



North Front Range metropolitan Planning Organization

419 Canyon Avenue

Suite 300

Fort Collins, CO 80521

REQUEST FOR PROPOSAL # SA2017-05- NFRMPO™ SUV

BID OPENING: 1:00 P.M. MDT (our clock), July 17, 2017

The North Front Range Metropolitan Planning Organization (NFRMPO) is requesting proposals (RFP) for a qualified vendor to provide the NFRMPO™ a five-passenger SUV in accordance with the specifications provided within this request. Please note that this is a cash purchase with no financing required.

The North Front Range Metropolitan Planning Agency (NFRMPO) posts current bid and proposal opportunities on the Rocky Mountain E-Purchasing System (RMEPS) website. We encourage vendors and contractors to take advantage of free registration with RMEPS in order to see all of our available bid opportunities. If you need help registering, please call the Rocky Mountain E-Purchasing Group support department toll free 1-800-835-4603.

Link to North Front Range Metropolitan Planning Organization Open Solicitations:

[Rocky Mountain E-Purchasing Group](#)

www.BidNetDirect.com/colorado!

A copy of the RFP may also be downloaded off of the NFRMPO website (nfrmpo.org), at the top under Public Notices.

Proposals will be publicly opened at the NFRMPO™ offices, 419 Canyon Avenue, Suite 300, Fort Collins, Colorado, 80521, at the time and date noted in the Request for Proposals.

This request for proposal must be submitted prior to 1:00 p.m. MDT July 17, 2017

The NFRMPO has an overall DBE goal of 0.03%. There is no specific contract goal for this project; but the NFRMPO encourages proposals from DBE firms.

The NFRMPO encourages all disadvantaged business enterprises to submit a proposal in response to all invitations. The NFRMPO does not discriminate against anyone or firm on the grounds of race, color, national origin or other protected status.

Questions concerning the scope of the bid, proposal submittal or process should be directed to Shane Armstrong at: sarmstrong@nfrmpo.org.

Note: "Buy America" rules apply to this RFP. Please see Appendix C, Section r.

Special Instructions

All proposals must be properly signed by an authorized representative of the company with the legal capacity to bind the company to the agreement. Proposals may be withdrawn up to the

date and hour set for closing. Once proposals have been accepted by the NFRMPO and closing has occurred, failure to enter into contract or honor the purchase order will be cause for removal of supplier's name from the NFRMPO approved bidders list for a period of twenty-four months from the date of the opening. The NFRMPO may also pursue any remedies available at law or in equity. Proposal prices must be firm for a period of sixty (60) days after proposal openings.

Submission of a proposal is deemed as acceptance of all terms, conditions and specifications contained in the NFRMPO's specifications initially provided to the bidder. Any proposed modification must be accepted in writing by the NFRMPO prior to proposal close date.

Only proposals properly received by NFRMPO™ will be accepted. All proposals should be clearly identified by the proposal number and proposal name contained in the RFP.

No proposal will be accepted from, or any purchase order awarded, to any person, firm or corporation in default on any obligation to the NFRMPO.

No proposal will be accepted from or any purchase order awarded, to any person, firm or corporation who has been debarred from doing business with the federal government.

Proposals must be furnished exclusive of any federal excise tax, where applicable.

Bidders must be properly licensed and secure necessary permits where applicable.

The NFRMPO reserves the right to accept or reject any and all proposals, and to waive any irregularities or informalities.

Sales prohibited/conflict of interest: No officer, employee (<http://nfrmpo.org/staff/>), or member of the MPO Council (<http://nfrmpo.org/planning-council/>) shall have a financial interest in the sale to the NFRMPO of any real or personal property, equipment, material, supplies or services where such officer or employee exercises directly or indirectly any decision-making authority concerning such sale or any supervisory authority over the services to be rendered. Soliciting or accepting any gift, gratuity, favor, entertainment, kickback or any items of monetary value from any person who has done or is seeking to do business with any NFRMPO employee or MPO Council member is prohibited.

