



REGIONAL METROPOLITAN TRANSIT AUTHORITY OF OMAHA  
d/b/a/ METRO

REQUEST FOR QUOTES  
2024 CNG TANK INSPECTION

PROJECT 15-24

**Proposals must be submitted by August 5, 2024, by 2:00 p.m.**

## Solicitation for Quotes

The Regional Metropolitan Transit Authority of Omaha, d/b/a/ Metro request from qualified certified companies to perform the diagnosis, analysis, and submission of documents of bus CNG tank/cylinder system inspection.

Quotes shall be submitted on the form provided via email to: [procurement@ometro.com](mailto:procurement@ometro.com). Metro prefers quotes be submitted electronically. If you are unable to submit via email, please Mail or hand deliver to:

The Regional Metropolitan Transit Authority of Omaha  
Metro  
Procurement and Contracts Manager  
15-24: 2024 CNG Tank Inspection  
2222 Cuming St  
Omaha NE 68102-4392

Due Date, regardless of submission type is: 2:00 pm, Central Daylight Time, August 5, 2024, please contact the Procurement and Contracts Manager at [procurement@ometro.com](mailto:procurement@ometro.com) or call: 402-341-7560 Ext. 2272.

### Estimated Project schedule

7-15-2024	Request for Quotes/Publish
7-22-2024	Request for Clarification or Substitution
7-29-2024	Responses to Clarifications of Substitution
<b>8-5-2024</b>	<b>Quotes Due by 2:00 pm CST</b>
8-12-2024	Contract Award

### Description of the Project:

Metro is requesting proposals from qualified certified companies to perform the diagnosis, analysis, and submission of documents of bus CNG tank/cylinder system inspection per U.S DOT's FMVSS 304 and NFPA 52 sect. The CNG tanks and fuel system need to be inspected for leaks, wear, and damage for the safe functioning and operation of the vehicles. Metro fleet has a total of up to 257 tanks that will need inspection. Vehicles will be inspected only if the vehicle is in service.

Quantity	Description
25	Buses with 6 tanks
10	ORBT Buses with 8 tanks
9	Vans with 3 tanks

This work consists of all labor, tools, and equipment 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 Request for Quotes (RFQ) Documents. The quote proposal shall include all permits and fees, as required, to perform the project, unless otherwise noted in the Request for Quotes (RFQ) Documents.

The Regional Metropolitan Transit Authority of Omaha acquires supplemental services from outside vendors to maintain an acceptable equipment quality. This includes, but is not limited to, the inspection of our vehicle CNG tanks and fuel system.

**Project Specifications and Requirements List:**

1. Metro is seeking qualified outside help to provide annual CNG tank and fuel system inspections 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 Cuming St, Omaha NE.
3. Technicians need to be certified to complete the inspections.
4. Be able to work independently, with little direct supervision.
5. Be able to communicate issues to Metro Project Manager.
6. Be able to adhere to Metro Safety Standards.
7. Be able to conduct themselves in a professional manner.
8. Be able to take direction from Project Manager.
9. Be able to coordinate with Project Manager to ensure vehicles are available for inspection.

**Out of Scope:**

The services will be defined as any service on the fleet not directly dealing with the CNG and monitoring systems on the vehicle.

Staffing for this project is expected to be qualified, technician(s) with proper training and qualifications to carry out the CNG system inspection per U.S DOT's FMVSS 304 and NFPA 52 sect. Work will be performed in the main maintenance facility of Metro Transit, located at 2222 Cuming St. Omaha, NE 68102. Space will be available and open for the technician(s). Hand tools, scaffolds and ladders will need to be provided by the technician(s), major tools such as jack stands and hoists 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 and analyze failures with the CNG fueling system. The technician(s) must have proof of certification from an accredited institute.

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

Technician(s) will be under the general supervision of the Metro Director of Maintenance. Work will be mobilized by the Project Manager and work will be done on an ad hoc, as needed basis, as work is identified. All work will take place at 2222 Cuming St, Omaha NE. Technician(s) is expected to be available from at least 8:00 am to 4:00 pm, Monday through Friday, during the term of this project. Technician(s) will be supplied with bay work areas which include 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 workflow for the technician will be CNG fuel system and report findings to the Project Manager, or Metro Staff identified by the project manager to oversee the specific project. Once submitted, Metro Staff will evaluate the inspection reports and make a recommendation to the Project Manager regarding the defects if any.

