

# Engine System Services

## RFP SOLICITATION

Prepared by: Metro

March 25, 2024



The Regional Metropolitan Transit Authority of Omaha, d/b/a/ Metro  
2222 Cuming Street  
Omaha, NE 68102

## NOTICE OF REQUEST FOR PROPOSALS (RFP)

Engine Maintenance Services

(“Project”)

The Regional Metropolitan Transit Authority of Omaha, d/b/a Metro (“**Metro**”) is requesting proposals from qualified responsible contractors for the performance of Work in conformity with the Contract Documents for Engine Maintenance Services for a maximum of one year and 4 months period or a limited to a maximum of two thousand seven hundred (2700) billable hours. Metro will receive proposals, until **April 8, 2024, 2:00 p.m.** Central Time, (“**Submission Deadline**”) for the purposes of Engine Maintenance Services that will meet present and future Metro needs. The provider must specify all required professional services offered for the proposal. Proposals not received by Metro as of the Submission Deadline will not be considered responsive and will not be opened. Proposals not meeting specified delivery and methods of submittal will not be considered responsive and will not be opened. Metro reserves the right to extend the Submission Deadline by issuing an Addendum.

Proposers shall refer to the RFP Documents for detailed deliverables. For this Proposal, there are various elements and services associated with the Scope of Work. Metro’s intent is to select Proposers for consideration of awarded contract who demonstrate qualified and affirmed capabilities, resources, staffing, scheduling and delivery capabilities for Engine Maintenance Services and all associated equipment and work to be provided for the Scope of Work.

### ORGANIZATION BACKGROUND

The Regional Metropolitan Transit Authority of Omaha, d/b/a Metro, an independent political subdivision of the State of Nebraska created on June 30, 1972, is solely responsible for the administration, financing, maintenance, planning and operation of public transit services within the City of Omaha and by contract for agencies and contiguous political jurisdictions. Current services include fixed, Bus Rapid Transit, express and ADA-compliant paratransit van services within Omaha’s city limits. Contracted bus services are operated for the cities of Ralston, Bellevue, Papillion, and La Vista in Nebraska and the city of Council Bluffs in Iowa.

Collectively, the Omaha and contracted bus services are the “Metro System” encompassing 100 square miles (85%) of the Omaha – Council Bluffs Urbanized Area. Omaha’s population is approximately 466,903 with the Urbanized Area population approximately 931,667. Bus service includes 26 routes: 18 fixed and one (1) rapid transit line, which operate at various levels of service during the week, and six (6) express/commuter and one (1) downtown circulator, which run on weekdays during rush hour. There are four (4) transit centers offering multi-directional travel, free parking at 14 park and ride lots, and 28 stations and stops serving ORBT.

Capital, operating, and non-operating revenues occur from passenger fares, service contracts, rental of property, sale of advertising space, United States Department of Transportation Federal Transit Administration (FTA) and State of Nebraska grants, and City of Omaha and Douglas County Property Tax levies. Metro administration and maintenance operate at a single, central facility located at 2222 Cuming Street, Omaha, Nebraska.

### Organizational Statements

Purpose: The Omaha area needs reliable, quality public transportation to grow sustainably and serve the diverse needs of our residents.

Mission: Together, Metro connects our community, through quality transit services, to the people and places that matter most.

Vision: Metro is a valued transportation choice for all members of our community and a vital partner in Omaha’s future

Values:

**Unity** – we are a team with a common purpose.

**Responsibility** – we take pride in our work and are committed to going above and beyond.

**Care** – we care about our customers and each other.

**Resourcefulness** – we are adaptable and driven to overcome challenges.

**Learning** – we are always training for tomorrow.

**Appreciation** – we are motivated to provide a quality of life for those we love through competitive wages and compensation.

## PROJECT OVERVIEW

Metro is seeking a qualified contractor to provide an approved solution to Engine Maintenance Services for a maximum of (1) one year and (4) four months period or a limited to a maximum (2700) of two thousand seven hundred billable hours, that will meet present and future Metro needs. The provider must specify all required professional services offered for the proposal.

The current forms of the RFP and all issued Addenda are available for inspection at Metro’s Administrative Offices located at 2222 Cuming Street in Omaha, Nebraska (“**Administrative Offices**”) and online at the following link [www.ometro.com/procurement/](http://www.ometro.com/procurement/) Metro reserves the right to modify all or any of the same at any time prior to the Submission Deadline through an Addendum.

Proposals are subject to all terms, conditions, and provisions of this document. Proposers shall read and understand the requirements of this RFP.

Requests for Approved Equals, Clarification and Questions shall be done in writing or through electronic correspondence prior to the submission deadline, of **April 1, 2024, using Exhibit “F” Request for Clarification or Substitution**.

All proposals must be made in the form and on the forms (and contain all certificates, documentation, and information) required by the RFP Documents. Any proposal that does not fully comply with any requirement of the RFP Documents will be considered non-responsive, and Metro shall be entitled to reject any such proposal at any time. Metro reserves the right to waive any minor informality or mere irregularity contained in any proposal.

No proposal will be construed to be binding on Metro unless (i) a Contract has been awarded by its Board of Directors at a public meeting, (ii) the Contract has been duly executed by each of the Contractor and Metro, and (iii) all conditions applicable to such award of the Contract and as otherwise may be set forth in the Contract Documents have been fully satisfied.

Proposals must be received with all required submittals as stated in the RFP, **no later than April 8, 2024, at 2:00 p.m. Central Time**. Each Proposal must make reference to the Project by name in the upper left-hand corner and shall identify the contents of the package as a “Proposal for Engine Maintenance Services” and identify the name and address of the Proposer.

Proposals received after the time specified shall not be considered for award. Proposals received via facsimile (fax) or electronic mail (e-mail) shall not be considered. Proposals not meeting specified delivery and method

of submittal will not be opened nor considered responsive.

Proposals must be addressed and delivered to Metro to the following address. This is also the address to be used for all communication in connection with this RFP:

**Regional Metropolitan Transit Authority of Omaha d/b/a Metro  
Engine Maintenance Services 12-23  
ATTN: Procurement Manager and Contracts  
2222 Cuming Street  
Omaha, Nebraska, 68102-4392**

For information regarding this proposal, contact Procurement and Contracts Manger at (402) 341-7560 EXT. 2272 phone, or [procurement@ometro.com](mailto:procurement@ometro.com). Any questions or requests for clarification are due from Proposers before **April 1, 2024, 4:00 p.m. Central Time** and must be submitted in writing to using *Exhibit "F" Request for Clarification or Substitution* to [procurement@ometro.com](mailto:procurement@ometro.com). If required, Metro's response to these submissions will be in the form of an Addendum. **All proposals must be complete and submitted by April 8, 2024, by 2:00pm Central Time.**

*No person or entity submitting a proposal in response to this RFP, nor any officer, employee, agent, representative, relative or consultant representing such a person (or entity) may contact through any means or engage in any discussion concerning the award of this contract with any member of Metro's Board or any employee of Metro (excluding Procurement staff) during the period beginning on the date of proposal issue and ending on the date of the selection of Contractor. Any such contact would be grounds for disqualification of the Proposer.*

By: Manager of Procurement and Contracts

Dates of Publication: March 25, 2024.

## **REQUEST FOR PROPOSALS (RFP) INFORMATION AND GUIDELINES**

### **SECTION 1 – PROJECTED TECHNICAL SPECIFICATIONS**

- 1.1 Project Scope
- 1.2 Project Specifications and Requirements List
- 1.3 Proposal Evaluation Criteria
- 1.4 Contractor's Insurance Requirements

### **SECTION 2 – PROPOSAL STANDING REQUIREMENTS**

- 2.1 Definitions
- 2.2 Submissions Requirements and Instructions
- 2.3 Responses to Request for Proposals (RFP)
- 2.4 Applicant's Identification
- 2.5 Termination
- 2.6 Warranties of the Parties
- 2.7 Miscellaneous Matters
- 2.8 Standards of Performance

### **SECTION 3 – PROPOSAL SUBMISSION, EVALUATION AND AWARD**

- 3.1 Proposal Copies – **Completed Proposals are due to Metro by April 1, 2024, by 2:00 p.m. Central Time.**
- 3.2 Proposal Content
- 3.3 Proposal Evaluation Criteria
- 3.4 Evaluation Team
- 3.5 Evaluation Process
- 3.6 Presentations/Interviews/Written Responses (If necessary)
- 3.7 Negotiations & Best and Final Offers
- 3.8 Award

### **SECTION 4 – FEDERAL CLAUSES FOR PROCUREMENT OF PROFESSIONAL SERVICES**

- 4.1 No Obligation by the Federal Government
- 4.2 Program Fraud and False or Fraudulent Statements or Related Acts
- 4.3 Access to Records
- 4.4 Federal Changes
- 4.5 Civil Rights
- 4.6 Disadvantaged Business Enterprise (DBE)
- 4.7 Incorporation of Federal Transit Administration (FTA) Terms
- 4.8 Government-Wide Debarment and Suspension
- 4.9 Dispute / Continuing Performance
- 4.10 Lobbying
- 4.11 Clean Air
- 4.12 Clean Water
- 4.13 Fly America Requirements
- 4.14 Seismic Safety
- 4.15 Recycled Products (EPA Selected Items over \$10,000)
- 4.16 Energy Conservation
- 4.17 ADA Access
- 4.18 Federal Participation
- 4.19 State and Local Law Disclaimer

- 4.20 New Employee Work Eligibility Status
- 4.21 Veterans Preference
- 4.22 Special Provision – Text Messaging While Driving
- 4.23 Prohibition on Certain Telecommunications, video surveillance or equipment

**SECTION 5 - EXHIBITS**

- Exhibit “A” to the General Conditions, Receipt of Federal Clauses
- Exhibit “B” to the General Conditions, Pricing Schedule/Company Information
- Exhibit "C" Technician Information
- Exhibit "D" Supervisor Information
- Exhibit “E” Acknowledgement of Addendum
- Exhibit “F” Request for Clarification or Substitution
- Exhibit “H” to the General Conditions, Debarment and Suspension Certification for Prospective Contractor.
- Exhibit “I” Non-Collusion Affidavit
- Exhibit “J” Lobbying Certificate
- Exhibit "K" Conflict of Interest Disclosure Statement
- Bidders List Data Form

**PROJECTED PROPOSAL CALENDAR**

Proposal Advertised and Issued	March 25, 2024
Deadline for Questions, Comments, & Requests for Clarification	April 1, 2024.
Metro’s Response to Questions/Requests for Clarifications (Anticipated)	April 3, 2024.
<b>Proposal Closing</b>	<b>April 8, 2024, at 2:00 p.m.</b>
Interviews (If needed)	April 15, 2024
Board Approval	April 25, 2024
Notice to proceed	April 25, 2024.
Contract Start	April 29, 2024.

