



Request For Quotation

Inventory Replenishment: Industrial Hydraulic Fluid

RFQ-FY16-CMNT-482876:

Leah Dale

Publish Date: August 20, 2015

**Quotation Due Date:
Friday, August 28, 2015 at 1:00 PM EST**

E-MAIL: Ldale@wmata.com

NOTE:

The Washington Metropolitan Area Transit Authority (WMATA) requires the services/supplies of a qualified vendor to provide inventory items. To that end, the Authority is issuing this Request for Quote (RFQ) to solicit quotations from qualified firms and individuals who can satisfy the requirements contained herein.

THIS REQUEST FOR QUOTATION IS BEING ISSUED UNDER THE SIMPLIFIED ACQUISITION PROCEDURES. SIMPLIFIED ACQUISITION PROCEDURES ARE FOR PROCUREMENTS UP TO \$150,000.00. ANY RESPONSE OVER \$150,000.00 WILL NOT BE CONSIDERED.

THERE WILL NOT BE A FORMAL BID OPENING FOR THIS PROCUREMENT.

NOTICE TO ALL VENDORS

Please be advised that all vendors and contractors who do business with the Washington Metropolitan Area Transit Authority (WMATA) must register in the WMATA Vendor Registration System. Registration is located at <http://www.wmata.com>

New Vendor Registration.

If you are a vendor or contractor and *HAVE* done business with WMATA in the past, please electronically request your company's User ID and Password at <http://www.wmata.com>

Forgot User Id/Password.

Registered Vendor Benefits:

- Visibility to WMATA contract administrators and/or purchasing agents during the purchasing decision period;
- Visibility to other 17,500 registered vendors for possible business opportunities;
- Opportunity to update online, company information such as an e-mail address or contact person online;
- Sign up for electronic payment option; and
- Ability to electronically reset User Id and Password.

Any questions regarding registration may be addressed to Vendor Relations at (202) 962-1408 or procurement@wmata.com. Please be aware that it is the vendor's responsibility to register and update all information in VRS.

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SCOPE OF WORK

ITEM ID	ITEM DESCRIPTION	UOM	Minimum guaranteed quantity	Not to Exceed / Maximum
R91500009	OIL,INDUSTRIAL:HYDRAULIC FLUID, 55 GAL DRUM	DR	12	\$150,000

VENDOR P/N 1	VENDOR P/N 2	VENDOR P/N 3
ROYCO 782	BRAYMICRONIC 882	27009-AWDR

PRICE SCHEDULE

Bid Price per UOM	\$
Manufacturer/Brand Name	
Part Number Quoted	
Availability/ Lead Time Based on Minimum ARO	

Do you offer a volume discount based on quantity or dollar amount purchased? Yes No

If so, what is that discount?

Authorized Signature

Company Name

Date

*Notes:

Pricing shall be F.O.B Destination, covering all costs including but not limited to labor, materials, markups, overhead, profit, insurance, fuel, freight, and transportation. The prices shown on the Price Schedule Sheet shall constitute full compensation for all costs of performance under this contract. Price evaluation will be based on the Extended Price.

Proposals must be received by WMATA no later than August 28, 2015 at 1:00 PM EST

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INSTRUCTIONS

Type of Award: The Authority will award an Indefinite Delivery and Indefinite Quantity (IDIQ) contract resulting from this solicitation. The period of performance will last one (1) year from the date of the award or until the maximum amount allowed is met. Unless otherwise specified, all goods and materials furnished to the Authority must be new and unused. Contractors are advised that:

- a. If “Services” are to be performed pursuant to this RFQ, they must be provided in all respects as specified herein and include the services to be furnished, together with any labor, material or other work necessary for satisfactory performance.
- b. If “Supplies” are to be provided pursuant to this RFQ, they must be in all respects as specified herein and include the items to be furnished, together with any labor, service or other work necessary for satisfactory performance.

