



# Link TRANSIT

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## REQUEST FOR PROPOSAL

### Solicitation of the Service Provider for the Link Transit Fixed Route & Paratransit System

**PROPOSAL DUE DATE:** Friday, January 14, 2022 @ 2:00 p.m.  
**PROPOSAL SUBMITTAL LOCATION:** City of Burlington Purchasing Division  
237 West Maple Avenue Burlington, NC 27215

**PURCHASING MANAGER:** Sonjia Cross, CLGPO  
**TELEPHONE NUMBER:** (336) 222-5006  
[scross@burlingtonnc.gov](mailto:scross@burlingtonnc.gov)

*Technical questions shall be directed to:*

**INTERM TRANSIT MANAGER:** John Andoh, CCTM, CPM  
**TELEPHONE NUMBER:** (336) 222-7351  
[jandoh@burlingtonnc.gov](mailto:jandoh@burlingtonnc.gov)

Competitive proposals for the specified service shall be received by the City of Burlington Purchasing Division, 237 West Maple Avenue, Burlington, NC 27215, until the date and time cited. Please submit your proposal to the City of Burlington Purchasing Division, Attention: Sonjia Cross, Purchasing Manager CLGPO via one of the following ways:

**Mail:**  
P.O. Box 1358  
Burlington NC, 27216

**Hand Deliver:**  
237 West Maple Avenue  
Burlington, NC 27215

Proposals must be in the actual possession of the Purchasing Division at the location indicated, on or prior to the exact date and time indicated above. Late proposals shall not be considered. The prevailing clock shall be the City of Burlington Purchasing Division clock in the Eastern Standard Time (EST) zone.

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## **INTRODUCTION**

The City of Burlington, Alamance County, Alamance Community College and Town of Gibsonville, North Carolina entered into a partnership and established a fixed bus route public transportation service for the area called the Link Transit System. The Link Transit system began operations in June 2016 with a contracted service provider providing operations and maintenance to the city's bus fleet. Currently, Link Transit consists of a fleet of seven (7) light transit vehicles (LTVs) which operates a total of five (5) fixed routes in the Burlington and Gibsonville areas. Paratransit services are operated by the contracted service provider in addition. The City's Planning and Transportation Department oversees administration of the Link Transit system by way of a Transit Manager and Transit Coordinator.

The City of Burlington (City) is accepting proposals for the operation of the Link Transit Fixed Route & Paratransit system in the City of Burlington, Alamance County and Town of Gibsonville. The selected Service Provider shall provide the personnel, maintenance, materials, supplies, training, and superintendence necessary for safe, courteous, and reliable transportation of passengers. The selected Service Provider will be solely responsible for maintenance of the City-provided fleet of seven (7) LTV, self-owned/acquired vehicles for the paratransit service with two (2) fixed route spare vehicles of 2019 or newer, equipment, and a facility suitable for the provision of services. The City reserves the right during the term of the Contract to replace Service Provider owned vehicles with its own or upgrade the LTVs to larger transit vehicles as well as replace its facility with its own.

The requirements for submitting a proposal are stated in the attached request for proposals ("RFP"). All proposals are due to the City of Burlington Purchasing Division, 237 West Maple Ave Burlington, NC 27215, no later than Friday, January 14, 2022 at 2:00 p.m. Eastern Standard Time (EST). Three (3) hard copies and one (1) digital (flash drive), including one (1) with original signatures, of your proposal should be submitted in a sealed box or opaque envelope plainly marked with the following information:

Service Provider for the Link Transit Fixed Route & Paratransit System

Attention: City of Burlington/Sonjia Cross, Purchasing Manager, CLGPO

Name of the Service Provider Submitting Proposal

RFP questions regarding the operations or technical aspects of this transit system must be directed to John Andoh, Interim Transit Manager via email at [jandoh@burlingtonnc.gov](mailto:jandoh@burlingtonnc.gov). Questions regarding city contracting policy, accounting procedures and other city regulations should be directed to Sonjia Cross, Purchasing Manager CLGPO at [scross@burlingtonnc.gov](mailto:scross@burlingtonnc.gov). The City is an equal opportunity purchaser.

**PROCUREMENT PROCESS/TENTATIVE TIMETABLE**

The following chart shows the schedule of events to prepare your submittal. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow (subject to change with notification):

DATE	EVENT
December 13, 2021	The City issues this RFP.
December 27, 2021	Submission of Written Questions. Firms may submit to the city written questions for purposes of clarifying this RFP. All questions must be sent to John Andoh, Interim Transit Manager at the email address listed below and must include the name of the professional firm contact person to receive the City’s answers. Contact Info: John Andoh, Interim Transit Manager <a href="mailto:jandoh@burlingtonnc.gov">jandoh@burlingtonnc.gov</a>
December 27, 2021	Voluntary Pre-Proposal Meeting to be held via Zoom at 3 p.m. EST. Please use this link to access the meeting: <a href="https://us02web.zoom.us/j/82691862479">https://us02web.zoom.us/j/82691862479</a>
December 30, 2021	City’s Response to Written Questions. The City will submit a written response to all questions submitted in writing by the submission deadline. The City’s written response to all questions will be distributed by the date listed via email.
January 14, 2022	Proposal Submission. <i>Proposals are due by 2:00 p.m., EST on Friday, January 14, 2022, at the City’s Purchasing Division as described in the cover letter. All Proposals will be time-stamped upon receipt and held in a secure place until this date.</i>
February 2022	Interviews & Presentations
March 2022	Anticipated City Council Award Date
July 1, 2022	Contract Begins

**REQUEST FOR PROPOSALS ACKNOWLEDGMENT:** Upon the Service Provider's receipt of this RFP, please acknowledge its receipt via email using the RFP Acknowledgement Form located in the Required Forms Section, Required Form One. Complete the form in its entirety advising the City of your firm's intention to submit or not submit a proposal and the name, address, telephone number, and email address of your of your primary and secondary contact person. The completed and signed form should be emailed or faxed to the Purchasing Division, Attention Sonjia Cross, [scross@burlingtonnc.gov](mailto:scross@burlingtonnc.gov).

**INTERVIEWS & PRESENTATIONS:** The Service Provider(s) whose proposals are deemed to fall within the competitive range of proposal scores may be required to appear before the City and/or its representatives for an interview. During such interview, the Service Provider will be required to present its proposal orally and otherwise and to respond in detail to any questions posed. Key management staff included in the proposal must attend the interview. The tentative dates scheduled for interviews are February 2022. These dates may change as the City reviews proposals and attempts to align schedules for staff and Service Providers. The City reserves the right to forgo the interviews should it be determined that only one Service Provider falls within the competitive range.

**BINDING PROPOSAL:** Each proposal shall be signed by an individual authorized to bind the Service Provider and shall contain a statement to the effect that the proposal is a firm offer for a 180-calendar day period from the date of opening. All costs quoted shall be firm and fixed for the full contract period of three (3) years. The Contract shall also include the option of renegotiating a Contract extension for a maximum for two (2) one (1) year periods. The proposal shall provide the name, title, address and telephone number of the individual with authority to contractually bind the Service Provider.

**CORRECTION OF ERRORS:** The person signed the proposal must initial erasures or other corrections in the proposal. The Service Provider further agrees that in the event of any obvious errors, the City reserves the right to waive such errors in its sole discretion. The City, however, has no obligation under any circumstances to waive such errors.

**EVALUATION PROCESS:** Proposals will be evaluated based on the Service Provider's ability to meet the requirements of the RFP. To be deemed responsive, it is important for the Service Provider to provide appropriate detail to demonstrate to the satisfaction of each criterion and compliance with the performance requirements outlined in the RFP.

