METROPOLITAN TRANSIT AUTHORITY

INVITATION FOR BIDS

FOR

NON-EMERGENCY ADA COMPLIANT REAR ENTRY MINIVANS

METRO INVITATION FOR BIDS NO. 4020000134

Bidder's signature on Invitation for Bids (Section III– Forms for Bidding/Proposing/Award) constitutes acceptance of a contract that may result from this Solicitation. Contract award/execution may be made by METRO without discussion.

100% METRO Funding

IMPORTANT – Notice to Bidder
All responses to this solicitation must be labeled as indicated below and delivered or mailed to the following address:

Upper Left Corner of Envelope Must Indicate: Bidder/Contractor Name and Address

Lower Left Corner of Envelope Must Indicate: Solicitation Number
Due Date
Due Time
Solicitation Title

Metropolitan Transit Authority
Procurement Division Plan Room
1900 Main St., Suite 2021
Houston, Texas 77002
P.O. Box 61429
Houston, Texas 77208-1429
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SECTION I - BIDDING/PROPOSING REQUIREMENTS AND INSTRUCTIONS

1 INVITATION FOR BIDS SUMMARY

IFB NO.: 4020000134

REQUISITION NO.: 1120001801

DATE OF IFB: June 9, 2020

For: Non-Emergency ADA Compliant Rear Entry Minivans

ISSUED BY:
METROPOLITAN TRANSIT AUTHORITY
Procurement Division
1900 Main Street, Suite 2021
Houston, Texas 77002
P. O. Box 61429
Houston, Texas 77208-1429

SUBMIT INQUIRIES BY WRITING OR CALLING:
NAME: Michael Southwell
TITLE: Manager of Contracts
EMAIL: MS22@ridemetro.org
TELEPHONE: (713) 739-4083

Procurement Web Site: https://www.ridemetroapp.org/procurement/

PRE-BID CONFERENCE will be held at 10:00 a.m. on June 16, 2020 via teleconference. All questions pertaining to this Solicitation shall be presented IN WRITING to the above METRO representative at or prior to the Pre-Bid Conference. (See Instructions to Bidders, paragraph 2). IT IS STRONGLY URGED THAT ALL BIDDERS ATTEND THE PRE-BID CONFERENCE Via Teleconference at the following number. Phone: 1 866 528-2256 Pass Code: 4078379#

REQUEST(S) FOR APPROVAL OR DEVIATION: Request(s) for Approval or Deviation are required fifteen (15) calendar days before original bid due date with METRO to respond ten (10) days prior to the due date. (See Instructions to Bidders, paragraph entitled "REQUEST(S) FOR APPROVAL OR DEVIATION"). Failure to submit the Mandatory RFA's in Section II will render your bid non-responsive.

BID OPENING TIME/LOCATION: Sealed bids in original hard copy form for work described herein must be received by 2:00 p.m. local time on Wednesday, July 22, 2020, at 1900 Main St., Houston, Texas 77002. Bids will be opened, read aloud and recorded at 10:00 a.m. on Thursday, July 23, 2020, in the same location. Digital signatures on bids are acceptable. Bidders can watch the bid opening live at http://ridemetro.granicus.com/ViewPublisher.php?view_id=3

After the bid opening, bidders will receive an email request from METRO to email a PDF of their bids to ms22@ridemetro.org. Do not email bids prior to receiving the request from METRO. Each emailed PDF bid must not exceed 15MB. PDFs of bids can be sent with multiple emails if necessary.

RESPONSIBLE BIDDER: Each bidder is cautioned to review and understand the requirements of this solicitation in order to be determined a responsible bidder. (See Section I, Instructions to Bidders, paragraph entitled “BIDDER QUALIFICATIONS/ELIGIBILITY FOR AWARD”)

BID GUARANTEE of not less than 5% of the total bid is required. (See Instructions to Bidders, paragraph entitled “BID SECURITY”).

PERFORMANCE BOND: for 5% of the Contract amount required. (See Contract, Article entitled "Performance Bond").

PERFORMANCE/DELIVERY PERIOD: The Contract shall be for delivery of minivans in accordance with the delivery schedule. (See Contract Article "Period of Performance")

LIQUIDATED DAMAGES: will be assessed as indicated in the Contract Article entitled "Liquidated Damages".

INSURANCE: Each prospective bidder is cautioned to review the Insurance requirements of this Solicitation particularly to understand the criteria and the successful Contractor's responsibilities. (See Contract, Article entitled "Insurance Requirement").

FEDERAL FINANCIAL ASSISTANCE: This procurement is subject to the availability of Federal financial assistance from the Federal...
Transit Administration (FTA), therefore, all required Federal requirements such as Buy American, Cargo Preference, Debarred, Suspended or Ineligible Contractors, minivan Testing, FMVSS, and Pre-Award and post Delivery Audits for Specification and Buy America Compliance will be included in the resultant Contract (See Section II, forms to be submitted with bid). Failure to submit these will make your bid nonresponsive.

OBLIGATION: This Invitation for Bids does not obligate the Metropolitan Transit Authority to award a contract, or to pay any costs incurred in the preparation or submittal of any bid.

ORGANIZATION OF BID: The Invitation for Bid (IFB) is to be provided as follows:

PRICE BREAKDOWN including all detailed pricing information with particular attention to the unit price breakdown in Section II, subject to detailed METRO review as appropriate.

SMALL BUSINESS CONTRACT GOAL: There is no small business subcontracting goal for this Solicitation.

TYPE OF AWARD: METRO anticipates the award of a Firm Fixed price type contract(s) as a result of this Solicitation.

NOTE: All forms contained in this solicitation may be reproduced if more space is needed due to the number of subcontractors or suppliers to be submitted with the bid or for any other reason.

OBLIGATION: This Invitation for Bids does not obligate the Metropolitan Transit Authority to award a contract or to pay any costs incurred in the preparation or submittal of any bid.

REGISTRATION ON PROCUREMENT WEB SITE: All bidders should register on METRO’s procurement website at https://www.ridemetroapp.org/procurement/ to ensure that they receive the latest solicitations and updates via their registered e-mail address.
2 INSTRUCTIONS TO BIDDERS

A. DOCUMENTS

1. A complete hard copy set of bid documents shall be used in preparing a bid. Bids will be accepted from only those bidders listed on METRO’S official Bidder’s List at the designated bid opening time. METRO assumes no responsibility for errors or misinterpretations resulting from the use of incomplete sets of documents. After the bid opening, bidders will receive an email request from METRO to email a PDF of their bids to ms22@ridemetro.org. Do not email bids prior to receiving the request from METRO. Each emailed PDF bid must not exceed 15MB. PDFs of bids can be sent with multiple emails if necessary.

2. METRO, in making copies of these documents available on the above terms, does so only for the purpose of obtaining bids on the work and does not convey a license or grant for any other use.

3. Each bidder should carefully examine these documents and take such other steps as may be reasonably necessary to ascertain the contract performance requirements. Failure to do so will not relieve Bidders from responsibility for estimating properly the difficulty or cost of successfully performing the Contract. Extra compensation will not be allowed for conditions which are determinable by examining these documents. METRO will assume no responsibility for any understanding or representations concerning conditions made by any of its officers or agents prior to the execution of the Contract, unless included in these documents.

4. Each bidder should visit the site, carefully examine these documents and take such other steps as may be reasonably necessary to ascertain the nature and location of the work. Each bidder shall make themselves aware of local labor availability, means of transportation, local weight restrictions, laws, codes, wage scales, local tax structure, contractor’s license and permit requirements, availability of required insurance, and other factors that could affect the work. Failure to do so will not relieve bidders from responsibility for estimating properly the difficulty or cost of successfully performing the work. Extra compensation will not be allowed for conditions which are determinable by examining these documents or the work site.

B. EXPLANATION TO BIDDERS

Any explanation desired by a bidder regarding the meaning or interpretation of the Invitation for Bids, drawings, specifications, etc., must be requested in writing and with sufficient time allowed (a minimum of 20 days before date set to receive bids) for a reply to reach bidders before the submission of their bids. Any interpretation made will be in the form of an amendment to the Invitation for Bids, drawings, specifications, etc., or information letter and will be furnished to all prospective bidders. Receipt of Amendments by the bidder must be acknowledged in the space provided on the Bid or Amendment Form or by letter received by METRO before the time set for opening of bids. Oral explanations or instructions given before the award of the contract will not be binding.

C. BIDDER QUALIFICATIONS/ELIGIBILITY FOR AWARD

1. In order for a bidder to be eligible to be awarded the Contract, the bid must be responsive to the Invitation, show the bidder’s technical competency, and METRO must be able to determine that the bidder is responsible to perform the Contract satisfactorily.

2. Responsive bids are those complying with all material aspects of the Solicitation. Bids which do not comply with all the terms and conditions of the Solicitation will be rejected as non-responsive.

3. Responsible bidders as a minimum must:
   a) Contractor must show evidence of having performed a project of similar size, scope, and complexity.
   b) Have financial resources adequate to perform the Contract, or ability to obtain such resources as required during the performance of the Contract;
   c) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments;
   d) Have a satisfactory record of current and/or past performance in behalf of METRO and/or other owners, including the areas of scheduling, submittals; record keeping, reporting, qualified supervision, skilled workforce, safety, quality of equipment, materials and workmanship, timely performance, warranties and guarantees;


4. A bidder may be requested to submit written evidence verifying that they meet the minimum criteria necessary to be determined a responsible bidder. Refusal to provide requested information will result in the bidder being declared non-responsive, and the bid will be rejected.

5. Bids deviating or taking exception to the Solicitation requirements will not be considered.

D. DISQUALIFICATION

METRO reserves the right to disqualify a bid, before or after the bid opening, upon evidence of collusion with intent to defraud or other illegal practices on the part of a bidder.

E. PROTESTS

1. Each protest to the Solicitation documents shall be submitted for resolution to the Vice President of Procurement & Materials. Each such protest shall be in writing and shall be supported by the information set forth in Chapter 12 of METRO’s Procurement Manual to enable the protest to be considered. A protest or objection will not be considered if it is insufficiently supported or it is not received within the time limits specified herein.

2. A protest based upon terms, conditions or form of a proposed procurement action prior to bid opening, shall be submitted so that it is received by the Vice President of Procurement & Materials no later than five (5) calendar days prior to the specified bid opening date.

3. For a protest concerning award decision, including bid evaluations, the initial protest must be received by the Vice President of Procurement & Materials not later than five (5) calendar days after the interested party knows, or through exercise of reasonable diligence should have known, whichever is earlier, of the grounds for the protest, following bid opening.

4. Each protest will be processed in accordance with METRO’s Protest Procedures located in Chapter 19 of METRO's Procurement Manual. A copy of the procedures will be provided to the protester upon written request to METRO’s Vice President of Procurement & Materials.

5. A written final determination on any protest will be rendered by METRO’s President & Chief Executive Officer and will be provided to the protester as soon as practicable.

6. The protester must exhaust its administrative remedies by pursuing METRO’s protest procedures to completion prior to appealing METRO’s decision to the FTA.

7. The Federal Transit Administration (FTA) Circular 4220.1F, or any of its successors, paragraph 7L, addresses bid protests. A copy of this paragraph will be provided to the protester upon written request to METRO. Review of a protest by FTA will be limited to a grantee’s failure to have or follow its written protest procedures, its failure to review a complaint or protest, or violations of Federal law or regulations. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) working days of the date the protester learned or should have learned of an adverse decision by METRO or other basis of appeal to FTA. Violations of a specific Federal law or regulation will be handled by the complaint process stated within that law or regulation. Alleged violations on other grounds are under the jurisdiction of the appropriate State or
F. PREPARATION OF BID

1. A bid shall be submitted on the forms furnished by METRO or re-produced copies of METRO forms; shall be completed in ink or by typewriter and shall be manually or digitally signed. If erasures or other changes appear on the forms, each erasure or change shall be initialed by the person signing the bid. Telegraphic or facsimile (fax) bids are not authorized.

2. The Bid Form may provide for submittal of a price or prices for one or more items, which may be lump sum bids, alternative prices, scheduled items resulting in a bid on a unit price, lump sum or a combination thereof. Where the Bid Form explicitly requires that the bidder bid on all items, failure to do so will disqualify the bid. When submittal of a price on all items is not required, a bidder shall insert the words "no bid" in the space provided for any item on which no price is submitted.

3. If a bid is from an individual, sole proprietorship, or a bidder operating under a trade name, the bid shall be signed by that individual.

4. A bid by a partnership shall be executed in the partnership name and signed by a partner; the official address of the partnership shall be shown where indicated on the "Solicitation, Bid and Award" form.

5. A bid by a corporation shall be executed in the corporate name by the president or a vice-president (or other corporate officer accompanied by evidence of authority to sign) and the corporate seal shall be affixed and attested by the corporate secretary or assistant secretary.

6. A bid submitted by a joint venture shall list the names of all joint venturers and the mailing addresses of each and shall be executed by all joint venturers in the same manner as if they were individually submitting bids. The signature portion of the Bid Form shall be altered as appropriate for execution by the joint venture and all joint venturers.

7. All names shall be typed or printed below the signature.

8. The bid shall contain an acknowledgment of receipt of all Amendments to the Solicitation.

9. Communications regarding this Solicitation are to be directed to the address and to the attention of the person shown on the Invitation for Bids form.

10. Unless called for, alternative bids will not be considered.

11. In an effort to promote greater use of recycled and environmentally preferable products and minimize waste, all bids submitted should comply with the following:

   - All hard copies should be printed double-sided
   - Unless absolutely necessary, all bids and copies should minimize or eliminate the use of non-recyclable or non-reusable materials, such as plastic report covers, plastic dividers, vinyl sleeves and bindings. Three-ringed binders, glued materials, paper clips and staples are acceptable.
   - Bids should submit materials in a format that allows for easy removal and recycling of paper materials.
   - Bidders are encouraged to use other products that contain recycled content in their bid documents. Such products may include, but not limited to, folders, binders, paper clips, discs, envelopes, boxes, etc. Where appropriate, Proposers may wish to note which products in their proposal are made with recycled materials.
   - Unnecessary samples, attachments or documents not specifically asked for should not be submitted with the bid.

G. BID SECURITY

1. Each bid shall be accompanied by Bid Security, drawn payable to the Metropolitan Transit Authority, in the


local administrative or judicial authorities.
amount required by the Invitation for Bids. The Bid Security shall be a cashier’s check, a certified check or a bid bond issued by a surety licensed to do business in Texas, approved for the full amount of bond coverages required on the U.S. Department of the Treasury Circular 570 and by METRO. Failure to furnish the Bid Security in the proper form and amount by the time set for opening of bids will result in rejection of the bid.

2. Bid Security, other than a bid bond, will be returned to:
   (a) unsuccessful bidders as soon as practicable after the opening of bids, and
   (b) the successful bidder upon execution of such further contractual documents and bonds as may be required by the Contract Documents.

3. If the successful bidder, upon acceptance of its bid by METRO within the period specified therein for acceptance, fails to execute such further contractual documents and furnish such bonds as may be required by the Contract Documents within the time specified in the Contract, will forfeit any Bid Security provided.

H. POSTPONEMENT OF BID OPENING

Notwithstanding the time for opening of bids established in the Invitation for Bids, the bid opening may be postponed solely at METRO's discretion.

I. SUBMISSION OF BIDS

A bid shall be submitted so as to be received no later than the exact time and at the place indicated in the Invitation for Bids and shall be enclosed in a sealed envelope clearly identified as a bid with the project title, Invitation for Bids number and bid opening date and time. The envelope shall identify the name and address of the bidder and shall contain the bid security, if required, and other required documents. Failure to do so may result in a premature opening of, or a failure to open, such bid.

J. LATE BIDS, MODIFICATION OR WITHDRAWAL OF BIDS

1. Any bid or modification of bid received at the METRO office designated in the Invitation for Bids after the exact time specified for receipt will not be considered. Late bids received will be retained unopened and filed with unsuccessful bids in the official contract file.

2. A bid may be withdrawn in person by a bidder or authorized representative, provided their identity is made known and they sign a receipt for the bid, but only if the withdrawal is made prior to the exact time set for opening of bids.

3. Modifications of bids already submitted will be considered if received at the office designated in the Invitation for Bids by the time set for opening of bids.

K. PUBLIC OPENING OF BIDS

Bids will be publicly opened immediately following the time set for opening in the Invitation for Bids. The total bid price(s) will be read aloud for the information of bidders and others interested, who may be present.

L. AWARD OF CONTRACT

1. Award of a Contract, if awarded, will be made to the responsive and responsible bidder offering the lowest TOTAL BID AMOUNT (Section III, - Bid/Contract Schedule of Items and Prices) and whose bid conforms to the Solicitation Documents. The lowest price bidder is not guaranteed that it will receive the METRO contract award.

2. METRO reserves the right to reject any and all bids, to waive any informalities in bids received and the right to reject all nonconforming, unbalanced, non-responsive or conditional bids. Discrepancies between words and figures will be resolved in favor of words.

3. Bids containing apparent clerical mistakes such as discrepancy between unit bid price and the price extension or the sum of the extended amounts and the total bid price, or other apparent clerical mistakes, will be resolved by the Contract Administrator in accordance with the Mistake in Bid procedures contained in METRO's Procurement Manual.