1. Basis for Award:

- a. The Award(s), if made, will be made to the Contractor (i) whose Quote is judged to be responsive to the terms of the solicitation and based solely upon the price as identified in the Price Schedule and (ii) who demonstrates to the satisfaction of the Authority that it is responsible for purposes of award of a Purchase Order. Any such award will be made within 90 days after receipt of the quote.
- b. If, after receipt of the quotes, the Contracting Officer determines that adequate price competition does not exist, the Contractor shall provide certified cost or pricing data as requested by the Contracting Officer.
- c. Unless otherwise expressly specified in the Price Schedule the Authority may make multiple awards as a result of this solicitation.
- d. Notwithstanding the foregoing or any other provision in Terms and Conditions, the Authority reserves the right to reject all bids and cancel this RFQ at any time prior to award.

2. Minimum Acceptance Period: The Authority requires a minimum acceptance period of 60 calendar days from the due date of this RFQ.

3. Delivery Location:

Washington Metropolitan Area Transit Authority
Warehouse 400
8201 Ardwick-Ardmore Rd.
Landover, MD 20785

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4. Warranty

The Contractor warrants all services provided, components, parts and material furnished under this contract against defects or failures, for a period of at least one (1) year from the date of acceptance.

5. Submittal of Quotations:

Part Number (P/N)–The approved WMATA Quality Product List part numbers on are shown in the columns labeled “Vendor P/N 1, Vendor P/N 2, Vendor P/N 3, etc.” If you are quoting an alternative for an approved WMATA Quality Product List part number, the bid may not be considered technically acceptable. All alternatives with competitive pricing will be sent for technical evaluation for this bid and/or future bids.

- a. If the item being solicited is a chemical, then a SDS sheet needs to be submitted. The SDS sheet is subject to internal review prior to award.
- b. If Bidder is proposing an alternate part rather than one of the approved part numbers, then Bidder must provide the following submittal documentations:
 - i. Physical characteristics, properties, specifications and drawing of the proposed part.
 - ii. WMATA may request to perform its own engineering qualifications and form, fit and function testing under First Article Inspection (FAI).

The evaluation of proposals and the determination as to equality of the product offered shall be the responsibility of the Authority and will be based on information reasonable available to the Department of Procurement.

CAUTION TO OFFERORS. WMATA is not responsible for locating or securing any information which is not identified in the proposal and reasonably available to the Authority. Accordingly, to insure that sufficient information is available, the Offeror must furnish as a part of his proposal all descriptive material (such as cuts, illustrations, drawings, or other information) necessary for the Authority to (i) determine whether the product offered meets the salient characteristics requirements of the Request for Proposals and (ii) establish exactly what the offeror proposes to furnish and what the Authority would be binding itself to purchase by making an award. The information furnished may include specific references to information previously furnished or to information otherwise available to the Authority.

Submit one (1) completed and signed copy of the Price Schedule Sheet. Questions concerning this Request for Quotation may be directed to:

WMATA/ Office of Procurement & Materials
600 Fifth Street, NW
Third Floor, Room 301-E
Washington, DC 20001
Attn: **Leah Dale**
(202) 962-1138

E-Mail: ldale@wmata.com

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TERMS AND CONDITIONS OF PURCHASE ORDER

1. DEFINITIONS (MAR 08)

- (a) **“Authority”** means the Washington Metropolitan Area Transit Authority.
- (b) **“As indicated”** means as shown in applicable drawings, as described in the specifications, as required in the Purchase Order form, or as required in documents referenced by the Authority therein.
- (c) **“Contracting Officer”** means the person executing this purchase order on behalf of the Authority within the limits of his/her authority.
- (d) **“Item”** means goods, supplies, materials, equipment, or services described or listed herein, or in the Request for Quotes or the Purchase Order.
- (e) **“Vendor”** means an individual, firm, partnership, corporation, limited liability Company, or any combination thereof, to which a purchase order is issued.