The total points given to a proposal by the individual evaluators will be averaged to determine the proposals overall score. All proposals will be evaluated on the following basis:

Qualifications	Overall quality of Proposal, including responsiveness and comprehensiveness. Adequacy and appropriateness of proposed staffing plan. Experience and ability of corporate support in supporting City's fixed route and paratransit system. Overall technical capability, including administration, fixed route, and paratransit operations, scheduling and dispatching (including experience with computerized paratransit and maintenance software), safety, risk management, and training.	20
Key Personnel Qualifications	Experience of Service Provider's on-site management personnel with projects of comparable size and scope as well as a thorough understanding of the services to be provided to City, and the background, safety and customer service philosophy and programs, commitment to providing quality transit services. Service Provider's level of management, dispatch, road supervision, and maintenance support staffing adequate for effective operation of City's program of services, including ability to develop a well-established working relationship with City.	30
DBE Participation	Use of DBEs to deliver portions of the requirements established in the RFP. Any proposal indicating less than the required twenty percent (20%) participation will be awarded "0" points. All Offerors demonstrating 20% or more will be evaluated from highest to lowest.	20
Innovation	Use of innovation and technology to reduce operational costs, improve quality control, and provide the best customer experience possible to City.	10
Pricing	Cost ability to provide high quality services at a competitive price and the financial stability of the Service Provider. The cost evaluation is completed by dividing the total points awarded to each proposal by its proposed cost. In this method, a value is presented in the form of a cost per point. The proposal with the lowest cost per point represents the best value to the City and would receive the award.	20
<b>Total</b>		<b>100</b>

**PROTEST:** Written protest procedures are defined below:

**OVERVIEW:** Any protests by an interested party regarding this procurement shall be made in accordance with Protest Procedures contained herein. After such administrative remedies have been exhausted, an interested party may file a protest with the Federal Transit Administration (FTA) of the U.S. Department of Transportation pursuant to the procedures provided in FTA Circular 4220.1F. Failure to comply with the protest procedures will render a protest untimely and/or inadequate and shall result in its rejection.

**PURPOSE:** The purpose of these procedures is to set forth the procedures to be used by City in considering and determining all protests or objections regarding solicitations, proposed award of a Contract, or award of a Contract whether before or after award.

**GENERAL:** For a protest to be considered by City, it must be submitted by an interested party (as defined below in accordance with the procedures set forth herein. A protest which is submitted by a party, who is not an interested party, or which is not in accordance with the procedures, shall not be considered by City and will be returned to the submitting party without any further action by City.

**DEFINITIONS:** The following terms, as may be used in this section, are defined below:

- Proposal - an offer or proposal as used in the context of this RFP. Day - working day of City, where City Purchasing Division, located at 237 West Maple Avenue, Burlington, NC 27215 is open to the public.
- Date of Notification of Intent to Award - the calendar date that City communicates to Offeror which proposing firms, corporation, partnership, or individual are recommended for award.
- File or Submit - date and time of receipt by City of protest materials.
- Interested Party - an actual or prospective Offeror whose direct economic interest would be affected by the award of Contract or by failure to award Contract. Protester - interested party filing a protest or appeal.

**PROTEST PROCEDURES:**

Filing Procedure Protests dealing with restrictive specifications or alleged improprieties in solicitation must be filed no later than ten (10) business days prior to RFP opening or closing date for receipt of proposals. Any other protest must be filed no later than three (3) business days after: 1. Notification of Intent to Award is issued for award of Contract if the Contract award is approved by City Council per staff recommendation; or 2. Notification of Award is issued if the City Council has delegated award authority to the Purchasing Manager or City Council does not award the Contract according to the Notification of Intent to Award.

Protests shall be in writing and addressed to the Purchase Manager. The protest shall identify the protestor, contain a statement officially declaring a protest and describing the reasons for the protest, and provide any supporting documentation. Additional materials in support of the initial protest will only be considered if filed within the time limit specified above. The protest shall indicate the ruling or relief desired from City.

Confidentiality materials submitted by a protester will not be withheld from any interested party, except to the extent that the withholding of information is permitted or required by law or regulation. If the protest contains proprietary material, a statement advising of this fact may be affixed to the front page of the protest document and the alleged proprietary information must be so identified wherever it appears.

**Withholding of Award** - When a protest is filed before opening of RFPs or closing date of proposals, the RFPs will not be opened prior to resolution of the protest, and when the protest is filed before award, the award will not be made prior to resolution of the protest, unless the Awarding Authority determines that:

- Items to be procured are urgently needed, or delivery or performance will be unduly delayed by failure to make award promptly; or
- Failure to make award will cause undue harm to City. In the event an award is to be made while a protest is pending, the Federal Transit Administration shall be notified if Federal funding is involved.
- The Purchasing Manager shall respond to the protestor within five (5) business days of receiving the protest. A conference on the merits of the protest may be held with the protestor.
- Any additional information required by City from the protester shall be submitted as expeditiously as possible, but no later than three (3) days after receipt of such request.

**Notification:** The Purchasing Manager shall notify the protester of a decision regarding the protest no later than ten (10) days following receipt of all relevant information.

**Appeal:** If a protester is not satisfied with the decision made by the Purchasing Manager the protester may appeal the decision to the Awarding Authority (City Council) by way of a letter to the Purchasing Manager no later than three (3) business days after notification of denial of the protest by the Purchasing Manager. If the Purchasing Manager is the Awarding Authority the protester will be deemed to have exhausted its appeals to City upon receipt of the initial rejection of the protest by the Purchasing Manager. If Federal funds are involved, the protester may file protest with the FTA appealing the final decision of the Awarding Authority. Under limited circumstances, and after the protester has exhausted all administrative protest remedies made available to him at the agency level, an interested party may protest to the FTA the award of a Contract pursuant to an FTA grant. Review by FTA will be limited to:

- Violation of Federal law or regulations.



- Violation of City' protest procedures described herein, or failure by City to review protest.

Protests must be filed with FTA (with a concurrent copy to City) within five (5) days after the Awarding Authority renders a final decision, or five (5) days after the protester knows, or has reason to know, that the Awarding Authority failed to render a final decision. After five (5) days, City will confirm with FTA that FTA has not received protest on the Contract in question. Circular 4220.1F, the FTA's Third Party Contracting Guidance, is available for review at City' office, or online at [www.transit.dot.gov/regulations-and-guidance/ftacirculars/third-party-contracting-guidance](http://www.transit.dot.gov/regulations-and-guidance/ftacirculars/third-party-contracting-guidance).

A copy may also be obtained from the FTA at the following address: Federal Transit Administration Federal Building Region 4 230 Peachtree NW, Suite 1400, Atlanta, GA 30303.

City shall not be responsible for any protests not filed in a timely manner with FTA. In the event an award is to be made while a protest is pending, the FTA shall be notified if Federal funding is involved. FTA Determinations to Decline Protest Reviews FTA's determination to decline jurisdiction over a protest does not mean that FTA approves of or agrees with the grantee's decision or that FTA has determined the Contract is eligible for Federal participation. FTA's determination means only that FTA does not consider the issues presented to be sufficiently important to FTA's overall program that FTA considers a review to be required.

### **INSTRUCTIONS TO OFFERORS**

**GENERAL:** All RFPs are subject to the provisions of the General Contract Terms and Conditions in this RFP. All RFP responses will be controlled by the Terms and Conditions included by the City. Offeror terms and conditions included as a part of published price lists, catalogs, and/or other documents submitted as a part of the RFP response are waived and will have no effect either on the RFP, or any Contract which may be awarded as a result of this RFP. The attachment of any other terms and conditions may be grounds for rejection.

Offeror specifically agrees to the conditions set forth in this paragraph by signature of the "RFP" contained herein.

Pursuant to North Carolina Revised General Statutes (G.S.) 143-48 and Executive Order No. 77, the State and the City invites and encourages participation in this procurement by a business owned by minorities, women, and the handicapped.

**WARRANTY:** Offeror guarantees equipment offered by him to be free from any and all defects in material and workmanship and warrants same for a period of three (3) years unless otherwise stated in the specifications. Such warranty to cover the cost of all service, parts, labor, and travel to and from points of service.

**SPECIFICATIONS:** Manufacturer's name and catalog numbers used in this RFP are used as examples and product equivalents are acceptable.

**BID EVALUATION:** The City reserves the right to reject any RFP on the basis of the function, compatibility with user requirements, as well as cost. The City reserves the right to award this Contract to a single overall Offeror on all items, or to make award on the basis of individual items or groups of items, whichever shall be considered by the City to be most advantageous or to constitute its best interest. Offerors should show unit prices but are requested to offer a lump sum price. The City will not be bound by oral discussions during evaluation process. The City's Purchasing Manager should approve all contracts regarding this award.

**CANCELLATION:** The City may terminate/cancel this Contract at any time by providing written notice to the Offeror at least thirty (30) days before the effective date of termination/cancellation.

**SERVICE:** Adequate and satisfactory availability of repair parts and supplies, and ability to meet warranty and service requirements are necessary. The City reserves the right to satisfy itself by inquiry or otherwise as to Offeror's capability in this regard.