4. A written Notice of Award will be issued to the successful bidder upon being selected for award of a contract and execution of any resultant contract.
5. A split award will not be made. Bidders must bid on all items and award will be made based on the total aggregate price.

6. In the event of tie bids, the successful bidder will be determined by drawing of lots at an open meeting with the tie bidders invited to attend.

M. RECEIPT OF SINGLE BID

If only one bid is received in response to the Invitation for Bids, a detailed cost breakdown will be required from the single bidder. An evaluation will be performed of the cost breakdown in order to determine if the price is fair and reasonable.

N. DISCOUNTS

1. No discounts will be considered in the evaluation of bids.

2. Discounts for early payment may be offered in the original bid or on individual invoices submitted under the resulting contract, and discounts offered will be taken by METRO if payment is made within the discount period specified.

3. Discounts that are included in bids become a part of the resulting Contract and are binding on the Contractor. Discounts offered only on individual invoices will be binding on the Contractor only for the particular invoice on which the discount is offered.

O. CONTRACT BONDS AND INSURANCE

The bidder whose bid is accepted shall, within the time established in the Invitation for Bids, enter into a written Contract with METRO and, if required, furnish Certificates of Insurance and Performance and Payment Bonds in the amounts indicated in the Contract.

P. METRO-FURNISHED PROPERTY

No material, equipment or facilities will be furnished by METRO unless otherwise stated in the Solicitation.

Q. TAXES

METRO is exempt from payment of Federal Excise and Transportation Tax and the Texas Limited Sales, Excise and Use Tax. Contractor’s invoice(s) shall not contain assessment for any of those taxes.

R. INSURANCE REQUIREMENTS

The bidder/proposer whose bid is accepted shall, within the time established in the Solicitation, enter into a written Contract with METRO and, if required, furnish Certificates of Insurance in the amounts indicated in the Contract.

T. INSTRUCTIONS FOR CERTIFICATION

1. By signing and submitting a bid, the Bidder is providing the certification set out in the Paragraph entitled “CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTION.

2. The certification in this instruction to Bidders is a material representation of fact upon which reliance will be placed by METRO to enter into a resultant contract. If it is later determined that the Bidder/Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, METRO may pursue available remedies, including suspension and/or debarment.

3. The bidder shall provide immediate written notice to METRO if at any time the bidder learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principal, bid and voluntarily excluded, as used herein, have the meanings set out in the Definition and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom your bid is submitted for assistance in obtaining a copy of this regulation.

5. The bidder agrees by submitting a bid that, should the resulting contract for the proposed covered transactions entered into, it shall not knowingly enter into any subcontract with a firm who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by METRO.
6. The bidder further agrees by submitting this bid that it will include the instruction titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," at Paragraph 21 below, without modification, in all solicitations for lower tier covered transactions, expected to equal or exceed $25,000.00.

U. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION - LOWER TIER COVERED TRANSACTION

1. The Bidder certifies, by submission of the bid, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the bidder is unable to certify to any of the statements in this certification, the Bidder shall attach an explanation to the bid being submitted to METRO.

V. REQUEST(S) FOR APPROVAL OR DEVIATION

1. Request(s) for approved equal and request(s) for deviation to the technical specifications or other requirements of the solicitation document shall be submitted to METRO for evaluation at least fifteen (15) calendar days prior to the original date set for receipt of bids with METRO to respond ten (10) calendar days prior to the date set for the receipt of bids.

2. All request(s) for approval shall be submitted on the enclosed RFA form, with all necessary descriptive literature, technical data, or samples to clearly indicate all specifications of the item(s) or deviation(s) proposed to permit evaluation of the request and determine that they meet all requirements of the Solicitation.

3. Individual RFA’s shall include all technical data and salient characteristics of the proposed item offered to meet the specification requirement. Such technical data and salient characteristics shall cover as a minimum the installation, operation and design performance of the item offered for approval.

4. Request(s) for Approval may be submitted by e-mail to MS22@ridemetro.org. CAUTION:

5. Failure to submit the Mandatory RFAs in Section II will render your bid non-responsive.

W. INDEPENDENT PRICE DETERMINATION.

By submitting this bid, the bidder certifies that he has not colluded, conspired, connived, or agreed, directly or indirectly, with any bidder or person, to put in a sham bid or to refrain from bidding; and further, that he has not in any manner, directly or indirectly sought by agreement, collusion, communication or conference, with any person, to fix the bid amount herein or any other bidder, or to fix any overhead, profit, or cost element of said bid amount, or that of any other bidder, or to secure any advantage against METRO or any person interested in the proposed Contract.

X. COVENANT AGAINST CONTINGENT FEES

By submitting this bid, the bidder certifies that he has not employed any company or person (other than a full-time, bona fide employee working solely for the bidder) to solicit or secure this Contract, and has not paid or agreed to pay any company or person (other than a full-time, bona fide employee working solely for the bidder) any fee, commission, percentage, or brokerage fee contingent upon or resulting from the award of this Contract; and agrees to furnish information relating to the above, as requested by the Contracting Officer.

Y. PROHIBITION ON LOBBYING

No bidder or proposer shall, directly or indirectly, engage in any conduct (other than the submission of the proposal or other prescribed submissions and/or presentations before the Evaluation Committee) to influence any employee of METRO or any member of the Metropolitan Transit Authority Board of Directors concerning the award of a contract as a result of this Solicitation. Violation of this prohibition may result in disqualification of the proposer from further participation in future METRO solicitations or contracts. The communication blackout period shall commence from the issue of a solicitation through contract award. The Contract Administrator is the only METRO representative authorized to communicate with firms or their representatives during the blackout period.

Z. SOLICITATION ORDER OF PRECEDENCE.
Notwithstanding the Article of this Solicitation entitled "Contract Order of Precedence," in the event of an inconsistency between provisions of this Solicitation prior to award, the inconsistency shall be resolved by giving precedence in the following order:

1. Solicitation Amendments (if any) with the latest having precedence;
2. Bid/Contract Amount, Items and Prices excluding any specifications or drawings;
3. Instructions to Bidders including Invitation for Bids form;
4. Solicitation, Bid and Award form/Attachments;
5. Technical Specifications/Scope of Service;
6. Contract Articles;
7. Drawings;
8. Any other full-text provision of this Solicitation whether incorporated by reference or otherwise.

AA. APPROVAL OF CONTRACT.

If required by the METRO Procurement Manual, award of a Contract evolving from this solicitation shall be contingent upon the prior receipt of written approval from the METRO Board of Directors. No contractual agreement shall be binding on METRO until this approval has been obtained. It shall be the responsibility of firms responding to this solicitation to monitor Board award decisions. All persons and/or entities responding to this Solicitation hereby acknowledge the contract award requirement enumerated in this Paragraph. Anticipated Board Items are posted on METRO’s web site at http://www.ridemetro.org/Pages/BoardMeetingsAndNotices.aspx

Public Notice of Solicitation Results
The anticipated METRO Board meeting month for approval of a contract resulting from this solicitation will be forthcoming. It is the responsibility of the bidder to check METRO’s website for notices on the specific dates for METRO Board meetings. All bidders of this Solicitation and METRO hereby agree that this provision shall serve as the minimum required action by the bidder toward exercising due diligence in obtaining the results of this Solicitation. The requirement of approval by the METRO Board of Directors for any particular solicitation is dependent upon several factors. However, all bidders shall be required to check the METRO web site regarding whether or not the solicitation associated with their bid requires approval by the METRO Board of Directors. All persons and/or entities responding to this Solicitation hereby acknowledge the Public Notice of Solicitation Results enumerated in this Paragraph. METRO Board meeting notices are posted on METRO’s web site at: http://www.ridemetro.org/Pages/BoardMeetingsAndNotices.aspx

BB. METRO-FURNISHED PROPERTY

METRO will furnish equipment and specifically described in the specification.

CC. CONFLICTS DISCLOSURE

Vendors doing business with METRO or seeking to do business with METRO are required to file a completed questionnaire (FORM CIQ) disclosing the vendor’s affiliations or business relationship with any Board Member, local government officer (or his or her family member). Form CIQ is available on METRO’s web site at http://www.ridemetro.org/Pages/ConflictsDisclosure.aspx

DD. SUBMISSION REQUIREMENTS AND PROCEDURES

Submission of the below forms identified as "Contractor Owned" are a condition to be met by the bidders in order to be deemed responsive and must be met as a condition prior to Contract award. Once completed and submitted, these documents will be considered “contractor owned” and will not be incorporated into the Contract. However, they will be made part of the original contract file. Any changes or adjustments to the information on these forms shall be submitted to the Contracting Officer and the Office of Small Business for approval. Once approved, the updated form(s) will be added to the contract file without requiring modification to the contract.
Each bidder must complete, sign and return the following bid forms/Attachments at the times indicated below:

1. **Bid Forms**
   *a. “Disadvantaged Business Enterprise (DBE)”
   *b. **“Buy America Certificate”**
   *c. “Cargo Preference Certification”
   *d. “Minivan Testing Certification”
   *f. “Pre-Award Audit of Vehicles for Specification and Buy America Compliance”
   *g. “Certification of Restrictions on Lobbying”
   *h. “Price Breakdown”
   *i. **“Request for Approval (RFA Form). Provided when required by the paragraph entitled “REQUEST(S) FOR APPROVAL OR DEVIATION”.”**
   *j. “Debarment and Suspension form”. Bidder must provide this document with their bid and document must be signed.
   *k. “Disputes Resolution Process”. Bidder shall designate on this Bid Form the type of disputes resolution process (Disputes Appeals Committee or Non-Binding Third Party Arbitration) that will apply to any contract resulting from this solicitation. In the event the successful bidder fails to make such designation on the Bid Form Attachment as instructed, any resulting contract will incorporate the “Disputes Appeal Committee” process for disputes resolution.
   *l. “Bidder’s Questionnaire”. Bidder must provide complete and current information in response to each question. If the bidder is a joint venture, each joint venturer shall prepare and submit a separate form.
   *m. “Americans with Disabilities ACT (ADA) Certification of Compliance”
   *n. “Motor Vehicle Pollution Requirements Certification of Compliance”

2. **Bid/Award Forms**
   *a. “Solicitation, Bid and Award”. (must be signed by bidder)
   *b. “Bid/Contract Amount, Items and Prices”.

**3. When a special license or permit is required by Federal, State or Local law or ordinance, a bidder must be properly licensed prior to bidding and furnish evidence of such with the bid.**

* Provide with Bid
** Provide if applicable
SECTION II - FORMS FOR BIDDING/PROPOSING

1 DISADVANTAGED BUSINESS ENTERPRISES (DBE)

I hereby certify that the Bidder has complied with the requirements of 49 CFR 26, Participation by Disadvantaged Business Enterprises in DOT Programs, and it has submitted a goal to Federal Transit Administration and it has not been disapproved.

Signature: __________________________________
Typed Name: __________________________________
Title:  __________________________________
Company: __________________________________
Date:  __________________________________
2 BUY AMERICA CERTIFICATE

The Bidder/Contractor hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Act of 1982, as amended, and the regulations of 49 CFR 661.11

Name of Bidder/Contractor:__________________________________________________

Date of Signing:_____________________________________________________________

Signature:_________________________________________________________________

Title:____________________________________________________________________

OR

The Bidder/Contractor hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Act, as amended, and the regulations in 49 CFR 661.7.

Name of Bidder/Contractor:__________________________________________________

Date of Signing:_____________________________________________________________

Signature:_________________________________________________________________

Title:____________________________________________________________________
3 CARGO PREFERENCE

Bidder/Contractor agrees to utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage involved (computed separately for dry bulk carriers, dry cargo liners, and tankers), 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.

Bidder/Contractor agrees 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 paragraph above to the FTA Administrator and to METRO (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20230.

Bidder/Contractor also agrees to insert the substance of the Contract article, entitled "Cargo Preference - Use of United-Flag Ships" in all subcontracts issued pursuant to the Contract.

Signature: ________________________________

Typed Name: ________________________________

Title: ________________________________

Company: ________________________________

Date: ________________________________
4 DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTOR’S CERTIFICATION

Bidder hereby certifies that its firm is not on the U.S. General Services Administration’s "List of Parties Excluded from Federal Procurement or Nonprocurement Programs" and agrees to comply with the debarment and suspension requirements set forth in the Proposed Contract.

Signature: _________________________________

Typed Name: _________________________________

Title: _________________________________

Company: _________________________________
5 VEHICLE TESTING CERTIFICATION, 49 CFR PART 665

I, ______________________________, representing the _____________________________________________________
(Representative's Name)     (Bidder's Name)
______________________, do hereby certify that the vehicles offered in response to this solicitation are subject to the "Vehicle Testing Procedures" set forth in 49 CFR Part 665. Should my firm be the successful bidder and receive award of a Contract, I further certify that the vehicles offered in response to this solicitation have been or will be tested pursuant to 49 CFR Part 665 and achieve the passing standard of the minivan model scoring system as applicable and that the test results will be furnished to METRO as specified in the Contract.

_________________________________
Representative's Signature

_________________________________
Date
6 FEDERAL MOTOR VEHICLE SAFETY STANDARD (FMVSS)

Bidder hereby certifies that the Vehicles offered in response to this Solicitation will comply with the Federal Motor Vehicle Safety Standards established by the Department of Transportation which are in effect at the time of vehicle manufacture.

Signature: _____________________________
Typed Name: _____________________________
Title: _____________________________
Company: _____________________________
Date: _____________________________
Bidder hereby agrees to make available in its office, at all reasonable times, all records and documents pertaining to this solicitation in sufficient detail to permit METRO's Auditor and Quality Control Inspector to perform Pre-award audits of the vehicles offered in response to this Solicitation, for compliance with the specification and Buy America requirements, pursuant to the Federal Transit Administration's Final Rule as published in the Federal Register, dated September 24, 1991.

Signature: ____________________________
Typed Name: ____________________________
Title: _________________________
Company: _____________________________
Date: _____________________________
8 CERTIFICATION OF RESTRICTIONS ON LOBBYING

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

1) No Federal appropriated funds have been or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an office or employee of any agency, a Member of Congress, an officer or employee of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.

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

This certification is a material representation of fact upon which reliance is 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 Section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Executed this _____________________ day of ____________________, 200__.

Company Name: ____________________________________________________

By: _______________________________________________________________

(Signature of Company Official)

___________________________________________

>Title of Company Official)
9 BIDDER'S QUESTIONNAIRE

This questionnaire is an integral part of a bidder's bid, and shall be completed. Failure to provide the required information may cause rejection of your bid. All references and information shall be current and traceable. If the bidder is a joint venture, a separate form shall be prepared by each venturer.

NAME OF BIDDER: _________________________________________________________

PRINCIPAL OFFICE: _________________________________________________________
(Street Address or P. O. Number)

_________________________________________________________
(City)   (State)  Zip Code

(Area Code)____________________________________________
(Telephone Number)

1. Are you an individual ___, a partnership ___, a corporation ___, or a joint venture ___?
   (Check as applicable).

   If a partnership, list names and addresses of partners; if a corporation, list names of officers and directors and State of incorporation; if a joint venture, list names and addresses of venturers and, if any venturer is a corporation, partnership or joint venture, list the same information for each such corporation, partnership and joint venture.

2. How many years has your organization been in business as a contractor under your present business name? _______ years

3. How many people does your firm currently employ?
   A. In Texas ____________
   B. Outside Texas ____________

4. Of the people employed, what are the job classifications involved and how many people are assigned to each classification?

<table>
<thead>
<tr>
<th>Job Classification</th>
<th>No. of Employees</th>
<th>Job Classification</th>
<th>No. of Employees</th>
</tr>
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<tbody>
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</tbody>
</table>

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5. What is the total square footage of your company's facilities?

   In Harris County       Outside Harris County
   A. Inside Plant Space: __________ sqft   __________ sqft
   B. Office Space: _________ sqft   __________ sqft
   C. Outside Plant Yard: __________ sqft   __________ sqft
   D. Parking Area: _________ sqft   __________ sqft

6. List names of companies and or public bodies, that you have performed similar services for within the last twelve (12) months.

   Name of Company/ Public Body   Business Address   Contact Person   Telephone No.
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________

7. List companies and public bodies for which you have current orders for the same or similar type of equipment and services.

   Name of Company/ Public Body   Business Address   No. Of Minivans   Contact Person   Telephone No.
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________

8. Have you or your organization, or any officer or partner thereof, failed to complete a contract? ________

   If so, give details
   __________________________________________________________________________
   __________________________________________________________________________
   __________________________________________________________________________

xx
9. Is any litigation pending against your organization? _______________________
   If so, give details ____________________________________________________
   ____________________________________________________________________
   ____________________________________________________________________
   ____________________________________________________________________

10. Name your principal financial institution for financial responsibility reference.

   Name of Bank: _______________________________________________________
   Street Address: _____________________________________________________
   City and State: _______________________ Telephone: _______________
   Officer Familiar with Bidder's Account: _______________________________

11. State your firm's annual average receipts over the past 3 fiscal years:

    $_______________________

12. Provide upon request a certified financial statement for the bidder's most recently closed fiscal reporting year.

   The undersigned certifies that he is legally authorized by the bidder to make the statements and representations contained in
   this document, and represents and warrants that the foregoing information is true and accurate to the best of his knowledge, and
   intends that the Metropolitan Transit Authority, Harris County, Texas, rely thereon in evaluating the bidder.

