



**Winston-Salem**

**REQUEST FOR PROPOSALS**

**RTS Bus Rehabilitation Project**

**Proposals will be received until  
12:00 Noon, Monday, July 30, 2018**

**at**

**City of Winston-Salem's Purchasing Department  
City Hall Building, Suite 324  
101 North Main Street  
Winston-Salem, NC 27102**

**ADVERTISEMENT FOR PROPOSALS**

Sealed proposals for the provision of **RTS Bus Rehabilitation Services for the Winston-Salem Transit Authority** will be received by the City/County Purchasing Department, City Hall Building, Suite 324, 101 North Main Street, Winston-Salem, NC until **12:00 Noon, July 30, 2018**. Instructions for submitting proposals and complete specifications may be obtained during regular office hours by contacting Jerry Bates via email [jerryjb@cityofws.org](mailto:jerryjb@cityofws.org) or phone 336-747-6939. The Winston-Salem Transit Authority reserves the right to reject any or all proposals.

This Request for Proposals (RFP) outlines a description of the services sought and the documentation interested firms will be required to submit. All requested information shall be submitted in the format required as shown on the enclosed schedule.

Jerry Bates  
Purchasing Director

## TABLE OF CONTENTS

<b>TABLE OF CONTENTS</b>	<b>2</b>
<b>NOTICE TO PROPOSERS</b>	<b>3</b>
<b>GENERAL TERMS AND CONDITONS</b>	<b>5</b>
<b>GENERAL INSURANCE REQUIREMENTS</b>	<b>7</b>
<b>FEDERALLY REQUIRED CLAUSES</b>	<b>9</b>
<b>INSTRUCTIONS TO PROPOSERS</b>	<b>21</b>
<b>OUALIFICATIONS AND SCOPE OF WORK</b>	<b>24</b>
<b>TECHNICAL SPECIFICATIONS</b>	<b>27</b>
<b>PRICE SHEET</b>	<b>32</b>
<b>ATTACHMENT A (Proposal Authorization and Signature Form)</b>	<b>33</b>
<b>ATTACHMENT B (Certification Regarding Lobbying)</b>	<b>34</b>
<b>ATTACHMENT C (Buy America Compliance)</b>	<b>35</b>
<b>ATTACHMENT D (Buy America Non-Compliance)</b>	<b>36</b>
<b>SAMPLE CONTRACT</b>	<b>37</b>
<b>CHECK OFF LIST</b>	<b>42</b>

## **Notice to Proposers For RTS Bus Rehabilitation Project**

---

It is the policy of the Winston-Salem Transit Authority that an employee, officer, or agent of the Winston-Salem Transit Authority may not participate in any manner in the bidding, awarding, or administering of contracts in which they, or a member of their immediate family, their business partner, or any organization in which they serve as an officer, director, trustee, or employee, have a financial interest.

The successful bidder must comply with all provisions of the Americans with Disabilities Act (ADA) and all rules and regulations promulgated thereunder. By submitting a proposal, the successful bidder agrees to indemnify the Winston-Salem Transit Authority from and against all claims, suits, damages, costs, losses, and expenses in any manner arising out of, or connected with, the failure of the Company, its subcontractors, agents, successors, assigns, officers, or employees to comply with the provisions of the ADA or the rules and regulations promulgated thereunder.

All bids must be firm and not subject to increase, unless specified within the provisions of this Request for Proposals and mutually agreed upon by the Winston-Salem Transit Authority and the proposer.

No special inducements will be considered that are not a part of the original bidding document.

### **Winston-Salem Transit Authority Rights and Options**

The Winston-Salem Transit Authority, at its sole discretion, reserves the following rights:

- To supplement, amend, substitute or otherwise modify this RFP at any time
- To cancel this RFP with or without the substitution of another RFP
- To take any action affecting this RFP, this RFP process, or the Services subject to this RFP that would be in the best interests of the Winston-Salem Transit Authority
- To issue additional requests for information or clarification from Offerors or to allow corrections of errors or omissions
- To require one or more Service Providers to supplement, clarify or provide additional information for the Winston-Salem Transit Authority to evaluate the Responses submitted
- To negotiate a contract with a Service Provider based on the information provided in response to this RFP

### **Public Records**

Any material submitted in response to this RFP will become a “public record” once the proposer’s document(s) is opened and the proposer is determined to be a participant in the solicitation process and shall be subject to public disclosure consistent with Chapter 132, North Carolina Statutes. Proposers must claim any applicable exemptions to disclosure provided by law in their response to this RFP. Proposers must identify materials to be protected and must state the reasons why such exclusion from public disclosure is necessary and legal. The Winston-Salem Transit Authority reserves the right to make all final determination(s) of the applicability of North Carolina General Statutes § 132-1.2, Confidential Information.

### **Familiarity with Laws and Ordinances**

The submission of a proposal on the services requested herein shall be considered as a representation that the proposer is familiar with all federal, state, and local laws, ordinances, rules and regulations which affect those engaged or employed in the provision of such services, or equipment used in the provision of such services, or which in any way affects the conduct of the provision of such services; and no plea of misunderstanding will be considered on account of ignorance thereof. If the proposer discovers any provisions in the RFP documents that are contrary to or inconsistent with any law, ordinance, or regulation, it shall be reported to the Winston-Salem Transit Authority in writing without delay.

### **E-Verify Compliance**

In accordance with the Reclaim Act, Session Law 2013-418, and Article 2 of Chapter 64 of North Carolina General Statutes, as amended, any Contractor entering into a construction or repair contract requiring an estimated expenditure of public funds equal to or greater than \$500,000 or a contract for the purchase of apparatus, supplies, materials or equipment requiring an estimated expenditure of public funds in an amount equal to or greater than \$90,000 will be required to execute an E-verify Affidavit attesting to: (1) its compliance with E-Verify or the non-applicability of the E-Verify requirements due to an employee population of less than 25 employees in North Carolina; and (2) its subcontractors' compliance with E-Verify or the non-applicability of such due to an employee population of less than 25 in North Carolina. Failure to execute the affidavit, where required, shall be just cause for the City to terminate this contract. Any contract entered into without an executed E-Verify affidavit shall be void.

**See attached E-Verify Affidavit**

### **Iran Divestment Act**

Provider hereby certifies that it is not on the North Carolina State Treasurer's list of persons engaging in business activities in Iran, prepared pursuant to NCGS 147-86.58, nor will Provider utilize on this agreement any subcontractor on such list. This list, along with additional information about the Iran Divestment Act, is available on the Treasurer's Office site: <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>.

### **Divestment from Companies that Boycott Israel**

Contractor hereby certifies that it is not on the North Carolina State Treasurer's list of companies engaged in a boycott of Israel in violation of NCGS 147-86.80 et. seq. and that it will not utilize on this agreement any subcontractor on said list."

### **Ethics Policy / Code of Conduct**

The Winston-Salem Transit Authority has established guidelines for ethical standards of conduct for Winston-Salem Transit Authority representatives and to provide guidance in determining what conduct is appropriate in particular cases. Winston-Salem Transit Authority representatives should maintain high standards of personal integrity, truthfulness, honesty, and fairness in carrying out public duties; avoid any improprieties in their roles as public servants including the appearance of impropriety; and never use their position or power for improper personal gain. In establishing an ethics policy, the Winston-Salem Transit Authority desires to protect the public against decisions that are affected by undue influence, conflicts of interest, or any other violation of these policies as well as promote and strengthen the confidence of the public in their governing body. For a complete review of the Winston-Salem Transit Authority Policy as it relates to this solicitation, click the following link.

<http://www.cityofws.org/Home/Departments/Purchasing/Articles/Bids>

### **Contract**

The successful bidder for this service will be required to execute the City's Service Contract, example copy attached to this document. The Business may not begin work and a Purchase Order **WILL NOT** be issued until the individuals doing business with or for the Winston-Salem Transit Authority has provided a copy of a current year City Privilege Business License (if required), specification provisions for Insurance have been satisfied, and the contract has been fully executed.

# SECTION 1 – GENERAL TERMS AND CONDITIONS

## 1.0 PROPOSAL EVALUATIONS / SELECTION PROCESS

### Proposal Evaluation

Following the deadline for submittal of proposals, an Evaluation Panel comprised of Winston-Salem Transit Authority and City Staff will review, analyze and rank all Offers based on their response to the information requested. As part of the evaluation process the Evaluation Panel may engage in discussions with any Proposer. Discussions might be held with individual Proposers to determine in greater detail the Proposer's qualifications, to explore with the Proposer the scope and nature of the required contractual Services, to learn the Proposer's proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a contract that will be satisfactory to the City.

The Winston-Salem Transit Authority, in its discretion, may require one or more Proposers to make presentations to the Evaluation Panel or appear before the Winston-Salem Transit Authority and/or its representatives for an interview. During such interview, the Proposer may be required to orally and otherwise present its proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the Winston-Salem Transit Authority deems appropriate. Proposers will be notified in advance of the time and format of such meetings.

Since the Winston-Salem Transit Authority may choose to award a contract without engaging in discussions or negotiations, the Proposals submitted shall define the Proposer's best offer for performing the services described in this RFP.

### Selection Process

A. Proposals will be evaluated for quality, completeness, and price value to the Winston-Salem Transit Authority by an Evaluation Panel. Selection shall be made from all offers deemed to be fully qualified and best suited among those submitting proposals based on evaluation of factors included in the RFP, including price. Price shall be considered but need not be the sole determining factor. The Evaluation Panel may cancel this RFP or reject proposals at any time prior to an award and is not required to furnish a statement of the reason why a particular proposal was not deemed to be the most advantageous. Should the Evaluation Panel determine in its sole discretion, that only one respondent is fully qualified, or that one respondent is more qualified than the others under consideration, a contract may be negotiated and awarded to that respondent.