## SECTION 1- PROJECT TECHNICAL SPECIFICATIONS

### 1.1 Project Scope

Metro is requesting proposals from qualified companies with Cummins certified technicians to diagnosis, analyze, submission of documents and repair of bus engines and ancillary systems under the Time Contract. This accounts for buses which may experience failures during the term of this project. Diagnosis of engine warning lights, the ability to use and read Cummins InSite software, proficiency in after treatment exhaust and DEF systems repairs, ability to work on both diesel and CNG fuel systems, ability to work on cooling and air systems tied to the engine components, and any ancillary systems affecting the performance of the engine are defined as in scope of this project. All Cummins warranty repairs must be recognized and submitted to Cummins Inc. The mechanic should be able and legal to test drive the bus after repairs have been completed. This work consists of all labor required for procurement services, as well as all bonds, permits, and insurance necessary for this project and as required by Federal and State Laws and City Ordinances; and the general mobilization of equipment required for the completion of the work as stated in the RFP Documents. The cost proposal shall include all permits and fees, as required, to perform the project, unless otherwise noted in the RFP Documents.

Staffing for this project will have needed to complete Cummins certified training and be considered a Full-Service Qualification technician for L9 CM2350, L9N CM2380, and ISB 6.7 CM2350 engines. Work will be performed in the main maintenance facility of Metro Transit, located at 2222 Cuming St. Space will be available and open for the technicians. Hand tools, scaffolding and ladders will need to be provided by the technicians, major tools such as lifts, hoists, fluids and coolant will be provided by Metro.

The technician(s) must have the proper knowledge, skills, abilities, and training to sufficiently manage the workflow for this project. Workflow will be to diagnose failures with the engine, create work orders, list needed repairs and estimated costs, submit them for approval or modification to the Project Manager, and carry out the approved orders to complete the work.

Technician(s) must be able to independently evaluate and diagnose complex engine issues, including multi-system failures. Technicians are also expected to be able to convey the information from their diagnostics to Metro administration and staff.

Technician(s) will be under the general supervision of the Maintenance management staff. Work will be mobilized by the Project Manager and work will be done on an ad hoc, as needed basis, as work is identified. Technician(s) are expected to be available from at least 7:00 am to 3:00 pm, Monday through Friday, during the term of this project. Technician(s) will be supplied with a work area which includes access to overhead compressed air, 120v power extensions and lifting equipment. Technicians will be responsible for hand tools, specialty tools, ladders and fall protection equipment.

The technician(s) will estimate the expected repair and submit estimate to the Project Manager, or Metro Staff identified by the project manager to oversee the specific project. Once submitted, Metro Staff will evaluate the estimate and make a recommendation to the Project Manager regarding the repair.

Technician(s) will be expected to adhere to Metro safety standards including, but not limited to; vision protection, hearing protection, fall protection and high visibility clothing. These standards are expected from all contract employees working in, or around, Metro property. All safety equipment is to be provided by the technician(s). Metro administrative and maintenance facilities are tobacco free, technician(s) assigned will be expected to adhere to this rule.

Technician(s) will be expected to always conduct themselves in a professional business manner. Metro reserves the right, at its sole discretion, to remove a technician from the premises if deemed the technician unfit for duty due to impairment, unprofessional behavior, unprofessional language, or other factors which cause disruption in operations.

This project will not exceed 2,700 billable work hours and will terminate on August 31, 2025. The actual hours worked by the technician(s) will be billed on a per hour basis. No subcontractors will be allowed on this project.

Out of Scope:

Any service on the fleet not directly supporting the Engine or its system on the vehicle and purchasing of parts will be considered outside of the scope of services on this project. Parts purchases will be handled through Metro Purchasing.

**1.2 Project Specifications and Requirements List:**

1. Metro is seeking qualified outside help to provide service and repair on Cummins ENGINES on Metro's transit bus fleets.
2. Due to the nature of the services Metro provides, services provided under this project will be provided on site, at Metro's Maintenance Facility, 2222 Cumming St, Omaha NE.
3. Technicians with two (2) years verifiable work experience with Cummins ENGINE equipment.
4. Be able to work independently, with little direct supervision.
5. Be able to diagnose complex ENGINE issues, which may consist of multi system failures.
6. Be able to communicate issues to Metro Project Manager.
7. Be able to give written estimates, including parts and labor, to the Project Manager.
8. Be able to adhere to Metro Safety Standards.
9. Be able to conduct themselves in a professional manner.
10. Be able to take direction from Project Manager.
11. Be able to coordinate with Project Manager to ensure parts and vehicles are available for repair.

**1.3 Proposal Evaluation Criteria:**

Proposals will be evaluated by an Evaluation Committee based on the criteria as defined in section 1.2 above.

**1.4 Contractor's Insurance Requirements:**

The Contractor shall be required to have in continuous effect insurance written for not less than the following, or greater if required by law:



- A. **Commercial General Liability Insurance** including Personal Injury Liability, Independent Contractor's Liability, Contractual Liability, Product Liability, and Completed Operations Liability
  - **Limits**
    - \$1,000,000 General Aggregate Limit
    - \$500,000 Products/Completed Work Limit
    - \$500,000 Each Occurrence Limit
    - \$300,000 Fire Damage Limit (any one fire)
    - \$5,000 Medical Payments Limit (any one person)
- B. **Garage Keepers Liability (Optional)**
  - \$1,000,000 General Aggregate Limit
  - \$500,000 Each Occurrence Limit
- C. **Business Automobile Liability Insurance**
  - Combined Single Limit \$1,000,000 Each Occurrence
- D. **Excess Liability, Umbrella Insurance Form**
  - **Limits**
    - (BI and PD combined) - \$500,000
    - Each Occurrence Limit - \$500,000
    - General Aggregate Limit - \$500,000
- E. **Workers Compensation and Employer's Liability**
  - **Limits**
    - \$100,000 each accident for bodily injury by accident;
    - \$100,000 each employee for bodily injury by disease;
    - \$500,000 policy limit for bodily injury by disease.

## SECTION 2 – PROPOSAL STANDING REQUIREMENTS

### 2.1 Definitions

In addition to any other term that may be defined in the RFP Documents, whenever used in the RFP Documents, the following terms shall have the following meanings:

(a) **“RFP” (Request for Proposal)** means and refers to the response and offer of a Proposer submitted on the prescribed forms and in the prescribed manner setting forth, among other matters, the prices for the Work to be performed. The RFP includes the completed proposal together with all other attachments, documents, instruments, forms, submissions, exhibits and schedules attached thereto or referenced therein or that is otherwise submitted or furnished (or is required to be submitted or furnished) to Metro at any time by a Proposer in furtherance of its RFP in accordance with the RFP Documents or that a Proposer is required by the RFP Documents to submit or furnish to Metro, including the Proposal Security;

(b) **“Proposer”** means and refers to a responsible Proposer that has submitted a responsive RFP to Metro.

(c) **“RFP Documents”** means and refers to all documents issued by Metro in furtherance of the solicitation of RFPs for the Project. The RFP Documents include: (i) the Notice of Solicitation

(including any other advertisement or invitation to RFP and any related published information), (ii) the RFP Documents together with all attachments, documents, instruments, forms, submissions, exhibits, and schedules attached thereto or referenced therein, including any Supplemental Conditions, Construction Drawings, and the Technical Specifications. (iii) all Addenda, (iv) all inquiries, notices, requests, forms, requests, documentation, and other matters that a prospective Proposer is required or permitted to submit in furtherance of any communication with Metro pursuant to paragraph 2(m) of the Instructions to Proposer, (v) the Proposer's List Data Form,

(d) **"business day"** means Monday through Friday of a calendar week other than a day that is recognized by Metro as a holiday for Metro's administrative personnel.

(e) **"Contract"** means and refers to the entire integrated written agreement between Metro and Contractor concerning the Work and the Project. The Contract includes (i) all exhibits and schedules attached to the Contract, and (ii) all agreed to Change Orders (as defined in the Contract), each of which is or will be integrated into and made a part of the Contract. The Contract constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between Metro and Contractor as to the subject matter of the Contract.

(f) **"Contract Documents"** means and refers to (i) the RFP Documents, (ii) the RFP, (iii) the Contract and any documents, information or other items or matters designated as such in the Contract,

(g) **"Contractor"** means and refers to the Proposer that has been awarded the Contract by Metro, but only if the Contract has been entered into by both Metro and Contractor and all conditions applicable to the award of the Contract and as otherwise may be set forth in the Contract Documents have been fully satisfied.

(h) **"include", "included", "including"** and words of similar import shall be construed as if followed by the phrase "without limitation".

(i) **"Governmental Authority"** means and refers to any governing bodies (including any governmental (and quasi-governmental), federal, state, and local subdivision or unit of such governing body, together with their respective officials, authorities, agencies, departments, and divisions) that has jurisdiction, whether in whole or in part, over any matter that, at any time, may relate to or pertain to any matter to which any Governmental Requirement may govern or apply. Governmental Authority includes the United States Department of Transportation ("**DOT**") and the Federal Transit Administration ("**FTA**").

(j) **"Governmental Requirement"** means any requirement of any Governmental Authority that is, or that may become, effective or applicable at any time to the any of the RFP Documents, the Contract Documents, the Project, the Work or Contractor's performance under and in respect of the Contract, including all Laws and Regulatory Approvals of any Governmental Authority and all regulations, rules, orders, directives and standards and other requirements all regulations, rules, orders, directives and standards and other requirements issued or promulgated thereunder that Metro may be at any time be required to implement, observe, execute, follow or adhere to, whether by application of the provisions of the applicable Master Agreement between Metro and the FTA ("Master Agreement"), any Laws or Regulatory Approvals or otherwise;

(k) **"Law(s)"** means all statutes, laws, codes, ordinances, regulations, rules, orders, directives and standards of any Governmental Authority, that may be in effect or that may be or that may become applicable at any time to the any of the any of the RFP Documents, the Contract Documents, the Project, the Work, the Contract or Contractor's performance under and in

respect of the Contract. Laws includes all Environmental Regulations and the Federal Transportation Act and all regulations, rules, orders, directives and standards and other requirements issued or promulgated thereunder;

(l) **“Metro”** Refers to the Regional Metropolitan Transit Authority of Omaha d/b/a/ Metro.

(m) **“Project”** means Engine Maintenance Services; “Project” is sometimes used interchangeably with “Work” and, if so, shall be ascribed that definition;

(n) **“Regulatory Approval”** means any and all approvals, licenses, permits, consents, registrations or authorizations, certificates, forms and licenses of any Governmental Authority that may be in effect or that may be or that may become applicable at any time to the RFP Documents, the Contract Documents, the Work, the Project or Contractor’s performance under or in respect of the Contract;

(o) **“Representative”** means designated individuals of Metro ; and

(p) **“Work”** means and refers to all supervision, direction, employees and other labor, all materials, supplies, services, work, machinery, transportation, tools, equipment, and all other tasks and incidentals necessary to fabricate, assemble, install and otherwise perform and complete the Project, the Work and the Contract as and when required and otherwise in conformity with the Contract Documents.