   Name of Company: ___________________________________
   Signature: _____________________________________
   Title: _______________________________________
   Date: _______________________________________

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10 REQUEST FOR APPROVAL (RFA FORM)

(NOTE: See next page for instructions on the use of this form – must be submitted in Word format)

SOLICITATION/CONTRACT NO.________________________________________________

MANUFACTURER____________________  REPRESENTATIVE_________________________

RFA NO._________________________  DATE___________________________________

SECTION__________   PAGE NO._______________   PARAGRAPH NO.______________

MANUFACTURER'S REQUEST:

METRO'S RESPONSE:

APPROVED________________________  DENIED________________________

APPROVED AS MODIFIED______________________________

COMMENTS:

APPROVED BY:________________________  DATE________________________
11 AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

Bidder hereby certifies that the Vehicles offered in response to this Solicitation will comply with the Americans with Disabilities Act of 1990 standards established by the Department of Justice which are in effect at the time of vehicle manufacture.

Signature: _____________________________________________
Typed Name: _____________________________________________
Title: _____________________________________________
Company: _____________________________________________
Date: _____________________________________________
12 MOTOR VEHICLE POLLUTION REQUIREMENTS

A. The horsepower of the vehicle is adequate for the speed, range and terrain in which it will be required to operate and also to meet the demands of all auxiliary power equipment.

B. All gases and vapors emanating from the crankcase of a start-ignition engine are controlled to minimize their escape into the atmosphere.

C. Bidder hereby certifies that the Vehicles offered in response to this Solicitation will comply with the Clean Air Act standards established by the United States Environmental Protection Agency which are in effect at the time of vehicle manufacture.

Signature: _____________________________
Typed Name: _____________________________
Title:  _____________________________
Company: _____________________________
Date:  _____________________________
INSTRUCTION FOR USE OF REQUEST FOR APPROVAL (RFA FORM)

In order to assure full and prompt response to all requests for approval or exception to the technical specifications, Bidder is required to submit said requests on this form in **Word format**. (Use the Word file posted on the website. Please do not alter the headers on the Word file. Please do not insert tables.) If the Bidder has multiple requests for approval or exception with a particular section of the technical specifications each request shall be individually addressed with the Bidder submitting a form for each request. The lumping of a series of requests together on one form may cause METRO to deny all requests.

1. All of the bidder's RFA forms should be submitted with no more than 1 to 4 Word files. (Do not submit a separate Word file for each RFA form. Use page breaks between RFAs).

2. Support documents for the RFAs should be submitted separately for each RFA and should be clearly labeled with the corresponding RFA number. The RFA support documents can be submitted in Word, Excel or PDF format.

The Bidder shall insert the name of the manufacturer and their representatives in the space provided and note the section, paragraph and page number of METRO's technical specifications for which the request is being made. The Bidder shall sequential number their request using the space provided.

The Bidder shall submit this form and copies of any supporting documentation noted. The Bidder shall submit this form via e-mail as described in the paragraph entitled "REQUEST(S) FOR APPROVAL OR DEVIATION". METRO will not respond to any request for exception or approval that fails to use this form.

Failure to submit the Mandatory RFA's will render your bid non-responsive. All RFA's are due fifteen (15) days prior to the did due date.
## 14 MANDATORY REQUEST FOR APPROVALS (RFA)

Bidders shall submit the following **Mandatory Request For Approvals (RFA)** fifteen (15) days prior to the published bid due date. **Failure to submit the Mandatory RFA’s will render your bid non-responsive.** (All references are to Sections in Exhibit “A”)

<table>
<thead>
<tr>
<th></th>
<th>Description</th>
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<tbody>
<tr>
<td>M1</td>
<td>Complete, scaled, interior layout drawings showing seat positions, hip-to-knee room, foot room, seat height and width dimensions, aisle widths, and all other pertinent interior dimensions including wheelchair maneuverability and free floor space area of the van proposed for bid shall be submitted as a Mandatory Request For Approval</td>
</tr>
<tr>
<td>M2</td>
<td>A detailed description of all materials and their assembly to be used in the body construction of the van proposed for bid shall be submitted as a Mandatory Request For Approval</td>
</tr>
<tr>
<td>M3</td>
<td>Colored samples of all interior materials shall be submitted as a Mandatory Request For Approval</td>
</tr>
<tr>
<td>M4</td>
<td>A detailed description of all exterior lighting of the van proposed for bid that includes mounting methods and locations (including light dimensions) shall be submitted as a Mandatory Request For Approval</td>
</tr>
<tr>
<td>M5</td>
<td>Model and details describing the wheelchair lift that meets the above specifications shall be submitted as a Mandatory Request For Approval</td>
</tr>
<tr>
<td>M6</td>
<td>Model and details describing the wheelchair passenger securement system that meets the above specifications and boarding chair to be provided shall be submitted as a Mandatory Request For Approval</td>
</tr>
<tr>
<td>M7</td>
<td>A complete description of the interior climate control system being proposed by the van manufacturer for the van to be built for METRO shall be submitted as a Mandatory Request For Approval</td>
</tr>
</tbody>
</table>
SECTION III - FORMS FOR BIDDING/PROPOSING/AWARD

1 SOLICITATION, BID AND AWARD FORM

METROPOLITAN TRANSIT AUTHORITY OF HARRIS COUNTY
TEXAS
INVITATION FOR BIDS

Requisition No. 1120001801
IFB No. 4020000134
Date of Invitation: June 9, 2020
Contract No. _____________
Description of Project: Non-Emergency ADA Compliant Rear Entry Minivans

(TO BE COMPLETED BY BIDDER
BIDDER/CONTRACTOR NAME AND ADDRESS:
(Full Name of Firm, Corporation, Partnership, Joint Venturer - Type or Print)

PHONE: (   )__________________
FAX NO: (   )__________________

In compliance with the above referenced Invitation for Bids, the undersigned hereby proposes to furnish all of the resources necessary
to complete the above referenced project for the total cost listed in Section 3, Item 2 herein and in accordance with the Contract.

The undersigned agrees that this offer will remain valid for a period of one hundred twenty (120) calendar days after the date of opening
of bids. Upon written acceptance of this offer, executed by METRO and mailed or otherwise furnished within the one hundred twenty
(120) calendar day bid validity period, the bidder/contractor will within fourteen (14) calendar days (unless a longer period is allowed)
after receipt of the award documents, provide required certification of insurance and performance bond with good and sufficient surety.

Any resulting contract will consist of this form and Sections III through XII of the original solicitation. The resulting contract sets forth the entire agreement between the parties with respect to the subject matter thereof, and supersedes and replaces all proposals, negotiations, representations, and implied obligations. The obligations, liabilities and remedies set forth herein are exclusive and shall operate as limitations on any action brought in connection with this Contract, including an action in tort. The resulting contract is binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns, but shall not inure to the benefit of any third party or other person.

CAUTION - Bids shall not be qualified by exceptions to the bidding conditions.

DIRECTIONS FOR SUBMITTING BIDS: Envelopes containing bids, guarantee, or other bid documents shall be sealed, marked, and addressed as follows:

Identification: METROPOLITAN TRANSIT AUTHORITY
Procurement Division
1900 Main Street, Suite 2021
Houston, Texas 77002
P.O. Box 61429
Houston, Texas 77208-1429

NOTE: Identify the envelope containing a bid with the Project Title, Invitation for Bid (IB) Number and bid opening date and time; and Company’s name and address.
(TO BE COMPLETED BY BIDDER)

RECEIPT OF BID AMENDMENT(S): Bidder acknowledges receipt of the following Amendment(s).
(List number and date of each)

__________________________________  ___________________________  ___________________________

OFFER
(TO BE COMPLETED AND SIGNED BY BIDDER)

SIGNATURE OF BIDDER/CONTRACTOR: ATTEST:

BY:_____________________________________  BY:__________________________________

(MUST BE SIGNED BY AUTHORIZED PERSON)

NAME:_______________________________

TITLE:_______________________________

DATE:__________________________________

Note: 1) If Joint Venturer, each party shall provide the above information and sign the offer.
2) Bidder/Contractor's signature constitutes acceptance of a contract that may result from this Solicitation.

ACCEPANCE AND AWARD
(TO BE COMPLETED AND SIGNED BY METRO)

ALTERATIONS: The following alterations were made in this Contract before it was signed by METRO (Indicate "None" or list alterations)

___________________________________________________________________________________________________________

METRO and the Contractor have executed this Contract and it shall be effective on the ___ day of ____________, 2020.

METROPOLITAN TRANSIT AUTHORITY
OF HARRISCOUNTY

Executed for and on behalf of the Metropolitan Transit Authority pursuant to Resolution No. __________ of the Board of Directors on the _____ day of ____________, 2020 and on file in the office of the Assistant Secretary of the Authority.

BY:___________________________________  ATTEST:

Michael Kyme – Chief Procurement Officer

___________________________________
Assistant Secretary

APPROVED:

APPROVED AS TO FORM:

___________________________________  ___________________________________
Arthur Smiley                        Cydonii Fairfax – Executive Vice President &
Chief Financial Officer              General Counsel

APPROVED:

Debbie Sechler – EVP Administration
2 BID/CONTRACT SCHEDULE OF ITEMS AND PRICES

Bidder/Contractor agrees to furnish all resources necessary to supply and deliver FOB Destination the following described Non-Emergency ADA Compliant Rear Entry Minivans in accordance with the specifications listed in Exhibits "A" through "D" and the attached proposed Contract at the below bid prices.

Awards will be made on a per group basis.

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>FIXED PRICE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Non-Emergency ADA Compliant Rear Entry Minivans</td>
<td>300</td>
<td>EACH</td>
<td>$____________</td>
<td>$____________</td>
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<tr>
<td></td>
<td>all delivered prior to January 31, 2021.</td>
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<td>No more than, 40 vehicles delivered per week.</td>
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</table>

**Total Base Bid Amount:**

$ __________

**OPTIONS:**

METRO Board approval shall be required prior to execution of all options. Execution of each option item shall not exceed the maximum quantities listed. Prices for the option minivans shall consist of the unit price listed plus the difference in Producer Price Index (PPI) when the option is exercised as specified below.

<table>
<thead>
<tr>
<th>ITEM NO.</th>
<th>DESCRIPTION</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>PRICE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Non-Emergency ADA Compliant Rear Entry Minivans</td>
<td>up to 40</td>
<td>EACH</td>
<td>$_________</td>
<td>$____________</td>
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<tr>
<td></td>
<td>all delivered prior to July 31, 2022 but not</td>
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<td>before September 30, 2021.</td>
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<td>Provide option exercised Prior to July 31, 2021</td>
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<td>No more than, 10 vehicles delivered per week.</td>
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**Total Options Bid Amount:**

$ __________

**TOTAL BID AMOUNT:**

(Total Base Bid Amount plus Total Options Bid Amount)

(Bid Evaluations will be based on this amount)
**Price of the Option Minivans – Producer Price Index**

The Contractor hereby grants METRO and any permissible assignee options ("Options") to purchase additional minivans ("Option Minivans") according to the provided schedule. The Options shall be valid according to the provided schedule and relative to the effective date of the Contract. There shall be no minimum order quantity of Option Minivans, only maximum quantities. Subject to METRO’s right to order modifications, the Option Minivans shall have the same specifications as the Base Minivans purchased under this Contract.

METRO may exercise one or more of the listed Options by written notice to the Contractor ("Notice of Exercise of Option") at any time before the listed delivery dates of the respective Options.

The price of the Option minivans shall be the Unit Base Bid Fixed Price of the base order minivans adjusted by multiplying the Unit Base Bid Fixed Price by the following fraction: \( \frac{\text{Latest Published Preliminary Index Number Prior to Notice of Exercise of Option}}{\text{Index Number on Effective Date of the Contract}} \). The Index shall be the Producer Price Index for Truck and Bus Bodies, Series No. 1413, published by the United States Department of Labor, Bureau of Labor Statistics, or if such Index is no longer in use, then such replacement that is most comparable to the Index as may be designated by the Bureau of Labor Statistics, or as agreed by the parties.

For purposes of pricing and contract execution of an Option, the month used to determine the value of the PPI: Future Award Month for calculation of the Revised Price for Future Order shall be the month immediately preceding the month the contract execution of an Option is approved by the METRO Board.

**Samples:**

<table>
<thead>
<tr>
<th>Index Point Change</th>
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<tbody>
<tr>
<td>PPI: Future Award Month:</td>
</tr>
<tr>
<td>Less PPI: Base Award Month (Month Contract Awarded):</td>
</tr>
<tr>
<td>Equals Index Point Change:</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Index Percent Change</th>
</tr>
</thead>
<tbody>
<tr>
<td>Index Point Change</td>
</tr>
<tr>
<td>Divided By PPI: Base Award Month (Month Contract Awarded):</td>
</tr>
<tr>
<td>Equals</td>
</tr>
<tr>
<td>Results Multiplied by 100</td>
</tr>
<tr>
<td>Equals Percent Change</td>
</tr>
</tbody>
</table>

| Base Order Price with Selected Options | $225,000.00 |
| Plus Percent Change (2.25% x $225,000) | $5,062.50  |
| Revised Price For Future Order       | $230,062.50 |

Within thirty (30) days after delivery of a Notice of Exercise of Option to the Contractor, the Contractor shall submit a proposed delivery schedule. Along with the proposed delivery schedule, the Contractor will provide METRO with access to its production schedule for the purpose of the parties verifying available production capacity.

The production schedule shall include a reasonable time for mobilization and for coordinating with other vehicle orders, and it shall be based upon a production rate at least equal to the production rate actually realized with respect to the base order vehicles. If the parties are unable to agree on a production schedule, then the maximum term for the production of the Option Vehicles shall not exceed a total of nine (9) months after the date of Notice to Proceed with Option minivan production. METRO may issue a Notice to Proceed at any time after the Contractor submits its proposed delivery schedule. The Contractor shall not commence production of the Option minivans prior to issuance of the Notice to Proceed by METRO for the Option minivans incorporating the agreed production delivery schedule or the nine (9) month maximum term.
SECTION IV - DELIVERIES OR PERFORMANCE ARTICLES

1 DEFINITIONS

A. "METRO" shall mean Metropolitan Transit Authority of Harris County, Texas.

B. The term "President & Chief Executive Officer" means the President & Chief Executive Officer of the Metropolitan Transit Authority and the term "the duly authorized representative" means any person specifically authorized to act for the President & Chief Executive Officer. These representatives are authorized to obligate METRO by executing this Contract, and any modification thereto.

C. The term "Contracting Officer" means the Contract Administrator who has been designated the responsibility, by the METRO Vice Chief procurement Officer, for overall administration of the Contract, excluding the execution of contract modifications.

D. The term "Project Manager" means the technical representative who has been designated as having the responsibility for assessing the Contractor's technical performance and progress; inspecting and periodically reporting on such performance and progress during the stated period of performance, and finally certifying as to the acceptability of the Contractor's work in its entirety or any portion thereof, as required by the Contract documents.

E. Depending on the dispute resolution process selected by the Contractor at the time of bidding:
   1. The term "Contract Appeals Committee" means the METRO administrative body designated by the President & Chief Executive Officer to hear a Contractor's appeal submitted under the "Disputes" Article of this Contract.
   2. The term "Arbitrator" means the individual selected by both METRO and the Contractor to hear an appeal submitted under the "Disputes" Article of this Contract.

F. "Contractor" shall mean the individual, partnership, corporation, organization, or association contracting with METRO to furnish all materials, goods and work defined herein.

2 PERIOD OF PERFORMANCE

The period of performance shall be for three (3) years from the effective date of this Contract or until all of the vehicles have been delivered and accepted by METRO, whichever occurs last, unless otherwise modified. (Contract expected to be executed in September 2020)

3 ITEMS PURCHASED, DELIVERY AND COMPENSATION

A. The Contractor shall furnish all necessary resources required to manufacture, supply and have ready a pilot minivan for inspection by METRO.

B. A Non-Emergency ADA Compliant Rear Entry Minivan shall be built, tested and be 100-percent complete and functional before METRO will issue acceptance and approval to initiate assembly of the remaining minivans (production minivans) to be delivered under the terms of this Contract. The Contractor shall provide METRO with all manufacturing and assembly diagrams for the pilot minivan no less than 10-business days prior to the start of the pilot minivan assembly. At METRO's option, testing can include operation of the pilot minivan within METRO's service area for a period not to exceed two (2) weeks. All METRO testing of the pilot minivan shall be completed within two (2) weeks. Once complete and approved by METRO, the pilot minivan will return to the Manufacturer's facility and remain there to serve as a template for production minivans. The Contractor shall schedule the pilot minivan production and testing so that it does not alter the delivery schedule specified in Section III, Article 2 Bid/Contract Schedule of Items and Prices. The pilot minivan will be placed at the head of the production line and used by production staff to ensure production minivans are exact copies of the pilot minivan. METRO will pay the Contractor for 95% of the minivan unit fixed price listed in Section III, Article 2 Bid/Contract Schedule of Items and Prices, Item No. 1 – Non-Emergency ADA Compliant Rear Entry Minivan after the pilot minivan is accepted and the remaining 5% will be paid once the pilot minivan is delivered to METRO and final acceptance is completed.