### Evaluation Criteria

#### 1.1 AWARD

Award shall be made to the lowest and most responsible Offeror. Issuance of this RFP does not guarantee a contract will be awarded to any proposer. The proposed work schedule is a critical part of this procurement.

#### 1.2 CONTRACT DOCUMENT

The successful Offeror shall be required to execute a formal contract within ten (10) business days after issuance of a Notice of Award. Said Contract shall be virtually identical in substance and form to the Sample Contract which is attached. The only anticipated changes in the Sample Contract may be to include additional exhibits, to fill in the blanks to identify the successful Offeror, and terms relating to compensation, or to revise the contract to accommodate corrections, changes in the scope of work, or changes pursuant to addenda issued prior to the qualification opening. The Winston-Salem Transit Authority reserves the right to finalize a Contract based on all factors involved in the written qualifications submittal without further discussion or interviews.

#### 1.3 OFFERORS' REPRESENTATIONS

Each Offeror by submitting a proposal represents that:

A. The Offeror has read and understands this RFP including all specifications, attachments and addenda.

B. The Offeror has reviewed the RFP, has become familiar with the local conditions under which the work is to be performed, and has correlated personal observations with the requirements of the proposed Contract Documents.

C. The proposal is based on the terms, materials, systems and equipment required by this RFP, without exception.

D. The Offeror is qualified to provide the services and (or) equipment required under this RFP and, if awarded the contract, will do so in a professional, timely manner using successful Offeror's best skill and attention.

#### **1.4 OFFERORS' RESPONSIBILITY**

Each Offeror shall fully acquaint itself with conditions relating to the scope and restrictions attending the execution of the work under the conditions of this RFP. The failure or omission of the Offeror to acquaint itself with existing conditions shall in no way relieve it of any obligation with respect to the proposal submitted by the Offeror or to any contract resulting from this RFP.

#### **1.5 CONDITIONS AFFECTING THE WORK**

The successful Offeror shall be responsible for having taken steps reasonably necessary to ascertain the nature and location of the work, and the general and local conditions which can affect the work or the cost thereof. Any failure by the successful Offeror to do so will not relieve the Offeror from the responsibility for successfully performing the work without additional expense to the Winston-Salem Transit Authority. The Winston-Salem Transit Authority assumes no responsibility for any understanding or representations concerning conditions made by any of its officers, agents or consultants prior to the submission of a proposal or the execution of any contract related thereto, unless such understandings or representations by the Winston-Salem Transit Authority are expressly stated in the Contract Documents

#### **1.6 DISCLAIMER OF LIABILITY**

The Offeror hereby releases and forever discharges the Winston-Salem Transit Authority, its agents, officers, officials, and employees, from any and all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury and/or property damage arising out of the performance of the Service, except those claims that result from the sole negligence of the Winston-Salem Transit Authority or a Winston-Salem Transit Authority employee acting within the scope of the employment. The Offeror shall indemnify, defend and hold harmless the Winston-Salem Transit Authority, its agents' officers, officials, and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature, directly or indirectly caused by, arising out of, or related to the intentional, negligent or reckless acts or omissions of the Offeror, and its agents or employees, in the performance of these services.

#### **1.7 INSURANCE REQUIREMENTS**

The successful Offeror, at its own expense, shall at all times during the term of the Contract, maintain insurance as required herein (see General Insurance Forms) and previously incorporated by reference. The Winston-Salem Transit Authority shall not execute the Contract until the successful Offeror has submitted acceptable Insurance Certificate(s), which must be submitted within ten (10) business days of receipt of the Notice of Award, and which reflect that the required coverage is in place and that all premiums have been paid. The Winston-Salem Transit Authority may contact the successful Offeror's insurer(s) or insurer(s)' agent(s) directly at any time regarding the successful Offeror's coverage, coverage amounts, or other such relevant and reasonable issues related to this Contract. The Winston-Salem Transit Authority must be advised immediately of any changes in required coverage.

## GENERAL INSURANCE REQUIREMENTS

### 2.0.

A. The Contractor shall, during the continuance of all work under the Contract, provide the following:

1. Workers' Compensation Insurance as required by the North Carolina General Statutes.
2. Commercial General Liability to protect the Contractor against any and all injuries to third parties, including personal injury and property, and special and consequential damages, resulting from any negligent action, omission or operation by the Contractor or in connection with the services described herein. The insurance shall also include, coverage for explosion, collapse, and underground hazards, where required. This insurance shall provide bodily injury and property damage limits of not less than \$1,000,000 for each occurrence, respectively, and shall provide at least \$5,000 in Medical Expenses (Med Pay) coverage.
3. Maintain Owned, non-owned, and hired Automobile Liability insurance, including property damage insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor in furtherance of these services. In addition, all mobile equipment used by the Contractor in connection with the contract work, will be insured under either a standard Automobile Liability policy, or a Commercial General Liability policy. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/each accident.

B. If this Agreement is for a design, engineering or consulting Service, maintain Professional Liability insurance of at least \$1,000,000.00 per incident.

**C. The Contractor will provide an original, signed Certificate of Insurance, evidencing such insurance and such endorsements as prescribed herein, and shall submit the certificate with its executed contract. The Winston-Salem Transit Authority shall be named as an additional insured in the Automobile and General Liability policies and it shall be stated on the Insurance Certificate with the provision that this coverage is primary to all other coverage the Winston-Salem Transit Authority may possess.**

D. The Contractor will secure and maintain all insurance policies of its subcontractors which shall be made available to the Winston-Salem Transit Authority on demand. Compliance by the Contractor and all subcontractors with the foregoing requirements as to carrying insurance shall not relieve the Contractor and all subcontractors of their liabilities and obligations under this heading or under any other section or provisions of the Contract.

E. The Contractor will provide on demand certificate copies of all insurance coverage on behalf of the Contract within ten days of demand by the Winston-Salem Transit Authority. These certified copies shall be sent to the Winston-Salem Transit Authority from the Contractor's insurance agent or representative.

F. The Contractor shall furnish the Winston-Salem Transit Authority thirty days written notice of any changes or cancellation of the policy. The failure of the contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished to the Risk Manager, Winston-Salem Transit Authority.

G. Insurance coverage required in these specifications shall be in force throughout the Contract Term. Should the Contractor fail to provide acceptable evidence of current insurance within seven days of written notice at any time during the Contract Term, the Winston-Salem Transit Authority shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the Winston-Salem Transit Authority for the entire additional cost of procuring the uncompleted portion of the contract at time of termination.

H. Contractual and other Liability insurance provided under this Contract shall not contain a supervision inspection or engineering services exclusion that would preclude the Winston-Salem Transit Authority from supervising and/or inspecting the project as to the end result. The Contractor shall assume all on-the-job responsibilities as to the control of persons directly employed by it and of the subcontractors and any persons employed by the subcontractor.

I. Nothing contained in the specifications shall be construed as creating any contractual relationship between any subcontractor and the Winston-Salem Transit Authority. The Contractor shall be as fully responsible to the Winston-Salem Transit Authority for the acts and omissions of the subcontractors and of persons employed by them as it is for acts and omissions of persons directly employed by it.

J. Precaution shall be exercised always for the protection of persons, (including employees) and property. All existing structures, utilities, roads, services, trees and shrubbery shall be protected against damage or interruption of service by the Contractor during the term of the Contract, and the Contractor shall be held responsible for any damage to property occurring by reason of its operation on the property.

K. The Contractor and all subcontractors and sub-subcontractors agree to comply with the State of North Carolina Occupational/Safety and Health Act and the Occupational Safety and Health Act of 1970, Public Law 91-956, as it may apply to this Contract.

L. Contractor hereby acknowledges that it has reviewed and agrees to abide by the Winston-Salem Transit Authority's "Safety and Environmental Requirements for Contractors" located on the Winston-Salem Transit Authority's website – [www.Winston-Salem Transit Authorityofws.org](http://www.Winston-Salem Transit Authorityofws.org) – under the Employee Safety link for Risk Management Department – <http://www.Winston-Salem Transit Authorityofws.org/Home/Departments/FinancialManagementServices/RiskManagement/Articles/EmployeeSafety>

## **FEDERALLY REQUIRED CONTRACT CLAUSES**

### **3.0**

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

The provisions include, in part, certain Standard Terms and Conditions required by the United State Department of Transportation (USDOT), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by USDOT, as set forth in FTA Circular 4220.1E, dated June 19, 2003, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any City of Winston-Salem request, which would cause the City of Winston-Salem to be in violation of the FTA terms and conditions.

#### **3.2 No Government Obligation to Third Parties by Use of a Disclaimer**

- (a) The CONTRACTOR agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any CONTRACTOR, SUBCONTRACTOR, and third-party CONTRACTOR, or any other person not a party to the Grant Agreement or Cooperative Agreement in connection with the performance of the Project. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, sub-agreement, or third-party contract, the Federal Government continues to have obligations or liabilities to any party, including SUBCONTRACTORS and third-party CONTRACTOR.
- (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.

#### **3.3 Program Fraud and False or Fraudulent Statements or 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 CFR Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.
- (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 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.

### **3.4 Access to Records**

For contracts that are greater than \$100,000 or are capital projects, the following access to records requirements apply to this contract:

- (a) The CONTRACTOR agrees to provide the City of Winston-Salem, 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 which 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 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
- (b) Where the City of Winston-Salem enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a) (1) through other than competitive bidding, the CONTRACTOR shall make available records related to the contract to the City of Winston-Salem, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
- (c) The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (d) The CONTRACTOR agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case CONTRACTOR agrees to maintain same until the City of Winston-Salem, 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).
- (e) FTA does not require the inclusion of these requirements in subcontracts.