2. PREPARATION AND SUBMISSION OF QUOTES (MAR 08)

- (a) **Form.** Quotes solicited by the Authority must be submitted on the Request for Quote forms furnished or authorized by the Authority in order to be considered.
- (b) **Method.** Quotes shall contain the WMATA stock number, manufacturer’s name and part number, unit price, and delivery date for the items listed. The price must be a firm-fixed price for 90 days. When a quote is submitted by facsimile, the quote shall be signed and shall contain the identification number, the date, time, and the address of the vendor. The quote should be faxed to the Contracting Officer or his designated representative listed on the Request for Quote form. Electronic quotes shall be submitted through the specific e-commerce portal authorized by the Authority. Quotes received after the date and time indicated for receipt will not be considered. The Authority reserves the right to extend the date for receipt of quotes in the absence of competition.

3. AWARD (MAR 08)

- (a) **Right to Reject.** The Authority reserves the right to reject any and all quotes and to waive informalities and minor irregularities in quotes received, other provisions herein notwithstanding.
- (b) **Aggregate or Line Item Award.** Award will be made in the aggregate or on a line item basis, wherever is more advantageous to the Authority.
- (c) **Basis of Award.** Award(s), if made, will be to the responsible vendor offering the lowest quotation that meets the Authority’s requirements. Any such award will be made within 60 days after receipt of the quote.

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- (d) **Execution.** A Purchase Order signed by the Authority's Contracting Officer, mailed or delivered to the vendor within the time indicated in paragraph 3(c) will result in a binding agreement without further action by either party.
- (e) **Implementation.** The Purchase Order shall be interpreted, construed, and given effect in all respects according to the laws of the District of Columbia, Maryland, Virginia, and the United States.
- (f) **Severability.** If any provision(s) of this Purchase Order shall be held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

4. TERMS OF PAYMENT (MAR 08)

- (a) **Discounts.** The vendor may offer discounts for timely payments. Such discounts will not be considered in determining the lowest quote.
- (b) **30 Day Term.** The quote will be automatically subject to a 30-day term of payment, unless the vendor offers a discount. The Authority will not be liable for interest, however represented, on any sums claimed hereunder.
- (c) **Computation of Discount.** Discount time will be computed from the date of delivery at the place of acceptance or from receipt of a correct invoice at the office specified by the Authority, whichever is later. Payment is made, for discount purposes, when the check is mailed, or if applicable, when funds are electronically transferred (see 5(a) below).
- (d) **Garnishment of Payments.** Payments made under this purchase order shall be subject to any garnishment and attachment orders issued pursuant to the laws of Maryland, Virginia, and the District of Columbia, and to levies issued under the laws of the United States.

5. METHODS OF PAYMENT (MAR 08)

- (a) **Electronic Fund Transfer.** Vendors are strongly encouraged to convert to electronic fund transfers by completing the Electronic Fund Transfer (EFT) Vendor Payment Enrollment Form and faxing it to (202) 962-1655, WMATA Accounting Office, ATTN: Manager. Use of this method allows for expedited payment compared with payment by check. Payments by this method are deposited directly into the vendor's designated bank.
- (b) **Check Payment.** Although not the preferred method of payment, WMATA will disseminate paper checks, however, this method of payment is not the most expedient and may result in delays.

6. INVOICING (MAR 08)

- (a) **Submission of Invoice.** Payments will be made following Acceptance of the Services or Supplies to be provided under this Contract and after receipt of a properly completed invoice. WMATA will accept the submittal of invoices in one of the following methods:
 - (1) Email: Invoices may be submitted through email at: apinvoice@wmata.com. Please submit one invoice and supporting documentation per PDF attachment. You may submit more than one PDF attachment per email.

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(2) Fax: Invoices may be submitted via the following number: 1-866-534-9063. Please submit one invoice and all supporting documentation for this invoice per fax.

(3) Regular Mail: Invoices may be submitted via U.S. Postal Service to the following address:

WMATA-Accounts Payable
PO Box 1910
Beltsville, MD 20704-1910

Note: This address is only for vendor invoices. Correspondence should not be sent to this address.