**SAFETY:** See attached General Terms & Conditions #34.

**RFP RESULTS:** RFP tabulation will be sent out along with the award letter.

**QUESTIONS:** Questions regarding the specifications on this RFP should be referred to John Andoh, Interim Transit Manager at [jandoh@burlingtonnc.gov](mailto:jandoh@burlingtonnc.gov). Any written responses issued by the City to questions and requests for information will be provided to all potential Service Providers. Any and all such interpretations and supplemental instructions will be made in the form of written addenda which will be sent to all firms who responded with interest to this RFP package. The City reserves the right to disqualify any firm who contact a City/Town, Transit, or Metropolitan Planning Organization (MPO) official, employee, or agent concerning this RFP other than in accordance with this section. Nothing in this section shall prohibit the City from conducting discussions with Service Providers after the proposal opening.

## **SPECIAL INTEREST GROUP DEFINITIONS:**

- Women Owned (51% and controlled by Women)
- Persons with Disabilities Owned (51% owned & controlled by a Physically Disability Person)
- Minority Owned (At least 51% of which is owned and controlled by minority group member (Black, Asian, Hispanic, and American Indian).

## **GENERAL TERMS AND CONDITIONS**

### 1. Definitions

As used in this RFP, the following terms shall have the meanings set forth below:

*Contract:* Refers to the Contract executed between the Service Provider and the City

*Billable Time:* Billable time is the time the vehicle is in service carrying passengers (revenue time). Time between separate pieces of revenue work and the time it takes to go to and come from the point or points where vehicles are garaged or parked to the point or points where the vehicle goes into and out of service (deadhead time) are not billable. In most instances, this means that billable hours will be the “first stop to the last stop” on City-approved pieces of work. In the case of paratransit, breaks, lunches and idle time over 30 minutes shall be subtracted from billable time.

*City:* Refers to the City of Burlington, North Carolina, a municipal corporation established in accordance with the laws of the State of North Carolina.

*Contract Administrator:* Refers to City staff or assigned designee, which will administer and manage the Contract for the City, whom shall be the Transit Manager or designee.

*Cost per Trip:* Refers to the cost of each paratransit trip provided by the Service Provider.

*Effective Date:* The date on which the City executes the Contract arising from this procurement effort.

*Emergency Plan:* Detailed plan of action that the Service Provider has submitted to the City for approval including how traffic accidents involving buses, traffic delays, and extreme weather will be addressed by the Service Provider.

*Evaluation Committee:* Refers to the team composed of City staff and/or a consultant that will evaluate the proposals and make a recommendation to the Link Transit Public Transit Advisory Commission (PTAC) and the Burlington City Council.

*Passengers:* Refers to patrons of the services offered.

*Transit Manager:* Refers to the City’s Transit Manager designated by the City to be the point of contact for the final Contract, who will represent the City’s best interest. This person will facilitate the flow of information, as needed between the Service Provider and various City departments.

*Proposal:* Refers to a properly signed and guaranteed written offer of the Service provider to perform the services and to furnish the labor, materials and equipment at the unit cost quoted on Required Form Six, located in the Required Forms Section.

*Road Calls:* Refers to calls for help to the Service Provider dispatcher for a broken-down bus or any other problem that would prevent the timely execution of the Services.

*Revenue Vehicle Hour:* Refers to Billable Time the time the vehicle is in service carrying pieces of revenue work and the time it takes to go to and come from the point or points where vehicles are garaged or parked to the point or points where the vehicle goes into and out of service (deadhead miles) are not billable. In most instances, this means that billable hours will be the “first stop to the last stop” on City approved pieces of work.

*Service Provider:* Refers to the Offeror that has been selected by the City to provide the Services as described in this RFP or that has submitted a Proposal in response to this RFP for review by the City.

*Services:* Refers to services or any work that is required to be performed by the Service Provider according to the terms and conditions as set forth in this RFP for Solicitation of the Contract Provider for Bus Services in the Burlington and Gibsonville Area.

*Service Start Date:* Refers to the date on which Services to be provided under the Contract begin. This date is expected to be July 1, 2022. The City will not be responsible or liable for any costs to the Service Provider if service does not begin by the projected time.

2. Each Offeror must submit a proposal on the blank form(s) provided. All proposals must be signed by a duly authorized individual. Proposals submitted on other forms will not be accepted. Proposals will be read on the date and hour as stated on the cover of the RFP. Offerors or their authorized agents are invited to be present. Any proposal received after the date and hour specified, will not be accepted, or considered.
3. Offerors may submit with their proposals, specifications, illustrations, and descriptive literature of the product proposed to be furnished.
4. **TAXES:** The City is exempt from federal excise tax, including the federal transportation tax. The City pays all sales tax, but this amount must be listed as a separate item.
5. The City reserves the right to reject any or all proposals, waive technicalities, and to be the sole judge of suitability of the product for the use by the City for intended purposes. Factors to be considered in awarding the proposal will be price, quality, history of satisfactory performance, time required to make

delivery and the availability of item offered. The Contract will be awarded after evaluation of all proposals has been made. In the interest of suitability to the City's needs and/or economy; equipment or furnishings other than the cheapest in price may be selected. The City of Burlington shall have a period of thirty (30) days after the opening of proposals to make the award and may award in total or by line item, whichever is in the best interest of the City.

6. The specifications enclosed are intended to obtain competitive proposals. Any reference to brand names is strictly for denoting the type and quality of item desired and is not done to limit or restrict the proposal.
7. Any corrections or errors found in the specifications must be submitted in writing and mailed to the attention of the Purchasing Manager prior to the opening of proposals. Any deviations from the specifications must be in writing and submitted as part of the proposal. Any addenda to these proposal documents shall be issued in writing; no oral statements, explanations, or commitments by whosoever made shall be of any effect unless incorporated in the addenda.
8. No bid deposit is required with this proposal. The City has waived this requirement as allowed by G.S.
9. No Federal Excise Tax is to be included as the City is exempt under federal laws and will furnish proper exemption certificate or number upon request. In computing freight, federal transportation tax is not to be included as the City is exempt. North Carolina state and local taxes are applicable but must be shown separate from the item(s) being quoted.
10. Pursuant to the provisions of G.S. 143-54 under penalty of perjury, the signer of the proposal certifies this proposal has not been arrived at collusively or otherwise in violation of Federal or North Carolina Antitrust laws. The owner or an officer of the firm must sign all proposals.
11. By signing this proposal form the Service Provider affirms that they are registered with and participates in the Federal work authorization program, e-Verify as it relates to their Service Provider and mandated by law in North Carolina by G.S. 160-20.1.
12. **PROPOSAL/SUBMITTAL FORMAT:** Proposals should be submitted in the format specified in the RFP. The material should be in sequence and related to the RFP. The sections of the submittal should be tabbed, clearly identifiable and should include a minimum of the following sections: the completed Offer and Acceptance Form, all signed Amendments, a copy of this RFP document and the Offeror's

response to the Evaluation Criteria including the completed cost proposal. Failure to include the requested information may have a negative impact on the evaluation of the offeror's proposal.

13. **WITHDRAWAL FOR MODIFICATION OF PROPOSALS:** Service Providers may change or withdraw their proposals at any time prior to the proposal closing; however, no oral modifications will be allowed. Only letters, electronic mail or other formal written requests for modifications or corrections of a previously submitted proposal, which is addressed in the same manner as the proposal and received by the City prior to the scheduled closing time for receipt of proposals, will be accepted. The proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope, which is plainly marked “**Modifications to Proposal**”.
14. **ADDITIONAL EVIDENCE OF ABILITY:** A Service Provider shall be prepared to present additional evidence of its experience, qualifications, ability, products, service facilities, and financial standing if requested by the City.
15. **PUBLIC RECORD:** All proposals submitted in response to this RFP shall become the property of the City and shall become a matter of public record when opened.
16. **DISCUSSIONS:** The City reserves the right to conduct discussions with offerors for the purpose of eliminating minor irregularities, informalities, or apparent clerical mistakes in the proposal in order to clarify an offer and assure full understanding of, and responsiveness to, solicitation requirements.
17. **VENDOR APPLICATION:** Prior to the award of a Contract, the successful offeror shall register with the City's Purchasing Division. Registration can be completed at:  
<http://www.burlingtonnc.gov/2017/Vendor-Registration>
18. **CONTRACT AMENDMENTS:** This Contract shall be modified only by a written Contract amendment signed by the City's Purchasing Manager and persons duly authorized to enter into contracts on behalf of the Service Provider.
19. **EXCEPTIONS TO RFP:** Other than exceptions that are proposed in compliance with this section, each proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP. An “exception” is defined as the Service Provider's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP. All exceptions taken must be identified and explained in writing in your Proposal and must specifically

reference the relevant section(s) of this RFP. If the Service Provider provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Service Provider's solution, must be described in detail.