### **3.5 Federal Changes**

CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Department of Transportation, Federal Transit Administration, Master Agreement (FTA MA (12) dated October, 2005), between the City of Winston-Salem 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.

### **3.6 Exclusionary or Discriminatory Specifications**

Apart from inconsistent requirements imposed by Federal statute or regulations, the CONTRACTOR agrees that it will comply with the requirements of 49 U.S.C. Section 5323 (h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

### **3.7 Interest of Members of or Delegates to the United States Congress**

In accordance with 41 U.S.C. Section 22, the CONTRACTOR agrees that it will not admit any member of or delegate to the United States Congress to any share or part of the Project or any benefit derived there from.

### **3.8 Geographic Restrictions**

**The CONTRACTOR agrees to refrain from** using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute, and as permitted by FTA, such as in the acquisition of management, architectural and engineering services provided a sufficient number of qualified firms are eligible to compete for the third-party contract.

### **3.9 Civil Rights Requirements**

The following requirements apply to this contract:

- (a) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (b) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:
  - 1. Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq ., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
  - 2. Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.
  - 3. Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,"

29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

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

### 3.10 Termination Provisions

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the City of Winston-Salem including the manner by which it will be affected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education, the threshold is \$100,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the CONTRACTOR. The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

- *Termination for Convenience.* The City of Winston-Salem may terminate this contract, in whole or in part, at any time by written notice to the CONTRACTOR when it is in the Municipality's best interest. The CONTRACTOR shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The CONTRACTOR shall promptly submit its termination claim to City of Winston-Salem to be paid the CONTRACTOR. If the CONTRACTOR has any property in its possession belonging to the City of Winston-Salem, the CONTRACTOR will account for the same, and dispose of it in the manner the City of Winston-Salem directs.
- *Termination for Default [Breach or Cause].* If the CONTRACTOR does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the CONTRACTOR fails to perform in the manner called for in the contract, or if the CONTRACTOR fails to comply with any other provisions of the contract, the City of Winston-Salem may terminate this contract for default. Termination shall be affected by serving a notice of termination on the CONTRACTOR setting forth the manner in which the CONTRACTOR is in default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the City of Winston-Salem that the CONTRACTOR had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the CONTRACTOR, the City of Winston-Salem, after setting up a new delivery of performance schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.
- *Opportunity to Cure.* The City of Winston-Salem in its sole discretion may, in the case of a termination for breach or default, allow the CONTRACTOR [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If CONTRACTOR fails to remedy to City of Winston-Salem's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by CONTRACTOR or written notice from City of Winston-Salem setting forth the nature of said breach or default, City of Winston-Salem shall have the right to terminate the Contract without any further obligation to CONTRACTOR. Any such termination for default shall not in any way operate to preclude City of Winston-Salem from also pursuing all available remedies against CONTRACTOR and its sureties for said breach or default.

- *Waiver of Remedies for any Breach.* In the event that City of Winston-Salem elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this Contract, such waiver by City of Winston-Salem shall not limit City of Winston-Salem's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- *Termination for Convenience (Professional or Transit Service Contracts).* The City of Winston-Salem, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the City of Winston-Salem shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- *Termination for Default (Supplies and Service).* If the CONTRACTOR fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract, the City of Winston-Salem may terminate this contract for default. The City of Winston-Salem shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. The CONTRACTOR will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City of Winston-Salem.
- *Termination for Default (Transportation Services).* If the CONTRACTOR fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the CONTRACTOR fails to comply with any other provisions of this contract, the City of Winston-Salem may terminate this contract for default. The City of Winston-Salem shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of default. The CONTRACTOR will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the CONTRACTOR has possession of City of Winston-Salem goods, the CONTRACTOR shall, upon direction of the City of Winston-Salem, protect and preserve the goods until surrendered to the City of Winston-Salem or its agent. The CONTRACTOR and City of Winston-Salem shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City of Winston-Salem.
- *Termination for Default (Construction).* If the CONTRACTOR refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the CONTRACTOR fails to comply with any other provisions of this contract, the City of Winston-Salem may terminate this contract for default. The City of Winston-Salem shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature of the default. In this event, the City of Winston-Salem may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The CONTRACTOR and its sureties shall be liable for any damage to the City of Winston-Salem resulting from the CONTRACTOR'S refusal or failure to complete the

work within specified time, whether or not the CONTRACTOR'S right to proceed with the work is terminated. This liability includes any increased costs incurred by the City of Winston-Salem in completing the work.

The CONTRACTOR'S right to proceed shall not be terminated nor the CONTRACTOR charged with damages under this clause if - 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the CONTRACTOR. Examples of such causes include: acts of God, acts of the City of Winston-Salem, acts of another CONTRACTOR in the performance of a contract with the City of Winston-Salem, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. the CONTRACTOR, within [10] days from the beginning of any delay, notifies the City of Winston-Salem in writing of the causes of delay. If in the judgment of the City of Winston-Salem, the delay is excusable, the time for completing the work shall be extended. The judgment of the City of Winston-Salem shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the CONTRACTOR'S right to proceed, it is determined that the CONTRACTOR was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the City of Winston-Salem.

- *Termination for Convenience or Default (Architect and Engineering)*. The City of Winston-Salem may terminate this contract in whole or in part, for the City of Winston-Salem's convenience or because of the failure of the CONTRACTOR to fulfill the contract obligations. The City of Winston-Salem shall terminate by delivering to the CONTRACTOR a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the CONTRACTOR shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the City of Winston-Salem shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the CONTRACTOR to fulfill the contract obligations, the City of Winston-Salem may complete the work by contract or otherwise and the CONTRACTOR shall be liable for any additional cost incurred by the City of Winston-Salem.

If, after termination for failure to fulfill contract obligations, it is determined that the CONTRACTOR was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the City of Winston-Salem.

- *Termination for Convenience of Default (Cost-Type Contracts)*. The City of Winston-Salem may terminate this contract, or any portion of it, by serving a notice of termination on the CONTRACTOR. The notice shall state whether the termination is for convenience of the City of Winston-Salem or for the default of the CONTRACTOR. If the termination is for default, the notice shall state the manner in which the CONTRACTOR has failed to perform the requirements of the contract. The CONTRACTOR shall account for any property in its possession paid for from funds received from the City of Winston-Salem, or property supplied to the CONTRACTOR by the City of Winston-Salem. If the termination is for default, the City of Winston-Salem may fix the fee, if the contract provides for a fee, to be paid the CONTRACTOR in proportion to the value, if any, of work performed up to the time of termination. The CONTRACTOR shall promptly

submit its termination claim to the City of Winston-Salem and the parties shall negotiate the termination settlement to be paid the CONTRACTOR.

If the termination is for the convenience of the City of Winston-Salem, the CONTRACTOR shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the City of Winston-Salem determines that the CONTRACTOR has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the CONTRACTOR, the City of Winston-Salem, after setting up a new work schedule, may allow the CONTRACTOR to continue work, or treat the termination as a termination for convenience.

### 3.11 Disadvantaged Business Enterprise

The successful bidder must certify that they are a Transit Vehicle Manufacturer (TVM) eligible to bid on FTA-assisted transit vehicle procurements; having submitted a goal methodology to the FTA which has been approved by the FTA.

### 3.12 Energy Conservation

CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 *et seq.*

#### CONTRACT PROVISIONS THAT APPLY FOR AWARDS EXCEEDING \$25,000

Clauses	Professional Services and A&E	Operations/ Management	Rolling Stock	Construction	Materials & Supplies
Debarment and Suspension Requirement	X	X	X	X	X

### 3.13 Government-wide Debarment and Suspension (Non-Procurement)

The CONTRACTOR agrees to comply and assures the compliance of each third-party CONTRACTOR and SUBCONTRACTOR at any tier, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, and U.S. DOT regulations, "Government-wide Debarment and Suspension (Non-Procurement)," within 49 CFR Part 29.

#### CONTRACT PROVISIONS THAT APPLY FOR AN ACQUISITION OF PROPERTY SHIPPED BY OCEAN VESSEL

Clauses	Professional Services and A&E	Operations/ Management	Rolling Stock	Construction	Materials & Supplies
Cargo Preference			X	X	X
Fly America	X	X	X	X	X

### 3.14 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 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- (b) 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 leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the City of Winston-Salem (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.

### **3.15 Fly America Requirements**

The CONTRACTOR agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and 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 in all subcontracts that may involve international air transportation.

### **3.16 Protest Procedures**

All protests shall be filed, handled, and resolved in a manner consistent with the requirements of Federal Transit Administration (FTA) Circular 4220.1F Third Party Contracting Guidelines and the City of Winston-Salem's Protest Procedures below.

Current FTA policy states that: "Reviews of protests by FTA will be limited to a grantee's failure to have or follow its protest procedures, or its failure to review a complaint or protest. 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 knew or should have known of the violation. Violations of federal law or regulations will be handled by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local officials." (FTA Circular 4220.1E, Section 7, paragraph 1., Written Protest Procedures)

Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed 15 days prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. To be filed on a given day, protests must be received by 4:30 p.m. current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is complete. Unless the time limit for receiving the protest is

extended for good cause, a protest that is received after the time limit will not be considered. All protests should be filed in writing with the Director of Transportation, Stuart Municipal Building Suite 307, 100 East First Street, Winston-Salem, NC 27101. No other location shall be acceptable. To be complete, protests **must** contain the following information:

1. The protester's name, address, telephone number, and fax number;
2. The solicitation/bid number;
3. A detailed statement of all factual and legal grounds for protests and an explanation of how the protester was prejudiced;
4. Copies of relevant documents supporting protester's statement;
5. A request for ruling by the City of Winston-Salem;
6. Statement as to form of relief requested;
7. All information establishing that the protester is an interested party for the purpose of filing a protest; and
8. All information establishing the timeliness of the protest.