Freight terms: Unless otherwise noted, all freight is F.O.B. Destination, Freight Prepaid. All freight charges must be included in prices submitted on proposal.

Discounts: Any discounts allowed for prompt payment, etc., must be reflected in proposal figures and not entered as separate pricing on the proposal form.

Collusive or sham proposals: Any proposal deemed to be collusive or a sham proposal will be rejected and reported to authorities as such. Your authorized signature on this bid assures that such proposal is genuine and is not a collusive or sham proposal.

Proposal results: For information regarding results for individual proposals, send a self-addressed, stamped envelope and a bid tally will be mailed to you. Proposal results will be posted in our office seven (7) days after the proposal opening.

REQUEST FOR PROPOSAL # SA2017-05 NFRMPO™ SUV

OVERVIEW

The North Front Range Metropolitan Planning Organization (NFRMPO) requires the services of a qualified vendor to provide the NFRMPO™ with a 5-passenger SUV in accordance with the scope of services provided within this proposal.

When responding to this RFP, notice that the purpose for this proposal is:

Criteria

All proposals must include submission pricing for the NFRMPO's requirements for the SUV, per the proposal invitation and any referenced specifications contained within this document. Pricing must include all available incentives, transportation, and delivery fees.

NOTICE TO OFFERORS

All FORMS MUST BE COMPLETED & SUBMITTED AS SPECIFIED BELOW as part of your proposal.

SPECIFICATIONS

1.0 - Scope

1.1 - This specification establishes the requirements for the purchase of one 5-passenger SUV not to exceed a total cost of \$25000.00. The selection will be made based on the lowest overall cost of the responsive bidders.

1.2 - Should the manufacturer's current published data or specifications exceed specifications, they shall be considered minimum and furnished.

2.0 - Clarification of specifications

2.1 - Clarification regarding these specifications shall be requested from Shane Armstrong in writing (email preferred) prior to the time and date of the proposal opening. Any specification changes or proposal clarifications will be made by a written addendum available on the Rocky Mountain Website and by email to any bidder who indicates an intention to bid and requests clarifications.

2.2 - For questions concerning specifications contact: Shane Armstrong, at: sarmstrong@nfrmpo.org

3.0 - Delivery

3.1 - - Delivery of equipment shall be made to:

City of Fort Collins Fleet Shop
835 Wood Street
Fort Collins, CO

Final acceptance pending test-drive and verification all specs are met.

After delivering vehicle and having it inspected and accepted, the dealer's representative must stop by the NFRMPO office and have delivery documents signed by an authorized NFRMPO employee.

North Front Range MPO
419 Canyon Avenue
Suite 300
Fort Collins, CO 80521

The following employees are authorized to sign delivery documents:

Terri Blackmore or Crystal Hedberg

(Dealer should call 970-221-6243 in advance to assure the presence of authorized personnel.)

- 3.2 -** The word "delivery" encompasses delivery of the actual equipment, as specified, complete with all necessary papers such as Manufacturer's Statement of Origin, application for title, invoice, warranty, and operator's manuals, as applicable.
- 3.3 -** The vehicle must be completely washed and serviced in accordance with standard new equipment "make ready" and the manufacturer's specifications, and be ready for delivery in drive away condition that includes a fully fueled vehicle. A sixty (60) day permit must be included.
- 3.4 -** All units to be new or no older than model year 2016 with less than 25,000 miles complete with all standard equipment and options specified herein, unless otherwise agreed upon in writing. Time is of the essence. The NFRMPO shall be kept advised of any anticipated delay in delivery.
- 3.5 -** Delivery of vehicle is to be completed within sixty (60) calendar days from issuance of purchase order.