C. Prior to the start of pilot minivan manufacturing or assembly processes, the structure of the proposed minivan model shall have undergone appropriate structural testing and/or analysis, including the complete regimen of FTA required Altoona tests, and shall have achieved the pass standard as applicable under 49 CFR Part 665, c. Prior to assembly of the first article minivan, the OEM shall provide the METRO with a completed report of Altoona testing for the proposed minivan model along with a plan of corrective action to address deficiencies, breakdowns and other issues identified during Altoona testing. The minivan model tested shall match the minivan model proposed for procurement, including structure, axles and drive-train. Base model and partial Altoona test reports are acceptable when the combination of these tests adequately represents the proposed minivan model.
D. METRO will issue a Notice to Proceed (NTP) for production of the remaining vehicles after final acceptance of the pilot minivan. **If the Contractor starts the minivan production line before the pilot minivan is accepted by METRO and the NTP issued, those minivans will not be accepted by METRO under any circumstance.** Upon receipt of the NTP the Contractor shall furnish all necessary resources required to manufacture, supply and deliver F.O.B. destination, the quantity of minivans at the price indicated in accordance with the terms and conditions of this Contract and the Technical Specifications for minivan attached hereto as applicable.

E. The Contractor shall begin delivery of the minivans after receipt of the NTP and complete delivery of all minivans according to the time frame specified in Section III, 2 Contract Schedule of Items and Prices. The Contractor shall supply METRO with a delivery schedule for the minivans within forty five (45) calendar days of receipt of the NTP.

F. The Contractor agrees that it shall exert every reasonable effort necessary to deliver all of the minivans according to the time frame specified in Section III, 2 Contract Schedule of Items and Prices. The Contractor agrees to notify METRO immediately if, at any time, it appears that all of the minivans will not be delivered according to the time frame specified in Section III, 2 Contract Schedule of Items and Prices. Such notification shall include the reasons for any possible delays, steps being taken to remedy any such problems, and a proposed revised delivery schedule, if the Contractor is of the opinion that such a change in delivery is required. Nothing herein shall be interpreted as waiving remedies otherwise available to METRO.

G. Delivery shall be to the following F.O.B. destination points:

**Minivan to:** METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY, TEXAS
Attn: Andrei Dragomir
Facilities Service Center
1215 Labco
Houston, Texas 77029

Deliveries may be made between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday.

**Final Manuals to:** METROPOLITAN TRANSIT AUTHORITY
OF HARRIS COUNTY, TEXAS
Attn: Michael Southwell
1900 Main, 8th Floor (77002)
Post Office Box 61429
Houston, Texas 77208-1429

Deliveries may be made between the hours of 9:00 a.m. and 3:00 p.m., Monday through Friday.

H. The Contractor shall be responsible for all items purchased hereby until delivered at the designated F.O.B. delivery point, and accepted by METRO unless damage results from the negligence of officers, agents, or employees of METRO arising within the scope of their employment. The Contractor shall bear all risks as to rejected items after notice of rejection.

I. Unless otherwise specified in the Contract Documents, reference to standard specifications of any technical society, organization or association, or to codes of local or state authorities, shall mean the latest standard, code specification, or tentative specification adopted and published and in effect on the Contract date.

J. Notwithstanding the provision of drawings, technical specifications, or other data by METRO, the Contractor shall have the responsibility of supplying all parts and details required to make each vehicle complete and ready for service even though such details may not be specifically mentioned in the drawings and specifications. In the event of any deviation between the description of the vehicles in the Technical Specifications and other parts of this document the technical specifications shall govern.

4 LIQUIDATED DAMAGES

A. **In the event of delay in the completion of deliveries of vehicles beyond the schedule as provided for according to the time frame specified in Section III, 2 Contract Schedule of Items and Prices, the Contractor shall be liable for liquidated damages in the amount of Seven Hundred Sixty-Six and no/100 Dollars ($766.00) per day plus Sixteen and 71/100 dollars ($16.71) per day per minivan, not including weekends or METRO recognized holidays.**

B. These damages shall be deducted from any monies due, or which may thereafter become due, to the Contractor under this Contract.
C. The maximum amount of liquidated damages to which the Contractor will be subject is One Million and No/100 Dollars ($1,000,000.00). In the event the Contract has not been otherwise terminated, the Contract will be considered terminated for default when accumulated liquidated damages exceed One Million dollars.

5 FORCE MAJEURE

A. To the extent that the Contractor shall be wholly or partially prevented from its performance within the terms specified of any obligation or duty placed on the Contractor by reason of or through riot, acts of war, acts of terrorism, insurrection, by order of court, legislative action, act of God, or specific cause reasonably beyond the parties' control and not attributable to its neglect or nonfeasance, in such event, the time for the performance of such obligation or duty may be suspended until such disability to perform is removed. Determination of force majeure shall rest solely with METRO.

B. In the event the Contractor seeks to characterize an event as a “Force Majeure Event,” the Contractor shall have the obligation to immediately notify METRO at the time the Contractor becomes aware of said force majeure event. Further, the Contractor shall have the obligation to provide METRO with written notice upon the cessation of said Force Majeure event.

6 NOTIFICATION OF DELAY

The Contractor shall notify the Contracting Officer as soon as the Contractor has, or should have, knowledge that an event has occurred which will delay deliveries. Within five (5) days, the Contractor shall confirm such notice in writing furnishing as much detail as is available.

7 REQUEST FOR EXTENSION

The Contractor agrees to supply, as soon as such data are available, any reasonable proofs that are required by the Contracting Officer to make a decision on any request for extension. The Contracting Officer shall examine the request and any documents supplied by the Contractor and shall determine if the Contractor is entitled to an extension and the duration of such extension. The Contracting Officer shall notify the Contractor of his decision in writing. It is expressly understood and agreed that the Contractor shall not be entitled to damages or compensation, and shall not be reimbursed for losses on account of delays resulting from any cause under this Article.

8 METRO DELAY OF WORK

A. If the performance of all or any part of the work is delayed or interrupted by an act of the Contracting Officer in the administration of this Contract, which act is not expressly or implicitly authorized by this Contract, or by his failure to act within the time specified in this Contract (or within a reasonable time if no time is specified), an adjustment (excluding profit) shall be made for any increase in the cost of performance of this Contract caused by such delay or interruption. However, no adjustment shall be made under this Article for any delay or interruption (i) to the extent that performance would have been delayed or interrupted by any other cause, including the fault or negligence of the Contractor; or (ii) for which an adjustment is provided or excluded under any other provision of this Contract.

B. No claim under this Article shall be allowed (i) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved; and (ii) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such delay or interruption, but not later than the date of final payment under the Contract.

9 PERFORMANCE BOND OR LETTER OF CREDIT

The Contractor shall furnish a Performance Bond or irrevocable Letter of Credit payable in an amount equal to five percent (5%) of the Contract amount. The Performance Bond or Letter of Credit shall remain in effect through delivery, acceptance and final payment of the last vehicle, at which time it will be released back to the Contractor. If a Performance Bond is utilized, the bonding company providing the bond must be approved for the amount of bond on U.S. Department of Treasury Circular C570 and licensed to do business in the State of Texas. If an irrevocable Letter of Credit is utilized it must be issued on a US bank and it must be payable on METRO’s first demand. The Performance Bond or Letter of Credit shall be submitted to the Contracting Officer within fourteen (14) calendar days after receipt of a copy of the executed Contract. The Contractor will not be allowed to proceed with production until a properly executed bond or letter of credit is received and accepted by the Contracting Officer.

10 ASSIGNMENT OF VEHICLES
METRO reserves the right to assign all or any portion of the vehicles awarded under this Contract to other grantees of FTA funds in accordance FTA Circular 4220.1F or any of its successors. This assignment, should it occur, shall be to other transit agencies and will be honored by the Contractor. METRO’s right of assignment will remain in force until completion of the Contract.

11 MATERIALS AND WORKMANSHIP

The Contractor shall be responsible for all materials and workmanship in the construction of the minivans and all accessories used, whether the same are manufactured by the Contractor or purchased from a Supplier. This provision excludes any equipment leased or supplied by METRO, except insofar as such equipment is damaged by the failure of a part or component for which the Contractor is responsible, or except insofar as the damage to such equipment is caused by the Contractor during the manufacture of the minivan.

12 CONFORMANCE WITH CONTRACT AND SPECIFICATIONS

A. Materials furnished and Work performed by the Contractor shall conform to the requirements of the Specifications, Exhibit “A” and other Contract documents. Notwithstanding the provision of drawings, specifications or other data by METRO, the Contractor shall have the responsibility of supplying all parts and details required to make the minivan complete and ready for service even though such details may not be specifically mentioned in the drawings and specifications. Items that are installed by METRO shall not be the responsibility of the Contractor unless they are included in this Contract.

B. The Contractor shall comply with all applicable federal, state and local regulations. These shall include but not be limited to ADA, as well as state and local accessibility, safety and security requirements. Local regulations are defined as those below the state level. Minivan shall meet all applicable FMVSS and shall accommodate all applicable FMCSR regulations in effect at location of METRO and the date of manufacture. In the event of any conflict between the requirements of these specifications and any applicable legal requirement, the legal requirement shall prevail. Technical requirements that exceed the legal requirements are not considered to conflict.

13 REPAIRS AFTER NON-ACCEPTANCE

A. The Contractor, or its designated representative, shall perform the repairs after non-acceptance. If the Contractor fails or refuses to begin the repairs within five (5) days, then the Work may be done by METRO’s personnel with reimbursement by the Contractor.

B. Repair Performance

1. Repairs by Contractor. After non-acceptance of the minivan, the Contractor must begin Work within five (5) working days after receiving notification from METRO of failure of acceptance tests. METRO shall make the minivan available to complete repairs timely with the Contractor repair schedule.

The Contractor shall provide, at its own expense, all spare parts, tools and space required to complete the repairs. At METRO’s option, the Contractor may be required to remove the minivan from METRO’s property while repairs are being made. If the minivan is removed from METRO’s property, repair procedures must be diligently pursued by the Contractor’s representatives, and the Contractor shall assume risk of loss while the minivan is under its control.

2. Repairs by METRO. METRO will not take responsibility to correct Defects, except to replace defective parts as instructed by the Contractor.

   a. Parts used. If METRO performs the repairs after non-acceptance of the minivan, it shall correct or repair the Defect and any Related Defects using Contractor-specified parts available from its own stock or those supplied by the Contractor specifically for this repair. Reports of all repairs covered by this procedure shall be submitted by METRO to the Contractor for reimbursement or replacement of parts monthly, or at a period to be mutually agreed upon. The Contractor shall provide forms for these reports.

   b. Contractor-supplied parts. If the Contractor supplies parts for repairs being performed by METRO after non-acceptance of the minivan, these parts shall be shipped prepaid to METRO.

   c. Return of defective components. The Contractor may request that parts covered by this provision be returned to the manufacturing plant. The total costs for this action shall be paid by the Contractor.

   d. Reimbursement for labor. METRO shall be reimbursed by the Contractor for labor. The amount shall be determined by METRO for a qualified mechanic at a straight time wage rate of $95.00 per hour, which includes fringe benefits and overhead adjusted for METRO’s most recently published rate in effect at the time the Work is performed, plus the cost of towing in the minivan, if such action was necessary. These wage and fringe benefits rates shall not exceed the rates in effect in METRO’s
e. Reimbursement for parts. METRO shall be reimbursed by the Contractor for defective parts that must be replaced to correct the Defect. The reimbursement shall include taxes where applicable and fifteen (15) percent handling costs.

14 PREPRODUCTION CONFERENCE APPROVALS

See Exhibit “A”, Appendix 2 for a list of items requiring METRO approval during the Preproduction Conference.

15 CHANGES OF LAW

Changes of Law that become effective after the Bid Due Date may result in price changes. If a price adjustment is indicated, either upward or downward, it shall be negotiated between METRO and the Contractor and the final Contract amount will be adjusted upwards or downwards to reflect such changes in Law. Such price adjustment maybe audited, where required.

16 TEXAS ETHICS COMMISSION (TEC) ELECTRONIC FILING

In the event this Contract requires the approval of METRO’s Board of Directors, the Contractor shall submit to METRO, after notification that METRO’s Board has authorized the Contract and prior to final execution of the Contract, a completed, signed and notarized Form 1295 generated by the Texas Ethics Commission’s (the “TEC”) electronic filing application in accordance with the provisions of Section 2252.908 of the Texas Government Code and the rules promulgated by the TEC (a “Form 1295”). The Contractor hereby confirms and agrees to submit such forms with the TEC through its electronic filing application at: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
SECTION V - INSPECTION AND ACCEPTANCE ARTICLES

1 VEHICLE INSPECTION AND ACCEPTANCE

A. Predelivery inspection and test, for all vehicles in Section IV above, shall be performed at the Contractor's plant in accordance with Contract Exhibit "A", Section 6, "Contractor's In-Plant Quality Assurance". METRO's Resident Inspector shall authorize release of each vehicle for delivery upon satisfactory completion of all in-plant inspections and tests. Drivers shall keep a maintenance log enroute for vehicles, which are driven to the destination point. A copy of this log shall be provided to METRO upon delivery.

B. Within fifteen (15) calendar days after arrival at the destination point the vehicle will undergo METRO post-delivery test as defined in the Technical Specifications. If the vehicle fails these tests, the Contractor shall be notified and the vehicle shall not be accepted until the defects have been corrected.

2 CONDITIONAL ACCEPTANCE

METRO may withhold up to 3 percent of the total cost of each delivered and accepted vehicle to assure correction of early failures and fleet defects. The withheld funds shall be paid in full to the Contractor within thirty (30) days of vehicle acceptance, unless specific defects are found in the vehicle or it is subject to a fleet defect. The defect(s) found shall be described and submitted in writing, including the minivan specification requirement, to the Contractor when identified and within the 30 day withholding period. The withheld funds shall be paid in full to the Contractor upon repair of the vehicle or receipt of a written commitment from the Contractor reflecting a mutual agreement to resolve the identified deficiencies. The withheld funds are not subject to the late payment provisions of this Contract.

3 FIRST ARTICLE INSPECTION – PRODUCTION (Not Applicable)

A. The purpose of the first article inspection is to confirm that any components, systems, subsystems, major assemblies, subassemblies, products, parts, apparatuses, articles and other materials comply with the Technical Specifications and other Contract documents.

B. Where required by the Contract documents or requested by METRO, the Contractor shall cause first article inspections to be conducted. A first article inspection may include both a physical configuration inspection and a functional demonstration. First article inspections shall be conducted at the Contractor or Subcontractor’s facility. The Contractor shall furnish to METRO prior to each first article inspection a written inspection and demonstration plan for each item for review. METRO's inspectors will attend each first article inspection unless METRO provides a written waiver of its right to attend any such inspection. The results of each first article inspection shall be documented by the Contractor in a format deemed acceptable by METRO, and all documents relating to the inspection shall be forwarded to METRO.

4 TESTING OF NEW MINIVAN MODELS

The Contractor agrees to comply with 49 USC A 5323(c) and FTA’s implementing regulation at 49 CFR Part 665 and shall perform the following:

A. A manufacturer of a new minivan model or a minivan produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient, which will be prior to the recipient’s final acceptance of the first vehicle.

B. A manufacturer who releases a report under Paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.

C. If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient’s final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer’s basis for concluding that it is not a major change requiring additional testing.

D. If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle’s configuration and major components.
SECTION VI - CONTRACT ADMINISTRATION DATA ARTICLES

1 COMPENSATION

A. The Contractor shall be compensated for the items ordered, installed and accepted at the firm fixed unit prices as provided in the Bid/Contract Schedule of Items and Prices of this Contract.

B. METRO's total obligation for the satisfactory performance of this Contract shall not-to-exceed _____________ 00/100 Dollars ($_________.), less any prompt payment discount earned or set forth below, and in accordance with the payment provisions of this Contract.

C. METRO Board approval shall be required prior to execution on all options increasing the total contract amount.

2 INVOICING AND PAYMENT

A. The Contractor shall submit an original invoice and the corresponding certificate of origin, application for Texas title and FMVSS certifications for each minivan for payment to the address shown below for the item(s) or service(s) performed, which have been inspected and accepted by METRO:

Michael Southwell
METROPOLITAN TRANSIT AUTHORITY
1900 Main St. Suite 8128
Houston, Texas 77002

B. METRO shall pay the amount due the Contractor under this Contract after presentation with each invoice.

C. METRO is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales, Excise and Use Tax. METRO's Federal Excise Tax Number is 76-79-0020K and METRO's State Tax Exempt Number is 1-74-1998278-4. The Contractor's invoices shall not contain assessment of any of these taxes on materials incorporated into the project.