- (b) **Invoice Requirements.** Each invoice must include the: (1) Purchase Order number; (2) invoice date; (3) date of delivery or shipment of the supplies or equipment, or for services, the period of performance; (4) description of the supplies or equipment delivered, or, if applicable, the service performed; (5) quantity shipped; (6) unit and extended price, less any applicable discounts; (7) total amount invoiced; and (8) remittance address. If multiple invoices are submitted, the invoices must be numbered sequentially.
- (c) **Final Invoices.** All final invoices shall be clearly marked "FINAL INVOICE."
- (d) **Authority Tax Exempt Numbers.** The Authority is exempt from federal, District of Columbia and state taxation. The Authority's tax numbers are as follows: Federal, 52-0847040; District of Columbia, 5611-0082187-001; Maryland, 30072210; and Virginia no longer issues a numbered certificate, instead, for each purchase made in Virginia, the vendor will go to http://www.wmata.com/business/vendor_business_forms.cfm and print and complete the required Virginia certificate.

7. INDEMNIFICATION

Vendor shall indemnify, defend and hold harmless the Authority, its directors, officers, employees and agents, from all liabilities, obligations, damages, penalties, claims, costs, charges and expenses (including reasonable attorney's fees), including bodily injury or death of any person or persons, and for loss or damage to any property, caused by Vendor in connection with this contract.

8. GENERAL INSURANCE REQUIREMENTS

Vendor is required to maintain the insurance coverages outlined below over the period of performance of this agreement. Insurers must have an A. M. Best rating of at least A- VII:

- Workers' Compensation/Employer's Liability
- Business Auto Liability
- Commercial General Liability (CGL)

Required Minimum CGL Limits:

\$1,000,000	Each Occurrence Limit
\$1,000,000	General Aggregate Limit

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\$1,000,000	Products and Completed Operations Limit
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The CGL policy shall be endorsed to add WMATA as an Additional Insured.

Certificate of Insurance (COI)

Vendor shall provide WMATA a Certificate of Insurance (COI) as evidence that the insurance requirements have been satisfied. Certificates of Insurance shall be emailed to COI@WMATA.COM.

1. The Certificate Holder box should read:
Washington Metropolitan Area Transit Authority
Office of Insurance, Room 8F
600 Fifth Street, NW
Washington, DC 20001
2. COI shall state the PO# and the name of the WMATA procurement contact.
3. The COI shall provide the following:
 - a. WMATA as an Additional Insured under the CGL policy.
 - b. Required insurance is primary and non-contributory.
 - c. WMATA will be provided with written notice of cancellation of any of the required insurance policies within 30 days of cancellation. Such notice shall be sent to: COI@wmata.com.

Insurance will be considered as acceptable upon receipt of a current COI meeting the requirements as listed above.

9. PROHIBITED CONDITIONS (MAR 08)

- (a) **Officials Not To Benefit.** No member of or delegate to the Congress of the United States, or resident commissioner, Official of the District of Columbia, or employee, official, or member of the WMATA Board of Directors shall have a monetary benefit or interest directly or indirectly from this Purchase Order. For any willful violation of this provision, the Authority shall have the right to annul this Purchase Order without liability and/or recourse to any other remedy it may have at law.
- (b) **Gratuities.** The Authority may, by written notice to the vendor, terminate this Purchase Order if it is found, after notice and a hearing by the Contracting Officer or his authorized representative, that gratuities, such as entertainment, gifts or money, were offered or given by the vendor to the Director, Officer, or any employee of the Authority, with a view toward securing this Purchase Order, favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of the Purchase Order. The decision of the Authority or its authorized representative shall be final and conclusive unless determined by a court of competent jurisdiction to be not supported by the facts.
- (c) **Contingent Fees.** The vendor warrants that no person or selling agency has been employed or retained to solicit or secure this Purchase Order upon an agreement or understanding for commission, brokerage, or contingent fee except bona fide employees of a bona fide established commercial or selling agency maintained by the vendor for the purpose of securing

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business and disclosed to the Authority prior to the date of this Purchase Order. For any willful violation of this provision, the Authority shall have the right to cancel this purchase order without liability or in its discretion to deduct from the Purchase Order price or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

- (d) **Debarred Contractors.** The vendor warrants that it is not debarred, suspended, or otherwise excluded by Federal government agencies from receiving federal contracts or federally approved subcontracts (see also Paragraph 12(d)).