All protests must be signed by an authorized representative of the protester.

When a protest is filed before an award, an award shall not be made until the matter is resolved unless based on written finding that: 1) the supplies or services are urgently required, or 2) delivery or performance would be unduly delayed by failure to make the award promptly, or 3) a prompt award would be in the best interest of the City. Should the City postpone the date of bid submission owing to a protest or appeal of the solicitation specifications, addenda, dates, or any other issue relating to the procurement, the City shall notify, via addendum, all parties who are on record as having obtained a copy of the solicitation documents that an appeal/protest has been filed, and the due date for the bid submission shall be postponed until the City has issued its final decision.

When a protest is filed within ten (10) days after an award or five (5) days after a debriefing date was offered to the protester under a timely debriefing request, whichever is later, performance shall be immediately suspended pending resolution of the protest. However, contract performance may continue, notwithstanding the protest, based on written finding that 1) contract performance would be in the best interest of the City, or 2) urgent and compelling circumstances that significantly affect the interests of the City will not permit waiting for a decision.

The Director of Transportation shall make a decision on the protest within ten (10) working days from the receipt of the protest. The written decision will respond to the issues raised by the protester and will address any other issues, which even if not raised by the protester, that may have been identified as being relevant to the fairness of the procurement process. The decision will be delivered to the protester by "Certified Mail, Return Receipt Requested." In extreme cases, it may take longer than ten (10) working days to issue a decision. In these cases, the protester and all other interested parties will be notified of the delay. Any decision rendered by the Director of Transportation may be appealed to the Assistant City Manager. The protester has the right within five (5) working days of receipt of determination to file an appeal restating the basis of the protest and the grounds of the appeal. In the appeal, the protester shall only be permitted to raise factual information previously provided in the protest or discovered subsequent to the Assistant City Manager's decision and directly related to the grounds of the protest. The Assistant City Manager's decision shall constitute the final administrative remedy of the City of Winston-Salem.

If the Assistant City Manager finds for the protester, one or more of the following remedies may be granted:

1. Terminate the contract.
2. Modify the requirement.

3. Issue a new solicitation.
4. Refrain from exercising options under the contract.
5. Award a contract consistent with statutes and regulations.
6. Amend the solicitation provisions that gave rise to the protest and continue with the procurement.
7. Such other remedies as the decision-maker may determine are necessary to correct a defect.

The bidder may withdraw its protest or appeal at any time before the Assistant City Manager issues a final decision.

A protester must exhaust all administrative remedies with the City before pursuing a protest with the Federal Transit Administration (FTA). However, if the protester believes that the City of Winston-Salem failed to review the complaint or protest or failed to follow its own protest procedures, the protester may file an appeal to the FTA office below:

Regional Administrator  
Federal Transit Administration, Region IV  
230 Peachtree N.W.  
Atlanta, GA 30303

The protester must file with the FTA no later than five (5) working days after the Assistant City Manager's final decision is rendered, with a concurrent copy of the appeal to the Assistant City Manager. The submission to the FTA should include the name and address of the protester, a statement of the grounds for protest and any supporting documentation, a copy of the local protest filed with the City of Winston-Salem, and a copy of the Assistant City Manager's decision.

The City of Winston-Salem will submit to the FTA any required information requested in order for the FTA to make a determination, including a copy of these protest procedures, a description of the process followed concerning the protest in question and any supporting documentation. The City of Winston-Salem will provide to the protester any material submitted to the FTA.

### **3.17 Clean Air Act**

- (1) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Sect. 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal Assistance provided by FTA.

### **3.18 Clean Water**

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

### **3.19 Environmental Protection**

The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended 42 U.S.C. subsection 4321 *et seq.* in accordance with Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 59 Fed. Reg. 7629, Feb. 16, 1994, FTA statutory requirements on environmental matters at 49 U.S.C. section 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 *et seq.* and joint FHWA FTA regulations, "environmental Impact and Related procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; and when promulgated, FHWA/FTA joint regulations, "NEPA and Related Procedures for Transportation Decision-making, Protection of Public Parks, Wildlife and Waterfowl Refuges, and Historic Sites," 23 C.F.R. Part 1420 and 49 C.F.R. Part 623.

### **3.20 Recycled Products**

The Recycled Products requirement applies to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000. These requirements flow down to all to all contractor and subcontractor tiers.

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. These items include:

***Paper and paper products***, excluding building and construction paper grades.

***Vehicular products***:

- (a) Lubricating oils containing re-refined oil, including engine lubricating oils, hydraulic fluids, and gear oils, excluding marine and aviation oils;
- (b) Tires, excluding airplane tires;
- (c) Reclaimed engine coolants, excluding coolants used in non-vehicular applications.

***Construction products***:

- (a) Building insulation products, including the following items:
  - (1) Loose-fill insulation, including but not limited to cellulose fiber, mineral fibers (fiberglass and rock wool), vermiculite, and perlite;
  - (2) Blanket and batt insulation, including but not limited to mineral fibers (fiberglass and rock wool);
  - (3) Board (sheathing, roof decking, wall panel) insulation, including but not limited to structural fiberboard and laminated paperboard products, perlite composite board, polyurethane, polyisocyanurate, polystyrene, phenolics, and composites; and
  - (4) Spray-in-place insulation, including but not limited to foam-in-place polyurethane and polyisocyanurate, and spray-on cellulose.
- (b) Structural fiberboard and laminated paperboard products for applications other than building insulation, including building board, sheathing, shingle backer, sound deadening board, roof insulating board, insulating wallboard, acoustical and non-acoustical ceiling tile, acoustical and non-acoustical lay-in panels, floor underlayment, and roof overlay (coverboard).
- (c) Cement and concrete, including concrete products such as pipe and block, containing coal fly ash or ground granulated blast furnace (GGBF) slag.
- (d) Carpet made of polyester fiber for use in low- and medium-wear applications.

(e) Floor tiles and patio blocks containing recovered rubber or plastic.

***Transportation products:***

(a) Traffic barricades and traffic cones used in controlling or restricting vehicular traffic.

***Park and recreation products:***

(a) Playground surfaces and running tracks containing recovered rubber or plastic.

***Landscaping products:***

(a) Hydraulic mulch products containing recovered paper or recovered wood used for hydroseeding and as an over-spray for straw mulch in landscaping, erosion control, and soil reclamation;

(b) Compost made from yard trimmings, leaves, and/or grass clippings for use in landscaping, seeding of grass or other plants on roadsides and embankments, as a nutritious mulch under trees and shrubs, and in erosion control and soil reclamation.

***Non-paper office products:***

(a) Office recycling containers and office waste receptacles;

(b) Plastic desktop accessories;

(c) Toner cartridges;

(d) Binders; and

(e) Plastic trash bags.

### **3.21 Cargo Preference**

46 U.S.C. 1241(b)(1) and 46 CFR Part 381 impose cargo preference requirements in contracts and subcontracts in which equipment, materials or commodities may be transported by ocean vessel in carrying out the project. If the Contractor has knowledge of or anticipates any equipment, materials or commodities that may be shipped by ocean vessel, the Contractor is obligated to inform the Department, so that additional requirements and clauses may be attached to this Contract.

### **3.22 Recovered Materials**

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.

### **3.23 Veterans Employment**

The contractor agrees to give hiring preference, to the extent practicable, to veterans (as defined in Section 2108 of Title 5) who have the requisite skills and abilities to perform the construction work required under this contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, individual with a disability or former employee [FTA C 4220.1F, IV, 2c (1)].

## SECTION 1 - INSTRUCTIONS TO PROPOSERS

### 4.0

The Winston-Salem Transit Authority is issuing the accompanying Request for Proposal (RFP) for the provision of Bus Rehabilitation Services.

The following key dates will govern this process however, may be subject to change:

July 23, 2018	Written questions and Request for Approved Equals due - 12:00 Noon
July 25, 2018	Written responses to Questions and Approved Equal requests
July 30, 2018	Proposals received – 12:00 Noon (EST)

### 1.0 PREPARATION OF PROPOSAL

**Prospective bidders should submit a cost-per-unit price for retrofit in that the number of vehicles requiring retrofit may vary in accordance with the price and repair schedule submitted by the bidder.**

All proposals should be complete and carefully worded and must convey all of the information requested by the Winston-Salem Transit Authority. If errors or exceptions are found in the Offeror's proposal, or if the proposal fails to conform to the requirements of the RFP, the Winston-Salem Transit Authority will be the sole judge as to whether that variance is significant enough to reject the proposal.

Proposals should be prepared simply and economically. All data, materials, and documentation shall be available in a clear, concise form. The Winston-Salem Transit Authority reserves the right to reproduce proposals for internal use in the evaluation process.

All proposals shall provide a straight forward, concise description of the Offeror's ability to satisfy the requirements of the RFP.

If any proposal includes any comment(s) over and above the specific information requested in this RFP such comment(s) must be included as a separate appendix to such proposal.

The Offeror is solely responsible for all costs and expenses associated with the preparation of their response and of any supplementary presentation (including any oral presentation) requested by the Winston-Salem Transit Authority.

Proposals must be made in the official name of the individual, firm, or corporation under which the business is conducted (showing official business address) and must be signed in ink by a person duly authorized to legally bind the business entity submitting the proposal.

