsible for the safety of their employees and any unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site area under this Contract.

#### **ARTICLE 5 – EMPLOYMENT OF AUTHORITY'S PERSONNEL**

The Consultant shall not employ any person or persons in the employ of METRO for any work required by the terms of this Contract without the written permission of METRO, except as may otherwise be provided for herein.

#### **ARTICLE 6 – REVIEW OF WORK**

Authorized representatives of METRO may, at all reasonable times review and inspect the Work, financial reports, and checklists completed under the terms of this Contract and any amendments thereto. All reports, drawings, studies, specifications, estimates, maps, and computations prepared by or for the Consultant pursuant to this Contract, shall be available to authorized representatives of METRO for inspection and review at all reasonable times. Acceptance shall not relieve the Consultant of its professional obligation to correct, at its expense, any of its negligent errors in the work.

#### **ARTICLE 7 – CHANGES**

METRO shall issue Contract Amendments to make additions, deletions, or changes to the required Services. To initiate a Contract Amendment, METRO shall send Consultant a Request for Contract Amendment. Upon receipt, Consultant shall prepare an estimate of the effects of the change on the Contract Budget. Upon agreement between Consultant and METRO on the effects of the change, METRO will issue a Contract Amendment signed by both parties specifying any change to the Contract Budget.

#### **ARTICLE 8 – INDEMNIFICATION**

The Consultant covenants and agrees with METRO that it shall defend, indemnify, save and hold harmless METRO, its agents, officers, directors and employees of, from and against any and all suits, proceedings, claims, causes of action, awards (including any punitive awards), damages (including any claim for property damage and/or injury to persons, including death and disease), decrees, judgments, liabilities, losses, demands and any and all costs, expenses, attorney's fees and any fees, charges and expenses of any expert witnesses or professionals incurred by METRO, its agents, officers, directors and employees (including any such costs, expenses, fees and charges incurred in the enforcement of this indemnification) arising out of, resulting from, related to or in any way connected to: (i) the Consultant's acts or omissions, including acts or omissions of its employees, servants and agents, (ii) the performance by the Consultant, its employees, servants and agents of the Consultant's obligations hereunder, (iii) the violation by the Consultant, its employees, servants and agents of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished hereunder, (iv) the violation by the Consultant, its employees, servants and agents of any federal, state or local laws and regulations applicable to or relating to this Contract and (v) any alleged infringement of the United States Letters Patent or patent laws, regulations and rules covering any product, materials, supplies or equipment to be furnished hereunder.

In any and all claims against METRO or any of its agents or employees by any employee of the Consultant, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation under this paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation benefits payable by or for the Consultant, or any subcontractor under workers compensation acts, disability benefit acts or other employee benefit acts.

#### **ARTICLE 9 – INSURANCE**

- 1) All insurance procured must be from an insurance company possessing a minimum A.M. Best's Insurance Guide rating of A VII. All insurance shall be purchased from and maintained with insurance company(ies) lawfully authorized to do business in the jurisdiction in which the Project is located.
- 2) METRO reserves the right to approve the security of the insurance coverage provided by the Insurance Company(ies) terms, conditions, and the Certificate of Insurance. Failure of the Consultant to fully comply with these requirements during the term of the Contract will be considered a material breach of contract and will be cause for immediate termination of the Contract at the option of METRO.
- 3) The insurance required by this Agreement shall be written for not less than limits of liability specified in

the Contract Documents or required by law, whichever coverage is greater. Coverage shall be maintained without the interruption from date of commencement of the Work until date of final payment and termination of any coverage required to be maintained after final payment.

- 4) Evidence of insurance coverage will need to be supplied to METRO at least thirty (30) days prior to the start of Work. Evidence of insurance shall be supplied on a standard ACORD Certificate of Insurance form. All insurance requirements must be indicated on said form.
- 5) Commercial General Liability – Consultant shall maintain general liability with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. The policy must include Rock Region METRO, its officers, agents, employees and servants as additional insureds, but only insofar as the operations under the contract are concerned.
- 6) Automobile Liability – Consultant shall maintain motor vehicle liability with limits of not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles.
- 7) Workers' Compensation/Employer's Liability – Consultant shall maintain statutory workers' compensation and employer's liability coverage for all its employees who will be engaged in the performance of the contract, including special coverage extensions where applicable. Employer's liability limits of \$1,000,000 shall be required.