10. PRICE, SHIPMENT, AND DELIVERY (MAR 08)

- (a) **Price.** Prices shown on the Purchase Order may not be exceeded without the written authorization of the Contracting Officer or designee, prior to shipment or delivery of performance. If a higher price is authorized, a change order will be generated to reflect the cost.

- (b) **Time of Delivery.** The time and date of deliveries are of the essence on the Purchase Order. The vendor's failure to deliver at the time and date specified shall be the basis for rejection, cancellation, or default termination by the Authority. The place of delivery shall be that set forth in the Purchase Order entitled "Ship to." Delivery shall be made during normal working hours only, unless otherwise agreed.

- (c) **Cancellation. (MAR 08)** The Authority shall have the right to cancel this Purchase Order if not filled by the required delivery date specified in the Purchase Order or in accordance with the terms specified. The Authority reserves the right to return deliveries received after notification of cancellation at the vendor's expense.

(d) **Packaging of Goods.** No charges are allowed for boxing and packing, unless otherwise agreed. The vendor shall secure the lowest appropriate transportation costs, unless otherwise authorized. The vendor shall package goods in accordance with ASTM commercial standards. Each shipping container shall be clearly and permanently marked with the following: (1) vendor's name and address; (2) Authority's full name and the address of the place of delivery; (3) Purchase Order number; (4) name of the Contracting Officer or his designated representative; (5) container number and total number of containers, for example "Box 1 of 4 boxes," and (6) container bearing the shipping/packing list. The Authority's count or weight shall be conclusive on shipments not accompanied by a shipping/packing list; (7) provide for multiple handling and shipment by any mode (i.e. pallet jack, forklift), and storage periods of a minimum of one year in enclosed facilities without damage to the product; (8) provide for package quantities suitable for redistribution without additional repackaging or marking; (9) nothing shall come in packaged increments greater than 100 each/pieces/kits or more than 50 pounds; unless otherwise authorized; and (10) Standard packaging increments are 10, 25, 50 and 100 each/pieces/kits.

- (e) **Transportation Charges.** Transportation terms are F.O.B. Destination, unless otherwise specified. If the quoted delivery terms do not include transportation costs, the Authority shall reimburse the vendor for transportation costs in the amount specified in the vendor's bid, or actual costs, whichever is lower. If transportation costs are based on actual costs, a copy of the freight bill showing actual costs for the shipment must be attached to the invoice. The Authority has the right to designate the method of transportation to be used to ship the goods.

- (f) **Changes.** The Contracting Officer shall have the right to make changes by modification in writing to the vendor. If such changes cause an increase or decrease in the vendor's cost of or

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time required for performance, an equitable adjustment shall be made in the Purchase Order price, delivery schedule, or both. Any claim for equitable adjustment must be asserted by the vendor within 30 days from the date of receipt of the change order. Nothing contained herein shall relieve the vendor from proceeding without delay in the performance of this Purchase Order as changed.

- (g) **Inspection and Acceptance.** Inspection and acceptance will be at the destination, unless otherwise agreed to. Until delivery and acceptance, and after any rejections, risk of loss will be on the vendor unless the loss results from the negligence of the Authority. Latent defects may result in the revocation of acceptance. The vendor must pay for all transportation charges both ways on rejected material.
- (h) **Substitution.** No substitutions are permitted without the written approval of the Authority.
- (i) **New and Unused.** All goods shall be new and unused unless otherwise specified.
- (j) **Compliance Laws and Regulations.** All goods and services ordered shall comply with all federal, state, and local laws and regulations.