20. **CONTRACT:** The Contract shall be based upon the RFP issued by the City and the Offer submitted by the Service Provider in response to the RFP. The offer shall substantially conform to the terms, conditions, specifications, and other requirements set forth within the text of the RFP. The City reserves the right to clarify any contractual terms with the concurrence of the Service Provider; however, any substantial non-conformity in the offer, as determined by the City's Purchasing Manager, shall be deemed non-responsive and the offer rejected. The Contract shall contain the entire agreement between the City and the Service Provider relating to this requirement and shall prevail over any and all previous agreements, contracts, proposals, negotiations, purchase orders, or master agreements in any form.
21. **POST-AWARD CONFERENCE:** A post-award conference will be scheduled with the successful Service Provider as soon as practical after the award of the Contract. A Service Provider representative shall attend the conference along with any anticipated major subcontractors. A full detailed proposed **Start-Up Plan** and implementation schedule shall be submitted to the City's Transit Manager within ten (10) business days of the post award conference.
22. **PAYMENT:** Progress payments, when requested, will be made after the City receives a detailed invoice and confirmation that the work has been performed to the specifications required for the requested payment.
23. **FORCE MAJEURE:** Except for payment of sums due, neither party shall be liable to the other nor deemed in default under this Contract if and to the extent that such party's performance of this Contract is prevented by reason of Force Majeure. The term "Force Majeure" means an occurrence that is beyond the control of the party affected and occurs without its fault or negligence. Force Majeure shall not include late performance by a subcontractor unless the delay arises out of a Force Majeure occurrence in accordance with this Force Majeure term and condition. If either party is delayed at any time in the progress of the work by Force Majeure, the delayed party shall notify the other party in writing of such delay, as soon as is practical, of the commencement thereof and shall specify the causes of such delay in such notice. Such notice shall be hand-delivered or mailed certified-return receipt and shall make a specific reference to this article, thereby invoking its provisions. The delayed party shall cause such delay to cease as soon as practicable and shall notify the other party in writing when it has done so. The time

of completion shall be extended by Contract modification for a period of time equal to the time that results, or effects of such delay prevent the delayed party from performing in accordance with this Contract.

24. **INDEMNIFICATION:** To the fullest extent permitted by law, Service Provider, its successors, assigns and guarantors, shall pay, defend, indemnify and hold harmless the City, its agents, representatives, officers, directors, officials and employees from and against all allegations, demands, proceedings, suits, actions, claims, including claims of patent or copyright infringement, damages, losses, expenses, including but not limited to, attorney fees, court costs, and the cost of appellate proceedings, and all claim adjusting and handling expense, related to, arising from or out of or resulting from any actions, acts, errors, mistakes or omissions caused in whole or part by Service Provider relating to work, services and/or products provided in the performance of this Contract, including but not limited to, any Subcontractor or anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable and any injury or damages claimed by any of Service Provider's and Subcontractor's employees.
25. **FAIR TRADE CERTIFICATIONS:** By submission of a proposal, the Service Provider certifies that in connection with this procurement: (a) the costs were arrived independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such costs with anyone; (b) unless otherwise required by law, the costs which have been quoted in its proposal have not been knowingly disclosed by the Service Provider and will not knowingly be disclosed by the Service Provider prior to opening; and (c) no attempt has been made or will be made by the Service Provider to induce any other person or firm to submit or not to submit a proposal for the purpose of restricting competition.
26. **INDEPENDENT CONTRACTOR:** It is understood that each party shall act in its individual capacity and not as an agent, employee, partner, joint venture, or associate of the other. An employee or agent of one party shall not be deemed or construed to be the employee or agent of the other party for any purpose. The Service Provider shall not be entitled to compensation in the form of salaries, paid vacation, or sick days by the City. The City will not provide any insurance coverage to the Service Provider, including Worker's Compensation coverage. The Service Provider is advised that taxes, social security payments, and other withholdings shall not be withheld from a City payment issued under this Contract and that Service Provider should plan to directly pay such expenses.
27. **SUBCONTRACTING:** The successful Service Provider shall be the prime Service Provider and shall be solely responsible for all contractual performance. The Prime Service Provider shall provide the



administration and operations but may elect to subcontract maintenance activities. In the event of a subcontracting relationship, the successful Service Provider will assume all responsibility for the performance of Services that are supplied by the subcontractor. Additionally, the City must approve of the subcontractor and be named as a third-party beneficiary in all subcontracts.

28. **INSPECTION AND ACCEPTANCE:** All material or service is subject to final inspection and acceptance by the City. Material or service failing to conform to the specifications of this Contract shall be held at the Service Provider's risk and may be returned to the Service Provider. If returned, all costs are the responsibility of the Service Provider. Noncompliance may be deemed a cause for possible Contract termination.
29. **LICENSES:** Service Provider shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the Service Provider as applicable to this Contract.
30. **PROTECTION OF GOVERNMENT PROPERTY:** The Service Provider shall use reasonable care to avoid damaging existing buildings, equipment, and vegetation (such as trees, shrubs, and grass) on City property. If the Service Provider fails to do so and damages such property, the Service Provider shall replace or repair the damage at no expense to the City, as determined and approved by the City's Purchasing Manager. If the Service Provider fails or refuses to make such repair or replacement, the City will determine a cost and the Service Provider shall be liable for the cost thereof, which may be deducted from the Contract price.
31. **PROVISIONS REQUIRED BY LAW:** Each and every provision of law and any clause required by law to be in the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise any such provision is not inserted, or is not correctly inserted, then upon the application of either party the Contract shall be amended to make such insertion or correction.
32. **RIGHTS AND REMEDIES:** No provision in this document or in the Service Provider's proposal shall be construed, expressly or by implication, as a waiver by either party of any existing or future right and/or remedy available by law in the event of any claim, default, or breach of Contract. The failure of either party to insist upon the strict performance of any term or condition of the Contract, to exercise or delay the exercise of any right or remedy provided in the Contract or by law, or to accept materials or services required by this Contract or by law shall not be deemed a waiver of any right of either party to insist upon the strict performance of the Contract.

33. **SUBCONTRACTS:** No subcontract shall be entered into by the Service Provider with any other party to furnish any of the material/service specified herein without the advance written approval of the City's Purchasing Manager. All subcontracts shall comply with Federal and State laws and regulations which are applicable to the services covered by the subcontract and shall include all the terms and conditions set forth herein which shall apply with equal force to the subcontract, as if the subcontractor were the Service Provider referred to herein. The Service Provider is responsible for Contract performance whether or not subcontractors are used.
34. **SAFETY:** Service Provider shall at all times enforce by adequate supervision and training of supervisory personnel a safe working environment for all employees including the supervision of all services which relate to the general safety and welfare of any persons exposed to the services performed under this Contract by Service Provider. Service Provider agrees to fully cooperate with the City in any employee and public safety program sponsored by the City. Service Provider agrees to conduct all of its operations with due diligence and care for the safety of all persons at all times. All times furnished by the successful Offeror shall meet all requirements of the Occupational Safety and Health Act (OSHA), and state and federal requirements relating to clean air and water pollution.
35. **SITE INVESTIGATION:** The Service Provider acknowledges that he has investigated and satisfied himself as to the conditions affecting the work, including but not restricted to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, river stages, or similar physical conditions at the site, the conformation and conditions of the ground, the character of equipment and facilities needed preliminary to and during the prosecution of the work. The Service Provider further acknowledges that he has satisfied himself as to the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from an inspection of the site. Any failure by the Service Provider to acquaint himself with the available information will not relieve him from responsibility for estimating properly the difficulty or cost of successfully performing the work. The City assumes no responsibility for any conclusions or interpretations made by the Service Provider on the basis of the information made available by the City.
36. **CONFLICT OF INTEREST:** Service Provider shall be prohibited from proposing on this RFP if Service Provider has attempted or made contact with any elected or non- elected City Official in an attempt to influence the award of this RFP or alter it in any manner. Future conflicts shall be grounds for Contract default.

37. **LIQUIDATED DAMAGES:** From the nature of the services to be rendered, the Service Provider and City agree that it is extremely difficult to fix actual damages, which may result from failure on the part of the Service Provider to perform certain obligations and to determine the resulting loss to the City. Therefore at the election of the City, for acts, or failure to act, as described in this section, the Service Providers liability should be limited to, and fixed at, the sums stated, as liquidated damages and not a penalty, which sums the parties acknowledge to be reasonable estimates of the damages the City would suffer; provided however, that with respect to breaches other than the types described in this section, the City may pursue any other remedy available by law or equity, this or including, without limitations, the termination of Contract.