D. Payments will be made within thirty (30) calendar days after receipt of a properly prepared invoice, which shall not be issued until the minivans are accepted by METRO. Payment shall be considered made when METRO deposits the Contractor's payment in the mail or the date on which an electronic transfer of funds was made. Interest on payments under this Contract shall accrue and be paid only in accordance with the provisions of "Government Code, Title 10, Chapter 2251, Vernon's Texas Codes Annotated" which shall be the Contractor's sole remedy under this Article. Discount(s) offered by Contractor for early payment(s), as stipulated below, if any, will be taken by METRO if payment is made within the discount period specified.

   _____% 10 days   _____% 15 days   _____% _____ days

E. Contractor's final invoice for work performed under this Contract shall be accompanied by a completed copy of the Exhibit B entitled "CONTRACTOR'S RELEASE". If this Contract has been assigned, a release of claims is also required of the assignee.

3 CONTRACTOR REPRESENTATIVE

Prior to start of Contract performance, the Contractor shall advise METRO in writing of the primary and alternate representative (including phone number) who will have management responsibility for the total Contract effort to receive and act on technical matters and resolve problems of a contractual nature.

4 NOTICES

All notices to either party by the other shall be delivered personally or sent by U.S. registered or certified mail, postage prepaid, addressed to such party at the following respective addresses for each:

METRO: Michael Southwell
METROPOLITAN TRANSIT AUTHORITY
1900 Main, Suite 8128
Houston, Texas 77002

Contractor:
and shall be deemed given on the date so delivered or so deposited in the mail, unless otherwise provided herein. Either party hereto may change the above address by sending written notice of such change of address to the other in the manner provided for above.
SECTION VII - INSURANCE ARTICLES

1 INSURANCE REQUIREMENT

1. CONTRACTOR'S INSURANCE

A. The Contractor shall purchase and maintain in effect during the entire period of this contract, including any maintenance period thereof, insurance of the types and with minimum limits of liability as stated below. Such insurance shall protect Contractor from claims which may arise out of or result from Contractor's operations whether such operations are performed by Contractor or by any subcontractor or by anyone for whose acts any of them may be liable.

WORKERS' COMPENSATION INSURANCE providing Statutory Benefits in accordance with the Workers' Compensation Act of the State of Texas and/or any other State or Federal law as may be applicable to the work being performed under this contract. EMPLOYER'S LIABILITY with limits of liability not less than:

- $1,000,000 Each Accident
- $1,000,000 Each Employee for Disease
- $1,000,000 Policy Limit for Disease

• Policy shall be endorsed with a waiver of subrogation recognizing the waiver of all rights of subrogation or recovery against METRO as stated in paragraph B. below.

COMMERCIAL GENERAL LIABILITY utilizing Insurance Services Office Form CG 00 01 or its substantial equivalent providing coverage on an "occurrence" basis, including bodily injury, property damage, and products and completed operations with limits no less than:

- $1,000,000 Each Occurrence
- $2,000,000 General Aggregate
- $2,000,000 Products and Completed Operations Liability Aggregate

• Policy shall be endorsed to name METRO and its directors and employees, as Additional Insureds as respects Contractor's ongoing and completed operations in performance of this contract.

• Policy shall be endorsed with a waiver of subrogation recognizing the waiver of all rights of subrogation or recovery against METRO as stated in paragraph B. below.

• Such insurance shall be primary and non-contributing with any other valid and collectible insurance or self-insurance available to METRO.

• Contractor may alternatively provide General Liability coverage on a "claims-made" basis. If this is the case, Contractor shall maintain such General Liability insurance for not less than five years following completion of services performed under this contract and shall so evidence by Certificate of Insurance each year.

BUSINESS AUTOMOBILE LIABILITY utilizing Insurance Services Office Form CA 00 01 or its substantial equivalent including liability coverage for all autos owned, rented, hired or borrowed by the Contractor, as well as liability coverage for mobile equipment subject to compulsory insurance or financial responsibility laws or other motor vehicle insurance laws with the following minimum limit:

- $1,000,000 Any One Accident- Combined Single Limit

• Policy shall be endorsed to name METRO and its directors and employees, as Additional Insureds as respects Contractor's operations in performance of this contract.

• Policy shall be endorsed with a waiver of subrogation recognizing the waiver of all rights of subrogation or recovery against METRO as stated in paragraph B. below.

• Such insurance shall be primary and non-contributing with any other valid and collectible insurance or self-insurance available to METRO.

UMBRELLA LIABILITY provided in excess of the underlying Commercial General Liability with the following minimum limits:

- $5,000,000 Each Occurrence
- $5,000,000 Aggregate

Such Umbrella Liability policy shall be follow form of all coverage and endorsements included the underlying Commercial General Liability, Business Automobile Liability, Employers' Liability insurance and shall expressly provide that the umbrella or excess policy will drop down over a reduced or exhausted aggregate limit of the underlying insurance.
PROPERTY written on an All-Risk form, providing replacement cost coverage for property damage to METRO's owned property in the care, custody, and control of contractor while on contractor's premises, or in transit.

The following provisions apply with respect to all insurance coverages required above.

The insurance coverages required in this section shall not limit the Contractor's liability, or limit the indemnification provisions set forth herein.

If the Contractor maintains higher limit than the minimums shown above, METRO requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specific minimum limits of insurance and coverage shall be available to METRO.

The limits of liability as required above may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies. But in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required above.

All policies of insurance presented as proof of compliance with the above requirements shall be on forms and with insurance companies approved by METRO. All such insurance policies shall be provided by insurance companies having Best's ratings of A- or greater and VI or greater (A-/VI) as shown in the most current issue of Best's Key Rating Guide. Policies of insurance issued by insurance companies not rated by Best's or having Best's ratings lower than A-VI will not be accepted as complying with the insurance requirements of the contract unless such insurance companies were approved in writing prior to award of contract.

B. Contractor agrees to waive all rights of subrogation or recovery against METRO and its directors and/or employees arising out of any claims for injury(ies) or damages resulting from the work performed by or on behalf of Contractor under this agreement and/or the use of any METRO premises or equipment in the performance of this agreement.

C. Proof of compliance with these insurance requirements shall be furnished to METRO in the form of an original certificate of insurance including the endorsements mentioned in section A. above, or copies of the applicable policy language effecting required coverage signed by an authorized representative or agent of the insurance company(ies), within fourteen (14) days of notice of award of contract and before any work under this contract will be allowed to commence. Certificates will be unacceptable unless they clearly show that all of the above stipulated requirements have been met. Renewal or replacement certificates shall be furnished METRO not less than seven (7) days prior to the expiration or termination date of the applicable policy(ies). Otherwise, METRO may halt all work under this contract upon expiration or other termination of any required coverage, and work will not be allowed to resume until a satisfactory renewal certificate is received.

D. The Certificate Holder shall read as follows on the Certificate of Insurance:

Metropolitan Transit Authority of Harris County, TX (METRO)
1900 Main St
Houston, TX 77002

E. Contractor shall require any and all subcontractors performing work under this contract to obtain and maintain the insurance coverage specified in this section. Such insurance shall be endorsed to name METRO and its directors, officers and employees as Additional Insured as respects to subcontractor's operations in performance of this contract. In addition, subcontractor and their respective insurers providing the required insurance coverage will waive all rights of subrogation or recovery against METRO providing such coverage shall be endorsed to recognize this required waiver of subrogation. The insurance limits may be provided through a combination of primary and excess policies, including the umbrella form of policy. In the event a subcontractor is unable to furnish insurance in the limits required under this contract, the Contractor shall endorse the subcontractor as an Additional Insured on its General Liability and Automobile Liability policies and provide METRO a certificate of insurance showing such coverage.

Such insurance will be primary and non-contributing with any other insurance and be in a form and from insurance companies reasonably acceptable to METRO.

Any request to deviate from the stipulated insurance limits required of subcontractor must be approved by METRO and will be based solely on the scope of work to be performed by the subcontractor. Contractor shall obtain and make available for inspection by METRO upon request current certificates of insurance evidencing insurance coverages carried by subcontractor.

2 INDEMNIFICATION AGREEMENT

A. CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD HARMLESS METRO, ITS DIRECTORS AND EMPLOYEES FROM AND AGAINST ANY AND ALL CLAIMS, LOSSES, DAMAGES, CAUSES OF ACTION, SUITS AND LIABILITY
OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS AND ATTORNEY’S FEES, FOR BODILY INJURY, SICKNESS, DISEASE OR DEATH OF ANY PERSON, OR FOR DAMAGES TO ANY PROPERTY, INCLUDING CONSEQUENTIAL DAMAGES OR LOSS OF USE THEREOF, BROUGHT OR RECOVERABLE BY THIRD PARTIES AGAINST METRO, ITS DIRECTORS AND/OR EMPLOYEES AND ARISING OUT OF OR RESULTING FROM ANY NEGLIGENT ACT OR OMISSION BY CONTRACTOR IN THE PERFORMANCE OF THIS CONTRACT. CONTRACTOR AGREES TO PROVIDE ACKNOWLEDGEMENT OF INDEMNIFICATION WITHIN TEN DAYS FROM RECEIPT OF DEMAND FOR INDEMNIFICATION FROM METRO.

B. THE INDEMNITY PROVIDED FOR IN THIS ARTICLE SHALL HAVE NO APPLICATION TO ANY CLAIM, LOSS OR DAMAGE, CAUSE OF ACTION, SUIT OR LIABILITY BROUGHT OR RECOVERABLE AGAINST METRO, ITS DIRECTORS AND/OR EMPLOYEES TO THE EXTENT THE INJURY, DEATH OR DAMAGE RESULTS SOLELY FROM A GROSS NEGLIGENT ACT OR WILLFUL BEHAVIOR BY METRO.
SECTION VIII - SMALL BUSINESS PROGRAM ARTICLES

1 DISADVANTED BUSINESS ENTERPRISES

   A. Policy: It is the policy of the U.S. Department of Transportation and METRO that Disadvantaged Business Enterprises (DBE) as defined in 49 CFR Part 26.49 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently the DBE requirements of 49 CFR Part 26 apply to this Contract.

   B. DBE Obligation: The Contractor agrees to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Contract. In this regard, all Contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of contracts assisted by the Department of Transportation.
SECTION IX - SPECIAL TERMS AND CONDITIONS ARTICLES

1 DATA RIGHTS

A. Proprietary Rights/Rights in Data. The term “subject data” used in this clause mean recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract and is specifically identified by the Contractor in contract bid documents as confidential information. It can include the proprietary rights of the following:

1. Shop drawings and working drawings
2. Technical data including manuals or instruction materials, computer or microprocessor software
3. Patented materials, equipment, devices or processes
4. License requirements

B. METRO shall protect proprietary information provided by the Contractor to the fullest extent of the law. The Contractor shall grant a non-exclusive license to allow METRO to utilize such information in order to maintain the vehicles. In the event that the Contractor no longer provides the information METRO has the right to reverse engineer patented parts and software.

C. METRO reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the following subject data in order to operate or maintain the vehicles: (1) any subject data required to be developed and first produced in the performance of the Contract and specifically paid for as such under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright to which the Contractor, Subcontractor or Supplier purchases ownership for the purpose of performance of the Contract and specifically paid for as such under the Contract. The Contractor agrees to include the requirements of this clause, modified as necessary to identify the affected parties, in each subcontract and supply order placed under the Contract.

D. Access to Onboard Operational Data. METRO grants to the Contractor the right to inspect, examine, download, and otherwise obtain any information or data available from components provided by the Contractor, including, but not limited to, any electronic control modules or other data-collection devices, to the extent necessary to enable Contractor to perform reliability maintenance analysis, corrective action and/or other engineering type Work for the minivans. This right expressly excludes access to information or data collected on any equipment not provided and installed by the Contractor.

2 SOFTWARE

Upon execution of the Contract, the Contractor shall provide METRO a list of all OEM software comprising proprietary works (“Proprietary Software”) for all major vehicle subsystems. From time to time and only upon request, information contained within the listed software may be made available to METRO through the OEM of the vehicle subsystem. The Contractor and OEM are not obligated to provide copies of source code as this is proprietary intellectual property; however, the Contractor is obligated to assist METRO with any technical assistance for the duration of the life of the vehicle.

3 AVAILABILITY OF FUNDS FOR THE NEXT FISCAL YEAR

Funds are presently available for performance under this contract beyond the fiscal year which ends September 30, 2020. METRO’s obligation for performance of this contract beyond that date is contingent upon availability of funds from which payment for contract purposes can be made. No legal liability on the part of METRO for any payment may arise under this contract until funds are made available to the Contracting Officer for performance and until the Contractor receives notice of availability, to be confirmed in writing, by the Contracting Officer. Any option exercised by METRO which will be performed in whole or in part in a subsequent fiscal year is subject to availability of funds in the subsequent fiscal year is subject to availability of funds in the subsequent fiscal year and will be governed by the terms of this Article.
SECTION X - GENERAL TERMS AND CONDITIONS

1 TITLE

Adequate documents for securing title and license plates for the vehicles in Houston, Texas shall be provided to METRO at least thirty (30) calendar days before each vehicle is released for delivery to METRO. Following final acceptance of each vehicle, the Contractor warrants that the title shall pass to METRO free and clear of all liens, mortgages and encumbrances, financing statements, security agreements, claims, and demands of any character.

2 COMPLIANCE WITH LAWS/PERMITS AND LICENSES

The Contractor shall give notices and comply with all Federal, State and Municipal laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of this Contract, including, but not limited to, the laws referred to in this Contract. If the Contractor or METRO observes that this Contract is at variance therewith in any respect, the observing party shall promptly notify the other party in writing, and any necessary changes shall be adjusted by appropriate contract modification. Upon request, the Contractor shall furnish to METRO certificates of compliance with all such laws, ordinances, rules, regulations and orders. The Contractor shall also be responsible for obtaining all necessary permits and licenses required for performance under the Contract.

3 METRO-FURNISHED PROPERTY

A. METRO shall provide the property specifically described in the Technical Specifications to the Contractor, for use only in connection with this Contract.

B. Title to METRO-furnished property shall remain with METRO. The Contractor shall maintain adequate property control records of METRO-furnished property in accordance with sound industrial practice.

C. Unless otherwise provided in this Contract, the Contractor, upon delivery to him of any METRO-furnished property, assumes the risk of, and shall be responsible for, any loss thereof or damage thereto except for reasonable wear and tear, and except to the extent that such property is consumed in the performance of this Contract.

D. The Contractor shall, upon completion of this Contract, prepare for return or dispose of all METRO-furnished property not consumed in the performance of this Contract or not theretofore delivered to the METRO, as may be directed or authorized by the Contracting Officer or his designee. The net proceeds of any such disposal shall be credited to the Contract price or paid in such other manner as the Contracting Officer or his designee may direct.

4 WARRANTY

The Contractor agrees that the vehicles provided under this Contract shall be covered by the warranty requirements specified in Exhibit "A" and that the rights and remedies provided therein are in addition to and do not limit any rights afforded to METRO by any other provision of this Contract or by laws.

5 SERVICE LOCATION

The Contractor shall have the capability to perform warranty covered repairs on the vehicles in the Houston metropolitan area. In the event of a fleet defect or if warranty repairs to the basic body structure are required, the Contractor shall follow the repair procedures specified in Contract Exhibit “A”, Section 4.1 "Warranty Requirements". The Contractor shall have sufficient engineering, technical and support personnel to perform warranty and/or retrofit work Monday through Friday between the hours of 8:00 a.m. and 5:00 p.m.

6 CHANGES

A. The METRO President & Chief Executive Officer or the duly authorized representative may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Contract in any one or more of the following:

1. Drawings, designs or specifications,
2. Method of shipment, or packing
3. Place of delivery,

B. If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of
this Contract, whether or not changed by the order, the President & Chief Executive Officer or the duly authorized representative shall make an equitable adjustment in the Contract price, the delivery schedule, or both, and shall modify the Contract.

C. The Contractor must submit any "proposal for adjustment" under this Article within thirty (30) calendar days from the date of receipt of the written order. However, if the President & Chief Executive Officer or the duly authorized representative decides that the facts justify it, the President & Chief Executive Officer or the duly authorized representative may receive and act upon a proposal submitted before final payment of the Contract.

D. If the Contractor's proposal includes the cost of property made obsolete or excess by the change, the President & Chief Executive Officer or the duly authorized representative shall have the right to prescribe the manner of the disposition of the property.

E. Failure to agree to any adjustment shall be a dispute under the "Disputes" Article of the Contract. However, nothing in this Article shall excuse the Contractor from proceeding with the Contract as changed.

F. Except for those changes properly authorized and executed as provided in this Article, the Contractor shall notify the Contracting Officer in writing promptly within fifteen (15) calendar days from the date that the Contractor identifies any METRO conduct (including actions, inactions and written or oral communications) that the Contractor regards as a change to the Contract terms and conditions. This notification shall contain all information available to the Contractor regarding the change. Contractor's failure to provide notification as required herein may jeopardize being compensated for the change if in fact a change has been made.