## **2.2 Submission Requirements and Instructions:**

### **2.2.1 Exhibits:**

Exhibit “A” to the General Conditions, Receipt of Federal Clauses

Exhibit “B” to the General Conditions, Pricing Schedule/Company Information

Exhibit "C" Technician Information

Exhibit "D" Supervisor Information

Exhibit “E” Acknowledgement of Addendum

Exhibit “F” Request for Clarification or Substitution

Exhibit “H” to the General Conditions, Debarment and Suspension Certification for Prospective Contractor.

Exhibit “I” Non-Collusion Affidavit

Exhibit “J” Lobbying Certificate

Exhibit "K" Conflict of Interest Disclosure Statement

Bidders List Data Form

**Exhibit “F” Request for Clarification or Substitution must be submitted on or before April 1, 2024.**

The contractor should review the exhibits attached to this RFP and submit the following:

- 1. Proposals are due on or before 2:00 pm, Central Time, April 8, 2024, and must include ALL of the following as a part of your Proposal:**

- \_\_\_\_\_ Exhibit “A” to the General Conditions, Receipt of Federal Clauses
- \_\_\_\_\_ Exhibit “B” to the General Conditions, Pricing Schedule/Company Information
- \_\_\_\_\_ Exhibit “C” Technician Information
- \_\_\_\_\_ Exhibit “D” Supervisor Information
- \_\_\_\_\_ Exhibit “E” Acknowledgement of Addendum
- \_\_\_\_\_ Exhibit “H” to the General Conditions, Debarment and Suspension Certification for Prospective Contractor.
- \_\_\_\_\_ Exhibit “I” Non-Collusion Affidavit
- \_\_\_\_\_ Exhibit “J” Lobbying Certificate
- \_\_\_\_\_ Exhibit “K” Conflict of Interest Disclosure Statement
- \_\_\_\_\_ Bidders List Data Form

2. Double check:

- A. Dates
- B. Quantity and/or monetary values
- C. Signatures

3. Metro prefers your Proposal to be submitted as follows:

**Proposal shall be submitted by 2:00 pm on April 8, 2024.** Metro prefers Proposal be submitted via Mail or hand delivery. The upper-left hand corner of the sealed enveloped must identify the following information:

**(Name of Contractor/Bidder)**

**12-23 ENGINE – MAINTENANCE SERVICES**

**Project No. NE-90-X125, Spec. 12-23**

Envelopes, containing bids must be sealed and addressed to:

The Regional Metropolitan Transit Authority of Omaha d/b/a Metro  
Procurement and Contracts Manager  
12-23 Engine Maintenance Services  
2222 Cuming St  
Omaha NE 68102-4392

**Due Date, regardless of submission type is: 2:00 pm, Central Daylight Time, April 8, 2024.**

4. Confirm Metro’s receipt by contacting the Procurement and Contracts Manager at [procurement@ometro.com](mailto:procurement@ometro.com) or (402) 341-7560, Ext: 2272.

## 2.3 Responses for Request for Proposals (RFP)

### 2.3.1 Responsive Request for Proposals (RFP).

- (a) The Authority will evaluate only those Proposals which are fully responsive to this RFP and which are received by the Authority on **April 8, 2024** or as extended by Addendum. The proposal package consists of one (1) sealed package containing four (4) physical copies and one (1) electronic copy of the complete proposal on a USB drive. *See SECTION 3.1 – PROPOSAL SUBMISSION, INSTRUCTIONS, EVALUATION AND AWARD.*

The Regional Metropolitan Transit Authority of Omaha d/b/a Metro  
Procurement and Contracts Manager  
12-23 Engine Maintenance Services  
2222 Cuming St  
Omaha NE 68102-4392

Proposals become the property of the Authority.

- (b) The Authority reserves the right in its discretion: to amend the RFP at any time prior to the Proposals deadline by Addendum; to reject all Proposals; to waive minor irregularities contained in any proposal; to rely upon any information obtained through its own investigation of the Applicant or its Proposal or that of any department, agency or any other appropriate governmental entity; and to withdraw the RFP at any time, including after the Proposal deadline, without the award of a Contract.
- (c) An Addendum to this RFP shall be forwarded only to those Persons who have requested a copy of this RFP in writing and who have provided an address, telefax or similar means of communication for such purposes to the Authority pursuant to this RFP. Any Person who may have received a copy of this RFP from the Authority or other sources without a written request to the Authority for the same must comply with this requirement. The Authority shall not be responsible should any Person failure to receive such Addendum or notice.
- (d) Proposal may be withdrawn or modified by Applicant upon written request referencing the appropriate Project and Specification numbers addressed to the Procurement and Contracts Manager prior to the Proposal deadline. Whenever Proposals have been required, modifications shall also be sealed and shall be submitted to the Procurement and Contracts Manager, clearly marked "MODIFICATION TO PROPOSALS". Modifications will be accepted and considered only if received prior to the Proposal deadline. All modifications shall clearly identify how and to what extent the Proposal is being modified. Where appropriate, the required number of copies of substitute forms, documentation and other materials shall be included with the modification. Sealed Proposal that are withdrawn shall be returned unopened by the Authority.
- (e) The Authority may request additional or clarifying information from an Applicant at any time. If only one Proposal for the Work is received, a detailed cost bid or proposal may be requested of the single Applicant. A cost/price analysis and evaluation and/or audit may be performed of the cost bid or proposal to

determine a fair and reasonable price. All responses from Applicant shall be in writing.

- (f) Sales taxes shall not be included in the price for any Bid or Proposal.
- (g) Not used
- (h) No Bid or Proposal shall be considered compliant or responsive unless it materially complies with the RFP in its entirety, completely and accurately responds to all parts of the RFP and includes all information requested. Without limitation to the generality of the preceding sentence or any other provision of this RFP, a Proposal may be found not to be compliant or responsive if Applicant:
  - Misrepresents any material fact.
  - Attempts to evade any material provision or requirement of this RFP.
  - Fails to timely submit a duly authorized and executed Bid or Proposal.
  - Submits a conditional Bid or Proposal, or a Bid/Proposal that takes exception to the Specifications, the RFP or any other Contract Document.
  - Fails to adequately demonstrate its ability to perform or timely perform the Project and the Work in compliance with the Contract.
  - Fails to fully execute or complete any forms, schedules or exhibits required by this RFP to be executed or completed.
  - Otherwise fails to comply with any material provision or condition of this RFP.

2.3.2 Requests/Specified Parts and “Approved Equals”.

- (a) This RFP shall be the Authority’s official Request for Competitive Bid/Proposal. No change can be made to this RFP except in writing in the form of an Addendum signed by the Procurement and Contracts Manager, in which event notice shall be provided to those Persons identified, and as set forth, in this RFP. Other than a request for the RFP, no inquiry concerning the RFP shall be made except for clarification. All such requests must be made in writing on the form required and reference the Project and Specification numbers. Requests for clarification shall include an explanation detailing why clarification is necessary. All requests must be received by the Authority by the deadline specified in this RFP or as extended by Addendum.
- (b) All requests to the Authority made under this Section 2.3.2 should be addressed as follows:

The Regional Metropolitan Transit Authority of Omaha d/b/a Metro  
Procurement and Contracts Manager  
12-23 Engine Maintenance Services  
2222 Cuming St  
Omaha NE 68102-4392
- (c) The Authority shall respond to all requests in writing in the form of an Addendum prior to the Proposal deadline. Copies of the response in the form of an

Addendum shall be sent to all Persons complying with the RFP. The Authority shall not be responsible should any such Person fail to receive such Addendum.

- (d) The Authority shall not be obligated to extend the Proposal deadline in the event of an approved request for clarification, substitutes or proposed equal, but may do so in its absolute discretion.
- (e) The Authority may reject any request for a substitute or qualified equal made by any Contractor following the award of the Contract, in its absolute discretion.

### 2.3.3 Protests.

- (a) Protests made in connection with this RFP shall be made in writing received by the Procurement and Contracts Manager by no later than the Proposal deadline. Protests shall be limited to those allowable by, and made in compliance with, the procedures established by the Authority, copies of which may be obtained from the Chief Executive Officer of the Authority upon written request. All protests shall be concise, direct and sufficient to permit the Authority to determine the full and complete basis therefor, fully supported by all current, relevant objective information, documentation or support considered necessary by the Applicant that is completely accurate in all material respects.
- (b) Appeals from the award of a Contract must be made in writing received by the Chief Executive Officer of the Authority not later than ten (10) days after the earlier of the award of the Contract or the announced intention of the award of the Contract. Appeals shall be limited to those allowable by, and made in compliance with, the procedures established by the Authority, copies of which may be obtained from the Chief Executive Officer of the Authority. All appeals shall be concise, direct and sufficient to permit the Authority to determine the full and complete basis therefor, fully supported by all current, relevant objective information, documentation or support considered necessary by the Applicant that is completely accurate in all material respects. Procedures for appeals from any such decision are set forth in the Authority's protest procedures.
- (c) The filing or approval of any protest or appeal may result in the extension of the Bid deadline, the issuance of an Addendum, the withdrawal of the RFP or the reconsideration of any award of a Contract, in the sole discretion of the Authority.
- (d) In the event of an appeal from the award of a Contract, the award shall not be considered final or binding upon the Authority unless the award is thereafter confirmed in writing by the Chief Executive Officer.
- (e) For information purposes only, each Applicant should understand that the FTA will not accept any protest or appeal from any decision of the Authority unless the Authority fails to have any written protest procedures, the Authority fails to follow such procedures, or the Authority fails to review a timely protest. An Applicant must exhaust all administrative remedies with the Authority before pursuing a protest with FTA. An appeal to FTA must be received by the appropriate FTA regional or Headquarters Office within five (5) working days of the date the Applicant knew or should have known of the violation.

## 2.4 **Applicant's Identification.**

- 2.4.1 Responsible Individuals. Whenever the identification of any individual is required by this RFP, Applicant shall provide full and complete identification, including the individual's: full name; current address; date of birth; social security number; the full nature and extent of the individual's interest, affiliation, capacity or other relationship with Applicant; the individual's anticipated responsibilities, obligations, liabilities in connection with the Work, the Proposal or the Contract.
- 2.4.2 Other Responsible Persons. Whenever the identification of any Person, other than an individual, is required by this RFP, the Applicant shall provide full and complete identification, including the Person's: full name and current address; date and place of organization; employer identification number; documentation evidencing organization and authorization to do business in Nebraska; and its anticipated responsibilities, obligations and liabilities in connection with the Work, the Proposal or the Contract.
- 2.4.3 Applicant Identity. Applicant shall identify itself, and all Persons who will act, directly or indirectly, as a Subcontractor in connection with the Work, the Proposal or the Contract. No Subcontractor shall be permitted to perform under the Contract without approval from the Authority, unless so identified.
- 2.4.4 Continued Identity. Applicant shall, in the form of written supplements to its Proposal addressed to the Authority Administrator, keep continuously current through the award of the Contract all information provided pursuant to Section 2.4 of this RFP, including Sections 2.4.1 and 2.4.2.
- 2.4.5 Designated Recipient of Notice. Applicant shall designate a Person to receive copies of any correspondence, approvals or notice contemplated by the Contract from the Authority. Identification shall include a telephone number, address, telefax number, hours of business and any other information appropriate to enable the Authority to provide any notice.
- 2.4.6 Designated Authorized Representative. Applicant shall identify the individual(s) who shall have authority to bind the Applicant/Contractor in any matter related to the Proposal, Contract or Work.