11. TERMINATION (MAR 08)

- (a) **Convenience.** The Contracting Officer may, by written notice, terminate this purchase order, in whole or in part when it is in the best interest of the Authority. In the event of such termination, the Authority shall be liable only for the payment of supplies delivered, services performed, or construction completed, and that have been accepted by the Authority prior to the effective date of the termination.
- (b) **Default.** The Contracting Officer may by written notice terminate this Purchase Order, in whole or in part, for failure of the vendor to perform any obligation or comply with any requirement of this Purchase Order. This written notice shall specify the extent to which performance of the work under the Purchase Order is terminated and the date on which such determination is effective. The vendor shall be liable for damages, including the cost of procuring similar supplies, services, or completing construction.

12. FEDERAL LAWS (MAY 08)

The following federal laws apply to construction contracts greater than \$2,000:

- (a) **Copeland Act.** The Contractor shall comply with the requirements of the [Copeland Act](#) in 29 CFR Part 3, which are incorporated by reference in this contract.
- (b) **Davis-Bacon and Related Acts.** The Contractor agrees to comply with all terms and conditions, rulings, and interpretations of the [Davis-Bacon and Related Acts](#) contained in 29 CFR 1, 3 and 5. Such terms and conditions, rulings, and interpretations are incorporated by reference into this contract.

13. FEDERAL PROVISIONS

The following federal provisions apply when the solicitation and purchase order document identify the use of federal funds:

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- (a) **Audit and Inspection of Records. (APR 08)** The Contractor agrees to maintain all books, records, accounts, and reports required under this contract for a period of three years after the date of termination or expiration of this contract, and agrees to provide the Authority, US Department of Transportation, the Comptroller General of the United States, or any of their duly authorized representative(s) with access to any books, papers and documents of the vendor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (b) **Cargo Preference. (MAY 08)** This provision applies when the contract exceeds \$2,500, in which case the Contractor agrees:
- (1) To utilize 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 this contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels.
 - (2) 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 paragraph (a) above to WMATA (through the Contractor in the case of a subcontractor's bill-of-lading) and to the Office of Cargo Preference, Maritime Administration (MAR-590), 400 Seventh Street SW, Washington, DC 20590.
 - (3) To include these requirements in all subcontracts pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean liner.
- (c) **Civil Rights. (MAY 08)** These provisions apply when the contract exceeds \$2,500.
- (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 Federal Transit Administration (FTA) may issue.
 - (2) **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to the underlying purchase order:
 - (i) **Race, Color, Creed, National Origin, Sex.** In accordance with [Title VII of the Civil Rights Act](#), as amended, [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 CFR 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

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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 contract. 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: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- (ii) **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.
 - (iii) **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 Opportunity Provisions of the Americans with Disabilities Act,” [29 CFR 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.
- (d) **Debarment & Suspension Certification. (APR 08)** The Contractor is bound by its certification contained in its offer to the Authority that neither, the Contractor, its principals nor affiliates, are excluded or disqualified at [49 CFR 29.940 and 29.945](#). The certification is a material representation of fact, relied upon by the Authority in entering into this purchase order.
- If it is later determined that the Contractor 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 Contractor agrees to comply with the requirements of [49 CFR Part 29, Subpart C](#), throughout the term of this purchase order. The flow-down requirement is that the Contractor agrees to include this requirement in all subcontracts at all tiers under the contract.
- (e) **Federal Changes. (MAY 08)** This provision applies when the contract exceeds \$2,500, in which case the 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 Master Agreement (MA) [Form \(FTA MA \(14\) dated October 1, 2007\)](#) between the Authority and FTA, as they may be amended or promulgated from time to time during the term of this contract. The Contractor’s failure to so comply will constitute a material breach of this contract. The flow-down requirement is that the Contractor agrees to include this 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.