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 technician(s) from the premises if the Metro Director of Maintenance deems the technician(s) unfit for duty due to impairment, unprofessional behavior, unprofessional language, or other factors which causes disruption in operations.

This project will be limited to the completion of Metro's CNG fleet. Contract will be billed by total unit prices, per vehicle and number of tanks inspected, if the vehicle is in service. No subcontractors will be allowed on this project.

#### **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.

**The types and levels of insurance stated herein shall provide coverage for this job only, i.e. *Event Excess Coverage*. Consult your insurance agent for details.**

Certificates of Insurance shall evidence Metro as an additional insured and shall be due to Metro within 10 business days after receipt of the Notice to Proceed. Failure to comply shall result in Termination for Default by Metro.

**GENERAL REQUIREMENTS**

**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 successful respondent(s) shall immediately remedy said defective performance in a manner acceptable to Metro. Should the successful respondent(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.
- A.** In the event of any breach of this contract by the successful respondent(s), the successful respondent(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.

**B. Safety**

- 1) Observe Metro safety policies, pertinent safety practices and comply with any applicable safety regulations.
- 2) Take all precautions necessary for the protection against injury of all persons engaged at all Metro sites in the performance of the contract.
- 3) Be solely and completely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the work. This requirement will apply continuously and not be limited to normal working hours.

**Exhibits:**

Exhibit "A" to the General Conditions, Federal Clauses for Professional Services

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

Exhibit "C" to the General Conditions, Receipt of Federal Clauses

Exhibit "D" Acknowledgement of Addendum

Exhibit "E" to the General Conditions, Debarment and Suspension Certification for Prospective Contractor.

Exhibit "G" Conflict of Interest Disclosure Statement

Bidders List Data Form

**Submission Requirements and Instructions:**

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

\_\_\_ Exhibit "B" to the General Conditions, Pricing Schedule/Company Information

\_\_\_ Exhibit "C" to the General Conditions, Receipt of Federal Clauses

\_\_\_ Exhibit "D" Acknowledgement of Addendum

\_\_\_ Exhibit "E" to the General Conditions, Debarment and Suspension Certification for Prospective Contractor

\_\_\_ Exhibit "F" Conflict of Interest Disclosure Statement

\_\_\_ Bidders List Data Form

1. Double check:

- a. Dates
- b. Quantity and/or monetary values
- c. Signatures
- d. Executed Federal Clauses

2. Metro prefers your quote to be submitted electronically to [procurement@ometro.com](mailto:procurement@ometro.com). If you are not able to submit via email you can:
  - a. Mail it to the Procurement and Contracts Manager at 2222 Cuming Street, Omaha, NE 68102
  - b. Fax it to (402) 342-0949
  - c. Hand deliver to 2222 Cuming Street, Omaha, NE, 68102
  - d. Due Date (regardless of submission method): on or before 2:00 pm, Central Time, Monday August 5, 2024.
3. 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.

## 1.1 Responses to RFQ.

### 1.1.1 Responsive Quote.

- (a) The Authority will evaluate only those Quotes which are fully responsive to this RFQ and which are received by the Authority on August, 5, 2024, or as extended by Addendum. Each Applicant shall submit 1 copy of a quote, addressed as follows:

Procurement and Contracts Manager  
15-24: 2024 CNG TANK INSPECTION  
The Regional Metropolitan Transit Authority of Omaha  
Metro  
2222 Cuming Street  
Omaha, Nebraska 68102-4392  
Or  
Email: [procurement@ometro.com](mailto:procurement@ometro.com)

Quotes become the property of the Authority.