## 2.5 Termination.

- 2.5.1 Termination for Convenience by Authority.
- (a) Any Contract, or any part thereof, awarded by the Authority pursuant to this RFP shall be subject to termination at any time by the Authority upon notice in writing to be effective as of the date of receipt of such notice. Upon receipt of such notice, Contractor shall, unless otherwise specified in the notice, immediately stop all Work and, to the extent permitted under each applicable subcontract or agreement, give prompt written notice to Subcontractors to cease all related Work. In the event this Agreement is terminated by application of this Section 2.5, Contractor shall have no claim, right, remedy or entitlement for damages, compensation or equitable relief for early termination other than as provided in Section 2.5.1(b). Contractor waives any other right, remedy or recourse of any nature whatsoever it may have now or at any other time against the Authority and the FTA.
- (b) In the event of termination for convenience pursuant to Section 2.5.1, Authority shall be responsible to pay the Contractor only for all authorized Work performed



up to the date of termination and conforming to the Contract, without allocation of profit for unperformed, remaining or incomplete Work. In no event shall the aggregate charges to be paid by Authority pursuant to the preceding sentence exceed resulting from the percentage of the completed Work to that remaining multiplied by the aggregate Contract price. In the event of such termination, Contractor shall have no recourse against Authority except as earlier stated in this Section 2.5.1(b) and as follows: Contractor shall be entitled to receive reimbursement from Authority an amount equal to the sum of: (i) the reasonable out-of-pocket costs actually and necessarily incurred by Contractor in withdrawing its equipment and personnel from the Work and otherwise demobilizing; (ii) the actual, reasonable and necessary costs reasonably incurred by Contractor in terminating those contracts, not assumed by Authority, for Subcontractors; (iii) provided, however, Contractor shall not be paid for any Work after receipt of such notice or for any costs incurred by Subcontractors after receipt of Customer's termination notice, or for Work which Contractor could reasonably have avoided Contractor. Contractor shall document any cost claimed by it to Authority's reasonable satisfaction and shall supply Authority with copies of all invoices for Subcontractors covering the amounts claimed as costs for such purpose. Contractor shall submit an invoice to Authority for the amount of reimbursement claimed by Contractor with all supporting information and requisite documents. Unless disputed in good faith by the Authority, Customer shall be paid such amounts within thirty (30) business days after Customer delivers all Work, completed or not completed, in its then current form, free and clear of all liens and assigns to Authority together with any subcontracts, duly assigned, that Authority is willing to assume.

- 2.5.2 Suspension by Authority. Upon seven (7) days' prior notice, the Authority may suspend, delay, or interrupt for up to six (6) months the Work or the Project for the convenience of the Authority. Nothing in this Section 2.5.2 shall be construed to apply to any such suspension, delay or interruption caused by an event of force majeure (as defined by the Contract Documents). In the event such suspension, delay, or interruption causes a change in Contractor's cost or time required for performance of the Work, the Parties will agree on an equitable adjustment through a written amendment to the Contract to be signed by Authority and Contractor. A suspension may be withdrawn by Authority upon five (5) days' written notice to Contractor. Any suspension, delay or interruption that exceeds six (6) months shall be deemed to be a termination by Authority and Contractor shall be compensated by Authority as if this were a termination for convenience under Section 2.5.1.
- 2.5.3 Termination for Default by Authority. Without prejudice to any other remedy or recourse, including its right to seek damages, the Authority may:
- (a) Terminate the Contract effective immediately upon Contractor's receipt of written notice from Authority specifying any of the following events:
    - (i) Insolvency of Contractor.
    - (ii) The filing of a meritorious petition of bankruptcy by or against Contractor or the filing of any petition by Contractor seeking protection under Chapters 7, 11 or 13 of the United States Bankruptcy Code.

- (iii) The conviction of Contractor of a felony in connection with the Work.
  - (iv) Except as provided in Section 3.5.3(b)(i), the failure to materially comply with any of the Laws.
  - (v) Any attempt to evade any material provision of the Contract or to practice any fraud or deceit upon Authority.
  - (vi) The failure of Contractor or any of its Subcontractor's to fully comply with the lawful directives or cooperate with requests of Authority inspectors or other officials administering or monitoring Work, including any federal, state or other public authority.
  - (viii) Any material misrepresentation by Contractor made at any time.
  - (ix) Contractor improperly assigns or attempts to assign the Contract or any of the Work.
  - (x) The failure to properly maintain, provide or permit Authority access to any books, records, bank accounts or documentation related to the Contract.
- (b) Terminate the Contract, if any of the following (which shall also constitute a material default or breach of the Contract) is not cured to the satisfaction of the Authority within the earlier of thirty (30) days or the time prescribed therefor, in either event from the receipt of written notice from the Authority specifying such breach or default:
- (i) Contractor fails to conform operations which are in violation of the Laws because of a change in the Laws within 30 days following the effective date of such change.
  - (ii) The failure to promptly pay any sums due to Authority within 5 days of notice.
  - (iii) Contractor refuses or fails to timely commence or perform the Work.
  - (iv) Contractor refuses or fails to supply enough properly skilled workers, or proper materials or Subcontractors to timely perform the Work.
  - (v) Contractor fails to comply promptly with rejection notices or notices to correct defects in the Work.
  - (vi) Contractor causes or permits any repudiation, lapse or cancellation of performance or other security required by Section 2.5.4.
  - (vii) Any other materially breach or default of any covenant, term, condition or provision the Contract, whether or not specified in this Section 2.5.3.

Termination under Section 2.5.3(b) shall be effective as of the expiration of the period so specified without the necessity of further action by the Authority.

- 2.5.4 Wrongful Termination by Authority. In the event the Authority shall wrongfully terminate the Contract, unless otherwise agreed by the Parties in writing, to re-instate or otherwise continue the Contract in accordance with its terms, the Authority's termination shall be construed to be a termination for convenience and Section 2.5.1 shall apply.

- 2.5.5 Future Breach not Waived. No waiver by Authority of any breach or default by Contractor under the Contract shall operate or be construed to operate as a waiver of any other existing or future breach or default, whether of a similar or different character. Failure of the Authority to insist upon strict performance of any provision under this Agreement shall not constitute a waiver of, or estoppel against asserting the right to require strict performance of any other provision of this Agreement or the same provision in the future, nor shall a waiver or estoppel in any one instance constitute a waiver or estoppel with respect to a later default or breach. No waiver by any Person of any default by any Party in the performance of any provision, condition or requirement herein shall be deemed to be a waiver of, or in any manner release of, said Party from performance of any other provision, condition or requirement herein; nor shall such waiver be deemed to be a waiver of, or in any manner a release of, said Party from future performance of the same provision, condition or requirement. Any delay or omission of any Party to exercise any right hereunder shall not impair the exercise of any such right, or any like right, accruing to it thereafter. No waiver of a right created by this Agreement by one or more Parties shall constitute a waiver of such right by the other Parties except as may otherwise be required by law with respect to Persons not parties hereto. The failure of one or more Parties to perform its or their obligations hereunder shall not release the other Parties from the performance of such obligations.
- 2.5.6 Contractor's Right to Terminate. Contractor shall not be entitled to terminate the Contract for any reason except as provided in this Section 2.5.6. In the event that the Authority fails to timely pay to Contractor any undisputed amounts due pursuant to the terms of the Contract, Authority shall be in default under this Contract and Authority shall be allowed thirty (30) days from receipt of a written notice of such default from Contractor in which to cure such default, after which Seller may immediately terminate this Contract by written notice to Buyer. Any amount disputed by Authority to be due under this Contract must be disputed in good faith.
- 2.5.7 Waiver of Contractor's Other Remedies. Except as provided in Section 2.5.3(b), Contractor waives any claim or other right it may have to proceed in law or equity against Authority or to otherwise obtain any money or any damages under or in respect to this Contract for any wrongful or other termination or for any default or breach in the keeping or performance of any warranty, covenant or obligation under or in respect to this Contract by Authority or for any other act, operation or omission of Authority in respect to the Contract, under any theory whatsoever.
- 2.5.8 Dispute. Continuing Performance. In the event of any dispute between Authority and Contractor with respect to the interpretation of this Contract, any required payment under or the performance required by this Contract, including any dispute which may result in a claim, (a "Dispute"), the aggrieved Party shall notify the other in writing of the Dispute then existing (the "Dispute Notice"). In order for a Party to proceed under this Section, the Dispute Notice must specifically state that the aggrieved Party is invoking the Dispute procedure of this Section 2.5.8. The Parties shall then make a good faith attempt to resolve the Dispute, first through direct discussions between their respective designated representatives. In the event the designated representatives are unable to reach agreement then upon the written request of either Party, each of the Parties will appoint a designated executive whose task it will be to meet for the purpose of endeavoring to resolve such dispute. The designated executives shall meet in Omaha,

Nebraska as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the Parties believe to be appropriate and germane in connection with its resolution. Such executives will discuss the problem and/or negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding relating thereto. No action for the resolution of such dispute outside of these procedures shall be taken by either Party until one of the designated executives concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other designated executive in writing either party in its sole discretion may invoke litigation, provided that failure to invoke litigation shall not be a waiver of any such Dispute except as otherwise provided in the Contract. During any mediation or litigation which arises out of a Dispute, all parties will continue to perform pursuant to the Contract, without prejudice to the express rights of Authority or Contractor set forth in this Section 2.5 to terminate the Contract. In addition to the specific rights of termination and suspension as set forth in Section 2.5, Authority and Contractor shall have also available the remedy of specific performance to enforce this Section 2.5.8, which may be raised as a defense in any action commenced prior to the Parties' compliance with this Section 2.5.8.

## **2.6 Warranties of the Parties.**

2.6.1 Warranties of Applicant/Contractor. In addition to those representations and warranties set forth in the Specifications, or otherwise made in or required by the Contract, for purposes of its Bid or Proposal and the Contract, if awarded to Applicant, Applicant hereby warrants and represents that:

- (a) It is duly organized and existing under and by virtue of the laws of the state of its organization and has the power and authority to own its properties and to carry on the business as presently conducted and as represented and to do business in the State of Nebraska.
- (b) It has all requisite corporate power and authority to execute, deliver and perform the Bid or Proposal and Contract; the Bid or Proposal and the Contract have been duly authorized, executed and delivered, and as such, constitute its valid and binding obligation, enforceable in accordance with its terms and conditions.
- (c) Performance of the Contract will not violate, or be in conflict with, or result in a material breach of, or constitute a default under, any material agreement, order, judgment, or decree to which it is a party or by which it is bound.
- (d) It has examined or is familiar with all current Laws and shall undertake its performance under the Contract in conformity with the same.
- (e) The representations made in the Contract, including the Certifications made in its Bid or Proposal are true, accurate and complete in all respects.
- (f) To the best of its knowledge, after due and diligent inquiry, no elected official of the Authority of Omaha, and no member of the Board of Directors of the Authority nor any the Authority's officers or employees is employed by, or has a financial interest, direct or indirect, in the Contract, the Applicant, the Contractor or any Subcontractors.