If delivery of vehicle is delayed because of strike, injunctions, governmental controls, or by reason of any cause or circumstances beyond the control of the manufacturer or supplier, the time of completion of delivery may be delayed upon written request for a time extension from the bidder. This request must be received by the NFRMPO prior to the scheduled delivery date. The request for an extension must include detailed justification for delay and its length. The supplier shall provide a proposed new delivery date, not to exceed 45 days, as part of the extension request. The delivery date will be delayed by the number of days agreed upon by the NFRMPO and the supplier. In the absence of such an extension being requested and granted, which shall not be unreasonably denied, the purchase price of each vehicle will be reduced by \$10 per day (per vehicle) for each day beyond the delivery deadline as liquidated damages if the extension was not requested or the delay cannot be justified as being beyond the bidder's control.

4.0 - Warranty

If new, the manufacturer shall unconditionally warrant the entire vehicle for a warranty period of

specified usage that is currently being offered in open trade for that vehicle at the time of delivery or the remaining warranty based on the age of the vehicle supplied. Additionally, the Vendor shall furnish the NFRMPO a fully priced copy (parts and labor) of any warranty or commercial cost repair order which originates in his repair facility, subsequent to delivery, during or after the warranty period. No charge for service calls, travel time, travel expenses, mileage, or per diem will be allowed by the NFRMPO in connection with the performance of any warranty repairs.

5.0 - Specifications

Equipment listed on this proposal must meet or exceed the following minimum requirements. **In addition, any vehicle proposed must score, at minimum, an acceptable rating (or above) on all aspects of the IHHS crashworthiness tests.** A specification checklist has been provided to ensure minimum requirements are met. **Failure to submit this checklist may cause your proposal to be considered 'unresponsive'.**

General: The following specifications describe an SUV, 2016 or newer model year equipped as follows. Place a check mark in each box below to indicate the SUV in your proposal is so equipped:

- Provide year of vehicle _____ Mileage on vehicle _____
- Provide Federal EPA MPG Ratings _____
- 5 passenger seating capacity
- Light color exterior paint
- Interior fabric - color of gray or beige preferred. List color _____
- Fabric-trimmed front seats; 8-way power-adjustable driver's seat
- Split rear seat
- Minimum 6-speed automatic transmission or CVT
- Power steering
- Front & rear disc brakes with ABS
- All-season rated tires
- Removable cargo cover
- Spare tire – **must identify whether it is compact** **or full size**
- All wheel drive
- Daytime running lights
- Tire Pressure Monitoring System (TPMS)
- Driver and passenger front and side airbags

- Side curtain airbags
- Driver's & passenger's front active head restraints
- Head restraints at all seating positions
- Remote keyless entry system with lock, two-stage unlock and panic button
- **Three (3) sets of key fobs & remotes**
- Rear privacy glass (tinted side and back windows)
- Projector-beam headlights with auto-off feature
- Power side mirrors
- Power door & tailgate locks
- Cruise control
- Variable intermittent windshield wipers/washer
- Rear window wiper/washer
- Tilt/telescopic steering wheel
- Power windows with jam protection in all positions
- Remote fuel filler door release
- Rear window defroster
- **Rubber carpeted and all-weather floor mats for both rows**
- AM/FM Audio System with multiple speakers
- Integrated backup/rearview camera or back up warning alert system, specify
- Full tank of gas in vehicle
- Clear bra applied to hood and mirrors (mirrors only if body colored)
- Attached information detailing vehicle warranty

6.0 - Submittals

Proposals **must** include the following documents:

- Completed Specification Checklist
- Completed proposal
- Pricing must include all available incentives, transportation, and delivery fees
- FMVSS Certification
- **Completed W-9**
- Proposal must be properly signed by an authorized representative of the company with the legal capacity to bind the company to the agreement for a minimum of sixty days.

Federal Forms:

- Lobbying Certification (Complete and submit Appendix A)
- Americans with Disability compliance
- Debarment and Suspension Certification (Complete and submit Appendix B)
- Buy America Compliance (Appendix C, Section r)

6.1 - Proposal Evaluation and Contract Award

- a. Proposal will be awarded to the lowest responsible cost, responsive bidder over the life of the vehicle. The NFRMPO™ program will evaluate the bids on cost, resale value, safety and reliability ratings, and fuel efficiency.
- b. As part of the award process, the successful firm must enter into an agreement with the NFRMPO within seventy-two (72) hours, (3) days after notification of award.