- (b) The Authority reserves the right in its discretion: to amend the RFQ at any time prior to the Proposal deadline by Addendum; to reject all Quotes; to waive minor irregularities contained in any quote; to rely upon any information obtained through its own investigation of the Applicant or its Quote or that of any department, agency or any other appropriate governmental entity; and to withdraw the RFQ at any time, including after the Proposal deadline, without the award of a Contract.
- (c) An Addendum to this RFQ shall be forwarded only to those Persons who have requested a copy of this RFQ in writing and who have provided an address, telefax or similar means of communication for such purposes to the Authority pursuant to this RFQ. Any Person who may have received a copy of this RFQ 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) Quote 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 Quote deadline. Whenever sealed Quotes have been required, modifications shall also be sealed and shall be submitted to the Procurement and Contracts Manager, clearly marked "MODIFICATION TO SEALED QUOTE". Modifications will be accepted and considered only if received prior to the Quote deadline. All modifications shall clearly identify how and to what extent the Quote is being modified. Where appropriate, the required number of copies of substitute forms, documentation and other materials shall be included with the modification. Sealed Quotes 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 Quote for the Work is received, a detailed cost proposal may be requested of the single Applicant. A cost/price analysis and evaluation and/or audit may be performed of the cost 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 Proposal.
- (g) Not used
- (h) No Quote shall be considered compliant or responsive unless it materially complies with the RFQ in its entirety, completely and accurately responds to all parts of the RFQ and includes all information requested. Without limitation to the generality of the preceding sentence or any other provision of this RFQ, a Quote 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 RFQ.
  - Fails to timely submit a duly authorized and executed Quote.
  - Submits a conditional Quote, or a Quote that takes exception to the Specifications, the RFQ 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 RFQ to be executed or completed.
  - Otherwise fails to comply with any material provision or condition of this RFQ.

#### 1.1.2 Requests/Specified Parts and "Approved Equals".

- (a) This RFQ shall be the Authority's official Request for Competitive Quote. No change can be made to this RFQ 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 RFQ. Other than



a request for the RFQ, no inquiry concerning the RFQ 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 RFQ or as extended by Addendum.

- (b) All requests to the Authority made under this Section 1.1.2 should be addressed as follows:

Procurement and Contracts Manager  
15-24: 2024 CNG TANK INSPECTION  
The Regional Metropolitan Transit Authority of Omaha  
2222 Cuming Street  
Omaha, Nebraska 68102-4392  
Or  
Email: [procurement@ometro.com](mailto:procurement@ometro.com)

- (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 RFQ. 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.

### 1.1.3 Protests.

- (a) Protests made in connection with this RFQ shall be made in writing received by the Procurement and Contracts Manager by no later than the Quote 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 Quote deadline, the issuance of an Addendum, the withdrawal of the RFQ 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.

## **1.2 Applicant's Identification.**

- 1.2.1 Responsible Individuals. Whenever the identification of any individual is required by this RFQ, 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.
- 1.2.2 Other Responsible Persons. Whenever the identification of any Person, other than an individual, is required by this RFQ, 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.
- 1.2.3 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.
- 1.2.4 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 1.2 of this RFQ, including Sections 1.2.1 and 1.2.2.

- 1.2.5 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.
- 1.2.6 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.

### **1.3 Termination.**

#### **1.3.1 Termination for Convenience by Authority.**

- (a) Any Contract, or any part thereof, awarded by the Authority pursuant to this RFQ 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 1.3, Contractor shall have no claim, right, remedy or entitlement for damages, compensation or equitable relief for early termination other than as provided in Section 1.3.1(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 1.3.1, 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 1.3.1(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.

- 1.3.2 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 1.3.2 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 1.3.1.
- 1.3.3 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 1.3.3(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 1.1.4.
  - (vii) Any other materially breach or default of any covenant, term, condition or provision the Contract, whether or not specified in this Section 1.3.3.

Termination under this Section 1.3.3(b) shall be effective as of the expiration of the period so specified without the necessity of further action by the Authority.

1.3.4 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 1.3.1 shall apply.

1.3.5 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.