38. **INSURANCE:** Certificates for Workers Compensation, General Liability and Vehicle/Equipment Insurance will be required and submitted as part of the proposal package. The Service Provider, at its own expense, shall keep in force and at all times maintain during the Contract:

<u>Insurance Type</u>	<u>Each Occurrence</u>	<u>Aggregate</u>
<b><u>General Liability</u></b>		
Bodily Injury & Property Damage Combined Single Limit	\$1,000,000	\$3,000,000
<b><u>Automobile Liability</u></b>		
Bodily Injury & Property Damage Combined Single Limit	\$1,000,000	
<b><u>Owners Protective Liability or Project Specific Aggregate</u></b>		
Bodily Injury & Property Damage Combined Single Limit	\$1,000,000	\$3,000,000
<b><u>Excess Liability</u></b>	\$5,000,000	\$10,000,000

The City must be named as an additional named insured on the Service Provider’s insurance policy. The following statement must be on the certificate of insurance: a blanket waiver of subrogation shall apply in favor of the City and all additional insured as required by Contract.

**Fidelity Bond**

Providing blanket employee dishonesty, including faithful performance covering the Service Provider, its agents and all employees, officers, directors, and any independent Service Providers in an amount of not less than \$100,000.

### **Workers' Compensation Coverage**

Full and complete Worker's Compensation Coverage, as required by the State of North Carolina, shall be required.

Certificates of such insurance will be furnished to the City and shall contain the provision that the City be given 30 days written notice of any intent to amend or terminate by either the insured or the insuring company.

Should any or all of the required insurance coverage be self-funded/self-insured, a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance shall be furnished.

Pollution liability coverage equivalent to that provided under the ISO pollution liability-broadened coverage for covered autos endorsement (CA 99 48) shall be provided, and the Motor Carrier Act endorsement (MCS 90) shall be attached when those exposures exist.

### **PROPOSAL FORMAT**

The City desires all proposals to be identical in format in order to facilitate comparison. While the City's format may represent departure from the Service Provider's preference, the City requires strict adherence to the format. Each proposal should be prepared simply and economically, avoiding the use of elaborate promotional materials beyond those sufficient to provide complete, accurate and reliable presentation. The proposal will be in the format described below:

- a. Cover Letter;
- b. Service Provider Portfolio and/or Annual Report;
- c. Affidavit;
- d. Executive Summary;
- e. Background, Experience and Project Approach (reference the Proposing Offeror's Background and Experience section);
- f. Financial Information (reference the Proposing Offeror's Background and Experience section);
- g. The "RFP Acknowledgement Form" (reference Required Forms);
- h. The "Addenda Receipt Confirmation Form" (reference Required Forms);
- i. The "Proposal Submission Form" (reference Required Forms);
- j. The "Insurance Agent Statement" (reference Required Forms);
- k. The "Project Functional Requirements Form" (reference Required Forms);
- l. The "Cost Proposal Forms" (reference Required Forms) for each time of defined service;
- m. Exhibit Forms and Federal Required Forms

n. Exceptions proposed to the remainder of the RFP

All proposals shall be 8 1/2" x 11" format with all standard text no smaller than 11 points. All submissions should be use double-sided copying and be bound in a three ring or spiral binder with tab dividers corresponding to the content requirements specified below, with a maximum of 75 pages total.

Service Providers are required to organize the information requested in this RFP in accordance with the format outlined. Failure of the Offeror to organize the information required by this RFP as outlined may result in the City, at its sole discretion, deem the proposal non-responsive to the requirements of this RFP if the City is unable to accurately or fairly assess or evaluate the proposal in relation to others received.

The Service Providers, however, may reduce the repetition of identical information within several sections of the proposal by marking the appropriate cross-reference to other sections of their proposal appendices may be used to facilitate proposal preparation.

**Use of Required Forms:** The Cost Proposal Form (Required Form Six) provided by the City shall be used and shall not be altered. The alteration of the Cost Proposal Form by the Offeror may result in the City, at its sole discretion; deem the proposal non-responsive to the requirements of this RFP.

**Proposal Content:** The Scope of Work Section details the start-up and on-going tasks required of the Service Provider. Please respond to each of the tasks and responsibilities outlined within the section in your proposal and describe your plan to accomplish each. Include examples of procedures, policies, and the approach your firm uses in other similar operations. The City has attempted to document all necessary tasks for implementation and on-going tasks, but we are receptive to changes that Service Providers may suggest.

a. Cover Letter

- i. The proposal should contain a letter and introduction (limit to one page) and include the Service Provider name and address, and the name and telephone number of the persons who will be authorized to represent the Service Provider regarding all matters related to the proposal and any contracts subsequently awarded to said Service Provider. This letter shall be signed by the person(s) authorized to bind the Service Provider to all commitments made in the proposal. If the Service Provider is a partnership, a general partner must sign the proposal in the name of the partnership thereof. If the Service Provider is a corporation, the proposal must be signed on behalf of the corporation by two authorized officers (a Chairman of the Board, President or Vice President, and a Secretary, Treasurer or Chief Financial Officer) or an officer authorized by the Board of Directors to execute such documents on behalf of the

corporation. All signatures above must be original and in ink on at least one copy of the proposal that will be submitted to the City. Every proposal shall have thereon or attached hereto the affidavit of the Service Provider indicating that: such proposal is genuine, not sham or collusive, nor made in the interest of any person not therein named; that the Offeror has not directly or indirectly induced or solicited any other Service Provider to submit a sham proposal or to refrain from proposing; and that the Service Provider has not in any manner sought by collusion to secure for himself an advantage over any other Service Provider. Any proposal made without such affidavit, or found to be in violation thereof, shall not be considered.

- ii. By submitting a proposal pursuant to this RFP and executing the cover letter, the Service Provider acknowledges that he/she has read this RFP, understands it, and agrees to be bound by its terms and conditions. Proposals may be submitted by mail, express delivery or delivered in person.
- iii. Each Service Provider shall make the following representations and warranty in its proposal cover letter, the falsity of which might result in rejection of its proposal: "The information contained in this proposal or any part thereof, including its exhibits, schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This proposal includes all information necessary to ensure that statements therein do not in whole or in part mislead the City to any material facts."

b. Service Provider Portfolio and Annual Report

- i. The Service Provider should submit a detailed company portfolio including the Service Provider's financial viability for the past three years, credit references, on-going projects, and all pending litigation in which the Service Provider may be directly or indirectly involved. Financial references including, name of primary financial institutions of the Service Provider, address of financial institution, name of a contact person, and telephone number for each financial institution shall be included. A Reference Form is found as Exhibit B.

c. Executive Summary

- i. The Service Provider shall submit an executive summary, which outlines its proposal, including the proposed general management philosophy. The executive summary shall, at a minimum, include an identification of the proposed facility to be owned or leased by the Service Provider, and a summary of the proposed services. This section should highlight aspects of this proposal, which make it superior or unique in addressing the needs of the City.

d. Background, Experience, and Project Approach

- i. The proposal must provide a concise description of the proposing Service Provider, including origin, state of incorporation (if applicable), background, and current size. Include

information concerning general organization and staffing. The successful applicant must have a demonstrated history of successful operation of a fixed route and paratransit urban public transportation system. The balance of the technical proposal should be organized around answering the questions found in the Proposing Offeror's Background and Experience section.

- ii. The Service Provider should demonstrate an awareness of difficulties in the completion of this undertaking, and a plan for surmounting them. Special attention should be given to issues that will be encountered in such project.
- e. Exceptions
- i. Any alternative approaches, deviations or exceptions taken by the Service Provider must be itemized in the technical proposal. Details concerning it must be clearly presented. Each will be considered by the City as to the degree of impact and total effect on the proposal. The City assumes that silence to alternative approaches, deviations, or exceptions indicate that the Service Provider will comply with the RFP as presented.
  - ii. Wage or minimum pay hour requirements the Service Provider may have with its employees will not affect the City's ability to pay the Service Provider on an individual revenue vehicle hour basis. The City will not accept any restrictions or minimum service hour requirements either by day, or other time period or in any other way other than by individual revenue vehicle hour.