#### **ARTICLE 10 – TERMINATION**

- 1) Termination for Default: METRO, by written notice, may terminate this Contract, in whole or in part, if the Consultant fails or refuses to perform any of the provisions hereof within the time and in the manner specified herein and/or any extensions thereof or if the Consultant fails to make progress in the performance of the Consultant's obligations hereunder so as to endanger performance of this Contract in accordance with its terms and, in either of said events, the Consultant does not cure such failure to so perform within a period ten (10) days after receipt of notice of default from METRO. If the Contract is terminated in whole or in part for default, METRO may procure upon such terms and in such manner as METRO may deem appropriate, supplies or services similar to those so terminated. The Consultant shall be liable to METRO for any excess costs for such similar supplies or services and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause.

Except with respect to defaults of subcontractors, the Consultant shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Consultant. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Consultant and subcontractor, and without the fault or negligence of either of them, the Consultant shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Consultant to meet the required delivery schedule.

Payment for completed supplies or services delivered to, performed for, and accepted by METRO shall be at the contract price. METRO may withhold from amounts otherwise due the Consultant for such completed supplies such sum as METRO determines to be necessary to protect METRO against loss because of outstanding liens or claims of former lien holders.

If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Consultant was not in default under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of METRO.

The rights and remedies of METRO provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this contract.

- 2) Termination for Convenience: METRO, by written notice, may also terminate this Contract, in whole or in part, if it is in the best interest of METRO as determined, from time to time, by METRO in its sole discretion. Any such termination shall be effected by delivery to the Consultant of a notice of termination specifying the extent to which the performance of work under the Contract is terminated and the date upon which such termination shall be effective. If this Contract is for supplies and is so terminated, the Consultant shall be compensated in accordance with its auditable cost to point of notification of termination. To the extent that this Contract is for services and is so terminated, METRO will be liable only for payment in accordance with the payment provision of this Contract for services rendered to the effective date of termination.

## **ARTICLE 11 – APPLICABLE LAWS AND VENUE AND CONTRACT DISPUTES**

This Contract shall be governed by the laws of the State of Arkansas. This Contract shall be deemed entered into in Pulaski County, Arkansas, as METRO is solely located in Pulaski County. At METRO's option, the location for settlement of any and all claims, controversies and disputes arising out of or related to this Contract or any breach thereof, whether by alternative dispute resolution or litigation, shall be proper only in Pulaski County.

## **ARTICLE 12 – VIOLATION AND BREACH OF CONTRACT**

### **Default or Breach of Contract**

Any violation or breach of the terms of this Contract on the part of the Contractor or any subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the parties under this Contract. The 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 Rock Region METRO or the 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.

### **Rights and Remedies of Rock Region METRO**

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, METRO will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. In the event of a breach of this Contract by the Contractor, unless in the discretion of METRO immediate action is required, METRO will provide the Contractor with thirty (30) days written notice that METRO considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

In the event METRO deems the Contractor to be guilty of a default or breach of any term under the Contract which is not corrected upon notice as provided above, METRO shall have all rights available in equity or at law, including, but not limited to:

1. The right to take over and complete the work or any part thereof as Owner for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

### **Rights and Remedies of the Contractor**

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by METRO, the Contractor expressly agrees that no default, act or

omission of METRO shall constitute a material breach of this Contract, entitling the Contractor to cancel or rescind the Contract (unless METRO directs Contractor to do so) or to suspend or abandon performance.

### **Dispute Resolution**

Subject to the exercise of the rights and remedies of METRO as set forth above, which shall be at the discretion of METRO, METRO and the Contractor will attempt to resolve all remaining disputes under this Contract to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within METRO's and the Contractor's organization. In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation in a court of competent jurisdiction within the State of Arkansas.

### **Performance during Dispute**

Unless otherwise directed by METRO, the Contractor shall continue performance under this Contract while matters in dispute are being resolved.

## **ARTICLE 13 – SEVERABILITY**

If any provision of this Contract is held to be invalid, illegal, or unenforceable for any reason, the validity, legality, and enforceability of the remaining provisions of this Contract will not be adversely affected.