7 DISPUTES

Any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement will be decided by the Contracting Officer, who will reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Contracting Officer will be final unless, within ten (10) calendar days from the date of receipt of such copy, the Contractor mails or otherwise furnishes to the Contracting Officer a written appeal addressed to the METRO Contract Appeals Committee. The Contract Appeals Committee will be designated by the President & Chief Executive Officer and will hear the Contractor's appeal and make a recommendation to the President & Chief Executive Officer for the final decision. In connection with any appeal proceeding under this Article, the Contractor will be afforded an opportunity to be heard and to offer evidence in support of his appeal. The decision of the President & Chief Executive Officer will be final and conclusive with respect to the Contractor's administrative remedies under this Disputes Article. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's decision. This Disputes Article does not preclude consideration of questions of law in connection with decisions provided for above. Nothing in this Contract, however, shall be construed as making final the decision of any administrative official, representative, or committee on a question of law.

8 TERMINATION FOR CONVENIENCE OF METRO

A. The performance of work under this Contract may be terminated by METRO in accordance with this Article in whole, or from time to time in part, whenever the Contracting Officer shall determine that such termination is in METRO's best interest. Any such termination shall be effected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

B. After receipt of a notice of termination, and except as otherwise directed by the Contracting Officer, the Contractor shall:

1. Stop work under the Contract on the date and to the extent specified in the notice of termination;
2. Place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated;
3. Terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination;
4. Assign METRO in the manner, at the times, and to the extent directed by the Contracting Officer, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case METRO shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
5. Settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval of ratification of the Contracting Officer, to the extent he may require, which approval or ratification shall be final for all the purposes of this Article;
6. Transfer title to METRO and deliver in the manner at the times and to the extent if any, directed by the Contracting Officer the fabricated or unfabricated parts, work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of, the work terminated, and the completed or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to METRO;

7. Use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed or authorized by the Contracting Officer, any property of the types referred to above, provided, however, that the Contractor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the Contracting Officer, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by METRO to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the Contracting Officer may direct;

8. Complete performance of such part of the work as shall not have been terminated by the notice of termination; and take such action as may be necessary, or as the Contracting Officer may direct, for the protection or preservation of the property related to this Contract which is in the possession of the Contractor and in which METRO has or may acquire an interest.

C. Settlement of claims by the Contractor under this "Termination for Convenience" Article shall be in accordance with the provisions set forth in Federal Acquisition Regulations (FAR) 52.249-2 (c) (d), (e), (f), (g), (h), (i), (j), and (k) except that wherever the word "Government" appears it shall be deleted and the word "METRO" shall be substituted in lieu thereof.

9 TERMINATION FOR DEFAULT

A. METRO may, subject to paragraphs D and E below, by written notice of default to the Contractor, terminate this Contract in whole or in part if the Contractor fails to make delivery within the time and in the manner specified in this Contract or any extension thereof; or fails to perform any of the other material provisions of this Contract.

B. METRO's right to terminate this Contract may be exercised if the Contractor does not cure the condition or conditions constituting default within ten (10) calendar days (or such longer period as may be authorized in writing by the Contracting Officer) after receipt of the notice from the Contracting Officer specifying the failure.

C. If METRO terminates this Contract, it may acquire, under the terms and in the manner the Contracting Officer considers appropriate, item(s) similar to that terminated, and the Contractor will be liable to METRO for any excess costs.

D. Except for defaults of subcontractors at any tier, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises from causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include:

1. Acts of God or of the public enemy,
2. Acts of METRO in its contractual capacity,
3. Fires,
4. Floods,
5. Epidemics,
6. Quarantine restrictions,
7. Strikes,
8. Unusually severe weather,

In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.

E. If the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either, the Contractor shall not be liable for any excess costs for failure to perform, unless the subcontracted work was obtainable from other sources in sufficient time for the
Contractor to meet the required performance schedule.

F. METRO shall pay the Contract price(s) for completed and accepted item(s). METRO may withhold from these amounts any sum the Contracting Officer determines to be necessary to protect METRO against loss because of outstanding liens or claims of former lien holders.

G. If, after termination, it is determined that the Contractor was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of METRO.

H. The rights and remedies of METRO under this Article are in addition to any other rights and remedies provided by law or under this Contract.

10 PATENT INDEMNITY

Except as otherwise provided, the Contractor agrees to indemnify METRO and its officers, agents, and employees against liability, including costs and expenses, for infringement upon any Patent of the United States arising out of the performance of this Contract or out of the use or disposal by or for the account of METRO of supplies or equipment furnished hereunder.

11 COVENANT AGAINST CONTINGENT FEES

The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty METRO shall have the right to annul this Contract without liability or in its discretion, to deduct from the Contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

12 DISSEMINATION OF CONTRACT INFORMATION

The Contractor shall not publish, permit to be published, or distribute for public consumption, any information, oral or written, concerning the performance of this Contract, without prior written consent of METRO. Two (2) copies of any material proposed to be published or distributed shall be submitted to the METRO through the Contracting Officer.

13 CONFIDENTIAL INFORMATION

All cost estimates and supporting data are considered confidential. Any other reports, information, data, etc., given or prepared or assembled by the Contractor under this Contract which METRO requests in writing to be kept as confidential shall not be made available to any individual or organization by the Contractor without the prior written approval of METRO. These obligations with regard to confidentiality shall be for three (3) years after completion of this Contract but shall not apply to:

1. Information that was in the Contractor's possession prior to this Contract;
2. Information that is or becomes in the public domain; and
3. Information received lawfully from third parties which have no confidentiality obligations in connection with this Contract.

14 USE OF METRO'S NAME IN CONTRACTOR ADVERTISING OR PUBLIC RELATIONS

If the Contractor should desire to use METRO's name, logo or any other material in its advertisement or public relations programs, the Contractor shall receive prior approval from METRO. Any such information relating to METRO shall be factual and in no way imply that METRO endorses the Contractor's firm, services, or products. The Contractor shall insert the substance of this Article in each subcontract and supply contract or purchase order.

15 ASSIGNMENT

The Contractor's performance under this Contract shall not be assigned except upon written consent of METRO. The Contractor may assign monies due or to become due to him under the Contract and such assignment will be recognized by METRO, if given proper notice thereof, to the extent permitted by law. Assignment of monies will be subjected to proper offsets in favor of METRO and to deductions provided for in the Contract. Money withheld, whether assigned or not, will be subject to being used by METRO for the
completion of the work in the event that the Contractor defaults under the Contract. The validity of the assignment and the rights of the assignee against METRO shall be governed by the laws of the State of Texas.

16 INDEPENDENT CONTRACTOR

It is understood and agreed that the Contractor shall be deemed to be an independent contractor in all its operations and activities hereunder; that the employees furnished by the Contractor to perform Work hereunder shall be deemed to be Contractor's employees or independent subcontractors; that Contractor employees shall be responsible for all obligations and reports covering social security, unemployment insurance, income tax, and other reports and deductions required by state or federal law.

17 CONTRACTUAL RELATIONSHIPS

No contractual relationship will be recognized under the Contract other than the contractual relationship between METRO and the Contractor.

18 CONTRACT ORDER OF PRECEDENCE

In the event of an inconsistency between provisions of this Contract, the inconsistency shall be resolved by giving precedence in the following order:

1. Contract Modifications, if any
2. The Contract Articles
3. Request for Approval (RFA Forms)
4. Technical Specifications/Scope of Service
5. Drawings

19 SEVERABILITY

If any provision of this Contract or the application thereof to any person or circumstance, is rendered or declared illegal for any reason and shall be invalid or unenforceable, the remainder of this Contract and the application of such provision to other persons or circumstances shall not be affected thereby but shall be enforced to the greatest extent permitted by applicable law.

20 WAIVERS

A. Neither METRO's review, approval or acceptance of, nor payment for, the Work required under this Contract shall be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of the Contract, and the Contractor shall be and remain liable to METRO in accordance with applicable law and the terms of this Contract for all damages to METRO caused by the Contractor's negligent act, error or omission in the performance of any of the Work furnished under this Contract.

B. The waiver by METRO of any breach of any term, covenant, condition, or agreement herein contained shall not be deemed to be a waiver of any subsequent breach of the same, or of a breach of any other term, covenant, condition, or agreement herein contained.

21 INTERPRETATION, JURISDICTION AND VENUE

This Contract shall be construed and interpreted solely in accordance with the laws of the State of Texas. Venue of any suit, right or cause of action arising under or in connection with this Contract shall lie exclusively in Harris County, Texas.

22 RIGHTS AND REMEDIES

The rights and remedies of METRO provided for under this Contract are in addition to any rights or remedies provided by law.
23 NOTICE TO METRO OF LABOR DISPUTES

A. Whenever the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor shall immediately give notice thereof, including all relevant information with respect thereto, to METRO.

B. The Contractor agrees to insert the substance of this Article, including this paragraph B, in any subcontract hereunder as to which a labor dispute may delay the timely performance of this Contract; except that each such subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify his next higher tier subcontractor, or the prime contractor, as the case may be, of all relevant information with respect to such dispute.

24 ETHICAL CONDUCT

A. The METRO Board of Directors has adopted a Code of Ethics governing the conduct of its officers and employees. Contractor agrees it will familiarize itself with this Code of Ethics and that it will not offer, confer or agree to confer any prohibited benefit as consideration for a METRO Board Member's or employee's decision, opinion, recommendation, vote or other exercise of discretion as a public servant or in exchange for the Board Member's or employee's having exercised his official powers or performed his official duties nor will the Contractor participate in any other violation of this Code.

B. Contractor is required to maintain those records necessary to prove beyond a reasonable doubt Contractor's compliance with METRO Code of Ethics Policy. METRO shall have the right to review for the purpose of determining compliance with Code of Ethics Policy all disbursement records and supporting documents including invoices, payment vouchers, employee expense reports and petty cash records.

C. Breach of this Article by the Contractor may result in termination of the Contract and exclusion of the Contractor from future contracts with METRO for a period of time determined by the METRO Board.

25 SUSPENSION OF WORK

A. METRO may at any time and for any reason within its sole discretion issue a written order to the Contractor suspending, delaying or interrupting all or any part of the Work for a specified period of time.

B. The Contractor shall comply immediately with any such written order and take all reasonable steps to minimize costs allocable to the Work covered by the suspension during the period of work stoppage. Contractor shall continue the Work that is not included in the suspension and shall continue such ancillary activities as are not suspended. The Contractor shall resume performance of the suspended Work upon expiration of the notice of suspension, or upon direction from METRO.

C. The Contractor shall be allowed an equitable adjustment in the Contract price (excluding profit) and/or an extension of the Contract time, to the extent that cost or delays are shown by the Contractor to be directly attributable to any suspension. However, no adjustment shall be made under this section for any suspension, delay or interruption due to the fault or negligence of the Contractor, or for which an equitable adjustment is provided for, or excluded under any other term or condition of the Contract. As soon as reasonably possible but no later than forty-five (45) calendar days, or any other period of time agreed to by the parties, after receipt of the written suspension of work notice, the Contractor shall submit to the Contracting Officer a detailed price and schedule Proposal for the suspension, delay or interruption.

26 CONFLICTS OF INTEREST, GRATUITIES

No member, officer, or employee of METRO or of a local public body during his or her tenure, or one year thereafter, shall have any interest, direct or indirect, in this Contract or the proceeds thereof.

27 METRO NON DISCRIMINATION

METRO shall not discriminate on the basis of race, color, national origin, or sex in the award and performance on any DOT-assisted contract or in the administration of its Program or the requirements of 49 CFR Part 26. METRO shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. METRO's Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this Contract. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Contract. Upon notification to METRO of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. § 3801, et seq.).
28 CONTRACTOR NON DISCRIMINATION

The Contractor or subcontractor(s) 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 DOT-assisted contracts. 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 METRO deems appropriate.

29 EQUAL OPPORTUNITY FOR VEVRAA PROTECTED VETERANS

The definitions set forth in 41 CFR 60-300.2 apply to the terms used throughout this Clause, and they are incorporated herein by reference.

1. The contractor will not discriminate against any employee or applicant for employment because he or she is a disabled veteran, recently separated veteran, active duty wartime or campaign badge veteran, or Armed Forces service medal veteran (hereinafter collectively referred to as "protected veteran(s)") in regard to any position for which the employee or applicant for employment is qualified. The contractor agrees to take affirmative action to employ, advance in employment and otherwise treat qualified individuals without discrimination based on their status as a protected veteran in all employment practices, including the following:

   i. Recruitment, advertising, and job application procedures.

   ii. Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff and rehiring.

   iii. Rates of pay or any other form of compensation and changes in compensation.

   iv. Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists.

   v. Leaves of absence, sick leave, or any other leave.

   vi. Fringe benefits available by virtue of employment, whether or not administered by the contractor.

   vii. Selection and financial support for training, including apprenticeship, and on-the-job training under 38 U.S.C. 3687, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training.

   viii. Activities sponsored by the contractor including social or recreational programs.

   ix. Any other term, condition, or privilege of employment.

2. The contractor agrees to immediately list all employment openings which exist at the time of the execution of this contract and those which occur during the performance of this contract, including those not generated by this contract and including those occurring at an establishment of the contractor other than the one where the contract is being performed, but excluding those of independently operated corporate affiliates, with the appropriate employment service delivery system where the opening occurs. Listing employment openings with the state workforce agency job bank or with the local employment service delivery system where the opening occurs will satisfy the requirement to list jobs with the appropriate employment service delivery system. In order to satisfy the listing requirement described herein, contractors must provide information about the job vacancy in any manner and format permitted by the appropriate employment service delivery system which will allow that system to provide priority referral of veterans protected by VEVRAA for that job vacancy. Providing information on employment openings to a privately run job service or exchange will satisfy the contractor's listing obligation if the privately run job service or exchange provides the information to the appropriate employment service delivery system in any manner and format that the employment service delivery system permits which will allow that system to provide priority referral of protected veterans.

3. Listing of employment openings with the appropriate employment service delivery system pursuant to this clause shall be made at least concurrently with the use of any other recruitment source or effort and shall involve the normal obligations which attach to the placing of a bona fide job order, including the acceptance of referrals of veterans and nonveterans. The listing of employment openings does not require the hiring of any particular job applicants or from any particular group of job applicants, and nothing herein is intended to relieve the contractor from any requirements in Executive orders or regulations regarding nondiscrimination in employment.
4. Whenever a contractor, other than a state or local governmental contractor, becomes contractually bound to the listing provisions in paragraphs 2 and 3 of this clause, it shall advise the employment service delivery system in each state where it has establishments that: (a) It is a Federal contractor, so that the employment service delivery systems are able to identify them as such; and (b) it desires priority referrals from the state of protected veterans for job openings at all locations within the state. The contractor shall also provide to the employment service delivery system the name and location of each hiring location within the state and the contact information for the contractor official responsible for hiring at each location. The “contractor official” may be a chief hiring official, a Human Resources contact, a senior management contact, or any other manager for the contractor that can verify the information set forth in the job listing and receive priority referrals from employment service delivery systems. In the event that the contractor uses any external job search organizations to assist in its hiring, the contractor shall also provide to the employment service delivery system the contact information for the job search organization(s). The disclosures required by this paragraph shall be made simultaneously with the contractor’s first job listing at each employment service delivery system location after the effective date of this final rule. Should any of the information in the disclosures change since it was last reported to the employment service delivery system location, the contractor shall provide updated information simultaneously with its next job listing. As long as the contractor is contractually bound to these provisions and has so advised the employment service delivery system, there is no need to advise the employment service delivery system of subsequent contracts. The contractor may advise the employment service delivery system when it is no longer bound by this contract clause.

5. The provisions of paragraphs 2 and 3 of this clause do not apply to the listing of employment openings which occur and are filled outside of the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, Wake Island, and the Trust Territories of the Pacific Islands.

6. As used in this clause: i. All employment openings includes all positions except executive and senior management, those positions that will be filled from within the contractor’s organization, and positions lasting three days or less. This term includes full-time employment, temporary employment of more than three days’ duration, and part-time employment.

ii. Executive and senior management means: (1) Any employee (a) compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (b) whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (c) who customarily and regularly directs the work of two or more other employees; and (d) who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight; or (2) any employee who owns at least a bona fide 20-percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management.

iii. Positions that will be filled from within the contractor’s organization means employment openings for which no consideration will be given to persons outside the contractor’s organization (including any affiliates, subsidiaries, and parent companies) and includes any openings which the contractor proposes to fill from regularly established “recall” lists. The exception does not apply to a particular opening once an employer decides to consider applicants outside of his or her own organization.

7. The contractor agrees to comply with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

8. In the event of the contractor’s noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with the rules, regulations, and relevant orders of the Secretary of Labor issued pursuant to the Act.

9. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the Director, Office of Federal Contract Compliance Programs, provided by or through the contracting officer. Such notices shall state the rights of applicants and employees as well as the contractor’s obligation under the law to take affirmative action to employ and advance in employment qualified employees and applicants who are protected veterans. The contractor must ensure that applicants or employees who are disabled veterans are provided the notice in a form that is accessible and understandable to the disabled veteran (e.g., providing Braille or large print versions of the notice, posting the notice for visual accessibility to persons in wheelchairs, providing the notice electronically or on computer disc, or other versions). With respect to employees who do not work at a physical location of the contractor, a contractor will satisfy its posting obligations by posting such notices in an electronic format, provided that the contractor provides computers that can access the electronic posting to such employees, or the contractor has actual knowledge that such employees otherwise are able to access the electronically posted notices. Electronic notices for employees must be posted in a conspicuous location and format on the company’s intranet or sent by electronic mail to employees. An electronic posting must be used by the contractor to notify job applicants of their rights if the contractor utilizes an electronic application process. Such electronic applicant notice must be conspicuously stored with, or as part of, the electronic application.