#### **FIXED ROUTE SERVICE PROVISION SCOPE OF WORK**

Purpose of Solicitation: In issuing this RFP, the City is seeking to Contract with a Service Provider, who proposal is the most responsive and advantageous to the City with cost and other factors considered to provide an easy to use and cost effective fixed route public transit solution both for the City and the passengers that use the services. The City will provide the fuel to be used for all described services.

**General Description of tasks to be performed:** Work associated with this RFP shall include but not be limited to the following tasks below.

a. Start-Up

- a. The Service Provider shall be responsible for all preparations necessary to begin operation of the services including identification of an operations and vehicle maintenance facility within the corporate limits of Burlington. The Service Provider shall have complete responsibility for identifying and securing a facility at a site which meets the requirements as stated in this RFP and must be approved by the City prior to the execution of any purchase or lease agreement by the Service Provider. **ALL COSTS ASSOCIATED WITH LOCATING AN APPORPIRATE SITE**

**SHALL BE BORNE BY THE SERVICE PROVIDER. ANY COSTS ASSOCIATED WITH FINDING ANOTHER SITE IF THE PROPOSED SITE IS NOT APPROVED SHALL BE BORN BY THE SERVICE PROVIDER.** All facility leasing or purchase expenses associated with this procurement effort shall be included in the Service Provider's cost proposal. Prior to start-up, all personnel shall be drug-test, hired and trained; documented personnel and operating procedures shall be established; an aggressive safety program shall be developed; facilities and equipment prepared; and all other activities required for start-up completed. Routes and schedules have been defined and the Service Provider may offer improvements or enhancements for operational efficiency. The Service Provider will be required to submit a detailed Start-Up Plan prior to the execution of a Contract. An outline of the Start-Up Plan must be submitted as part of this proposal.

b. Operate Service

i. The Service Provider shall coordinate, manage, and control all necessary service activities, which shall include but not be limited to:

1. Operating all services to the levels and standards required as described throughout this RFP as well as any additional service or route added to this Contract by the City;
2. Providing operators and maintenance, supervisory, and administrative personnel;
3. Established all employment policies relative to Service Provider's personnel;
4. Developing and complying with passenger complaint resolution procedures;
5. Developing driver training and testing programs;
6. Developing administrative, safety and security procedures; performance statistics, and financial records;
7. Facility upkeep and maintenance;
8. Developing methods to maximize service efficiency and reliability;
9. Providing vehicle maintenance and safe storage of transit equipment;
10. Ability to charge up to five (5) battery electric buses with chargers provided by the City, including the utility charges associated;
11. Providing video surveillance of maintenance operations and facility;
12. Performing or assisting City staff in carrying out operational planning, scheduling, run-cutting, distributing bus schedules, download of video surveillance files and other related functions, such as identifying running time and/or loading problems and recommending specific schedule, bus stop and other adjustments to correct the problem;



13. Executing data collection and gathering statistics as requested by the City by using the City's automated transit data reporting program to meet the National Transit Database (NTD) reporting requirements;
14. Implementing all local, state and federally required programs including, but not limited to FTA Drug and Alcohol Testing and Americans with Disabilities Act (ADA) Compliance, OSHA, and FLSA Standards;
15. Providing required insurance;
16. Maintaining the financial integrity, record keeping, and security of the fare collection system; and
17. Any other reasonable services or tasks necessary to successfully operate service pursuant to this Contract.

c. Equipment Maintenance

- i. The Service Provider will perform all activities associated with the maintenance of equipment required for the operation of Link Transit (reference the Maintenance Scope of Work section). This shall include maintenance of the City's transit equipment, any other equipment provided by the City, office and computer equipment, non-revenue vehicles, and other equipment as needed.

d. Facility

- i. The Service Provider shall locate and occupy a facility in a mutually agreeable location within the corporate limits of Burlington, NC. The site must also provide secure storage and parking for all transit equipment at all times. A fenced or otherwise secured facility with video surveillance capabilities is preferred. The Service Provider may choose to separately locate operating and maintenance facilities or subcontract certain aspects of the service provision. The City must approve any subcontract with service contractors. The maintenance facility must either have a hydraulic lift, or mobile lifting equipment and have the ability to allow staff to maintain battery electric buses. The Service Provider is responsible for maintaining all of its facilities in good working order. Any repairs to any facilities/systems, or equipment related to the operating or maintenance of the vehicles shall be completed and paid for by the Service Provider. During the life of this Contract, the City may construct and/or purchase a facility. Should this occur, the Service Provider shall reduce its hourly rate proportionally.

e. Other Materials

- i. The Service Provider will be required to obtain all associated parts, tools, equipment required for their duties in maintaining the City's transit buses. The Service Provider

will be required to obtain all maintenance equipment necessary for the repair of the City’s vehicles. The Service Provider will be responsible for obtaining and complying with all required building, occupancy, and any other governmental permits.

**Description of Services:** The City will require the Service Provider to provide fixed route bus services within the Burlington, Gibsonville and unincorporated Alamance County within the Burlington Urbanized Area. The current transit system as of January 1, 2022 includes five routes that radiate from a temporary central transfer point located on Worth Street in downtown Burlington. Each route requires 45 minutes outbound and 45 minutes for the return trip (one hour and 30 minutes to complete a round trip). The City will provide the Service Provider with the vehicle fleet for the fixed route transit system. This vehicle fleet will include seven (7) 29-foot, 23-passenger gas powered LTV which is anticipated to be replaced during the life-span of this Contract with five (5) LTVs and two (2) 30 foot battery electric buses.

The range of revenue vehicle service hours identified below is based on the current route structure.

<b>Estimated Revenue Vehicle Service Hours for the Contract</b>					
	Peak Vehicles	Start of Service	Estimated Annual Revenue Vehicle Hours		
			Year One	Year Two	Year Three
Link Transit	5	January 1, 2022	Weekday 17,810 Saturday 2,730	Weekday 17,810 Saturday 2,730	Weekday 17,810 Saturday 2,730
Spares	2		As Needed	As Needed	As Needed
<b>Total</b>	<b>7</b>		<b>20,540</b>	<b>20,540</b>	<b>20,540</b>

\*Does not exclude Holidays

The City during the life span of this Contract may add an additional bus to each of the five (5) routes. The additional bus on each route would be provided the City by adding an additional five (5) LTVs or battery electric buses. Below are the proposed revenue hours with the service being doubled with exception of Saturday service.

Estimated Revenue Vehicle Service Hours for Increasing the Fixed Route Service					
	Peak Vehicles	Start of Service	Estimated Annual Revenue Vehicle Hours		
			Year One	Year Two	Year Three
Link Transit	10 provided by the City	July 1, 2021	Weekday 35,620 Saturday 2,730	Weekday 35,620 Saturday 2,730	Weekday 35,620 Saturday 2,730
Spares	2 provided by the City		As Needed	As Needed	As Needed
Total	12 provided by the City		38,350	38,350	38,350

\*Does not exclude Holidays

To determine the feasibility of the increasing the fixed route service, the City is requesting the Service Provider provide a proposal for providing both the current route structure and the increased fixed route service.

a. Service Operations Plan

i. The City shall specify all routes and schedules—a compilation of the proposed routes and bus stops to be operated under this Contract are outlined in this RFP. The Service Provider may provide adjustments to enhance the proposed routes and create a timetable to increase operational efficiency that does not have major impacts on access to planned service areas and submit as part of this RFP. Routes are subject to change and modification as specified by the City and new routes, stops or services may be added in accordance with the requirements in this RFP.

a. The City operates a 90-minute service frequency during the performance of this Contract. The Service Provider shall be responsible for developing driver shifts from the schedule provider by the City. Operators shall be trained and knowledgeable of all routes in the transit system. Operators shall also have assigned routes, to the extent possible, to maintain consistent customer service and reliable route knowledge.

b. The Service Provider shall perform all scheduled service subject to the City's operating standards for service performance. Service shall be provided as requested or according to any adjusted schedule established by the City, including route modifications required as a result of a declared emergency.

c. The Service Provider shall not perform vehicle service hours when they are not scheduled, as such hours will not be paid for by the City. Relief operators

are the responsibility of the Service Provider and shall not disrupt the continuity of service. If a major disruption in service occurs, the Service Provider shall notify the City immediately. If the Service Provider should be unable to provide alternative service, the City may then elect to secure the necessary services. Should the City elect to secure such service from other sources, the Service Provider shall be liable for all such cost incurred.