- (g) It shall execute and deliver all such other and additional instruments and documents and to do such other acts and things as may be reasonably necessary more fully to effectuate the Work and the Contract. Without limitation to any of the foregoing, all warranties required by the Contract or otherwise applicable to the Work shall be assignable to the Authority upon the completion of the Work or any termination of the Contract.
- (h) In its performance of the Work, Contractor, including its Subcontractors shall use the standard of professional ethics and the degree of skill, care and diligence normally employed by professionals and trades performing the same or similar Work (collectively, the “Standard”). Except as expressly limited by the Specifications, all Work to be furnished under the Contract shall be of highest quality and new, free from faults and defects, suitable for the Authority’s purposes and in conformity with the Contract. Any other Work shall be considered defective. Without prejudice to any other recourse available to the Authority, Contractor will re-perform and otherwise remedy any defective Work, including any Work not meeting the Standard without additional compensation.

2.6.2 Warranties of Authority. The Authority makes no representation of any nature to the Applicant, other than that the information provided in this RFP is true and accurate to the best of its knowledge at the time of its writing.

## **2.7 Miscellaneous Matters.**

- 2.7.1 Severability. The invalidity or unenforceability of any provision of the Contract shall not affect the validity or enforceability of any other provision of the Contract, nor shall the invalidity or unenforceability of a portion of any provision of the Contract affect the validity and enforceability of the balance of such provision. All other provisions and parts of provisions shall remain in full force and effect, provided however, if in the sole opinion of Authority, the removal or inoperative effect of any such provision or part of provision so declared invalid or unenforceable shall materially affect Authority’s rights under the Contract, the Authority may terminate the Contract as set forth in Section 2.5.1(a).
- 2.7.2 Time is of Essence in this Agreement. Whenever the Contract shall set forth any time for any action to be performed by or on behalf of the Contractor, time shall be deemed of the essence and as such shall be deemed a material provision of the Contract.
- 2.7.3 Complete Agreement. The Contract constitutes the entire agreement between the Authority and Contractor and supersedes any other agreement or understanding between them. Should the Authority determine that any material provision of the Contract is adversely affected by the subsequent action of the state or federal government (as determined by the Authority in its sole and absolute discretion), the Authority shall have the right to modify the provisions of the Contract to such extent as may be necessary to carry out its original full intent and purpose, otherwise the Contract shall be not be amended or otherwise modified except as required by changes in Law, Sections 2.7.1 or by written mutual agreement of the Parties. All modifications shall be effected by Authority only as permitted by its internal control provisions, which shall be made available from the Procurement and Contracts Manager. Any amendments or modifications to this Agreement shall be binding upon Contractor’s guarantor or surety without notice.

- 2.7.4 Governing Law. The Contract shall be governed by and construed in accordance with the Laws.
- 2.7.5 Venue. With respect to any claim of any Person arising out of the Contract (i) each Party irrevocably submits to the exclusive jurisdiction of the federal courts located in Douglas County in the State of Nebraska (unless such federal courts lack subject matter jurisdiction, in which case each Party irrevocably submits to the exclusive jurisdiction of the State courts located in Douglas County in the State of Nebraska), and (ii) each Party irrevocably waives any objection which it may have at any time to the venue of any suit, action or proceeding arising out of or relating to the Contract brought in any such courts and irrevocably waives any claim that such suit, action or proceeding is brought in an inconvenient forum, and further irrevocably waives the right to object, with respect to such claim, suit or proceeding brought in any such court, that such court does not have jurisdiction over such Party.
- 2.7.6 Assignment. Neither the Contract nor any of Contractor's rights, privileges, liabilities or obligations under the Contract may be assigned, subcontracted (other than to Subcontractors identified in the Bid or Proposal) or transferred by Contractor without the prior written consent of the Authority, which may be withheld in its discretion.
- 2.7.7 Survival. All waivers, representations, warranties, indemnities, limitations and remedies provided for in the Contract shall survive the expiration or termination of the Contract.
- 2.7.8 Notice. Unless otherwise expressly provided in the Contract Documents, any request, protest, notice, response, or approval, required or contemplated by the RFP or the Contract, shall be considered sufficient only if made in writing and hand-delivered or sent by telephone facsimile or certified or registered mail, postage prepaid to the Person designated below, addressed as follows:
- (a) To the Authority:
- The Regional Metropolitan Transit Authority of Omaha d/b/a Metro  
Procurement and Contracts Manager  
2222 Cuming St  
Omaha NE 68102-4392
- (b) To the Contractor:
- That Person identified in the Bid/Proposal for such purposes.
- Either party may designate a different Person or address by providing notice of the change to the other.
- 2.7.9 Requests/Approvals/Consents. Whether or not otherwise so specified in the Contract, all requests and any required consents, notices and approvals shall not be valid unless made in writing.
- 2.7.10 Headings. The descriptive headings of the Contract are used for convenience only and shall not be deemed to affect the meaning or construction of any such provision.
- 2.7.11 Relationship of Parties. Nothing in the Contract shall be deemed or construed to create a joint venture, agency or any other relationship by or between the Authority and Contractor other than that of an independent contractor.

- 2.7.12 Indemnity. For purposes of this Section 2.7.12, “damages” shall mean any and all damages, loss or injury of whatsoever nature, including all claims, demands, suits, proceedings, judgments, recoveries (including any payments by Authority in respect to the foregoing pursuant to a court judgment or good faith settlement by Authority) any fine, penalty, liability, loss, any direct, special, incidental or consequential damages, any damage or injury to Person (including death or bodily injury) or property and causes of action made, asserted, sought or obtained by any private or public third Person from or against, or otherwise sustained by, Authority (including Authority's contractors, employees, licensees, officers, elected or appointed officials and all sums reasonably expended by the Authority for attorney fees in asserting or defending against such damages) whether under theories of breach of contract, tort, negligence, or otherwise. Contractor shall bear sole responsibility and be liable for, and shall hold the Authority harmless and indemnify it from and against, all damages resulting or arising from or out of or in connection with (a) Contractor’s operations, including as a result of any act, error or omission of (b) Contractor’s and its Subcontractor's (including their respective agents, employees or assigns), performance, non-performance or wrongful performance of or under the Contract or undertaken or made pursuant to the authority of the Contract, (c) any misrepresentation made by Contractor in the Contract Documents, and (d) the breach or default of any warranty. The Authority shall have the right to defend itself (or join in the defense at the cost of Contractor) from and against such liabilities and damages, unless Contractor fails to promptly or competently undertake defense on behalf of the Authority as required.
- 2.7.13 Contractor's Books and Records. Contractor shall maintain complete and accurate accounting records in accordance with generally accepted accounting practices in connection with all matters related to the Contract and the Work, including to substantiate charges on each invoice. Contractor shall also retain all such records, books, correspondence, instructions, drawings, receipts, subcontracts, agreements, commitments, purchase orders, memoranda, and other data relating to the Contract or the Work normally maintained as part of its established business operations and as may be required by Law. Contractor will permit the Authority and its representatives, at all reasonable times and as otherwise required by the Laws, access to all offices and other facilities and to all such records, to make such reasonable inspections as they may require and will cause its officers promptly to furnish them with such financial and operating data and other information with respect to the business and properties of Contractor relating to the Contract or the Work. Contractor shall preserve all such records for a period required by Law, but in no event less than five (5) years following final payment under the Contract.
- 2.7.14 Change in Work. Authority shall have the right to request Contractor to make reasonable changes to the Work (“Work Change”). Contractor shall consent to make such requested Work Changes, provided that Contractor is technically capable of making such Work Changes, and further provided that: (a) such Work Changes do not materially, individually, or cumulatively increase Contractor's expenses in providing the Work, or (b) if such Work Changes materially increase Contractor's expenses in providing such Work, Contractor agrees to bear the cost for the Work Changes at standard rates in accordance with the Contract Documents.

2.7.15 Specific Performance. Each of the Parties recognizes and affirms that in the event of breach by any of them of any of the provisions of this Contract, money damages alone would be inadequate and no adequate remedy at law would exist. Accordingly, each of the Parties agrees that the Authority shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the obligations of the Contractor under this Contract not only by action or actions for damages, but also by an action or actions for specific performance, injunction and/or other equitable relief in order to enforce or prevent any violations of the provisions of the Contract. In accordance with the above, Contractor waives any claim or defense that the Authority has or may have an adequate remedy at law.

## 2.8 Standards of Performance

- 1) Guarantee to perform the Services rendered herein in accordance with the accepted standards of the industry or industries concerned herein, except that if the specifications call for higher standards, then such higher standards shall be provided.
- 2) Upon Metro’s Notice of Failure to comply with such standards or to otherwise be in default of the contract in any manner following the Notice to Proceed, the Contractor(s) shall immediately remedy said defective performance in a manner acceptable to Metro. Should the Contractor(s) fail to immediately correct said defective performance, said failure shall be considered a breach of the contract and grounds for termination of the same by Metro.

2.8.1 In the event of any breach of this contract by the Contractor(s), the Contractor(s) shall pay any cost to Metro caused by said breach including but not limited to the replacement cost of such Services with another vendor. Metro reserves the right to withhold payment:

1. Until any defects in performance have been satisfactorily corrected.
2. In the event the successful respondent(s) is in breach of this contract in any manner,
3. Concerns - Metro shall cooperate with the Successful respondent to fully explore any concerns regarding performance. In its evaluation of corrective actions, Metro may request the Successful respondent to provide a written explanation of corrective actions corresponding to the implementation dates as determined by Metro. Persistent failure to meet performance expectations as provided in the Contract may lead to the termination of this contract for cause.

## SECTION 3 – PROPOSAL SUBMISSION, INSTRUCTIONS, EVALUATION AND AWARD

### 3.1 Proposal Copies – Completed Proposals are due to Metro by April 8, 2024 by 2:00 p.m. Central Time

- A. The proposal package consists of one (1) sealed package containing four (4) physical copies and one (1) electronic copy of the complete proposal on a USB drive.
- B. The sealed package should contain an original proposal (marked as such) and four (4) bound, full, complete, and exact copies of the Proposal. The package should be clearly labeled “Engine Maintenance Services”.
- C. Proposers are asked to submit a complete set of their Proposal Documents in an electronic format (flash drive.)
- D. Pages in the Proposal document shall be numbered. The Proposer shall ensure that all copies



and all electronic media are identical to the Proposer’s hardcopy, original submission. In case of a discrepancy, the hard copy shall govern.