Submittals shall be typewritten, or computer generated. It shall include, but is not limited to, addresses of all firms which would participate in the proposed work. The type of organization of the Offeror whether individual, partnership, corporation, or joint venture among any types of entities shall be stated. Any affiliations, parent-subsidiary relationships, and corporate identities must be fully disclosed and clearly explained.

This entire set of documents constitutes the RFP. The proposer must return this RFP with all information necessary to properly analyze the proposer's response in full, in the same numerical order in which it was issued. Proposer's notes, exceptions, and comments may be rendered on an attachment, provided the same format of this RFP text is followed. The proposal must remain in effect for a minimum of ninety (90) days from the date of submittal.

#### 4.1 PROPOSER QUESTIONS AND INQUIRIES

Proposer Questions and Inquiries relative to this RFP must be submitted **in writing only** by **12:00 Noon, July 23, 2018**, to Jerry Bates, City/County Purchasing Director, 101 North Main Street, Winston-Salem, NC 27101 or e-mail: [jerryjb@cityofws.org](mailto:jerryjb@cityofws.org) (**Email is preferred**), Fax: (336) 727-2443. The City will provide written responses to all inquiries received by this date, and responses will be made available to all recipients of this RFP. Any oral responses made by any representative of the City may not be relied upon. Any supplements or amendments to this RFP will be in writing and furnished to potential bidders.

##### Approved Equals

All exceptions being proposed; no matter how seemingly minor shall be disclosed in accordance within this section and the “Approved Equal Process” by the submission date detailed in this section. The requirements of this specification shall be strictly adhered to. Exceptions may be considered if they are proved to be equal or superior to those specified in this section. Conditional bids or those taking total exception to the specifications will be considered non-responsive and will be rejected.

Approved equal requests must clearly state the brand and model number being submitted for consideration along with engineering drawings, performance specifications and installation data and proper certifications. Manufacture's brochures by themselves will not suffice. In addition, a minimum of three existing installations must be provided as references to establish the reliability and in-service performance of any proposed equipment for approved equal status.

If no exceptions or deviations are identified; items must be furnished exactly as specified.

The burden of proof shall rest with the bidder, in clearly establishing during the approved equal submittal process that the proposed items are equivalent to the performance and reliability of the lift model specified in this document.

Granting of an approved equal status will be at the sole discretion of the WSTA Maintenance staff.

#### 4.2 RFP RESPONSE SUBMISSION

**All proposals shall be returned in a sealed container or envelope containing one original proposal (please mark document as original) showing original signatures and seals and two (2) copies of the complete proposal marked “RTS Bus Rehabilitation Project” and submitted to the City/County Purchasing Department, City Hall - Suite 324, 101 North Main Street, Winston-Salem, NC 27101. Proposals received after 12:00 Noon, July 30, 2018 will not be considered.** Offerors mailing proposals should allow sufficient time for mail delivery to ensure timely receipt of their proposal.

The Winston-Salem Transit Authority will not be obligated for the expenses of any provider arising out of preparation and/or submittal of responses to this RFP. Proposals submitted in response to this RFP are to be prepared at the cost and expense of the respondents, with the express understanding that there may be no claims whatsoever for the reimbursement of any costs, damages, or expenses relating to this procurement from the Winston-Salem Transit Authority or any other party for any reason (including the cancellation of this RFP).

The Winston-Salem Transit Authority reserves the right to reject any or all proposals and to negotiate the final terms of any proposal. Issuance of this RFP does not guarantee a contract will be awarded to any proposer. The Winston-Salem Transit Authority staff anticipates contractor selection within 30 days of the proposal due date.

#### **4.3 SUBMITTAL REQUIREMENTS:**

Offerors shall address all items as specified in following sections. Failure to adhere to this format or to address all items specified may disqualify an Offeror from further consideration. Offerors are also encouraged to include any additional information they wish to be considered.

##### **Submit proposals in the following format:**

###### **A. Title Page**

Title page must show the RFP's subject; the Offeror's name; the name, address, and telephone number of a contact person; and the date of the proposal.

###### **B. Table of Contents**

Provide a Table of Contents to aid the evaluation of the proposal.

###### **C. Transmittal Letter**

Proposal must include a signed letter of transmittal briefly stating the Offeror's understanding of the work to be undertaken, the commitment to perform the work within the time period, a statement of "why" the Offeror believes its firm to be the best qualified to perform the work and a statement that the proposal is a firm and irrevocable offer for ninety days (90) calendar days.

## **SECTION 5 – QUALIFICATIONS / PROJECT SCHEDULE/ SCOPE OF WORK**

### **5.0 QUALIFICATIONS**

The successful contactor is required to satisfactorily demonstrate the ability to perform the required services by providing evidence of competently completing work of a similar nature.

General Information Required:

1. Description and history of the firm including services offered, year founded, form of organization (corporation, partnership, sole proprietorship), location of offices and number of employees.
2. General description of financial condition and identify any conditions (e.g. bankruptcy, pending litigation, planned office closures, impending merger) that may impede Offeror's ability to complete the project.
3. Identity of subcontractors by name, address, contact person, telephone number and project function.
4. Three references having contracts similar to the services requested in this RFP. (Name of contact, client's contact information, type of services provided)
5. Experience and qualifications of the management and supervisory staff to be assigned to this contract.
6. Staffing capability.
7. Record of completing projects on time.

Any other information which would assist the Winston-Salem Transit Authority in evaluating your firm.

### **5.1 PROJECT SCHEDULE**

**Bidder will submit a Project Schedule with the bid. The Project Schedule shall indicate the number of work days required to complete the project. The bidder will assume all seventeen RTS buses will be rehabilitated. This project is time-sensitive, therefore the number of units requiring rehabilitation is dependent on the proposed work schedule and available funds. Work schedules are critical to this project and will be considered in the award of the contract. The Winston-Salem Transit Authority desires that the project be completed by November 1, 2018). Proposed timelines for the receipt of equipment subsequent to award must be provided so that the storage space may be made reserved. Prospective bidders are required to provide bids by both individual unit (coach) and total fleet rehabilitation on price sheets for the respective components.**

### **5.2 SCOPE OF WORK**

**The Winston-Salem Transit Authority request bids for the following projects:**

➤ **Rear-Door Lifts**

*Removal of existing O.E.M rear-door step lifts and the installation of new rear-door lifts on RTS coaches. Contractor will be required to procure and deliver replacement rear-door lifts. Contractor will also dispose of old lifts.*

➤ **Destination Signs**

*Removal and installation of front, side and rear destination signs  
Contractor procures new signs and disposes of old signs*

➤ **Seat Inserts, Window Hinges and Floors**

*Removal of seat inserts, window hinges and floors and installation of new inserts, window hinges and floors. Contractor procures inserts, window hinges and floors and disposes of old inserts, windows, hinges and floors.*

➤ **Engines and Transmissions**

*Removal of engines and transmissions and installation of the same.*

*Contractor procures engines and transmissions. Contractor removes old engines and transmissions. Contractor disposes of old engines and transmissions.*

The type and maximum number of buses to be rehabilitated is listed below:

- *Ten (10) 2000 model year RTS06 coaches (35-foot)*
- *Four (4) 2001 model year RTS06 coaches (35 foot)*
- *Three (3) 2002 Model year RTS06 coaches (35 foot)*

**The Winston-Salem Transit Authority will dedicate three lift-equipped enclosed bus bays, and one bay that is not lift-equipped to the successful contractor. Bays will be available for all project work except engine and transmission replacement. Bus bays (located at 1060 North Trade Street in Winston-Salem) shall be available first, second & third shifts, seven days a week. One lift-equipped bus bay located at 737 City Yard Dr. shall be available weekdays from 6:45AM to 11:00PM. Bays are equipped with proper lighting, air source and electrical power source. The contractor MUST provide their own hand tools, air tools, welders and all other tools needed to expertly complete the project. WSTA will also provide one outdoor bay without a lift for all work not requiring the bus be elevated. The contractor must be able to work swing, graveyard and weekend shifts.**

**Additionally, bidders are permitted to engage qualified local contractors to facilitate project completion.**

**Inspection**

- All completed installations shall be inspected upon delivery for compliance with specifications. Deviations will not be allowed and will result in the rejection of the vehicle unless they were originally listed in the contractors bid and accepted by the WSTA Maintenance Department.
- All equipment shall be inspected upon delivery for compliance with specifications. Deviations will not be accepted and will result in the rejection unless approved equals were accepted by WSTA.
- Equipment and (or) materials shall arrive at WSTA ready for installation.

Contractor is responsible for insuring the retrofit is a complete "ready to work" TURN KEY installation, meeting all Federal and State safety and environmental laws and guidelines. The contractor assumes responsibility for meeting applicable governmental and manufacturer's guidelines whether or not specified herein.

Where requirements are shown as minimum; no minus tolerances shall be allowed. This does not prohibit the increase of any constituents listed unless a maximum is shown. The unit shall be furnished complete with all standard equipment and factory-installed accessories listed in the manufacturer's printed literature for the respective unit.

## **Product Manuals**

Printed literature (containing sufficient information to determine product compliance with specifications) must be furnished with the bid.

## **Standard Equipment**

Any parts, controls, materials or attachments, which are standard and/or necessary to form an efficient and complete, working unit as judged by the City, shall be furnished.

## **Items Not Specified**

Items not specified in this document but deemed necessary by the manufacturer for the efficient operation of the unit shall be provided.