6.2 - PROTEST PROCEDURES

Filing of Protest

(1) When to File: Protest must be submitted in writing and received by the Executive Director or his/her designee at 419 Canyon Avenue, Suite 300, Fort Collins, CO 80521 within seven (7) working days after the aggrieved person knows or should have known of the facts giving rise thereto.

Protests based upon restrictive specifications or alleged improprieties in any type of solicitation, which are apparent prior to bid opening or the closing date for receipt of initial proposals, must be filed no later than three (3) working days prior to bid opening or the closing date for receipt of proposals.

(2) Subject of Protest: Protestors may file a protest on any phase of solicitation or award, including but not limited to specification or award.

(3) Form: The protest must be in writing and include, as a minimum, the following:

- (a) The name and address of the protestor.
- (b) Appropriate identification of the procurement by bid number.
- (c) A statement of the reasons for the protest.
- (d) Any available exhibits, evidence or documents substantiating the protest.

(4) Decision: The Executive Director or his/her designee will make a decision, in writing, on a protest within seven (7) working days after receiving all relevant, requested information. The decision of the Executive Director or his/her designee is final.

(5) Withholding of Award: When a protest has been filed before award, the North Front Range Transportation & Air Quality Planning Council will not make an award prior to the resolution of the protest, and when a protest has been filed before the opening of bids, the North Front Range Transportation & Air Quality Planning Council will not open bids prior to the resolution of the protest, unless the North Front Range Transportation & Air Quality Planning Council determines that:

- (a) The items to be procured are urgently required.
- (b) Delivery or performance will be unduly delayed by failure to make the award promptly.
- (c) Failure to make prompt award will otherwise cause undue harm to the North Front

Range Transportation & Air Quality Planning Council.

REQUEST FOR PROPOSAL # SA2017-05 NFRMPO™ SUV

7.0 – Proposal

We hereby enter the following pricing for the NFRMPO's requirements for a five to six passenger SUV, per the proposal invitation and any referenced specifications.

7.1 Price Proposal (not to exceed \$25,000.00)

Pricing for vehicle to be purchased:

New vehicle equipped as specified above: \$ _____

Normal vehicle lead (order) time: _____ days

Used vehicle equipped as specified above: \$ _____

Normal vehicle lead time: _____ days

8.0 - Vehicle Warranty

Term: _____

Coverage: _____

Location where warranty repairs can be performed: _____

9.0 - Freight Terms

FOB destination, freight prepaid. All freight charges must be included in bid pricing.

10.0 - Certification Regarding Lobbying

Please complete and include certification documents in Appendix A with your proposal.

11.0 – Debarment Certification

Please complete and include certification documents in Appendix B with your proposal.

12.0 - Bidder will be subject to and must abide by the federal requirements/clauses included in Appendix C.

Submitted by (please PRINT):

Individual Name: _____

Company Name: _____

Address: _____

Phone: _____

Email: _____

Signature

Date

Appendix A: CERTIFICATION REGARDING LOBBYING

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

- a. (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 an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. (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 instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
- c. (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance 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, U.S.C. § 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.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

Appendix B: DEBARMENT AND SUSPENSION CERTIFICATION

Choose one alternative:

- The Proposer, _____, 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 embezzlements, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 3. Are not presently indicated for or otherwise criminally or civilly charged by a government 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 Proposer 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 Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provision of Title 31 USC § Sections 3801 are applicable thereto.