10. The contractor will notify each labor organization or representative of workers with which it has a collective bargaining agreement or other contract understanding that the contractor is bound by the terms of VEVRAA, and is committed to take affirmative action to employ and advance in employment, and shall not discriminate against, protected veterans.
11. The contractor will include the provisions of this clause in every subcontract or purchase order of $100,000 or more, unless exempted by the rules, regulations, or orders of the Secretary issued pursuant to VEVRAA so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the Director, Office of Federal Contract Compliance Programs, may direct to enforce such provisions, including action for noncompliance.

12. The contractor must, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to their protected veteran status.
SECTION XI - FEDERAL REQUIREMENTS ARTICLES

1 FEDERAL CHANGES

Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the latest FTA Master Agreement or any of its successors between METRO 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.

2 OFFICIALS NOT TO BENEFIT

A. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising therefrom.

B. No member, officer or employee of METRO, or of any other local public body having jurisdiction over METRO, during his tenure or for one year thereafter, shall have any interest direct or indirect, in the Contract or the proceeds thereof.

C. The Contractor covenants that he presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of the Services required under this Contract. In the event any question of possible conflict should arise, the determination of METRO shall be controlling. The Contractor further covenants that in the performance of this Contract no person having any such interest shall be employed by the Contractor.

3 CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

A. 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 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.

B. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph A of this Article on the contractor and any subcontractor responsible therefor 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 A of this Article, 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 (A) of this Article.

C. Withholding for unpaid wages and liquidated damages. METRO 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 or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to the 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 B of this Article.

D. Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this Article and also an Article requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor with the clauses set forth in this Article.

E. Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the cost anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.
4 TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 OBLIGATIONS

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

A. The Contractor shall comply with all requirements of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d; 49 U.S.C. § 5332; and Department of Transportation (“DOT”) regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Effectuation of Title VI of the Civil Rights Act", 49 C.F.R. Part 21, including any amendments and implementing requirements FTA may issue.

B. The Contractor, with regard to the Work performed by it during the Contract, shall not discriminate on the grounds of race, color, creed, religion, sex, age, disability or national origin in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.

C. In all solicitations either by competitive bidding or negotiation made by the Contractor for services to be performed under a subcontract, including procurement of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Contract and the regulations relative to nondiscrimination on the grounds of race, color, religion, sex, age, national origin or disability.

D. The Contractor shall provide all information and reports required by the regulations and directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by METRO or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such regulations, orders and instructions. Where any information is required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to METRO, or FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.

E. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Article, METRO will impose such contract sanctions as it or FTA may determine to be appropriate, including, but not limited to:

1. withholding of payments to the Contractor under the Contract, in whole or in part.
2. cancellation, termination or suspension of the Contract, in whole or in part.

F. The Contractor shall include the provisions of paragraphs 1 through 7 of this Article in every subcontract, including procurement of materials and leases of equipment, unless exempt by the regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as METRO or FTA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request METRO to enter into such litigation to protect the interests of METRO, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

G. If at anytime METRO has reason to believe that the Contractor is in violation of its obligations under these provisions, or has otherwise failed to comply with these provisions, METRO may, in addition to pursuing any other available legal remedy, commence proceedings to impose sanctions on the Contractor. Such sanctions may include, but not be limited to, one or more of the following:

1. The suspension of any payment or part thereof until such time that compliance is demonstrated;
2. The termination or cancellation of the Contract in whole or in part unless compliance is demonstrated within a reasonable time; and
3. The denial of the Contractor to participate in any future contracts awarded by METRO.

5 BUY AMERICA

A. The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. A general public interest waiver from the Buy America requirements applies to microprocessors, computers, microcomputers, software or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device that merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.
B. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(C) and 49 CFR 661.11.

C. The Contractor must submit to the Agency the appropriate Buy America Certification with all offers on FTA-funded contracts, except those subject to a general waiver. Proposals that are not accompanied by a properly completed Buy America certification are subject to the provisions of 49 CFR 661.13 and may be rejected as nonresponsive.

6 POST-DELIVERY AUDIT OF VEHICLES FOR SPECIFICATION AND BUY AMERICA COMPLIANCE

The Contractor agrees to comply with 49 USC § 5323(l) and FTA's implementing regulation at 49 CFR Part 663 and to submit the following certifications:

A. The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the recommended Bidder/Proposer certifies compliance with Buy America, it shall furnish METRO at the time each vehicle is delivered, (1) a list of components and subcomponents used in the assembly and manufacturing of the vehicles; 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. The list of components and subcomponents that must be furnished is attached hereto as the Contract Exhibit "C", "LIST OF VEHICLE COMPONENTS AND SUBCOMPONENTS", and will be used by METRO's Auditor to perform FTA required post-delivery audit of vehicles for specification and Buy America compliance.

B. The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

C. The Contractor shall submit (1) manufacturer's FMVSS self-certification, Federal Motor Vehicle Safety Standards, that the vehicle complies with relevant FMVSS or (2) manufacturer's certified statement that the contracted minivans will not be subject to FMVSS regulations.

D. Further to the above, the Contractor shall make available in its office, at all reasonable times, all records and documents pertaining to this Contract in sufficient detail to permit METRO's Auditor and Resident Inspector to perform a post-delivery audit of the vehicles, for compliance with the Contract specifications and Buy America requirements, pursuant to the Federal Transit Administration's Final Rule as published in the Federal Register.

7 FEDERAL MOTOR VEHICLE SAFETY STANDARDS

The Contractor shall furnish to the Contracting Officer, at time of delivery, a certification of compliance that each vehicle is in compliance with the Federal Motor Vehicle Safety Standards established by the Department of Transportation, which are in effect at time of vehicle manufacture.

8 MOTOR VEHICLE POLLUTION REQUIREMENTS

The Contractor shall provide a certification in writing that:

A. The horsepower of the vehicle is adequate for the speed, range and terrain in which it will be required to operate and also to meet the demands of all auxiliary power equipment.

B. All gases and vapors emanating from the crankcase of a start-ignition engine are controlled to minimize their escape into the atmosphere.

C. Vehicles offered in response to this Solicitation shall comply with the Clean Air Act standards established by the United States Environmental Protection Agency which are in effect at the time of vehicle manufacture.

9 ACCESS TO RECORDS

A. 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 METRO, 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).

B. In accordance with 49 CFR 18.36(i), the Contractor agrees to provide METRO, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor that are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor’s records and construction sites pertaining to a major capital project, defined at 49 USC 5302(a)1, which
is receiving federal financial assistance through the programs described at 49 USC 5307, 5309 or 5311.

10 ACCESS REQUIREMENTS FOR INDIVIDUALS WITH DISABILITIES

The Contractor agrees to comply with, and assure that any subcontractor or any other third party contractor under this Contract complies with all applicable requirements regarding Access for Individuals with Disabilities contained in the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § § 12101 et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; 49 U.S.C. § 5301(d); and any other applicable Federal regulations, including any amendments thereto.

11 ENVIRONMENTAL REQUIREMENTS

The Contractor and any subcontractor or third party contractor under this Contract shall comply with all applicable environmental requirements and regulations, including any amendments, as follows:

A. Environmental Protection. The Contractor shall comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. § 4321 et seq.

B. Air Quality. The Contractor shall 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 METRO, to FTA and the appropriate EPA Regional Office. The Contractor shall include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

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

D. Use of Public Lands. The Contractor shall ensure that no publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, state, or local significance as determined by the Federal, state, or local officials having jurisdiction thereof, or any land from a historic site of national, state, or local significance may be used under this Contract unless the FTA makes the specific findings required by 49 U.S.C. § 303.


F. Mitigation of Adverse Environmental Effects. The Contractor shall take all reasonable steps to minimize adverse environmental effects in accordance with 49 U.S.C. § 5324(b), and all other applicable Federal laws and regulations, specifically the procedures of 23 C.F.R. Part 771 and 49 C.F.R. Part 622.

G. Energy Conservation. The Contractor shall comply with the mandatory energy efficiency standards and policies within the applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. § 6321 et seq.

12 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 the items designated in Subpart B of 40 CFR Part 247.

13 FLY AMERICA

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 Contractor agrees to include the requirements of this section all subcontracts that may involve international air transportation.
14 CARGO PREFERENCE--USE OF UNITED STATES-FLAG VESSELS

The Contractor agrees:

A. to use privately owned United States-flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liner and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to the Contract to the extent such vessels are available at fair and reasonable rates of United States-flag commercial vessels;

B. to furnish within twenty (20) days following the date of loading for shipment originating within the United States or within thirty (30) days following the date of loading, for shipment 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 (1) above to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20590, and to METRO (through the Contractor in the case of a subcontractor's bill-of-lading); and

C. 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.

15 RESTRICTIONS ON LOBBYING

Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49CFR 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 contracts 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. See form in Exhibit E, entitled "Certification of Restrictions on Lobbying".

16 DEBARMENT AND SUSPENSION

A. The Contractor, including any of its officers or holders of a controlling interest, is obligated to inform METRO whether or not it is or has been on any debarred bidders' list maintained by the United States Government. Should the Contractor be included on such a list during performance of this Contract, it shall so inform METRO.

B. The Contractor and any subcontractor under this Contract shall comply with the certification process under 49 C.F.R. Part 29, "Government Wide Debarment and Suspension (Nonprocurement)", whereby, unless otherwise permitted by law, any person, corporation, partnership or legal entity that is debarred, suspended, or voluntarily excluded by the Federal Government from obtaining federal assistance funds through grants, cooperative agreements or third party contracts may not participate in a federally assisted project.

17 NO OBLIGATION BY THE FEDERAL GOVERNMENT

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

B. 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.

18 INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by the Department of Transportation (DOT), whether or not expressly set forth in the contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, or its successors, 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 the Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any METRO requests, which would cause METRO to be in violation of the FTA terms and conditions.
19 FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

A. 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 the 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.

B. 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.

C. The Contractor agrees to include the above two (2) 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.

20 MAINTENANCE OF RECORDS; ACCESS BY METRO; RIGHT TO AUDIT RECORDS

A. In accordance with 49 CFR § 18.36(i), 49 CFR § 19.48(d), and 49 USC § 5325(a), provided METRO is the FTA recipient or a sub-grantee of the FTA recipient, the Contractor agrees to provide METRO, FTA, the Comptroller General of the United States, the Secretary of the U.S. Department of Transportation, the State of Texas or any of their duly authorized representatives access to any books, documents, papers and records of the Contractor that are directly pertinent to or relate to this Contract (1) for the purpose of making audits, examinations, excerpts and transcriptions and (2) when conducting an audit and inspection.

1. In the event of a sole source Contract, single Proposal, single responsive Proposal, or competitive negotiated procurement, the Contractor shall maintain and the Contracting Officer, the U.S. Department of Transportation (if applicable) or the representatives thereof shall have the right to examine all books, records, documents and other cost and pricing data related to the Contract price, unless such pricing is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, or combinations thereof. Data related to the negotiation or performance of the Contract shall be made available for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data. The right of examination shall extend to all documents necessary for adequate evaluation of the cost or pricing data, along with the computations and projections used therein, including review of accounting principles and practices that reflect properly all direct and indirect costs anticipated for the performance of the Contract.

2. For Contract modifications or change orders the Contracting Officer, the U.S. Department of Transportation, if applicable, or their representatives shall have the right to examine all books, records, documents and other cost and pricing data related to a Contract modification, unless such pricing is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, or combinations thereof. Data related to the negotiation or performance of the Contract modification or change order shall be made available for the purpose of evaluating the accuracy, completeness and currency of the cost or pricing data. The right of examination shall extend to all documents necessary for adequate evaluation of the cost or pricing data, along with the computations and projections used therein, either before or after execution of the Contract modification or change order for the purpose of conducting a cost analysis. If an examination made after execution of the Contract modification or change order reveals inaccurate, incomplete or out-of-date data, the Contracting Officer may renegotiate the Contract modification or change order price adjustment, and METRO shall be entitled to any reductions in the price that would result from the application of accurate, complete or up-to-date data. Lines 2 to end of paragraph are off by one space on the left margin.

3. The requirements of this section are in addition to other audit, inspection and record-keeping provisions specified elsewhere in the Contract documents.

21 VETERANS EMPLOYMENT

Recipients and subrecipients of Federal financial assistance under this chapter shall ensure that contractors working on a capital project funded using such 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 work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant.
who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

22 ENTIRE AGREEMENT

This Contract along with the attached exhibits constitutes the entire agreement between the parties and shall supersede all prior offers, negotiations, exceptions and understandings, whether oral or written, between the parties hereto. No modification of this Contract (including any change in the work) shall be binding upon METRO or the Contractor unless evidenced by a written modification issued pursuant to the "Changes Provision" or by other written order modification hereof, as appropriate.
SECTION XII - EXHIBITS

1 EXHIBIT “A” MAIN MINIVAN TECHNICAL SPECIFICATIONS AND DRAWINGS
METROPOLITAN TRANSIT AUTHORITY PROCUREMENT SPECIFICATION
NON-EMERGENCY
ADA COMPLIANT REAR ENTRY MINIVAN

SPEC-APRIL-2020-001
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1. **INTRODUCTION**

1.1 **SCOPE**

This document specifies requirements and gives recommendations for the manufacturing of non-emergency, ADA ramp accessible minivans.

1.2 **DISTRIBUTION AND INTENDED USE**

Unless otherwise authorized by the Metropolitan Transit Authority of Harris County, the distribution of this specification is confined to the Metropolitan Transit Authority of Harris County and approved Contractors, Vendors, Suppliers, and Manufacturers.

This specification is intended for use by Metropolitan Transit Authority of Harris County facilities.

1.3 **DEFINITIONS**

1.3.1 **General definitions**

The **Contractor** is the party that executes all or part of the design, engineering, construction, or commissioning of equipment.

The **Manufacturer** is the party that manufactures or supplies equipment and services to perform the duties specified by the Contractor.

The **Project Manager** is the person responsible for planning and executing the project to completion. The Project Manager communicates with the Contractor and approves the final delivery of vehicles.

**METRO** is the party that initiates the project and pays for it.

In this document, the following shall apply:

<table>
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<tr>
<th>Verb</th>
<th>Meaning</th>
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<tbody>
<tr>
<td>Shall</td>
<td>Use “shall” to express a requirement. Requirements are subject to verification. Requirements are not subjective.</td>
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<td>Should</td>
<td>Use “should” to express a recommendation.</td>
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<td>May</td>
<td>Use “may” to express a permitted option.</td>
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<td><strong>SHALL</strong></td>
<td>Use capitalized and bolded “shall” to express requirements dependant on METRO authorization.</td>
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<td>CARB</td>
<td>California Air Resources Board</td>
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<tr>
<td>CCA</td>
<td>Cold Cranking Amps</td>
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<tr>
<td>DTC</td>
<td>Diagnostic Trouble Code</td>
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<tr>
<td>EPA</td>
<td>Environmental Protection Agency</td>
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<tr>
<td>FMVSS</td>
<td>Federal Motor Vehicle Safety Standards</td>
</tr>
<tr>
<td>GVWR</td>
<td>Gross Vehicle Weight Rating</td>
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<tr>
<td>OEM</td>
<td>Original Equipment Manufacturer</td>
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</table>

1.4 SUMMARY OF MAIN CHANGES

This is a new specification.

1.5 COMMENTARY

Text shown in italic style in this document indicates text that is provided as explanation or background information only.
2. **CAPACITY AND AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE**

2.1 **CAPACITY**

1. The minivan shall be capable of carrying in one trip at least four (4) ambulatory adult forward-facing seated passengers and one (1) passenger seated in mobility aids, in addition to the driver.

2.2 **ADA COMPLIANCE**

1. The minivan shall meet ADA compliance with the following modifications:
   a. The floor area shall be cut in the center of the vehicle just behind the rear seats.
      i. The cut shall extend to the rear hatch.
      ii. The floor shall be lowered to meet minimum ADA door opening height requirement (56").
   b. There shall be no modification to any portion of the vehicle roof in meeting the ADA door opening height requirement.
   c. A 36" minimum usable clear width manual, mobility aid ramp shall be mounted vertically and inboard of the rear hatch door, and one (1) mobility aid position will be provided.

3. **CHASSIS**

3.1 **GENERAL**

1. The model shall be a 2019 or newer federally compliant minivan.

3.2 **ENGINE**

1. The vehicle shall be powered at a minimum by a 3.6 L, V-6, gasoline engine with electronic fuel injection.

3.3 **STEREO**

1. The stereo shall be an original equipment manufacturer (OEM) AM/FM stereo.
   a. The stereo shall be equipped with CD and MP3 players.
   b. The stereo shall use factory installed speakers.

3.4 **TRANSMISSION**

1. The vehicle shall use a 6-speed automatic transmission.
   a. The transmission shall be electronically controlled with overdrive.

3.5 **RADIATOR AND COOLING SYSTEM**

1. The radiator shall be OEM Standard, with coolant recovery system factory installed.
   b. The radiator shall use a 50-50 mixture of factory specified antifreeze and water.