### **3.2 Proposal Content**

1. Each Proposal should enable the evaluation committee to make a thorough evaluation and arrive at a sound determination as to whether or not the proposal will meet Metro’s requirements. The Proposal must be specific, detailed, and complete as to clearly and fully demonstrate that the Proposer has a thorough knowledge and understanding of the Scope of Work and technical Specifications and has valid and practical solutions in response to this RFP. Statements which paraphrase the requirements or attest that “standard procedures will be employed” are inadequate to demonstrate how the Proposer will comply with the requirements of this procurement.
2. Experience and Qualifications
  - a. Provide a brief synopsis of the firm, including when and where incorporated, major business activities, and a listing of officers of the company. State whether the firm is local, regional, or national and how long the firm has been in existence under current ownership/management.
  - b. Describe in detail the solution the proposer will provide to fulfill the scope of work outlined in the RFP. Include implementation and timeline.
  - c. This section should demonstrate the Proposer’s experience, skills, and qualifications. Identify the Project Manager and other key personnel in providing professional services in accordance with the Scope of Work and Technical Specifications, and meeting the goals and objectives outlined in this RFP.
3. Production Capability
  - a. This section should describe and specifically demonstrate the experience, skills and qualifications of key personnel and team to perform the required services. Present the work and project management approach and techniques required for quality control of the Work including quality oversight and shipping.
  - b. Provide an organizational chart showing how the project will be staffed in all functional areas.
  - c. Provide a list of contracts in progress or anticipated contracts which may run concurrent with this proposed Work.
4. Proposed Service
  - a. Provide details on your approach to the Engine Maintenance Services.
  - b. Provide a proposed timelines and describe your process.
5. Exceptions and Omissions
  - a. Exceptions. The proposal should clearly identify any exceptions to the requirements set forth in this RFP.
  - b. Omissions. The Contractor will be responsible for providing all services, equipment, facilities, and functions which are necessary for the safe, reliable, efficient, and well-managed operation of the program, within the general parameters described in this RFP,

and consistent with established industry practices, regardless of whether those services, equipment, facilities, and functions are specifically mentioned in this RFP or not. The Proposer should clearly identify any omissions to the requirements set forth in the RFP.

6. Disclosure of Investigations/Actions. Proposer must provide a detailed description of any investigation or litigation, including administrative complaints or other administrative proceedings, involving any public sector clients during the past five (5) years including the nature and status of the investigation, and, for any litigation, the caption of the action, a brief description of the action, the date of inception, current status, and, if applicable, the disposition.

- A. This is a “Best Value,” competitive, negotiated source selection. Award of contract, if made, will be made to the responsive and responsible Proposer whose offer conforming to the solicitation is judged by an integrated assessment of the evaluation criteria to be the most advantageous to Metro, price/cost and other factors considered.
- B. Prior to the issuing Notice of Intent to Award the Contract, Metro will review and evaluate each of those Proposals applying the criteria and requirements of the RFP Documents. Without limitation to any other Governmental Requirement, to be determined “responsible”, a Proposer must possess at the time of the award of the Contract the ability to perform successfully and a willingness to comply with the terms and conditions of the Contract, including (i) the financial resources adequate to perform the Contract, or the ability to obtain them; (ii) the ability to meet the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments; (iii) a satisfactory performance record; (iv) a satisfactory record of integrity and business ethics; (v) the necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them; (vi) compliance with applicable licensing and tax laws and regulations; (vii) the necessary production, technical equipment and facilities, or the ability to obtain them; (viii) compliance with Affirmative Action and Disadvantaged Business Program requirements (if applicable); and (ix) any other qualifications and eligibility criteria necessary to receive an award under any Governmental Requirement.

Notwithstanding anything contained in the RFP Documents to the contrary and without limitation to any additional right of Metro in respect of such matters, Metro reserves the right to deem any Proposer as not responsible if: such Proposer has failed to comply with any requirements of the RFP Documents, including any pre-qualification requirements cited therein as a requirement or condition of the submission of a Proposal; whether the Proposer has failed to pay, or satisfactory settle, any amount to due for labor and materials in connection with a current contract with Metro as of the Submission Deadline; or the Proposer was declared to be in default in any previous contract with Metro that was not resolved to the reasonable satisfaction of Metro or whose work in a prior contract with Metro was otherwise found by Metro to be deficient or otherwise not satisfactory, as reasonably determined by Metro.

- C. Metro may select other than the lowest cost/priced, technically acceptable offer if it is determined that the additional technical merit offered is worth the additional cost in relation to other proposals received. Metro is more concerned with obtaining excellent technical features than with making an award at the lowest overall cost/price to the Authority. However, Metro will not make an award at a significantly higher overall cost to achieve only slightly superior technical features.

- D. Proposers are further cautioned that Metro may not necessarily make an award to the Proposer with the highest technical ranking if doing so would not represent the best value to Metro. For evaluation purposes, if proposals become more technically equivalent, then cost/price becomes more important and may be the deciding factor.

### **3.3 Proposal Evaluation Criteria**

Proposals will be evaluated by an Evaluation Committee on the basis of the following weighted criteria. Only firms meeting the competitive range will be requested to provide samples for the interview/presentation phase of the evaluation process, if needed. Criteria are arranged in order of importance.

Proposals will be evaluated by an Evaluation Committee on the basis of the criteria as defined in section 1.2 above. Included in this evaluation process the Proposers need to include their company's work experience with maintaining fleets of 100 to 150 vehicles. Company's years in business both company wide and branch levels. Company's ability to do warranty work on Metro's Cummins engines. The hourly rate of repair and submit the resume and credentials of any and all possible Technicians being sent to Metro. The list should be no more than three technicians long put in order of primary, secondary and tertiary or least likely Technician to be used. Metro will determine the best possible fit based on these criteria.

### **3.4 Evaluation Team**

Evaluations will be completed by three to five members of Metro's Administrative Team. This team would include members of the finance department and executive team.

### **3.5 Evaluation Process**

- A. All proposals are first evaluated for compliance with Pass/Fail of minimum requirements outlined in the Technical Specifications. Proposals achieving a "Pass" rating will be evaluated further on responses to Technical and other elements.
- B. All proposals are evaluated and ranked on the evaluation criteria specified in the RFP. Evaluation is an assessment of the proposal and the Proposer's ability to accomplish the Scope of Work in accordance with the Contract terms and conditions.
- C. The total evaluation points, as separately determined by each Evaluation Committee member, will be added and each Proposer will be ranked in numerical sequence from the highest to the lowest score.
- D. Metro will then conduct interviews/presentation with all responsible Proposers in the competitive range, or award without discussion.
- E. Metro may present a Best and Final Offer (BAFO) opportunity to Proposers in the competitive range, which would then be scored again using the same criteria as for the initial proposals and ranking will be adjusted to determine the best overall proposal.
- F. Metro will determine whether to hold discussions with Proposers who are in the competitive range or to award the contract without discussion based on the evaluation criteria and on the initial cost proposal.

- G. If Metro’s staff is unable to negotiate a satisfactory contract with the first ranked Proposer at a fair and reasonable price, negotiations will be formally terminated. Negotiations would be undertaken with the second-ranked Proposer, and so on, until a satisfactory contract could be negotiated.
- H. As noted, Metro reserves the right to award without negotiation. Therefore, Metro will award to the firm whose proposal is most advantageous to Metro with cost and other factors considered.
- I. The negotiated contract recommendations would then be presented to Metro’s Board of Directors for approval.

### **3.6 Presentations/Interviews/Written Responses (If necessary)**

- A. After the submission of proposals, selected Proposers with the highest evaluation score(s) may be invited to interview with the evaluation committee concerning its technical proposal. The evaluation committee may also require Proposer(s) to submit written responses to questions regarding its proposal.
- B. Firms within the competitive range will be asked to make an oral presentation/interview of their proposal. During this process, firms will be required to present their professional Services and demonstrate their proposed Response to the Scope of Work and Technical Specifications, but in no way will change the original proposal submitted. Presentations will allow the proposer 10 minutes of set up time, 60 minutes of presentation time and 10 minutes for questions and answers from the evaluation committee and 10 minutes to tear down and clean up.

### **3.7 Negotiations & Best and Final Offers**

- A. Additional contract negotiations may be required with the highest ranked Proposers prior to final contract award. Metro may solicit a Best and Final Offer (BAFO) from one or more Proposers. Metro may or may not contact all Proposers to negotiate and/or to submit a BAFO.
- B. After receipt of the results of the proposal evaluations, interviews, and BAFO(s), if applicable, the evaluation committee will complete its evaluation and recommend for award to the responsive and responsible Proposer(s) judged to provide the best value to Metro.
- C. Metro reserves the right to award without negotiations. Therefore, potential contractors are encouraged to submit their best offer initially. Metro will award to the contractor whose proposal is most advantageous to Metro, with cost and other factors considered.

### **3.8 Award**

Metro reserves the right to:

1. Reject any and all proposals.
2. Withdraw or cancel all or part of this RFP at any time without prior notice, and reissue a subsequent RFP as considered necessary by Metro.
3. Waive any minor irregularities, technical errors, or information in the procurement process.
4. Verify all information submitted in a proposal submission.

5. Award without negotiation, written or oral discussions.
6. Make award to a Proposer with a responsive proposal which is the most advantageous to Metro, providing the best overall value consistent with the RFP, evaluation criteria, and award methodology.
7. Notify unsuccessful Proposers in a timely manner once Metro has made the award. Upon submittal, all proposals will be retained by Metro.

Issuance of the RFP does not commit Metro to issue an award of contract or to pay costs incurred in proposal preparation or presentation. Therefore, Proposers are encouraged to submit their best offer initially.

#### **SECTION 4 – FEDERAL CLAUSES FOR PROCUREMENT OF PROFESSIONAL SERVICES**

**The following clauses shall be incorporated into any contract which results from this RFP. These clauses are required by Federal regulations and are not subject to change or negotiations.**

##### **4.1 No Obligation by the Federal Government**

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

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

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

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

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

to identify the subcontractor who will be subject to the provisions.

#### **4.3 Access to Records**

Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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

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

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

#### **4.4 Federal Changes**

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

#### **4.5 Civil Rights**

The Authority is an Equal Opportunity Employer. As such, the Authority agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Authority agrees to comply with the requirements of 49 U.S.C. § 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.

**Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of Race, Color, Creed, Religion, Sex (including pregnancy), Mental/Physical Disability, Age (40 or over),

National Origin, Genetic Information or any other basis prohibited by law. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**Race, Color, Creed, Religion, Sex (including pregnancy), Mental/Physical Disability, Age (40 or over), National Origin, Genetic Information or any other basis prohibited by law** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

**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 it will not discriminate against individuals on the basis of disability. IN addition, the contractor agrees to comply with any implementing requirements the FTA may issue.