## **ARTICLE 14 – NOTICES**

- 1) All official notices and communications under this Contract shall be in writing and shall be deemed to have been duly given (i) on the date of delivery if delivered personally to the party to whom notice is given, or (ii) at the date of actual receipt if mailed by U.S. Postal Service, postage prepaid, return receipt requested.
- 2) Notices and other communications shall be directed to the parties at the addresses listed below:

**Notice to CONSULTANT:**

Company Name  
Company Address  
ATTN: Company Representative, Title

**Notice to METRO:**

Rock Region METRO  
901 Maple Street  
North Little Rock, AR 72114  
ATTN: Blake Mhoon, Procurement Manager

- 3) Telephonic and electronic mail communications and facsimile transmittals may be used to expedite communications, but neither shall be considered official communications under this Contract unless and until confirmed in writing in accordance with paragraph 1) above.

## **ARTICLE 15 – COVENANT AGAINST CONTINGENT FEES**

The Consultant shall comply with all relevant requirements of all Federal, State, and local laws. The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, METRO shall have the right to annul this Contract without liability, or in its discretion, to deduct from the Contract price



or consideration, or otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.

#### **ARTICLE 16 – CONFLICTS OF INTEREST**

METRO employees directly engaged in the award and administration of contracts, or any person acting on their behalf, are prohibited from accepting, directly or indirectly, any gifts whatsoever, from any person with whom the employee interacts on official METRO business. Therefore, the Consultant, or its subcontractors or suppliers, may not make gifts or favors to METRO employee.

#### **ARTICLE 17 – NONWAIVER**

No failure or waiver or successive failures or waivers on the part of either party, its successors or permitted assigns, in the enforcement of any condition, covenants, or article of this Contract shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party hereto, their successors or permitted assigns, to enforce the same in the event of any subsequent breaches by the other party hereto, its successors or permitted assigns.

#### **ARTICLE 18 – MERGER**

This Contract constitutes the entire agreement of the parties, all prior discussions, representations, and agreements being merged herein. The Contract may not be changed, modified, extended, or amended, nor any provision thereof waived, except by a written amendment executed by duly authorized representatives of the respective parties. The captions in this Contract are for convenience only and shall not affect the substantive meaning of any provision herein.

#### **ARTICLE 19 – NO THIRD PARTY RIGHTS**

Except as expressly set forth herein, the representations, warranties, terms, and provisions of this Contract are for the exclusive benefit of the parties hereto and no other person or entity shall have any right or claim against either party by reason of any of these terms and provisions or be entitled to enforce any of these terms and provisions against either party.

#### **ARTICLE 20 – IMMIGRATION COMPLIANCE**

To the extent this Contract constitutes a public contract for services pursuant to ACA § 19-11-105 et seq., the following provisions shall apply:

- 1) Consultant certifies that, prior to executing this Contract, it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-verify program administered by the United States Department of Homeland Security and the Social Security Administration (the “E-verify Program”), or the employment verification program administered by the Arkansas Department of Finance and Administration (the “Illegal Immigrant Contractor Disclosure Certification”).
- 2) Consultant shall comply with all reasonable requests by the Arkansas Department of Finance and Administration made in the course of an investigation undertaken pursuant to the authority established in ACA § 19-11-105.
- 3) To the extent required by ACA §19-11-105, by submitting a proposal or bid, the Consultant certifies that at the time of proposal or bid submission it did not knowingly employ or contract with an illegal alien who will perform work under this Contract, and that the Consultant will participate in the E-verify Program or the Arkansas Verification Program in order to verify the employment eligibility of all employees who are newly hired for employment to perform work under this Contract.

#### **ARTICLE 21 – CONFIDENTIAL INFORMATION**

Pursuant to Arkansas Freedom of Information Act, ACA § 25-19-101 *et seq.* (FOIA), information contained in any bid, request for proposal (RFP), or Request for Qualifications (RFQ) document submitted to METRO will be available for public review upon the receipt of a valid FOIA request unless a specific exemption

applies to preclude such disclosure. Respondents are encouraged to become familiar with the Arkansas FOIA. If any Respondent is submitting information that is deemed to be exempt from disclosure under the FOIA, such as confidential or proprietary information that would give others a competitive advantage if disclosed, the Respondent may submit both an unredacted and redacted copy of the documents. Please note the following guidelines apply with respect to redacted submissions:

- Except for the redacted information, the redacted copy must be identical to the original document, reflecting the same pagination as the original and showing the space from which information was redacted;
- The vendor shall be responsible solely responsible for applying any applicable redactions. The following information should **never** be redacted:
  - Personnel and resumes
  - Firm's qualifications and experience (excluding any company tax or financial data)
  - Firm's approach to the Scope of Work (excluding any proprietary information or trade secrets)
  - References
  - Pricing information
- The redacted copy generally will be open to public inspection under the FOIA;
- If a redacted copy of the document is not provided with the vendor's response, a copy of the non-redacted documents may be released, in whole or in part, in response to a valid request under the FOIA;
- In all cases, METRO reserves the sole right to determine the scope of information to disclose in response to a FOIA request. In the event that any proposed redactions are challenged or deemed inapplicable, METRO may release, in whole or in part, any or all portions of the unredacted documents. As a courtesy, METRO may—but is not required—to provide notice of its intent to produce information that the vendor provisionally redacted. In all cases, METRO will comply in good faith with the FOIA, and METRO disclaims any and all liability in connection with any information disclosed pursuant to a FOIA request

## **ARTICLE 22 – REGULATORY COMPLIANCE**

Consultant understands that Federal laws, regulations, policies, and related administrative practices applicable to the Contract may be modified from time to time. Consultant acknowledges that the most recent of such Federal requirements will govern the Contract at any particular time, unless the Federal Government determines otherwise. Likewise, new Federal laws, regulations, policies, and administrative practices may be established after the Contract is executed and may apply to the Contract. The laws and regulations detailed in this Contract include, but are not limited to, those that will be applicable to the Contract. To the extent applicable, Consultant shall comply with the Federal, State, and METRO imposed requirements contained in this Contract.

## **ARTICLE 23 – NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

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

## **ARTICLE 24 – PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR part

31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract of the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

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

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

#### **ARTICLE 25 – FEDERAL CHANGES**

The 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 Rock Region METRO and the Federal Transit Administration, as they may be amended or promulgated from time to time during the term of the contract. The Contractor's failure to comply shall constitute a material breach of the contract.

#### **ARTICLE 26 – CIVIL RIGHTS AND EQUAL OPPORTUNITY**

Rock Region METRO is an Equal Opportunity Employer. As such, METRO agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, METRO agrees to comply with the requirements of 49 USC § 5323(h)(3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with Federal transit law at 49 USC § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 USC § 2000e et seq., and Federal transit laws at 49 USC § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 USC § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 USC § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. Age. In accordance with the Age Discrimination in Employment Act, 29 USC §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 CFR part 1625, the Age Discrimination Act of 1975, as amended, 42 USC § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 CFR part 90, and Federal transit law at 49 USC § 5232, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794, the Americans with Disabilities Act of 1990, as amended, 42 USC § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 USC § 4151 et seq., and Federal Transit law at 49 USC § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

#### **ARTICLE 27 – DISADVANTAGED BUSINESS ENTERPRISES (DBE)**

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. METRO's overall goal for DBE participation for FY 2015-2017 is 4%. **No DBE goal has been established for this project.**
- b. The Consultant shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the Consultant 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 METRO deems appropriate. Each subcontract the Consultant signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. If a separate contract goal has been established, bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
- d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- e. The Consultant is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Consultant's receipt of payment for that work from the recipient. In addition, the Consultant may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and Consultant's receipt of the partial retainage payment related to the subcontractor's work.
- f. The Consultant must promptly notify METRO whenever a DBE performing subcontracting work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Consultant may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of METRO.
- g. METRO utilizes the most recent copy of the Arkansas Highway & Transportation Department's DBE directory, which identifies all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The directory is available online at [www.arkansashighways.com](http://www.arkansashighways.com).

## **ARTICLE 28 – PROMPT PAYMENT & RETAINAGE**

The prime Consultant agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime Consultant receives from METRO. The prime Consultant agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors 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 METRO. This clause applies to both DBE and non-DBE subcontracts.

## **ARTICLE 29 – ENERGY CONSERVATION**

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

## **ARTICLE 30 – FLY AMERICA REQUIREMENTS**

1. Definitions. As used in this clause—

“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.