3.6 **BRAKES**

1. The vehicle shall be equipped with 4-wheel disc brakes and a factory anti-lock brake system.
2. The vehicle shall be equipped with the factory OEM parking brake assemblies and dash warning light.
3.7 STEERING
1. The vehicle shall be provided with an OEM tilt steering wheel, and OEM power steering.

3.8 WHEELBASE
1. The minivan shall have a 121” minimum wheelbase.

3.9 GROSS VEHICLE WEIGHT RATING
1. The chassis shall offer a minimum GVWR of 6050#.
2. The vehicle as converted shall not exceed the OEM chassis GVWR with 6 passengers.

4. LINE PROTECTION

4.1 GENERAL
1. All metal, plastic, and rubber fluid lines beneath the vehicle that are altered or exposed as a result of floor modification shall be secure and protected from road damage.
2. Any fuel and brake line modification/alteration shall be of OEM equivalent material or workmanship.
   a. Straightening and rebending OEM brake or fuel lines shall not be allowed.

5. FUEL TANK

5.1 GENERAL
1. Fuel tank shall have OEM capacity.
2. Tank, fuel lines, and hardware shall meet all current Federal Motor Vehicle Safety Standards (FMVSS), including FMVSS 301, as well as all current CARB and EPA requirements.
   a. Tank, fuel lines, and hardware shall be OEM equivalent in connection types.
3. The use of worm clamps shall be limited to that of the OEM.
4. Tank shall be calibrated with the OEM dash fuel gauge.

6. SUSPENSION

6.1 GENERAL
1. The rear suspension shall incorporate coil springs of sufficient rate to be capable of providing weight capacity and height control to meet ADA requirements and for proper ground clearance.
2. Vertical damping of the suspension shall be accomplished by OEM equivalent shock absorbers.
   a. The shock absorbers shall maintain their effectiveness for at least standard OEM warranty period without repairs in normal service.
3. Suspension system components shall be matched and tuned to provide maximum load capacity, ride quality, stability, and desirable steering and handling characteristics.
7. **WHEELS**

7.1 **GENERAL**

1. The minivan shall be equipped with four (4) stamped steel wheels with painted bolt-on wheel covers, 17” minimum, and an OEM spare tire.

2. Tires shall be steel belted radials, as provided by the OEM for the chassis specified.
   
   a. The spare tire shall mount inside the vehicle and be secured with an easily accessible carrier.

3. Tire changing equipment, as provided by the OEM, shall include a tire jack of enough strength/capacity.
   
   a. Other tools necessary for changing the mounted tires, shall be stored in a compartment/container within the vehicle.

8. **ELECTRICAL**

8.1 **GENERAL**

1. Each vehicle shall have a 12-volt electrical charging system as supplied from the OEM.
   
   a. All electrical wiring shall be automotive stranded copper, of sufficient gauge to handle the load, color-coded to match the OEM.

2. All harnesses that are modified or added to the vehicle shall be secured to the frame/body at a maximum of two feet intervals with insulated clamps, or adhesive tape.

3. All exposed terminals and wiring shall be protected from the elements using sealed terminals or heat shrink where necessary.
   
   a. Exposed wires will be wrapped or loomed in corrosion/moisture-resistant material.

4. Vehicle shall have the heaviest-duty available factory installed battery.
   
   a. Battery cables and connectors shall be OEM (Minimum 600 cca, 12-volt maintenance free).

5. Alternator shall be factory installed; heaviest duty available (160 amp minimum).

6. The Contractor shall install one (1) rear hatch door LED “STOP” sign.
   
   a. The STOP sign shall be electrically connected to the brake and door system.
   
   b. The STOP sign shall activate whenever the brake or door system is activated.

9. **FRONT AND REAR HEATING AND AIR CONDITIONING**

9.1 **GENERAL**

1. The vehicle shall be equipped with an OEM heating/defrosting and air conditioning system with front and rear vents.

2. All lines and hoses shall be sufficiently fastened, protected, and insulated to ensure against wear from friction and the elements.
   
   a. The lines shall be mechanically attached, with OEM clamps, to the vehicle structure at no greater than 18-inch intervals.
   
   b. The lines shall be routed so as not to be exposed to wheel spray and not pass within 2 inches of any part of the exhaust system.

3. Conversion shall not impede access to front and rear air conditioning components.
10. INTERIOR LIGHTING

10.1 GENERAL

1. Overhead lighting shall be installed in the rear hatch of the vehicle that provides not less than two foot-candles of illumination at the entrance area.

2. The interior lighting system shall illuminate automatically when the vehicle doors are open.

3. All accessory vehicle lighting shall conform to ADA 49 CFR, Part 38, Subpart B.

11. BODY SPECIFICATIONS

11.1 GENERAL

1. Conversion of a minivan by modifying the existing sidewalls and floor shall require construction that maintains OEM structural equivalent.

2. All metal components that are added shall be welded by qualified operators and made corrosion resistant through suitable primer application and the use of undercoating.

11.2 INTERIOR HEIGHT

1. Conversion shall provide a minimum clearance of 58" at the vehicle center of the interior roof.

11.3 BODY LENGTH

1. Chassis shall not exceed 202.5" in length.

11.4 PAINT

1. The basic vehicle factory colour shall be OEM standard white, with other available OEM factory colours optional upon request.

12. SEALANT, RUSTPROOFING, AND UNDERCOATING

12.1 GENERAL

1. All exposed floor seams shall be sealed with an industrial grade butyl sealant or equivalent which conforms to ASTM C920.

2. The entire surface of exterior lowered floor shall have a rust inhibiting coating, such as e-coat or powder coat finish, with primer applied to cover all welded areas, and then a fresh application of undercoating over the entire surface.

3. Undercoating shall comply with current Federal and State flammability standards.

13. PASSENGER DOORS AND STEPWELLS

13.1 GENERAL

1. The minivan shall have standard OEM driver and passenger front and sliding doors.

2. The minivan shall have one (1) manually operated, mobility aid accessible rear door.
   
   a. The manual rear mobility aid accessible entry door shall offer a minimum opening height of 56", a minimum usable ramp width of 36", and a maximum of 12" floor-to-ground height.

3. Vehicle shall have a step for the driver and passengers.
   
   a. The vehicle shall be equipped with heavy-duty running boards below the steps, bolted to the frame for added strength.
13.2 DOOR LOCKS
   1. Rear doors shall be equipped with power, child-protection door locks.

13.3 REAR DOOR EMERGENCY EXIT
   1. The rear cargo door shall be provided with a quick release, manual override for opening
      the door from inside the vehicle.
      a. The manual override device shall be capable of opening the door even if the
door is locked.
      b. The manual override device shall be spring loaded and mounted on the inside
of the rear door to prevent accidental release.

14. INTERIOR PANELS

14.1 GENERAL
   1. All interior panels shall be OEM or OEM equivalent.
   2. Panel fastening devices shall match the color of the panels.
   3. The interior shall provide a pleasant atmosphere, be aesthetically pleasing, and contain
smooth finishes without any unprotected sharp edges.
   4. All interior panels shall meet FMVSS 302.

15. FLOORING

15.1 GENERAL
   1. Floor covering material shall be commercial grade, vinyl transit. floor covering shall
cover the entire lowered floor surface.

15.2 FLOOR ASSEMBLY
   1. The lowered floor skin shall be constructed of 14 gauge galvanized steel.
   2. The frame rails shall be made of laser cut and formed 7 gauge. steel.
   3. The floor shall be lowered from the rear of front row seats to the rear hatch.
   4. The width of the floor shall be a minimum of 36”.
   5. Mobility aid restraint tracks and seat locks shall be bevelled, with no sharp edges.
      a. Mobility aid restraint tracks and seat locks shall not protrude more than 1/4”
above floor surface.

16. SEATS AND GRAB HANDLES

16.1 GENERAL
   1. All seats and restraints in the vehicle as specified shall comply with current FMVSS
standards.
   2. At a minimum, the driver seat shall have the following features:
      a. power controls,
      b. power lumbar control,
      c. high-backed with multi-positional fore and aft adjustment, and
d. reclining seatback.

3. The front passenger seat shall be OEM, matching the driver’s seat.

4. The OEM mid row seat shall be replaced by an aftermarket, three-passenger bench seat.

5. All seats shall have black vinyl covering as specified by METRO.

6. Restraints shall be furnished for all passengers, consisting of shoulder seatbelts and/or lap belts.
   a. Each belt shall be equipped with an automatic retractor.

7. Securement devices, both for ambulatory and mobility aid passengers, shall meet all State and Federal Standards.

8. Grab handles shall be installed.
   b. OEM grand handles may be used.

17. MOBILITY AID/OCCUPANT RESTRAINT SYSTEMS

17.1 GENERAL

1. Each vehicle shall be equipped with one (1) forward facing mobility aid securement and occupant restraint system.

17.2 SECUREMENT AND OCCUPANT RESTRAINT SYSTEM

1. Each vehicle shall be equipped with one (1) slide-n-click series forward facing mobility aid securement and occupant restraint system. The system shall utilize slide-n-click receivers, capable of securing a variety of common mobility aid designs and accommodate a wide range of occupant sizes.

2. All attachment hardware and anchorages shall meet or exceed the 30 mph/20 Impact Test criteria per SAE J2249, 36 CFR Part 1192 and CFR Part 38, and all applicable Federal Motor Vehicle Safety Standards, as amended.

3. Each securement position system shall consist of four (4) retractable securement strap assemblies that attach to the structural frame of the mobility aid at four separate points and anchor into the pucks on the vehicle floor at four separate points.

4. Each securement system shall have a corresponding occupant restraint system.

5. The occupant restraint system shall consist of an adjustable lap and a shoulder belt and shall meet all applicable Federal Motor Vehicle Safety Standards.

18. MOBILITY AID RAMP

18.1 GENERAL

1. The vehicle shall be equipped with a manually operated mobility access ramp which stows vertically and deploys through the rear hatch door.

2. The installed ramp shall not obstruct the view of the driver through any vehicle window.

3. The ramp shall have a minimum usable width of 36” and a slope meeting the requirements of ADA, 49 CFR.

4. The ramp surface shall be continuous and made skid resistant through powder coating.
   a. The ramp shall have no protrusions from the surface greater than \( \frac{1}{4} \)” and shall accommodate both four-wheel and three-wheel mobility aids.

5. The ramp shall have a rated capacity of minimum 1,000 lbs, with a safety factor of at least three (3) based on the ultimate strength of the material.
6. Each side of the ramp shall have protective barriers at least two (2) inches high to prevent mobility aids from rolling off of the ramp edge.

19. **CONTROL INTERLOCK**

19.1 **GENERAL**

1. The ramp door shall be interlocked with the vehicle transmission to ensure the vehicle cannot be shifted out of park while the rear hatch door is ajar.

20. **EXHAUST**

20.1 **GENERAL**

   a. The exhaust system shall be aluminized steel or meet or exceed the OEM standard.

21. **EMERGENCY EQUIPMENT**

21.1 **GENERAL**

   1. All miscellaneous equipment shall be secured to the vehicle and easily accessible.
   2. The vehicle shall come equipped with a multi-purpose, stored pressure, dry chemical, fire extinguisher.
      a. The fire extinguisher shall be a 5 lb. ABC Dry Chemical Class type.
      b. The fire extinguisher shall have a gauge to indicate state of charge.
      c. The fire extinguisher shall be mounted to vehicle using a bracket.
      d. The fire extinguisher shall be protected by a heavy-duty vinyl cover.
   
   3. The vehicle shall come equipped with three triangle warning devices, contained within a storage container.
      a. The warning devices shall meet FMVSS 125.
   
   4. The vehicle shall come equipped with a seat belt cutter.

22. **ALTOONA BUS TESTING REPORT**

22.1 **GENERAL**

   1. The converted minivan shall have been submitted to the Altoona Bus Test Center for a 4 yr./100,000-mile Surface Transportation and Uniform Relocation Assistance Act (STURAA) test.
   2. Testing shall have been completed on current body style being converted.
   3. A copy of the test report shall be made available to METRO upon request.

23. **RADIO EQUIPMENT**

23.1 **GENERAL**

   1. The Contractor shall install in each unit a radio provided by Houston METRO along with a provided antenna.
   2. The Manufacturer shall provide a 12V DC filtered from the battery, ground and 12V ignition at radio location.
   3. All cables shall have a minimum length of 36 inches from the top of the dash exit point.
a. A bill of materials for the equipment to be installed by the Contractor shall be provided upon request.

24. MOBILE DATA COMPUTER

24.1 GENERAL

1. The Contractor shall install in accordance with the Manufacturers recommendations one (1) mobile data computer provided by Houston METRO along with all the bracketing and cables.
   a. A bill of materials for the equipment to be installed by the Contractor shall be provided upon request.

25. MODEM NETWORK VEHICLE ROUTER

25.1 GENERAL

1. The Contractor shall make provisions for METRO provided router (MG90).
   a. Two 6-in-1 antennas compatible with METRO network.
   b. Power supply cable.

   Additional information can be supplied upon request.

26. WARRANTY

26.1 GENERAL

1. The vehicle shall be protected at a minimum by the following warranties:
   a. Bumper-to-Bumper Warranty 36,000 miles or three (3) years on body construction, modification, and add-on components.

   (This includes any and all conversion made to OEM vehicle).
   b. 60 months or 100,000-mile manufacture power train warranty.

2. The vehicle warranties shall begin on the date that vehicle is placed in revenue service.

27. DELIVERY

27.1 GENERAL

1. Prior to acceptance by METRO, the Vendor shall service and adjust each vehicle for operation.

2. The pre-delivery servicing and adjustments process shall include but not be limited to the following:
   a. The vehicle shall have a full tank of fuel when delivered.
   b. Each vehicle shall be designed to facilitate the disassembly, reassembly, servicing or maintenance thereof by use of tools and items that are normal and available as commercial standard items.
   c. The body and structure shall be designed for ease of maintenance and repair.
   d. All parts added, as part of the modification process shall be new.
   e. The headlights shall be properly aligned.
f. The engine shall be tuned.
g. All accessories shall be properly adjusted.
h. Electrical, braking and suspension systems shall be inspected.
i. Battery shall be charged.
j. Front-end alignment shall be done after body is put on chassis.
   i. Chamber, caster and toe shall be adjusted to the center of OEM specs.
   ii. Each van shall come with documentation stating before and after actual alignment readings of van.
k. All wheels shall be balanced, including spare.
l. All lubricants shall be checked, and greased if needed.
m. Warranty papers and owner’s guide shall be included.
n. Vehicle’s exterior and interior shall be cleaned and washed.
o. Odometer shall not exceed 3,000 miles at the time of delivery of completed buses to the purchasing agency.
   i. There shall be a charge of one dollar ($1.00) per mile for each vehicle with an odometer reading in excess of 3,000 miles payable to the purchasing agency at the time of delivery.
p. Under no circumstances shall tow vehicles to be attached to any vans.
### 3. REFERENCES

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<td>Americans with Disabilities Act (ADA) Accessibility Guidelines for Transportation Vehicles</td>
<td>36 CFR Part 1192</td>
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<tr>
<td>Americans with Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles</td>
<td>49 CFR Part 38, Subpart B</td>
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<td>Wheelchair Tiedown and Occupant Restraint Systems for Use in Motor Vehicles</td>
<td>RESNA WC-4, Section 18</td>
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<td>Standard Specification for Elastomeric Joint Sealants</td>
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<tr>
<td>Wheelchair Tiedown and Occupant Restraint Systems for Use in Motor Vehicles</td>
<td>SAE J2249,</td>
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</table>
2 EXHIBIT "B" CONTRACTOR'S RELEASE

Pursuant to the terms of METRO Contract No. ________________, as amended, and in consideration of the sum of ________________ Dollars ($______), which has been or is to be paid under said Contract to ___________________ (hereinafter called the Contractor) or its assignees, if any, the Contractor for itself and its subcontractors, upon payment of the said sum by the Metropolitan Transit Authority (hereinafter called METRO), does release and discharge METRO, their officers, agents, and employees, of and from all liabilities, obligations, claims and demand whatsoever under or arising from the said Contract, except specified claims as follows:_______________________________________________________________ (IF NONE, STATE)____________________________________________________.

IN WITNESS WHEREOF, this release has been executed this ___ day of __________, 200_.

By:

CERTIFICATE

I, __________________________, certify that I am _________________ (Title) of the firm named as the Contractor in the foregoing release; that __________________, who signed said release on behalf of the Contractor and its subcontractors, was the _________________(Title) of said firm; that said release was duly signed for and behalf of said firm; and is within the scope of its powers as so constituted.

(If Corporation, Affix the Corporate Seal)
3 EXHIBIT “C” REQUEST FOR APPROVALS RESPONSES

(To be inserted at Contract award) The requests for Approvals (RFA's) submitted by prospective bidders and METRO's responses thereto, attached hereto, are hereby incorporated into the Proposed Contract as Exhibit “D”.
4 EXHIBIT "D" SUPER CIRCULAR

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at $150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.


(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended - Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689) - A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352) - Contractors that apply or bid for an award exceeding $100,000 must file the


5 EXHIBIT "E" FEDERAL CERTIFICATES

(To be inserted at Contract award)