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

#### **4.6 Disadvantaged Business Enterprise (DBE)**

The Regional Metropolitan Transit Authority of Omaha d/b/a Metro has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. Metro has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, Metro has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of Metro to ensure that DBEs as defined in part 26, have an equal opportunity to receive and participate in DOT–assisted contracts. It is also our policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure that the DBE Program is narrowly tailored in accordance with applicable law;

- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The Director of Legal/Human Resources has been delegated as the DBE Liaison Officer (DBELO). In that capacity, the Director of Administration/Human Resources is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by Metro in its financial assistance agreements with the Department of Transportation.

The Metro Board of Directors has adopted a formal Operating Policy demonstrating the company's commitment to implementing all aspects of the DBE program which has been disseminated to managers and officials responsible for procurement of goods and services. The Policy Statement is posted on company Bulletin Boards. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by posting the statement on the company's website and including the Statement of Policy in solicitation documents.

The (Contractor, Sub-recipient, or Sub-contractor) shall not discriminate on the basis of race, color, national origin, or sex in the performance of the (Contract or Agreement). The requirements of 49 C.F.R. Part 26 or at another Part if reissued and the Recipient's U.S. DOT-Approved Disadvantaged Business Enterprise (DBE) Program (where required) are incorporated in this (Contract or Agreement) by reference. Failure by the (Contractor, Sub-recipient, or Sub-contractor) to carry out these requirements is a material breach of the (Contract or Agreement), which may result in the termination of the (Contract or Agreement) or such other remedy as the Recipient deems appropriate.

The prime contractor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract within thirty (30) days following satisfactory performance of the sub-contractor's work. The prime contractor further agrees to return any retainage payments to each subcontractor within thirty (30) days upon satisfactory completion of the sub-contractor's work. Any delay or postponement of payment may occur only for good cause following written approval of Metro. This clause applies to both DBE and non-DBE sub-contractors.

Failure by the contractor to carry out these requirements is a material breach of contract, which may result in termination of the contract or other such remedy as the Authority deems appropriate, which may include, but is not limited to: withholding monthly progress payment, assessing sanctions, applying liquidated damages or disqualifying the contractor from future bidding opportunities as a non-responsible contractor.

#### **4.7 Incorporation of Federal Transit Administration (FTA) Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, March 18, 2013 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any of The Authorities requests, which would cause The Authority to be in violation of the FTA terms and conditions.



#### **4.8 Government-Wide Debarment and Suspension**

The Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in federally funded contracts and are not presently declared by any Federal Department or agency to be: Debarred from participation in any federally assisted Award, Suspended from participation in any federally assisted Award, Proposed for debarment from participation in any federally assisted Award, Declared ineligible to participate in any federally assisted Award, Voluntarily excluded from participation in any federally assisted Award, or Disqualified from participation in any federally assisted Award.

The contractor certifies the following by submitting a bid or agreeing to these clauses; The certification in this clause is a material representation of fact relied upon by the Authority. If it is later determined by the Authority that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Authority, 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 bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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

#### **4.9 Dispute / Continuing Performance**

In the event of any dispute between Authority and Contractor with respect to the interpretation of this Contract, any required payment under or the performance required by this Contract, including any dispute which may result in a claim, (a "Dispute"), the aggrieved Party shall notify the other in writing of the Dispute then existing (the "Dispute Notice"). In order for a Party to proceed under this Section, the Dispute Notice must specifically state that the aggrieved Party is invoking the Dispute procedure of this Section. The Parties shall then make a good faith attempt to resolve the Dispute, first through direct discussions between their respective designated representatives. In the event the designated representatives are unable to reach agreement then upon the written request of either Party, each of the Parties will appoint a designated executive whose task it will be to meet for the purpose of endeavoring to resolve such dispute. The designated executives shall meet in Omaha Nebraska as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the Parties believe to be appropriate and germane in connection with its resolution. Such executives will discuss the problem and/or negotiate in good faith in an effort to resolve the dispute without the necessity of any formal proceeding relating thereto. No action for the resolution of such dispute outside of these procedures shall be taken by either Party until one of the designated executives concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other designated executive in writing either party in its sole discretion may invoke litigation, provided that failure to invoke litigation shall not be a waiver of any such Dispute except as otherwise provided in the Contract. During any mediation or litigation which arises out of a Dispute, all parties will continue to perform pursuant to the Contract, without prejudice to the express rights of Authority or Contractor set forth in this Section to terminate the Contract. In addition to the specific rights of termination and suspension as set forth, Authority and Contractor shall have also available the remedy of specific performance, which may be raised as a defense in any action commenced prior to the Parties' compliance with this Section.

#### **4.10 Lobbying**

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

#### **4.11 Clean Air**

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

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

#### **4.12 Clean Water**

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

#### **4.13 Fly America Requirements**

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

#### **4.14 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 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.

#### **4.15 Recycled Products (EPA Selected Items over \$10,000)**

These requirements apply to contractors and sub-contractors at all tiers. The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds.

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

#### **4.16 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.

#### **4.17 ADA Access**

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project

#### **4.18 Federal Participation**

In the announcement of any third-party contract award for goods or services (including construction services), having an aggregate value of \$500,000 or more, The Authority will specify the amount of Federal assistance to be used in financing that acquisition of goods and services, and to express the amount of that Federal assistance as a percentage of the total cost of that third party contract.

#### **4.19 State and Local Law Disclaimer**

All regulations listed in this document apply to the Third-Party Contractor in the same manner as they apply to The Authority. Offers will be received and reviewed, but no contract shall be awarded until all applicable Federal, State and Local Government regulations have been complied with.

#### **4.20 New Employee Work Eligibility Status**

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work

authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at [www.das.state.ne.us](http://www.das.state.ne.us).
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required, and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

#### **4.21 Veterans Preference**

Contractors working on a capital project funded using FTA assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a 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.

#### **4.22 Special Provision – Text Messaging While Driving**

In accordance with Executive Order No. 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, 23 U.S.C.A. § 402 note, and DOT Order 3902.10, Text Messaging While December 30, 2009, the Grantee is encouraged to comply with the terms of the following Special Provision.

A. Definitions - As used in this Special Provision:

1) Driving

Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. Driving does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

2) Text Messaging

Means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

B. Safety - The Grantee is encouraged to:

- 1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving-
  - a) Grantee-owned or Grantee-rented vehicles or Government-owned, leased or rented vehicles;
  - b) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or
  - c) Any vehicle, on or off duty, and using an employer supplied electronic device.
- 2) Conduct workplace safety initiatives in a manner commensurate with the Grantee's size, such as:
  - a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
  - b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
- 3) Include this Special Provision in its sub-agreements with its sub-recipients and third-party contracts and also encourage its sub-recipients, lessees, and third-party contractors to comply with the terms of this Special Provision, and include this Special Condition in each sub-agreement, lease, and third-party contract at each tier financed with Federal assistance provided by the Federal Government.

#### **4.23 Prohibition on certain telecommunications, video surveillance or equipment.**

Contractor is prohibited from obligating or expending grant funds to: (a) Procure or obtain, (b) Extend or renew a contract or procure or obtain; or (c) enter into a contract (to extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; (d) Contractor shall not provide covered telecommunications equipment or services in the performance of this Contract. As described in Public Law 115-232, section 889, covered telecommunications equipment deemed to pose an unacceptable risk to the national security of the United States or the security and safety of United States persons, Section 1.50002 of the Federal Communication Commission's rules directs the Public Safety and Homeland Security Bureau to publish a list of covered telecommunications equipment and services (Covered List) maintained on the Commission's website: <https://www.fcc.gov/supplychain/coveredlist>; (e) Telecommunications or video surveillance services provided by such entities or using such equipment; and (f) telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

#### **EXHIBIT A**

**RECEIPT OF FEDERAL CLAUSES**

**Project: ENGINE MAINTENANCE SERVICES**

**Date** \_\_\_\_\_

**Project No. NE-90-X125**

**Specification No. 12-23**

I have reviewed the attached Federal Clauses for Procurement of Professional Services in conjunction with Metro’s procurement of **NE-90-X125 Spec #: 12-23 Engine Maintenance Services** for which -  
\_\_\_\_\_ has provided qualifications for consideration and

(Company Name)

hereby affirm that \_\_\_\_\_ shall conform to and abide by

(Company Name)

all aforementioned requirements as set forth and any amendments thereto.

---

Authorized Representative

---

Title

---

Company Name

---

Date

**EXHIBIT B**  
**PRICING SCHEDULE/COMPANY INFORMATION**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

The undersigned hereby agrees to perform the Work in accordance with the Request for Proposals for a maximum of one year and 4 months period or a limited to a maximum of two thousand seven hundred (2700) billable hours.

The undersigned understands that this Offer shall be examined by Metro, that it shall not be withdrawn for sixty (60) days and that no award shall be made until all required documentation is obtained.

Metro is *exempt from payment of all federal, state and local taxes* and these shall not be included in any pricing. Metro will furnish the successful Offeror with necessary tax exempt certificates upon request.

<u>Quantity</u>	<u>Description</u>	<u>Hourly Labor Rates</u>
N/A	Standard Time: Overtime: Sundays/Holidays:	

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

\_\_\_\_\_  
Title of Authorized Representative

\_\_\_\_\_  
DUNS/TINS#

\_\_\_\_\_  
Street Address/Mailing Address

\_\_\_\_\_  
Area Code & Telephone Number

\_\_\_\_\_  
Fax Number

**EXHIBIT C**

**TECHNICIAN INFORMATION (ONE FOR EACH TECHNICIAN)**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

\_\_\_\_\_  
Name, address and phone of Technician

\_\_\_\_\_  
Work Experience/History

\_\_\_\_\_  
Specific Training on AC/Heat

\_\_\_\_\_  
Thermo King Training

\_\_\_\_\_  
Certification Pertinent to the Project

\_\_\_\_\_  
Year with Employer

\_\_\_\_\_  
Supervisor



**EXHIBIT D**

**SUPERVISOR INFORMATION (ONE FOR EACH SUPERVISOR)**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

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Name, address and phone of Supervisor

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Work Experience/History

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Specific Training on AC/Heat

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Thermo King Training

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Certification Pertinent to the Project

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Year with Employer

Supervisor

**EXHIBIT E**

**ACKNOWLEDGMENT OF ADDENDUM**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

In submitting this Bid, I hereby acknowledge receipt of addendum # \_\_\_\_\_ through \_\_\_\_\_.

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Print Name of Authorized Representative

Print Email Address

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Print Title of Authorized Representative

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Print Street Address / Mailing Address

---

Area Code & Telephone Number

Area Code & Fax Number

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Signature of Authorized Representative

**This form must be signed and submitted in quote package. All signatures must be original.**

**EXHIBIT F**

**Request for Clarification or Substitution**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

**Request for Clarifications/Substitutions**

Project Title: \_\_\_\_\_ Date: \_\_\_\_\_

Company Name: \_\_\_\_\_ Page No: \_\_\_\_\_

Document Reference (check one):

General Requirements: \_\_\_\_\_

Specifications: \_\_\_\_\_

Section Number: \_\_\_\_\_

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

**BIDDER'S REQUEST:**

**METRO RESPONSE:**

Approved \_\_\_\_\_

Denied \_\_\_\_\_

**Metro Comments:**

\_\_\_\_\_  
Metro Authorized Signature

\_\_\_\_\_  
Date of Response

Procurement and Contracts Manager

Metro Transit, 2222 Cuming Street, Omaha, NE 68102 or procurement@ometro.com

**EXHIBIT H**  
**DEBARMENT AND SUSPENSION CERTIFICATION FOR PROSPECTIVE CONTRACTOR**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

Primary covered transactions must be completed by Bidder for contract value over \$25,000.