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- (f) **Fly America. (MAY 08)** This provision applies when the contract exceeds \$2,500, in which case the Contractor agrees to comply with [49 U.S.C. 40118](#) (the “Fly America” Act) in accordance with the General Services Administration’s regulations at [41 CFR Part 301-10](#), which provide that recipients and subrecipients of Federal funds and their contractors are required to use U. S. Flag air carriers for U. S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. Flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The flow-down requirement is that the Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.
- (g) **Incorporation of Federal Transit Administration (FTA) Terms. (MAY 08)** This provision applies when the contract exceeds \$2,500. The preceding provisions include, in part, certain Standard Terms and Conditions required by the U. S. Department of Transportation (DOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E or any revision thereto, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all DOT or 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 Authority requests which would cause the Authority to be in violation of the FTA terms and conditions. The flow-down requirement is that the Contractor agrees to include this clause in each contract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the vendor who will be subject to the provisions.
- (h) **No Government Obligation to Third Parties. (MAY 08)** This provision applies when the contract exceeds \$2,500, in which case the Authority and the Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of this 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 Authority, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. The flow-down requirement is that the Contractor agrees to include this 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.
- (i) **Program Fraud and False or Fraudulent Statements or Related Acts. (MAY 08)** This provision applies when the contract exceeds \$2,500, in which case:
- (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 CFR Part 31](#), apply to its actions pertaining to this contract. Upon execution of the underlying contract, the Contractor certifies and 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

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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, 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 flow-down requirement is that the Contractor also agreed to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA.
- (j) **Recycled Products/Recovered Materials. (MAY 08)** This provision applies to contracts for items designated by the Environmental Protection Agency, when the vendor 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. 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. The flow-down requirement is that the Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA.

NO ADDITIONAL TERMS AND CONDITIONS SHALL SUPERSEDE THE TERMS AND CONDITIONS CONTAINED HEREIN.

CONTRACTING OFFICER'S TECHNICAL REPRESENTATIVE (COTR)

- (a) The work will be conducted under the general direction of the Contracting Officer. Authority will be delegated to the Contracting Officer's Technical Representative (COTR) to take the following actions:
1. Act as the principal point of contact with the Contractor. A copy of each item of incoming correspondence and a copy of any enclosures shall also be submitted to the Contract Administrator (CA).
 2. Review and approve invoices and payment estimates. Forward invoices and receipts to Accounting. In those cases requiring release of final retained percentage of payment, the COTR will make his recommendations in writing to the Contracting Officer.
 3. Coordinate correspondence with the CA if its importance significantly impacts the contractual terms and obligations. Where such coordination is unnecessary, provide an information copy to the CA.
 4. Provide the CA with information copies of any memorandum for record which is relative to the Purchase Order.

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5. Notify the Contracting Officer whenever the COTR has reason to believe that the estimated not-to-exceed amount will be exceeded.
6. Prepare the Authority estimate for proposed Purchase Order modifications. Participate in negotiations of modifications.
7. Approve, in writing, the Contractor's progress schedule when required.
8. Maintain a comprehensive file record of documents and correspondence concerning contract activities and actions.
9. Execute Standard Form 1420, which contains a detailed performance evaluation of the contractor. Note that if, there is one or more categories in which the contractor is deemed unsatisfactory, these evaluations must be provided to the contractor for comment.

(b) There are certain actions which are reserved for only the Contracting Officer. They are:

1. Approval of Purchase Order modification quotations.
2. Issuance of written orders to stop and/or resume work under Article 10, "Stop Work Orders", of the General Provisions.
3. Negotiation with the Contractor for adjustment of Purchase Order price and/or time.
4. The COTR is not authorized to render final decisions under the DISPUTES article of the General Provisions.
5. The COTR is not authorized to issue Termination Notices pursuant to the terms of this Purchase Order.

(c) The presence or absence of the COTR or his inspectors shall not relieve the Contractor from any requirements of the Purchase Order.