- 1.3.6 Contractor's Right to Terminate. Contractor shall not be entitled to terminate the Contract for any reason except as provided in this Section 1.3.6. 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.
- 1.3.7 Waiver of Contractor's Other Remedies. Except as provided in Section 1.3.3(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.
- 1.3.8 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 1.3.8. 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 1.3 to terminate the Contract. In addition to the specific rights of termination and suspension as set forth in Section 1.3, Authority and Contractor shall have also available the remedy of specific performance to enforce this Section 1.3.8, which may be raised as a defense in any action commenced prior to the Parties' compliance with this Section 1.3.8.

#### **1.4 Warranties of the Parties.**

1.4.1 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 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 Proposal and Contract; the 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 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.

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

## **1.5 Miscellaneous Matters.**

1.5.1 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 1.3.1(a).

1.5.2 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.

1.5.3 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 1.5.1 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.

- 1.5.4 Governing Law. The Contract shall be governed by and construed in accordance with the Laws.
- 1.5.5 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.
- 1.5.6 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 Proposal) or transferred by Contractor without the prior written consent of the Authority, which may be withheld in its discretion.
- 1.5.7 Survival. All waivers, representations, warranties, indemnities, limitations and remedies provided for in the Contract shall survive the expiration or termination of the Contract.
- 1.5.8 Notice. Unless otherwise expressly provided in the Contract Documents, any request, protest, notice, response, or approval, required or contemplated by the RFQ 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  
Metro  
Procurement and Contracts Manager  
2222 Cuming Street  
Omaha, NE 68102

(b) To the Contractor:

That Person identified in the Proposal for such purposes.

Either party may designate a different Person or address by providing notice of the change to the other.

- 1.5.9 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.
- 1.5.10 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.
- 1.5.11 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.
- 1.5.12 Indemnity. For purposes of this Section 1.5.12, “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.
- 1.5.13 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.

- 1.5.14 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.
- 1.5.15 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.

**EXHIBIT A**  
**FEDERAL CLAUSES FOR PROCUREMENT FOR PROFESSIONAL SERVICES**

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

**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.

**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.

**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).

### **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.

### **CIVIL RIGHTS**

**Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**Equal Employment Opportunity**-The contractor, subrecipient or subcontractor shall not discriminate on the basis 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 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

### **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

#### Policy Statement

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 market place outside the DBE Program.

The Director of Civil Rights and Inclusion has been delegated as the DBE Liaison Officer. In that capacity, the Director of Civil Rights and Inclusion 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 MAT. This clause applies to both DBE and non-DBE sub-contractors.

#### **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, April 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.

#### **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION**

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

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by The Authority. If it is later determined 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 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. **The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.**

#### **CARGO PREFERENCE (If Shipper via ocean going vessel)**

The contractor agrees to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.

To furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment

of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.)

To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

### **ENERGY CONSERVATION**

Contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the State of Nebraska Energy Codes issued in compliance with the Energy Conservation and Production Act of 1976 (ECPA), as amended, and any State of Nebraska energy conservation plans issued in compliance with the Energy Policy and Conservation Act of 1975 (EPCA).

### **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.

### **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.

### **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.

### **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.

### **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

### **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.

### **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 Driving 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 Contractor 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) Contractor-owned or Contractor-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 Contractors 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.

**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 Commissions 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 B  
PRICING SCHEDULE/COMPANY INFORMATION**

**Project: 2024 CNG TANK INSPECTION**  
**Project No. PM-NE-2024**

**Date \_\_\_\_\_**  
**Specification No. 15-24**

The undersigned hereby agrees to perform the Work in accordance with the Request for Quotes.

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.

<b>Quantity</b>	<b>Description</b>	<b>Unit Price</b>
25	Buses with 6 tanks (if in service only)**	\$ _____
10	ORBT Buses with 8 tanks (if in service only)**	\$ _____
9	Vans with 3 tanks (if in service only)**	\$ _____
	Additional Costs (If applicable)	\$ _____

**\*\*Metro fleet has a total of up to 257 tanks that will need inspection. Vehicles will be inspected only if the vehicle is in service.**