Choose one alternative:

The Bidder, \_\_\_\_\_ certifies to the best of its knowledge and belief that it and its principals:

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

The Bidder is unable to certify to all of the statements in this certification and attaches its explanation to this certification. (In explanation, certify to those statements that can be certified to and explain those that cannot.) The Bidder 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 Title 31 USC § Sections 3801 are applicable thereto.

**Executed in:**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Authorized Signature

**EXHIBIT I  
NON-COLLUSION AFFIDAVIT**

This affidavit is to be filled out and executed by the Bidder; if a corporation makes the bid, then by its properly executed agent. The name of the individual swearing to the affidavit should appear on the line marked "Name of Affiant." The affiant's capacity, when a partner or officer of a corporation, should be inserted on the line marked "Capacity." The representative of the Bidder should sign his or her individual name at the end, not a partnership or corporation name, and swear to this affidavit before a notary public, who must attach his or her seal.

<p>– State of _____, County of _____</p> <p>I, _____, being first duly sworn, do hereby state that (Name of Affiant)</p> <p>I am _____ of _____ (Capacity) (Name of Firm, Partnership or Corporation)</p> <p>whose business is and who resides at _____</p> <p>and that _____ (Give names of all persons, firms, or corporations interested in the bid)</p> <p>is/are the only person(s) with me in the profits of the herein contained Contract; that the Contract is made without any connection or interest in the profits thereof with any persons making any bid or Proposal for said Work; that the said Contract is on my part, in all respects, fair and without collusion or fraud, and also that no members of the Board of Trustees, head of any department or bureau, or employee therein, or any employee of the Authority, is directly or indirectly interested therein.</p>	
<p>Sworn to before me this _____ day of _____, 20____.</p>	<p>- Seal -</p>
<p>Notary Public Expires _____ My Commission _____</p>	

**EXHIBIT J  
LOBBYING CERTIFICATE**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

The Bidder certifies, to the best its 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 a federal department or agency, a member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a member of the U.S. 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 thereof.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with this federal Contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instruction, as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, USC § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**THE BIDDER, \_\_\_\_\_, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 USC §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.**

\_\_\_\_\_  
Name of the Bidder or Bidder's Authorized Official

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**EXHIBIT K  
CONFLICT OF INTEREST DISCLOSURE STATEMENT**

**Project: ENGINE MAINTENANCE SERVICES**

**Date \_\_\_\_\_**

**Project No. NE-90-X125**

**Specification No. 12-23**

As the Contractor’s project manager or approved representative, I, \_\_\_\_\_ hereby certify that: I am familiar with the attached conflict of interest guidance and the conflict of interest laws including, but not limited to, 49 CFR 18.36, 48 Fed Reg. 34263, 40 CFR 1506 and Nebraska Rev. Stat. §§49-1401 to 1444 and 49-1493 to 14,104.

And to the best of my knowledge and belief, of all relevant facts – concerning past present or currently planned interests or activities (financial, contractual, organizational or otherwise that relate to the proposed work and bear on whether I have or my organization has a possible conflict of interest), determined that, for myself, any owner, partner or employee with my firm or any of my sub-consulting firms providing services for this project, including any family members and personal interests, that for the above referenced project:

- No real or potential conflicts of interest exist with respect to (1) be able to render impartial, technically sound, and objective assistance or advice and (2) being given an unfair competitive advantage.
- Real conflicts of interest or the potential for conflicts of interest exist. Furthermore, I certify that I have reviewed the proposed scope of work and project area and to the best of my knowledge, determined that, for myself, any owner, partner or employee, with my firm or any of my sub-consulting firms providing services for this project, including family members and personal interests of the above persons that are no financial or other interests in the outcome of the project, including but not limited to work associated with the Engine Maintenance Services unless described and noted on the attached.

If a real or potential conflict has been identified, describe on the attached sheet the nature of the conflict, including the information requested on the reverse side of this form for the type of conflict being reported, and provide a detailed description of Contractor’s proposed mitigation measures (if possible). Complete and sign this form and send it, along with all attachments, to Metro.

Furthermore, I certify that for myself, any owner, partner or employee with my firm or any of my sub-consulting firms providing services for this project, will comply with professional codes of conduct governing participation in the above referenced project and whenever conducting business on behalf of Metro.

I recognize that a conflict of interest disclosure is an ongoing obligation. Should I or my organization become aware of any actual or potential conflicts of interest during the performance of this contract, I or my organization will advise Metro and propose mitigation or explain why none is needed. Conflicts of interest or the failure to disclose conflicts, real or potential, may preclude award of a contract or termination of a contract for cause.

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

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

Organization: \_\_\_\_\_

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

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





Section 2 – Persons Associated with local public agency, Financial or Personal Interest Conflict of Interest

The potential for conflicts of interest extends to persons associated with a local public agency official, employee or agent. There may be a conflict of interest on a federal-aid project if a person associated with an official, employee or agent has a financial or personal interest in a consulting firm or business providing services for a project. These indirect conflicts of interest can extend to the following persons associated with an LPA official, employee, or agent: (a) Any member of his [or her] immediate family; (b) his [or her] partner; or (c) an organization which employs, or is about to employ, any of the above, when that organization has a financial or other interest in the firm selected for award. Is there anyone with a financial or personal interest in your firm or business who is associated with (as listed in the preceding sentence) and responsible for negotiating, approving, accepting or administering any contract or subcontract on behalf of Metro for this project?

If yes, please below: (1) the name, address and phone number of the person(s); (2) the nature of the financial or personal interest in firm; (3) the person’s relationship to Metro, including the position held by the official, employee or agent of Metro; and (4) a detailed description of the duties of the official, employee or agent of Metro, including whether that person(s) has any duties for the Metro concerning the negotiating, approving, accepting or administering of any contract or subcontract for Metro’s federal-aid transportation project?

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Section 3 – Real Estate COI

If Contractor (or sub-Contractor) has an interest in real estate located along or near the project **that might be acquired, in whole or in part**, for this federal-aid transportation project, which interest is either; (1) through anyone in Contractor’s organization, including a member of immediate family or a sub-Contractor, having an ownership interest in; or (2) through a client for whom Contractor has been retained to provide professional services to the owner for that tract of land, then Contractor must disclose such interest and abstain from being involved in any aspect of the right-of-way valuation or acquisition process for the federal-aid transportation project.

If either of these situations exist, please provide below: (1) the name of the owner, the address and legal description of the property, and a description of the Contractor’s interest in the property; (2) a map or aerial photo identifying the location of the property; (3) a description of the potential need or use of this property for the federal-aid transportation project; and (4) a declaration by Contractor that it will comply with the third sentence of 23 CFR Section 1.33.

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Section 4 – Outcome of Project bias/Objectivity

If Contractor, agent or subcontractor because of other activities, financial interests, relationships, or contracts is unable, or potentially unable, to render impartial assistance or advice to the grantee (including the appearance of inability), then the Contractor must disclose such interest.

If any of these situations exist, please list below the nature of any potential partiality or appearance of any potential bias when Contractor, agent or subcontractor has or at any time during the life of the contract, any pecuniary or other interests in the outcomes of the project not listed above.

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Section 5 – Unfair Competitive Advantage

*Unfair competitive advantage* occurs when one contractor has information not available to other contractors in the normal course of business. For example, an unfair competitive advantage would occur when a contractor developing specifications or work statements has access to information that the grantee has paid the contractor to develop, or information which the grantee has furnished to the contractor for its work, when that information has not been made available to the public. Another example where an unfair competitive advantage might arise is where a contractor is allowed to write specifications or statements of work around its own or an affiliate's corporate strengths or products and then compete for a contract based on those specifications. If an individual employee has access to inside information, a possible solution would be to wall off that employee, so he cannot give his employer an unfair competitive advantage.

If any of these conditions exist, describe below (1) the nature of the unfair competitive advantage including the type of information involved, (2) its source, and (3) the dates when such information was obtained or generated.

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Section 6 – Supplemental

Do you (or your organization or subcontractor(s)) have or have you ever had any contracts, agreements, special clauses or other arrangements which prohibit you from proposing work to be performed in this solicitation or any portion thereof:

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To avoid what you perceive as a possible conflict of interest do you or your organization or subcontractors propose to exclude portions of the proposed work; employ special clauses; or take other measures?

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Other relevant information pertaining to a conflict of interest or potential for a conflict of interest:

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Section 7 – Mitigation Plan

If applicable, please describe any proposed mitigation measures or plan:

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

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

Organization: \_\_\_\_\_

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

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

**BIDDERS LIST DATA FORM**

Metro is required pursuant to 49 CFR Part 26(c) to create and maintain a comprehensive Bidders List. This Bidders List Data Form will be used to collect bidder information used to determine the relative availability of Disadvantaged Business Enterprise (DBE) and non-DBEs, and will assist with establishing Metro’s annual DBE goal. Metro’s Bidders List is a compilation of bidders, proposers, quoters, subcontractors, and suppliers of materials and services who have submitted bids during the advertising period of a solicitation for services and/or goods. **Please print legibly and provide the following information:**

**PART A: BUSINESS DATA**

- 1. Business Name: \_\_\_\_\_
- 2. Business Address: \_\_\_\_\_  
\_\_\_\_\_
- 3. Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_
- 4. Phone: ( ) \_\_\_\_\_ Fax: ( ) \_\_\_\_\_
- 5. Email Address: \_\_\_\_\_
- 6. Is this business a certified DBE under Nebraska’s Department of Roads Unified Certification Program? \_\_\_\_ Yes \_\_\_\_ No
- 7. Age of Business: \_\_\_\_ Years \_\_\_\_ Months
- 8. Business Annual Gross Receipts:  
 < \$500,000       \$500,000 to \$1,000,000       \$1,000,000 to \$2,000,000  
 \$2,000,000 to \$5,000,000       >\$5,000,000

**PART B: PROJECT AND WORK DESCRIPTION**

- 9. Project Name: \_\_\_\_\_
- 10. Provide a brief description of the scope of work, service, and/or materials to be performed or furnished:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- 11. Provide the NAICS code(s) that best defines your business: \_\_\_\_\_
- 12. Will the business subcontract any of work, service, and/or materials? \_\_\_\_ Yes\* \_\_\_\_ No  
(\*If Yes, then the subcontractor(s) must also complete an individual Bidders List Data Form.)

**PART C: SIGNATURE**

The undersigned hereby declares that the information set forth on this form is current, complete and accurate.  
Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_