“United States” means the 50 states, the District of Columbia, and outlying areas.

“United States-Flag Air Carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

2. When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use United States-Flag Air Carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a United States-Flag Air Carrier is available to provide such services.
3. If available, the Contractor, in performing work under this contract, shall use United States-Flag Air Carriers for international air transportation of personnel (and their personal effects) or property.
4. In the event that the Contractor selects a carrier other than a United States-Flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

### *Statement of Unavailability of United States-Flag Air Carriers*

International air transportation of persons (and their personal effects) or property by United States-Flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

5. The Contractor shall include the substance of this clause, including this paragraph (5), in each subcontract or purchase under this contract that may involve international air transportation.

## **ARTICLE 31 – LOBBYING RESTRICTIONS**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of 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 Contractor shall submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

### **ARTICLE 32 – ACCESS TO RECORDS AND REPORTS**

Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to complete and retain readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

### **ARTICLE 33 – ADA ACCESS**

Introduction. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I through V of the Americans with Disabilities Act in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Design and Construction Accessibility. Facilities to be used in public transportation service must comply with 42 U.S.C. sections 12101 et seq. and DOT regulations, "Transportation Services for Individuals with Disabilities," using facilities and equipment that comply with 49 CFR Part 37; and Joint ATBCB/DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 CFR part 1192 and 49 CFR Part 38. Notably, DOT incorporated by reference the ATBCB's "Americans with Disabilities Act Accessibility Guidelines" (ADAAG), revised July 2004, which include accessibility guidelines for buildings and facilities, and are incorporated into Appendix A to 49 CFR Part 37. DOT also added specific provisions to Appendix A modifying the ADAAG, with the result that buildings and facilities must comply with both the ADAAG and amendments thereto in Appendix A to 49 CFR Part 37.

### **ARTICLE 34 – RECYCLED PRODUCTS**

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 USC § 6962, and U.S.

Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 CFR part 247.

### **ARTICLE 35 – FEDERAL PRIVACY ACT REQUIREMENTS**

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 USC § 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.

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.

### **ARTICLE 36 – DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Government-wide Debarment and Suspension (Non-procurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principles, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently debarred by and Federal department or agency to be:

1. Debarred from participation in any federally assisted award;
2. Suspended from participation in any federally assisted award;
3. Proposed for debarment from participation in any federally assisted award;
4. Declared ineligible to participate in any federally assisted award;
5. Voluntarily excluded from participation in any federally assisted award;
6. Disqualified from participation in any federally assisted award.

The certification in this clause is a material representation of fact relied upon by Rock Region METRO. If it is later determined by METRO that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to METRO, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **ARTICLE 37 – CLEAN AIR ACT & FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC §§ 7401-7671q, as amended, and the Federal Water Pollution Control Act, 33 USC §§ 1251-1387, as amended. The Contractor shall report each violation to METRO and understands and agrees that METRO will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

The Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

### **ARTICLE 38 – TITLE VI**

During the performance of this Contract, the CONSULTANT, for itself, its assignees and successors in interest agrees as follows:

- 1) Compliance with Regulations: The Consultant shall comply with the regulations relative to non-discrimination in federally assisted programs of the United States Department of Transportation (“DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (the “Regulations”), which are herein incorporated by reference and made a part of this Contract.
- 2) Non-discrimination: The Consultant, with regard to the Work performed by it during the Contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
- 3) Solicitations for Subcontracts, including procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the Consultant for Work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant’s obligations under this Contract and the Regulations relative to non-discrimination on the grounds of race, color, or national origin.
- 4) Information and Reports: The Consultant shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by METRO or the Federal Transit Administration (“FTA”) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information the Consultant shall so certify to METRO, or the FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) Sanctions for Noncompliance: In the event of the Consultant's non-compliance with non-discrimination provision of this Contract, METRO shall impose contract sanctions as it or the FTA may determine to be appropriate, including but not limited to:
  - a) Withholding of payments to the Consultant under the Contract until the Consultant complies; and/or
  - b) Cancellation, termination, or suspension of the Contract, in whole or in part.
- 6) Incorporation of Provisions: The Consultant shall include the provisions of paragraphs (1) through (6) of this Article in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Consultant shall take such action with respect to any subcontract or procurement as METRO or the FTA may direct as a means of enforcing such provisions including sanctions for non-compliance provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request METRO enter into such litigation to protect the interests of METRO, and, in addition, the Consultant may request the United States federal government to enter into such litigation to protect the interest of the United States.