## **Safety**

**All equipment and (or) materials shall fully conform to all applicable federal and State of North Carolina requirements and regulations as amended or newly issued. All other items not so specified but deemed necessary by the manufacturer for the safe and efficient operation of the unit shall be provided.**

## SECTION 6 -TECHNICAL SPECIFICATIONS

*Any manufacturer's names, trades names, brand names, or catalog numbers used in these specifications are for the purpose describing and establishing minimum requirements or levels of quality and design required, and in no way intend to prohibit the bidding of other manufacturers' items of equal material and quality. Project includes procurement, delivery, installation of all components followed by disposal of the same.*

### Rear Door Wheelchair Lift

WSTA requires the supply and installation of a maximum of seventeen Lift U Model LU2-10-13 (or approved equal) wheelchair lifts in the rear door of WSTA'S RTS model buses. Lifts MUST be compliant with ADA, NHTSA and North Carolina regulations. The physical installation of the lifts shall be accomplished at facilities provided by the Winston-Salem Transit Authority.

It is the intent of these technical specifications to describe a heavy-duty wheelchair lift with a proven track record of trouble free operation in heavy duty transit operations.

The specifications listed are to be interpreted as meaning the minimum required by the City. Offeror commits to provide goods [or services] that are consistent with the City's specifications in every regard unless an exception is clearly noted. The City may accept a bid with exception if, in the sole judgment of the City, the bid meets or exceeds the City's specifications. If the goods [or services] offered do not meet or exceed the City's specifications because of the exception, the City will consider the bid non-responsive.

Details of construction and materials, where not otherwise specified, are left to the discretion of the manufacturer, provided that only materials and workmanship of the highest quality are to be used, and best commercial practice is adhered to in the fabrication of the unit(s). Except as otherwise specified herein, the manufacturer shall be solely responsible for design and construction of the product to meet the stated performance criteria.

### Wheelchair and Installation Requirements

Retrofit project shall consist of the removal and proper disposal of the existing OEM rear door lift parts that WSTA deems scrap. (WSTA will utilize some of the removed lift assemblies as spare parts.) The retrofit project shall include the design and fabrication of all frame reinforcements along with mounting brackets to install a **Lift-U model LU2-10-13** (or approved equal) rear door lift. The installation will also include all hydraulic and electrical interfaces, all safety and interlock systems and all modifications necessary to interface the new lift into the RTS electrical system.

When complete, the installation will include all Federal and State of North Carolina requirements for interlock and safety systems and both the lift and the final installation will comply with ADA requirements as described in Title 38 Federal Register No. 175 dated November 6, 1991 as amended as well as NHSTA regulations in effect as of April 2006.

The lift (as manufactured by Lift U) is a true step-lift with smooth vertical {elevator type} movements in all modes and will allow the following

- 1) When stowed, forms steps to provide conventional entry and exit

2) When deployed; acts as a wheelchair platform lift

The lift requires no manual assembly or manipulation by the vehicle operator except through electro-hydraulic controls.

The lift shall be equipped with an emergency backup system (hydraulic pump), which will allow the operator to perform a complete on or off load cycle including stowing and securing the unit manually. The pump shall be conveniently located at the wheelchair lift area.

The lift shall be installed in such a manner to provide easy accessibility for repairs, maintenance and inspection. The successful contractor will be required to submit proposed installation diagrams clearly labeled to allow WSTA Maintenance Staff to determine if the equipment layout is consistent with this requirement.

The lift will have no exposed parts or mechanisms that have the potential for pinching, snagging or otherwise causing injury to persons on or near the lift; and be completely automatic.

The lift shall be turned on/off by a master electrical switch, located at the operator's control panel in the operator's area, which shall provide power for the controller located on the rear tower. The controller shall allow the operator to perform all on/off loading functions, including stowing and locking the lift in the stowed position.

The controls for deploying the system shall be momentary contact type, require continuous pressure for operation, be interlocked with the vehicle brake, transmission, door or other appropriate mechanisms or systems in compliance with all ADA, NHTSA, Federal and State regulations. The interlock shall be designed to prohibit lift operation if the interlocks are not properly engaged.

The interlock system shall also prohibit the vehicle from moving when the lift is not properly stowed and secured.

The platform will be no less than 49.81" inches in length and must have a platform width of a minimum of 34.63" inches.

The lift must be capable of supporting loads in compliance with ADA and NHTSA regulations in effect at the time of award and have safety features that inhibit the lift from retracting or folding when a passenger is on the platform. The platform and steps shall be covered with RCA non-skid flooring material in a color to match the floors in the bus. The RCA flooring number will be supplied to the successful proposer.

The platform and barriers will be designed to inhibit the wheelchair and occupant from being powered off the ends or sides of the lift platform per ADA and NHTSA requirements.

The lift shall be designed to protect the coach and persons on the sidewalk from damage or injury during all phases of operation. Proposers are required to provide details with their proposal response.

The lift shall be equipped with ground level sensors, which will deactivate the downward movement of the lift when the lift platform reaches ground level. If a malfunction occurs, the lift shall not be capable of lifting the bus if the lift's downward movement does not stop when reaching ground level.

All handrails, and other lift features shall comply with ADA and NHTSA requirements.

When completed, each bus shall be equipped with an information plate that details the proper lift operation in both the normal and emergency modes in the control area.

All work including electrical, hydraulic, mounting brackets and access covers shall be placed in the same location on each bus.

All electrical circuits shall be 24-volt systems with minimum amperage draw and shall not require the installation of additional or larger alternators beyond the OEM charging system. Limit and proximity switches shall be weather-proof and sealed from external elements.

Door height and width shall not be modified or compromised, and the installation will not affect the structural integrity of the bus.

The lift power source shall be “hydraulic motor driven” and independent hydraulic power systems shall be completely independent of the coach power steering hydraulic power system.

All work related to the wheelchair lift removal and installation is to be performed onsite at WSTA or the City Maintenance facility. The successful proposer shall have the manpower, expertise and equipment necessary to perform installations.

## **Destination Signs**

WSTA requires the supply and installation of front, rear and side TwinVision Model SmartSeries III LED (or approved equal) destination signs along with controller or approved equal.

Dimensions required:

Front 16 X 160 (10mm) AMBER

Side 14 X 112 (8mm) AMBER

Rear 16 X 48 AMBER

Controller shall be mounted in the overhead driver’s area and include an on/off toggle switch. Power shall be available in the Day/Nite Run position. Software and programming of the latest version shall be included.

It is the intent of this scope of work and technical specifications to describe the installation of a destination sign with a proven track record of trouble free operation in Heavy Duty Transit operations. All proposals are to include at least three references for an approved equal. References will confirm both the satisfactory operation of the sign and the contractor's successful performance of the retrofit project.

All signs must meet all applicable Federal Motor Vehicle Safety Standards and State of North Carolina regulations, and fully comply with the Americans with Disabilities Act as well as NHTSA regulations.

All features and specifications described in these technical specifications are the minimum levels acceptable to WSTA. Any failure to propose equipment that meets at least the minimum levels of this specification will be rejected as unresponsive.

## **Floors, Window Hinge Seals and Seat Inserts with Backs**

WSTA requires the contractor to install new floors, seat inserts and backs,

window hinge seals and side panel hinges. Material and parts that WSTA deems scrap shall be disposed of by the contractor.

### *Floors*

Contractor shall design and fabricate plywood flooring. Installation shall be accomplished with fasteners, sealing, glue and caulking. Bus floors shall be composed of 3/4 marine-grade plywood and RCA rubber flooring (or approved equal.) Rubber molding color for wheel wells are to be determined by WSTA. Material MUST be ADA and NHTSA compliant. Contractor shall remove and dispose of the existing OEM flooring. All floors must meet all applicable Federal Motor Vehicle Safety Standards, State of North Carolina regulations, and fully comply with the Americans with Disabilities Act as well as NHTSA regulations.

### *Seat Inserts*

Seat inserts and backs are to be replaced with ‘American Seating’ VR50 seat inserts and backs with drain holes (or approved equal.) Thirty-five seats and backs shall be installed.

### *Window Hinge Seals and Side Panel Hinges*

The contractor will install nine window hinge seals and five side panel hinges per bus.

## **Engine Removal and Replacement**

WSTA is requiring the removal and installation of engines.

### *Engines*

Engine replacement for model year 2000 and 2001 RTS06 buses shall be a Cummins ISC 8.3 (280hp) Recon built to OEM specifications; complete with all accessories with a minimum one-year, unlimited mileage warranty.

Engine replacement for model year 2002 RTS06 buses shall be a Detroit 50 Series EGR 8.5 (275hp) Reliabilt built to OEM specifications; complete with all accessories with a minimum one-year, unlimited mileage warranty.

All engines shall be dyno-tested.

Additionally, the following components and liquids shall be replaced and (or) added in all coaches:

- Coolant and charge air hoses
- Radiators and charge air coolers
- Air Compressors

- Oil, air and coolant lines
- Front and rear engine mounts
- 50 DN alternators
- Starters and ring gears
- All filters; complete with oil, fuel, air and coolant
- Belts and tensioners
- Engine sensors and harnesses
- Flex plates
- Engine fan isolators
- Engine catalytic converters

### **Transmission Removal and Replacement**

Transmission replacement for all buses shall be a ZF Ecomat 2 (5hp-592C); ratio 3.43-0.83, built to OEM specifications.

Additionally, the following components shall be replaced:

- Transmission lines
- Flex plates
- Transmission mounts

All transmissions shall be dyno-tested and the transmission cooler shall be cleaned and flushed.