- d. All services to be rendered by the Service Provider under this Contract shall be as specified by the City. The Service Provider shall advise the City of matters of importance and make service adjustment recommendations when appropriate; however, final authorization concerning service parameters shall rest with the City.
- e. Service requirements include having a person available to answer the telephone at the Service Provider's dispatch facility and relay information to the driver during all hours when a vehicle is on the road, with no exceptions.
- f. The Service Provider shall provide radio or other city approved communication methods for transit system dispatch as needed for operations.
- g. The Service Provider is expected to begin the fixed route transit service on July 1, 2022. The Service Provider will need to plan accordingly for start-up preparations, route evaluations, staffing, etc. This time for preparation **will not** be part of the Contract nor will it be eligible for compensation or payment by the City.
- h. The City reserves the right to revise and/or add any service parameters similar to the parameters described in this RFP as needed, in order to meet service needs and regulations. The Service Provider may propose ways to improve the use of the City's vehicles in revenue service. The City will work with the Service Provider to adjust timetables and routes as needed.

ii. Service Span

- a. Fixed route service will operate from **5:30 A.M. to 8:00 P.M.**, Monday through Friday and **8:00 A.M. to 6:30 P.M.**, on Saturdays. Three (3) routes will begin at the end of the service route and two (2) routes will begin at the temporary transfer point in downtown Burlington. The City may choose to add additional fixed route on weekday, weekend and/or express services at a later date during the Contract.

iii. Holidays

a. Service shall not operate on major holidays designated by the City, which include: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The City reserves the right to unilaterally amend the holiday schedule during the Contract and provide notice to the Service Provider at least 15 days prior.

iv. Special Service

a. The Service Provider shall perform special services as requested by the City. These services include but are not limited to seasonal routes and special events assigned by the City. Up to 25 events shall be provided at no cost to the City, up to eight (8) hours each.

b. The Service Provider shall make available to the City, transit equipment, buses and operators for these special services at no charge to the requesting agency, such costs having been included in the original revenue vehicle hour cost. Such activities may involve operation of the vehicle as well as stationary exhibitions. Such promotional activities shall not exceed 0.5 percent of the total original annual revenue hours.

v. Dispatching

a. The Service Provider will be responsible for all vehicle dispatching including sign-in/out of operators, vehicle route assignments, incident management, and road calls. Service Provider shall provide vehicle dispatching equipment needed to dispatch transit vehicles.

vi. Roadeos and Other Transit Industry Events

a. The City encourages the Service Provider to participate in transit "roadeos" and other industry events as a means of encouraging quality service and a spirit of enthusiasm, professionalism, and cooperation. Any City equipment used for the practice or competition of "roadeo" participation shall be approved by the City. The Service Provider should also be an active member of the North Carolina Public Transportation Association and any relevant national public transportation associations.

vii. Vehicle Provision

a. The City will provide five (5) LTV and two (2) battery electric buses for the operation of the transit system (reference Appendix H).

b. Until the new City fleet is delivered, estimated to be in early 2023, the Service Provider shall have at least two (2) LTVs that are at least 2019 or

newer to act as spare vehicles. The spare vehicles shall be branded as the City vehicles and have the same equipment as the City vehicles. When the City vehicles are delivered, the hourly rate shall be reduced proportionately.

viii. Service/Support Vehicles

a. The Service Provider must provide all other vehicles used to support the service. The Service Provider may not use any City revenue equipment for support functions, such as operator relief, without the express consent of the Transit Manager. The Service Provider will provide and maintain any necessary support vehicles in order to ensure field supervision mobility, operator field relief capability, road call maintenance, and vehicle towing throughout the service area at all times while the vehicles are operated. The Service Provider may elect to subcontract for towing and road call services.

ix. Vehicle Spare Ratio

a. The City shall endeavor to provide the Service Provider with a transit fleet, which includes a spare ratio of at least 20 percent.

x. Vehicle Replacement Program

a. All vehicle replacements will adhere to the transit vehicle replacement process that follows federal and state regulations; however, the City makes no representation nor provides any assurance of a specific vehicle equipment replacement plan. The Service Provider should not assume any plans for replacement of the vehicles during the life of the Contract.

xi. Communications System

a. The Service Provider shall provide a two-way communication system on all the revenue vehicles. The system must allow for both vehicle-to-base and supervisor communication. The Service Provider shall be responsible for ensuring the communication system is properly cared for and maintained. The Service Provider will be responsible for maintaining all transit communication devices and systems. Cellular technology shall not be used as the communication system for the transit system.

xii. Fuel

a. The City will provide all fuel for the buses via the City's fuel facility (City and Service Provider owned). The Service Provider will access fuel at the Burlington Public Works located at 218 East Summit Avenue, Burlington NC. The Service Provider must follow all applicable federal, state, and local laws

regarding the use and dispensing of petroleum products. The transit buses will be operated with gasoline or diesel.

- b. The City will issue fuel fobs for all buses to the Service Provider; such fobs are required in order to gain access to the fuel pumps. All operators will be required to be logged into the City's vehicle/software system. The Service Provider shall comply with all requirements and procedures regarding fueling operations as provided by the City's Fleet Management Superintendent.
- c. For the battery electric buses, the City will provide the charging equipment and pay for the utility costs, however, the charging equipment shall be located at the Service Provider's facility.

xiii. Technology and Equipment

For all technology and equipment items shown below, the Service Provider at its own costs shall be responsible for the maintenance, upkeep, updates, and repair and may need to enter into service agreements on behalf of the City for such.

- a. **Talking Bus-** All vehicle may be equipped with the talking bus voice announcer feature. The Service Provider will be required to provide upkeep and maintenance and any follow-up training that may be required and will update the announcer whenever route changes/stop changes warrant. All operators/supervisor must be familiar with the talking bus voice announcer feature prior the implementation of the Contract.
- b. **Bicycle Racks-** All buses will be equipped with bicycle racks from Sportworks. The Service Provider will be required to provide upkeep and maintenance and any follow-up training that may be required. All operators/supervisors must be familiar with the bicycle racks prior to the implementation of the Contract.
- c. **Video Surveillance-** All buses will be equipped with digital video surveillance equipment from SEON. The Service Provider will be required to provide upkeep and maintenance and any follow-up training that may be required. All operators/supervisors must be familiar with the video surveillance equipment prior to the implementation of the Contract. The Service Provider will be required to download and provide to the City video recordings that take place in or outside the transit buses. These recordings will be on DVD, jump drive and/or cloud storage site. The City IT Department shall approve all video and audio storage and retention methods. All videos shall be stored

and retained per the North Carolina Public Records laws. Details on the North Carolina Public Records laws is available here: [https://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter\\_132.html](https://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter_132.html). All video is the property of the City and any use shall be approved by the City.

d. **Inertia Based Cameras** – The Service Provider shall install an inertia-based camera system on the front of all buses to monitor operators driving habits. The Service Provider should use the system to encourage safe driving habits. The City shall have access to the system for review of any incidents or accidents that may occur on the City vehicles. All videos shall be stored and retained per the North Carolina Public Records laws. Details on the North Carolina Public Records laws is available here: [https://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter\\_132.html](https://www.ncleg.net/enactedlegislation/statutes/html/bychapter/chapter_132.html). All video is the property of the City and any use shall be approved by the City.

e. **Passenger Counters**- All buses will be equipped with automated passenger counters from UTA. The Service Provider will be required to provide upkeep and maintenance and any follow-up training that may be required for the passengers' counters. All operators/supervisors must be familiar with the equipment prior to the implementation of the Contract. The Service Provider will be required to download and provide to the City any passenger count statistics or reports.

f. **System Real Time Reporting Application**- All buses will be equipped with the ability for real time bus arrival/location services (TransLoc or similar). The Service Provider will be required to provide upkeep and maintenance and any follow-up training that may be required for the installed equipment. All operators/supervisors must be familiar with the equipment prior to the implementation of the Contract. The Service Provider will be required to download and provide to the City any passenger count statistics or reports.  
***The City will pay for the costs associated with real time reporting.***

g. **Destination Signs**- All buses will be equipped with destination signs displaying the route's destination from either Luminator or Hanover. The Service Provider will be required to provide upkeep and maintenance and any follow-up training that may be required for the installed equipment. All



operators/supervisors must be familiar with the equipment prior to the implementation of the Contract.

h. **Fareboxes-** All buses will be equipped with FastFare fareboxes from Genfare. The Service Provider will be required to provide upkeep and maintenance and any follow-up training that may be required for the installed equipment. All operators/supervisors must be familiar with the equipment prior to the implementation of the Contract. Fareboxes shall be emptied and probed each day. Service Provider will be required to download and provide to the City any passenger count statistics or reports.

b. Service Changes

i. General

a. The City reserves the right to adjust as necessary service levels during the term of this Contract. This includes any adjustments necessary in vehicles allocated to perform this service. The City shall have the option to implement new service, add or delete from the given schedule or to re-deploy the service to other areas based on demand or increase of service productivity. The Service Provider will provide service subject to route changes, additions, and deletions during the term of this Contract. The proposed revenue cost per hour or fraction of an hour, if less than one hour, will apply to any changes made according to this section.

ii. Modifications

a. Modifications to the routes and schedules will be required from time-to-time. Service Provider shall provide field supervisory personnel at strategic locations whenever emergencies or other non-recurring events affecting normal service take place.

a. **Minor Route and/or Schedule Changes-** In most cases, the City will provide notice of route and schedule changes at least one week in advance, as little as 24 hours' notice may be given to respond to minor adjustments. Such changes will typically constitute no more than five (5) percent of the existing revenue vehicle hours and/or miles. Depending on the time frame allowed, minor adjustments may be given by electronic mail or verbally and then confirmed by a written memorandum. Route and service modifications necessitated by detours and/or recurring events (i.e. street closure) are also the

responsibility of the Service Provider but must be approved by the City.