Executed in (City) _____, state of _____

Printed Name: _____

Authorized Signature

Date

Appendix C: Federally Required Contract Clauses

- a. **CIVIL RIGHTS REQUIREMENTS**
- b. **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**
- c. **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)**
- d. **LOBBYING**
- e. **ADA ACCESS**
- f. **NO OBLIGATION BY THE FEDERAL GOVERNMENT**
- g. **RECORDS AND REPORTS**
- h. **TERMINATION**
- i. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**
- j. **BREACHES AND DISPUTE RESOLUTION**
- k. **CLEAR AIR**
- l. **CLEAN WATER REQUIREMENTS**
- m. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**
- n. **ENERGY CONSERVATION REQUIREMENTS**
- o. **RECYCLED PRODUCTS**
- p. **GOVERNING LAW**
- q. **SEVERABILITY**
- r. **BUY AMERICA**

a. CIVIL RIGHTS REQUIREMENTS

Civil Rights – The following requirements apply to the underlying contract:

(1) 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.

(2) Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex – 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.

(b) 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.

(c) 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.

(3) 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.

b. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(1) This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency’s overall goal for DBE participation is 0.03%. A separate contract goal has not been established for this procurement.

(2) The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as NFRMPO deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

(3) The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the NFRMPO.

(4) The contractor must promptly notify the NFRMPO whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the NFRMPO.

c. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

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 NFRMPO. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the NFRMPO, 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.

d. LOBBYING

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] – Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-

Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

**** COMPLETE AND SUBMIT APPENDIX A: 49 CFR PART 20 – CERTIFICATION REGARDING LOBBYING**

e. ADA Access

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

f. 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.

g. Records and Reports.

The MPO and Contractor shall maintain all books, records, and other documentation pertaining to the Scope of Services and necessary to completely substantiate all costs incurred and billed to the MPO for a period of three (3) years from the date of final payment. These records shall be made available for inspection and audit to any state or federal authority authorized to inspect such records and copies thereof shall be furnished at the expense of Contractor, if so requested.

h. Termination.

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provision of this contract, the MPO may terminate this contract for default. The MPO shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contract will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performances set forth in this contract.

i. Program Fraud and False or Fraudulent Statements and Related Acts.

- (1) 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 the 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 cause to be made, pertaining to the underlying contract of the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

- (2) 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 the 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.

- (3) 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.

i. Breaches and Disputes

Disputes – Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the NFRMP’s Executive Director. This decision shall be final and conclusive unless within then (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Transportation Planning Director. In connection with any such appeal, the Contractor shall be afforded and opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision

Performance During Dispute – Unless otherwise directed by the NFRMPO, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages – Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies – Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the NFRMPO and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or if a court of competent jurisdiction with the State in which the NFRMPO is located.

Right and Remedies – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of and duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the NFRMPO or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, no shall any such action or failure to act constitute an approval of or acquiescence in any

breach thereunder, except as may be specifically agreed in writing.

k. Clean air

- (1) 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.
- (2) 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.

l. Clean Water Requirements

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 22 U.S.C. § 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees the Purchaser will, in turn, report each violation as required to assure notification to FTA and the Appropriate EPA Regional Office.
- (2) 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.

m. Contract Work Hours and Safety Standards Act

- (1) Overtime requirements – No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation; liability for unpaid wages; liquidated damages – In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefore - shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.
- (3) Withholding for unpaid wages and liquidated damages – The MPO shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract of any other federal contract with the same prime contractor, of any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.
- (4) Subcontracts – The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring

subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

n. Energy conservation Requirements

The Contract agrees to comply with mandatory standards and policies relating to energy. The laws of the State of Colorado shall govern the construction, interpretation of the Energy Policy and Conservation Act.

o. Recycled Products

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 items designated in Subpart B of 40 CFR Part 247

p. Governing Law

The laws of the State of Colorado shall govern the construction, interpretation, execution and enforcement of this Agreement.

q. Severability

In the event any provision of the Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision of this Agreement

r. Pre-Award and Post-Delivery Audit Requirements

Pre-Award and Post-Delivery Audit Requirements - The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies

with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

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