**PRICE SHEET**

*Rear Door Wheelchair Step Lift*

*(Price includes procurement, delivery, removal, installation and disposal)*

Price per Unit \_\_\_\_\_ Total Price for Seventeen Units \_\_\_\_\_

*Destination Signs*

*(Price includes procurement, delivery, removal, installation and disposal)*

Price per Unit \_\_\_\_\_ Total Price for Seventeen Units \_\_\_\_\_

*Floors*

*(Price includes procurement, delivery, removal, installation and disposal)*

Price per Unit \_\_\_\_\_ Total Price for Seventeen Units \_\_\_\_\_

*Window Hinge Seals*

*(Price includes procurement, delivery, removal installation and disposal)*

Price per Unit \_\_\_\_\_ Total Price for Seventeen Units \_\_\_\_\_

*Seat Inserts with Backs*

*(Price includes procurement, delivery, removal, installation and disposal)*

Price per Unit \_\_\_\_\_ Total Price for Seventeen Units \_\_\_\_\_

*Engine*

*(Price includes procurement, delivery, removal, installation and disposal)*

Price per Unit \_\_\_\_\_ Total Price for Seventeen Units \_\_\_\_\_

*Transmission*

*(Price includes procurement, delivery, removal, installation and disposal)*

Price per Unit \_\_\_\_\_ Total Price for Seventeen Units \_\_\_\_\_

**By signing Attachment "A", the proposer agrees to the following:**

The proposer agrees that in carrying out this contract, compliance will be maintained with all applicable federal, state, and local laws, specifically including, without limitations, the Occupational Safety and Health Act of 1970 and Section 1324A, the Immigration Reform and Control Act.

The proposer certifies that the proposal is made in good faith and without collusion with any person bidding on this contract or with any officer or employee of the Winston-Salem Transit Authority.

The undersigned further agrees, in connection with the performance of this contract, not to discriminate against any employee or applicant for employment because of race, religion, color, gender, age, handicap, political affiliation or national origin

The Winston-Salem Transit Authority reserves the right to hold proposals open for a period of ninety days (90) calendar days after due date before making awards.

**ATTACHMENT A  
PROPOSAL AUTHORIZATION AND SIGNATURE**

**The signature page must be completed and submitted with the proposal:** Proposals are to be signed by an officer of the company authorized to bind the submitter to its provisions. Failure to manually sign and notarize the appropriate proposal form will disqualify the proposer and the proposal will not be considered.

\_\_\_\_\_  
Company Telephone Number

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

\_\_\_\_\_  
Typed Name and Title Federal Identification #

\_\_\_\_\_  
Mailing Address, (P.O. Box or Street)

\_\_\_\_\_  
City, State and Zip Code

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

\_\_\_\_\_  
E-Mail Address City of Winston-Salem Business License Number (if required)

On this \_\_\_ day of \_\_\_\_\_, 20\_\_\_ before me \_\_\_\_\_  
(name)

to me personally known, being duly sworn, did execute the foregoing proposal, and did so state that he/she was properly authorized by \_\_\_\_\_

(company name)

to execute the proposal and did so on his/her free act and deed. **SEAL**

Notary Public \_\_\_\_\_ My commission expires \_\_\_\_\_

**ATTACHMENT B**

**CERTIFICATION REGARDING LOBBYING**

*(To be submitted with each bid or offer exceeding \$100,000)*

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any persons 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 the awarding to 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]

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

This certification is a material representation of fact upon which reliance 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 31, U.S.C. 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

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

Date \_\_\_\_\_ Signature of Contractor's Authorized Official \_\_\_\_\_

Name and Title of Contractors Authorized Official \_\_\_\_\_

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public  
My Appointment Expires

**ATTACHMENT C**

**CERTIFICATE OF COMPLIANCE  
FOR PROCUREMENT OF STEEL, IRON, OR MANUFACTURED PRODUCTS  
(BUY AMERICA)**

The bidder hereby certifies that it **will meet** the requirements of 49 U.S.C. Section 5323(j) (1), and the applicable regulations in 49 CFR Part 661.

DATE

SIGNATURE

TITLE

COMPANY

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

Notary Public  
My Appointment Expires

**ATTACHMENT D**

**CERTIFICATE OF NON-COMPLIANCE  
FOR PROCUREMENT OF STEEL, IRON, OR MANUFACTURED PRODUCTS  
(BUY AMERICA)**

The bidder hereby certifies that it **cannot comply** with the requirements of 49 U.S.C. Section 5323(j) (1), but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2) (B) or (j)(2)(D) and the regulations in 49 CFR Part 661.7.

DATE

SIGNATURE

TITLE

COMPANY

State of \_\_\_\_\_

County of \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

Notary Public  
My Appointment Expires

**THIS IS A SAMPLE CONTRACT FOR REFERENCE ONLY  
ACTUAL CONTRACT MAY DIFFER**

**THIS INDEPENDENT CONTRACTOR AGREEMENT** (hereinafter, this "Agreement"), entered into this \_\_\_\_ of \_\_\_\_\_, 20\_\_, by and between the **WINSTON-SALEM TRANSIT AUTHORITY**, a North Carolina Corporate Body (hereinafter, the "WSTA") and \_\_\_\_\_, (hereinafter "Contractor").

**WHEREAS**, the City and Contractor desire to enter into an agreement whereby Contractor shall provide the following service: **RTS Bus Rehabilitation Project for Winston-Salem Transit Authority**.

**NOW, THEREFORE**, in consideration of the mutual promises and obligations herein set forth, the sufficiency and adequacy of which is hereby acknowledged, the parties, and their respective successors, assigns, executors, administrators and legal representatives, hereby agree as follows:

**General Terms.** The Contractor shall provide the service set forth hereinabove, in consideration for the estimated payment of no more than \_\_\_\_\_ **Dollars** based on the prices submitted in your proposal, which is dated \_\_\_\_\_ attached hereto and incorporated herein by reference. Should any term of the attached proposal conflict with the terms contained in this agreement, the terms of this agreement shall control and supersede those terms of the Contractor's proposal. The Contractor warrants that it will perform the scope herein in a good and workmanlike manner and that it knows and is familiar with all applicable laws, regulations and standard practices regarding these services and has the expertise necessary to properly perform the obligations undertaken by this agreement. The Contractor, and its employees and subcontractors, shall perform the services herein as Independent Contractors and are not entitled to employee benefits of any kind. This agreement will not be construed in any way to be a joint venture, partnership or employer-employee relationship. The Contractor further understands and agrees that he is responsible for the payment of all state and federal income taxes. In addition, the Contractor shall provide the City a business license and any other licenses or certifications required by federal, state or local law as well as copies of any amendments or renewals thereof. The Contractor shall give the City at least thirty (30) days written notice prior to any cancellation, modification or non-renewal of any license and/or certification required by federal, state or local law. Neither party may assign, transfer or delegate any of the rights or obligations herein without the prior written consent of the other party. This agreement shall be governed by and construed in accordance with the laws of the State of North Carolina and the venue for any litigation arising out of this agreement shall be Forsyth County.

**Payment.** Contractor shall invoice City no more than once every 30 days. The City has the right to request that the Contractor provide reasonable documentation to support an invoice.

**Release and Indemnity.** The Contractor hereby releases and forever discharges the City, its agents, officers, officials, and employees, from all claims, demands, expenses, costs and liabilities of any kind or nature directly or indirectly related to any personal injury and/or property damage arising out of the performance of the service, except those claims that result from the sole negligence of the City or a City employee acting within the scope of the employment. The Contractor shall indemnify, defend and hold harmless the City, its agents' officers, officials, and employees from and against any and all claims, demands expenses, costs and liabilities of any kind or nature, directly or indirectly caused by, arising out of, or related to the intentional, negligent or reckless acts or omissions of the Contractor, and its agents or employees, in the performance of these services.

**Insurance.** During the performance of the service described herein, the Contractor shall:

(1) Maintain Commercial General Liability to protect the Contractor, its subcontractors, and the City against all injuries to third parties, including personal injury and property, and special and consequential damages, resulting from any action, omission or operation by the Contractor or in connection with the services described herein. The insurance shall also include, coverage for explosion, collapse, and underground hazards, where required. This insurance shall provide bodily injury and property damage limits of not less

than \$1,000,000 for each occurrence, respectively. The minimum liability coverage required may be increased depending on the nature of the services provided.

(2) Maintain Owned, non-owned, and hired Automobile Liability insurance, including property damage insurance, covering all owned, non-owned, borrowed, leased, or rented vehicles operated by the Contractor in furtherance of these services. In addition, all mobile equipment used by the Contractor in connection with the contract work, will be insured under either a standard Automobile Liability policy, or a Comprehensive General Liability policy. This insurance shall provide bodily injury and property damages limits of not less than \$1,000,000 combined single limit/aggregate.

(3) Maintain Workers' Compensation insurance as required by North Carolina law.

(4) Provide to the City's Risk Manager, before beginning the service, an original, signed Certificate of Insurance, evidencing such insurance, naming the City as an additional insured and stating that the coverage is primary to any other coverage the City may possess. The Contractor shall furnish the City immediate written notice of any changes or cancellation of the policy. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments until the new certificate is furnished to the City's Risk Manager. Insurance coverage required in these specifications shall be in force throughout the Term. Municipal Exclusions, if any, for General Liability coverage shall be deleted. Should Contractor fail to immediately provide acceptable evidence of current insurance at any time during the Term, the City shall have the absolute right to terminate the Contract without any further obligation to the Contractor, and the Contractor shall be liable to the City for all available remedies – in equity and at law.

(5) The Contractor will secure evidence of all insurance policies of its subcontractors which shall be made available to the City on demand. The Contractor shall require its subcontractors to name the Contractor and the City as additional insured parties on the subcontractor's general and automobile liability insurance policies. The Contractor shall be as fully responsible to the City for the acts and omissions of its subcontractors and of persons employed by them as it is for the acts and omissions of persons directly employed by it.