#### **ARTICLE 39 – SEISMIC SAFETY**

The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation (DOT) Seismic Safety Regulations 49 CFR part 41 and will certify to compliance to the extent required by



the regulation. The contractor also agrees to ensure that all work performed under this contract, including work performed by a subcontractor, is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

#### **ARTICLE 40 – SAFE OPERATION OF MOTOR VEHICLES**

Seat Belt Use. The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Rock Region METRO.

Distracted Driving. The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

#### **ARTICLE 41 – VETERANS EMPLOYMENT**

To the extent practicable, the Contractor agrees that it and its subrecipients will:

1. Give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, and;
2. Not require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

#### **ARTICLE 42 – INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The preceding provisions include, in part, certain standard terms and conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein withstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

#### **ARTICLE 43 – AUTHORIZATION**

The person or persons signing and executing this Contract on behalf of each Party do hereby warrant and guarantee that he/she or they have been fully authorized to execute this Contract and to validly and legally bind such Party to all the terms, performances and provisions herein set forth.

**IN WITNESS WHEREOF**, each of the parties has caused this Agreement to be executed by its duly authorized representative as of the Effective Date first set forth above.

**CONSULTANT:**

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

Consultant Representative

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

**ROCK REGION METRO:**

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

Charles Frazier

Chief Executive Officer

**EXHIBIT A**  
**SCOPE OF SERVICES**

***[Scope of Services to be attached prior to contract execution.]***

**EXHIBIT B**

**REQUEST FOR QUALIFICATIONS FOR ON-CALL MARKETING AND COMMUNICATIONS SERVICES**

***[RFQ document to be attached prior to contract execution.]***

**EXHIBIT C**

**STATEMENT OF QUALIFICATIONS SUBMITTED BY CONSULTANT IN RESPONSE TO RFQ**

***[SOQ submitted by CONSULTANT to be attached prior to contract execution.]***

**PART IV**  
**FORMS & CERTIFICATIONS**

**ATTACHMENT A**  
**PROPOSER QUESTIONNAIRE**

**1. SUBMITTING BUSINESS ENTITY IDENTIFICATION & OWNERSHIP DISCLOSURE**

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

Contact Person: \_\_\_\_\_

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

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

\_\_\_\_\_

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

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

Organized under the laws of the State of \_\_\_\_\_

Principal place of business located at \_\_\_\_\_

\_\_\_\_\_

DUNS Number: \_\_\_\_\_

Taxpayer Identification Number: \_\_\_\_\_

Indicate which of the following apply:

- Corporation
- Partnership
- Sole Proprietor
- Small Business
- Disadvantaged Business Enterprise (DBE)  
Certified By Arkansas Unified Certification Program? \_\_\_\_\_

**2. OTHER INFORMATION**

1. General character of work performed by your firm:

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

2. Has your firm ever failed to complete any work awarded to you? If yes, explain.

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

3. Has your firm ever defaulted on a contract? If yes, explain.

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

4. Indicate the names of subcontractors, if any, proposed for this project and whether the subcontractor is a certified Disadvantaged Business Enterprise (DBE) and by whom they are certified.

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

5. Please indicate if your firm, subcontractor or any persons associated therewith in the capacity of owner, partner, director, officer or any other position involving the administration of federal funds:

- is currently under suspension, debarment, voluntary exclusion, or determination of ineligibility of any federal agency;
- Has been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the last three (3) years;
- Has a proposed debarment pending; or
- Has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the last three (3) years.

**6. Confirmation of Redacted Copy:**

- YES, a redacted copy of submission documents will be submitted to ProcureWare
- NO, a redacted copy of submission documents will not be submitted to ProcureWare. I understand a full copy of non-redacted submission documents will be released if requested.

Note: Please See General Conditions for Solicitation Section 2.12 Confidential/Proprietary Information for what is deemed subject to FOIA requests. If a redacted copy of the submission documents is not provided and neither box is checked, a copy of the original non-redacted documents shall be released in response to and request made under the Arkansas Freedom of Information Act.