\_\_\_\_\_  
Name of Individual, Partner or Corporation Date

\_\_\_\_\_  
Print Name of Authorized Representative Email Address

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

\_\_\_\_\_  
Title of Authorized Representative DUNS/TINS#

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

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

**EXHIBIT C**

**RECEIPT OF FEDERAL CLAUSES**

**Project: 2024 CNG TANK INSPECTION**

**Project No. PM-NE-2024**

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

**Specification No. 15-24**

I have reviewed the attached Federal Clauses for Procurement of Materials and Supplies in conjunction with Metro's procurement of **PM-NE-2024 Spec #: 14-25 2024 CNG Tank Inspection** 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 D

ACKNOWLEDGMENT OF ADDENDUM

Project: 2024 CNG TANK INSPECTION

Project No. PM-NE-2024

Date \_\_\_\_\_

Specification No. 15-24

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

\_\_\_\_\_  
Print Name of Authorized Representative

\_\_\_\_\_  
Print Email Address

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

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

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

\_\_\_\_\_  
Area Code & Fax Number

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

**This form must be signed and submitted in bid/quote package.**

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

**Project: 2024 CNG TANK INSPECTION**  
**Project No. PM-NE-2024**

**Date \_\_\_\_\_**  
**Specification No. 15-24**

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 F**  
**CONFLICT OF INTEREST DISCLOSURE STATEMENT**

**Project: 2024 CNG TANK INSPECTION**  
**Project No. PM-NE-2024**

**Date \_\_\_\_\_**  
**Specification No. 15-24**

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 2024 CNG Tank Inspection 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: \_\_\_\_\_

**REAL OR POTENTIAL CONFLICT DESCRIPTION:**

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**CONFLICT OF INTEREST DISCLOSURE FORM**

The following Sections are provided as guidance in determining whether a real or potential Conflict of Interest (COI) exists and in disclosing details concerning potential conflicts of interest.

Section 1 – Contractor Officer or Employee COI

Is there anyone in your firm or business who is either; (1) employed by, on a full or part time basis; or (2) a public official or agent of, the local public agency or partner agencies from whom this Request for Qualifications (RFQ) has been received?

If yes, please list below: (1) the name, address and phone number of the person(s); (2) the position held by that person(s) with Contractor; (3) the position held by that person(s); and (4) a detailed description of the duties of that person(s) for the local public agency, including whether that person(s) has any duties concerning the negotiating, approving, accepting or administering of any contract or subcontract for the federal-aid transportation project?

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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. The information provided on this Bidders List Data Form will be used to determine the relative availability of Disadvantaged Business Enterprises (DBEs) 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 provide the following information:**

1. Business Name: \_\_\_\_\_

2. Business Address: \_\_\_\_\_  
\_\_\_\_\_

3. Contact Person: \_\_\_\_\_  
Title: \_\_\_\_\_

4. Phone: \_\_\_\_\_

5. Fax: \_\_\_\_\_

6. Email Address: \_\_\_\_\_

7. Age of Business: \_\_\_\_\_ Years \_\_\_\_\_ Months 8. SAM #: \_\_\_\_\_

9. Business Annual Gross Receipts:    \_\_\_ Less than \$500,000            \_\_\_ \$2,000,000 to \$5,000,000  
   \_\_\_ \$500,000 to \$1,000,000        \_\_\_ More than \$5,000,000  
   \_\_\_ \$1,000,000 to \$2,000,000

10. Is this business a certified DBE under Nebraska's Department of Transportation (NDOT) Unified Certification Program (UCP)?            \_\_\_ Yes        \_\_\_ No

11. Is this business a certified SBE through the City of Omaha Small and Emerging Business Program?            \_\_\_ Yes        \_\_\_ No

12. Provide the NAICS code(s) that best defines your business: \_\_\_\_\_

13. For certified DBEs under the NDOT UCP, is/are the NAICS code(s) above the NAICS code(s) under which you are certified as a DBE?            \_\_\_ Yes        \_\_\_ No

14. Will the business subcontract any work, service, and/or materials?            \_\_\_ Yes\*        \_\_\_ No  
*\*If yes, please have all subcontractor(s) complete their own Bidders List Data Form.*

**The undersigned hereby declares that the information set forth on this form is current, complete and accurate.**

Authorized Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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

**Submit the completed form(s) with your bid, proposal, or quote.**