(6) Contractual and other Liability insurance provided under this contract shall not contain a supervision inspection or engineering services exclusion that would preclude the City from supervising and/or inspecting the project as to the end result.

**Termination.** Unless otherwise agreed upon in writing by the parties, this agreement may be terminated by either party for convenience with no less than ten calendar days' notice. In the event of termination, the Contractor will be paid for all services properly rendered to the date of termination and shall promptly discontinue all services affected (unless a termination notice from the City directs otherwise). In the event of any termination, the Contractor will be paid for all services properly rendered to the date of termination and she shall (i) promptly discontinue all services affected (unless a termination notice from the City directs otherwise); and (ii) deliver to the City all documents, data, reports, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing the services herein. Other than being paid for services properly rendered to the date of termination, Contractor hereby waives any and all other claims for lost profits, lost opportunity, and for any and all other direct, indirect special and consequential damages. In the event that the City terminates this agreement due to the Contractor's poor workmanship, failure to perform the service set out herein or, otherwise, for breach of the agreement, or in the event that the Contractor terminates this agreement for convenience or otherwise, the City may pursue and recover all remedies available at law or in equity, as these remedies are cumulative and do not exclude each other.

**Reuse of Documents.** All documents, including drawings, specifications, supporting calculations, computer software, etc., prepared by the Contractor pursuant to this agreement are instruments of service with respect to this agreement and Contractor shall provide at least one copy of each to City upon City's request. The reuse of these documents by the City or by others authorized by the City, whether in this project or any other project, entitles the Contractor to no additional compensation. The City reserves the right to require the Contractor to submit copies to the City of any service information and documentation during and after the completion of the service with the Contractor's compensation being limited to the direct printing and copying expense and/or direct expenses to copy and supply computer information on a diskette. The Contractor's indemnity, release and warranty are limited to the use contemplated in this agreement and Contractor shall

not be liable to the City or any third party for any claim arising out of the use of the Contractors documents apart from this agreement.

**Notices.** Any notice or other communication herein shall be in writing and shall be sent via a method permitting confirmed receipt (such as registered U.S. mail or an overnight courier service such as Federal Express). All notices shall be confirmed by facsimile transmission. All notices shall be deemed given when deposited, postage prepaid, in the United States mail or to the overnight courier service, addressed as set forth below, or to such other address as any one party shall advise the other in writing:

If to the City:

Name:

Position:

Address:

If to the Contractor:

Name:

Position: Representative

Address:

**Severability.** If any provision of this agreement is held to be void, invalid, illegal or unenforceable under any law or regulation, such void, invalid, illegal or unenforceable provision shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City and the Contractor and this agreement shall be considered as if such void, invalid, illegal or unenforceable provision had never been including herein.

**Entire Agreement.** This agreement represents the entire understanding and agreement between the parties hereto relating to the services and supersedes any and all prior negotiations, discussions and agreement, whether written or oral, between the parties regarding same. Headings within the agreement are for convenience only and do not define, limit or construe the contents of such sections.

**Amendment or Modification.** With the exception of a properly executed purchase order(s) which the parties agree shall become a self-executing amendment(s) hereto, this Agreement shall not be modified except by another written document signed and executed by the City and the Contractor.

**Waiver.** Failure or delay on the part of the city to exercise any right, remedy, power or privilege hereunder shall not operate as a waiver of any current or future default. Further, a waiver of one provision of this agreement is not a waiver of all or future provisions of this agreement.

**Safety Rules.** Contractor hereby acknowledges that it has reviewed and agrees to abide by the City's "Safety and Environmental Requirements for Contractors" located on the City's website – [www.cityofws.org](http://www.cityofws.org) – and whose specific address is:

<http://www.cityofws.org/Home/Departments/FinancialManagementServices/RiskManagement/Articles/EmployeeSafety>

**ADA, OSHA and Equal Opportunity.** The Contractor shall comply with the applicable provisions of the Americans with Disabilities Act (ADA), the State of North Carolina Occupational/Safety and Health Act (OSHA) and the State and Federal Equal Opportunity Statutes, as well as all rules and regulations promulgated thereunder.

**Suspension and Debarment.** Contractor hereby certifies that neither it, nor its agents or subcontractors: (1) are presently debarred, suspended, proposed for suspension or debarment from contracting by any Federal or State Department or Agency, or (2) have been declared ineligible or voluntarily excluded from contracting by or with any Federal or State Department or Agency. Any contract entered into with a contractor or subcontractor that has been debarred or suspended, declared ineligible or voluntarily excluded from contracting with or by any Federal or State Department or Agency may be terminated at the sole discretion of the City.

**E-Verify Compliance.** In accordance with the Reclaim Act, Session Law 2013-418, and Article 2 of Chapter 64 of North Carolina General Statutes, Contractor must execute, either before or simultaneous with this contract, the attached E-Verify Affidavit attesting to: (1) its compliance with E-Verify or the non-applicability of the E-Verify requirements due to an employee population of less than 25 employees in North Carolina; and (2) its subcontractors' compliance with E-Verify or the non-applicability of such due to an

employee population of less than 25 in North Carolina. Said Affidavit is attached hereto and incorporated herein. A violation of this provision or the E-Verify requirements shall be just cause for the City to terminate this contract. Any contract entered into without an executed E-Verify affidavit shall be void.

**Iran Divestment Act**

Provider hereby certifies that it is not on the North Carolina State Treasurer’s list of persons engaging in business activities in Iran, prepared pursuant to NCGS 147-86.58, nor will Provider utilize on this agreement any subcontractor on such list. This list, along with additional information about the Iran Divestment Act, is available on the Treasurer’s Office site: <https://www.nctreasurer.com/inside-the-department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx>.

**Divestment from Companies that Boycott Israel**

Contractor hereby certifies that it is not on the North Carolina State Treasurer’s list of companies engaged in a boycott of Israel in violation of NCGS 147-86.80 et. seq. and that it will not utilize on this agreement any subcontractor on said list.”

**IN WITNESS WHEREOF**, the parties hereto have caused this agreement to be executed by their duly authorized representatives and signed under seal effective as of the date first written above.

**WINSTON-SALEM TRANSIT AUTHORITY**

ATTEST:

\_\_\_\_\_(SEAL)  
Melanie Johnson, City Secretary

\_\_\_\_\_(SEAL)  
Lee D. Garrity, City Manager

This instrument has been pre-audited in the manner required by the Local Government and Fiscal Control Act.

Approved as to form and legality.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

This \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Lisa Saunders, Chief Financial Officer

\_\_\_\_\_  
Angela Carmon, City Attorney

**BUSINESS NAME**

ATTEST:

\_\_\_\_\_(SEAL)  
Authorized Signature

\_\_\_\_\_(SEAL)  
Authorized Signature

\_\_\_\_\_  
Print Name / Title (Corp Secretary or Officer)

\_\_\_\_\_  
Print Name / Title

**E-VERIFY AFFIDAVIT**

STATE OF NORTH CAROLINA  
COUNTY OF FORSYTH

E-VERIFY AFFIDAVIT FOR THE  
CITY OF WINSTON-SALEM

I, \_\_\_\_\_ (the affiant), being duly authorized by and on behalf of \_\_\_\_\_ (the Contract awardee hereinafter "Employer") being first duly sworn, hereby depose and state as follows:

- 1. I am eighteen years of age and I am familiar with the matters set forth in this affidavit.
- 2. I am \_\_\_\_\_ (insert title) of/for the Employer and that I am authorized to state and do hereby certify, on behalf of the Employer, the following:
  - (a) The Employer understands that pursuant to Session Law 2013-418, the City of Winston-Salem ("City") is prohibited from entering into any contract with a private entity ("Contractor") unless that Contractor and that Contractor's Subcontractors have complied with E-Verify, which is a federal web-based system/program currently operated by the United States Department of Homeland Security in partnership with the Social Security Administration used to verify the legal employment status of newly hired employees, as required by Article 2, Chapter 64 of the North Carolina General Statutes.
  - (b) The Employer is a person, business entity or other organization that transacts business in this State and (i) employs 25 or more employees in North Carolina and is in compliance with E-Verify (G.S. § 64-25 et. al.) or (ii) does not employ 25 employees in North Carolina. (Place an "X" in the appropriate blank)
  - (c) The Subcontractors of the Employer that: (1) employ 25 or more employees in North Carolina are in compliance with E-Verify and Employer will monitor for Subcontractors' compliance with E-Verify; and (2) employ less than 25 employees in North Carolina are so noted the attached E-Verify Exhibit#1.
  - (d) Employer will ensure compliance with E-Verify by any subsequently hired Subcontractors.
- 3. All of the statements contained in this affidavit are true and accurate.

This, the \_\_\_\_ day of \_\_\_\_\_, 2018.

Signature of Affiant \_\_\_\_\_

State of: \_\_\_\_\_

County of: \_\_\_\_\_

Sworn to and subscribed before me this the \_\_\_\_\_ day of \_\_\_\_\_, 2018.

Notary Public

My commission expires: \_\_\_\_\_ (Affix Official /Notarial Seal)

**CHECK OFF LIST**  
*Critical information and Documents*

TVM Certification	_____
Transmittal Letter (see page)	_____
Qualifications (see page)	_____
Proposed Repair Schedule	_____
Price Information	_____
Attachment A (Proposal Authorization)	_____
Attachment B (Lobbying)	_____
Attachment C (Buy America\Compliance)	_____ (or)
Attachment D (Buy America\Non-Compliance)	_____
E-Verify Affidavit	_____
Certificate of Insurance	_____
<b>(submitted with executed contract)</b>	