**CERTIFICATION**

*I certify that this proposal is made without prior understanding, agreement, or connection with any corporation, firm or person submitting a proposal for the same services, materials, supplies or equipment, and is in all respects fair and without collusion or fraud. I understand collusive bidding is a violation of State and Federal law and can result in fines, prison sentences, and civil damage awards.*

*I hereby certify that the responses to the above representations, certifications, and other statements are accurate and complete. I agree to abide by all conditions of the Request for Proposals and certify that I am authorized to sign for the Proposer.*

Signature \_\_\_\_\_ Date \_\_\_\_\_

Printed Name \_\_\_\_\_ Title \_\_\_\_\_



**ATTACHMENT B**  
**CERTIFICATIONS FORM**

In submitting this Statement of Qualifications, the undersigned certifies on behalf of its firm and any proposed subcontractors as follows:

**Eligible Proposer:**

The proposer warrants and represents that neither the proposer, any of its employees or its subcontractors: (1) have not within a three-year period preceding this RFQ 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; (2) 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 offenses enumerated in item (1) of this certification; and (3) have not within a three-year period preceding this RFQ had one or more public transactions (Federal, State or local) terminated for cause or default.

**Offer Validity:**

If this offer is accepted within ninety (90) calendar days from the due date, to furnish any or all services upon which prices are offered at the designated point within the time specified.

**Receipt of Addenda:**

The proposer warrants and represents that it has received all addenda issued by METRO in connection with this Request for Qualifications.

**Non-Collusion:**

The proposer has made this proposal independently, without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to Request for Qualifications with any other firm or with any other competitor.

**Affirmative Action/DBE:**

The proposer is in compliance with the Common Grant Rules affirmative action and Department of Transportation's Disadvantaged Business Enterprise requirements. Certified DBEs should attach notice of eligibility. **No DBE goal has been established for this contract.**

**Non-Conflict:**

The proposer presents and warrants that no employee, official, or member, or Board Director or family member of Rock Region METRO is or will be pecuniarily benefited directly or indirectly in this Contract.

**Equal Employment Opportunity:**

The proposer represents and warrants that it will comply with the requirements of the "Civil Rights" provisions of this solicitation.

**Covenant Against Gratuities:**

The proposer nor any of its employees, representatives, or agents have offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any director, officer, or employee of Rock Region METRO with the view toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performance of this Contract.

**Integrity and Ethics:**

The proposer has a satisfactory record of integrity and business ethics, in compliance with 49 U.S.C. Section 5325(j)(2)(A).

**Public Policy:**

The proposer is in compliance with the public policies of the Federal Government, as required by 49 U.S.C. Section 5325(j)(2)(B).

**Administrative and Technical Capacity:**

The proposer has the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them, in compliance with 49 U.S.C. Section 5325(j)(2)(D).

**Licensing and Taxes:**

The proposer is in compliance with applicable licensing and tax laws and regulations.

**Financial Resources:**

The proposer has, or can obtain, sufficient financial resources to perform the contract, as required by 49 U.S.C. Section 5325 (j)(2)(D).

**Timeliness:**

The proposer is able to comply with the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments.

**Performance Record:**

The proposer is able to provide a satisfactory current and past performance record.

**Employment of Illegal Immigrants:**

The proposer certifies that they will not employ or contract with any illegal immigrants in their contracts with the Authority, as required by ACA § 19-11-105.

**Certification Signature:**

The proposer attests to certifications by signature of this document.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTACHMENT C**

**DEBARMENT & SUSPENSION CERTIFICATION**

The prospective contractor certifies that neither it nor its "principals" as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency as defined at 49 CFR 29.940 and 29.945.

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

The contractor certifies as follows:

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

Contractor \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_ Date \_\_\_\_\_

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

**ATTACHMENT D**

**LOBBYING CERTIFICATION**

The undersigned, having first been duly sworn, on and under oath state and affirm as hereinafter stated:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the Bidder, to any person for influencing or attempting to influence an officer or employee of any agency, 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, and,

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 Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Bidder shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions, and,

The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

The undersigned 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 USC Section 3801, et seq., are applicable thereto.

\_\_\_\_\_  
Name of Bidder/Company Name

\_\_\_\_\_  
Type or Print Name

\_\_\_\_\_  
Signature of Authorized Representative

\_\_\_\_\_  
Date