- b. **Major Route and/or Schedule Changes-** Major route changes are those that exceed the 25 percent above for minor route changes. Except for emergencies, the City will make every effort to implement major services changes on a fixed predictable schedule in coordination with the Service Provider's periodic bus operator work schedule changes. In most cases, the City will give the Service Provider four (4) weeks to respond to major changes requiring more operators or major adjustments to work shifts. The Service Provider shall submit a proposed run cut within one (1) week of receiving a major changes announcement from the City. The City shall endeavor to review, approve, and/or comment, if needed, within five (5) business days. The City will give major changes to the Service Provider in writing. The City reserves the right to approve all run cuts, as they serve as the basis for determining Service Provider's payment. The City may desire to expand the fixed route system and offer express or fixed route service to surrounding communities and destinations. This expansion may cause the Service Provider to have to revise the bus operator work runs and daily operations.
- c. **Route and Service Modifications caused by Non-Recurring Events-** (i.e. freeway accidents, weather, etc.) are the responsibility of the Service Provider. In case of an emergency, the Service Provider shall respond to modifications to service immediately. When such non-recurring events will make other coordinated assignments of the vehicle more than 15 minutes late, the Service Provider shall dispatch supplemental vehicle(s) to ensure such trip(s) are minimally impacted by the event. The City must approve all service adjustments prior to implementation.
- d. **Contingency Plan-** The Service Provider is expected to take any necessary action to prevent or minimize inconvenience experienced by our passengers and make an effort to ensure their safety and comfort. In the event of a service disruption or delay that would prevent a driver from making all scheduled pick-ups or completing the trip on time, the Service Provider is expected to respond

accordingly with a contingency plan. Contingencies might include “bumping up” driver trip assignments and/or dispatching replacement vehicles to cover late or “missed” trips in order to alleviate potential overcrowding which would otherwise result in trips schedule to follow a missed trip. It may also include dispatching replacement vehicles from a staging area to reduce the time that passengers would otherwise spend waiting for the next trip. In the event of a disabled vehicle it may involve diverting other buses to pick-up transferring passengers. Service disruptions or delays could include any of the following: an accident, mechanical failure, severe traffic back-up, detour, or road closing, a operator’s failure to either report on-time or perform the run to which they were assigned, or improper training.

- e. **State, Regional or City-Wide Emergencies-** Upon declaration of any emergency by the Governor of North Carolina, and/or the Mayors of Burlington or Gibsonville or the County Council of Alamance County; the Service Provider may be responsible for a number of transportation-related activities, including the development of emergency travel routes and the coordination with other agencies supplying common carrier services. In the event of a declared emergency, the Service Provider shall deploy vehicles in a manner described by the City Manager as part of an Emergency Operations Transportation Services Plan. However, the City shall compensate the Service Provider for service that significantly exceeds the normal expense of operating the service during such period of declared emergency.
- f. **Vehicle Breakdown-** The Service Provider shall dispatch a spare vehicle in the event of a vehicle breakdown. The maximum response time from the moment a trouble call is received until a substitute vehicle arrives shall not exceed 15 minutes. The City reserves the right to establish additional criteria regarding reliability of response in the event of breakdowns. The failure to respond to a vehicle breakdown within the allotted time will subject the Service Provider to liquidated damages in the City Contracting Requirements section.

- iii. Services Not Operated
  - a. The City will not compensate the Service Provider for services not operated.
- c. Personnel Organization
  - i. Wages and Policies
    - a. The Service Provider shall be obligated to pay wages and provide benefits for its employees and shall cause the withholdings to be made as required in the performance of this Contract. Without any additional expense to the City, the Service Provider shall comply with the requirements of employee liability, worker's compensation, unemployment insurance, social security, and any other current and future legal requirements. The Service Provider must comply with the provisions of the FTA's Drug and Alcohol Testing regulations. The Service Provider shall hold the City harmless from any liability, damages, claims, costs, and expenses of any nature arising from alleged violations of personnel practices.
    - b. Service Providers shall implement wages that are appropriate for the Burlington metropolitan area. Wages and benefits shall not be less than what the employees are getting as of July 1, 2022 and at the minimum shall be at least \$16.00 per hour for operators.
    - c. Benefits shall take effect on the first day of the Contract. There shall be no waiting period for employees to receive benefits as a result of a transition.
    - d. Service Provider is responsible for costs associated with any changes in laws, regulations governing wages and benefits.
  - ii. FTA Section 5333 (b) Agreement
    - a. The City will not become a signatory party to any Transit Employee Agreement between Service Providers and organized labor units, pursuant to 49 USC 5333(b) (formerly Section 13 of the Federal Transit Act) should there be a union.
  - iii. Removal/Reassignments/Absences
    - a. The City Transit Manager shall have the right to demand removal from the Contract, for reasonable cause, any personnel furnished by the Service Provider. Such removal must occur within 24 hours and the Service Provider is responsible for their reassignment. The City must be notified of new hires or reassignments of project personnel. A Personnel Summary shall be provided by the fifth (5<sup>th</sup>) of each month to the City. Further, the City must be notified of all extended absences of project management personnel and

any position vacancies of more than one (1) week. The Service Provider is required to fully staff those positions proposed in its submittal.

b. Service Provider shall staff the following managers as “key management”: General Manager, Operations & Training Manager and Maintenance Manager. Any change in the General Manager, Operations & Training Manager, Maintenance Manager shall require written approval of the City Transit Manager.

iv. Vehicle Operators

a. Vehicles shall be operated with due regard for the safety, security, comfort, and convenience of passengers and the general public. Vehicle operators must have a valid Commercial Driver’s License (CDL) with appropriate endorsement which includes airbrakes and passenger, and each operator must submit to a United States Department Of Transportation (USDOT) medical examination every two years from the start-up of service. All drug testing and surveillance efforts on the part of the Service Provider shall be explained and provided in writing to vehicle operators. Vehicle operators must be trained in all operational procedures relating to the service. Training must include specific techniques for serving the public in a helpful and courteous manner.

b. The operators must meet or exceed the following standards to perform under the City’s transit service:

i. The Service Provider shall conduct pre-employment North Carolina Division of Motor Vehicles (DMV) checks of all personnel and a Criminal Background Check satisfactory to the City, for all Service Provider or subcontractor employees hired for service. The Service Provider must also adhere to any other random or reoccurring City testing policies in effect. DMV records shall be checked at least every six (6) months for accidents, tickets for vehicle code violations and review for a valid driver’s license of its employees whose job requires them to operate vehicles for this project. Each operator must be at least 21 years of age and meet the following requirements

1. Must have a valid driver’s license (CDL endorsement must be obtained prior to operating a

City vehicle); and have no more than five (5) points on their driver's license at any given time;

2. No felony conviction within the last seven (7) years unless an exemption is granted by the City;

3. If license has ever been suspended, operator must have two (2) full years with no violations; and

4. No record of any drug offense or driving offense involving alcohol within the last seven years

- ii. Not be under the influence of alcohol, controlled substances, or prescription medication that impairs his/her ability to safely perform the services.
- iii. Not have any outstanding warrants for arrest.
- iv. Be able to read, write and speak English.
- v. Be able to count money and understand the City's fare structure.
- vi. Have thorough knowledge of the City's routes and service area. Operators must be supplied with appropriate, up-to-date street maps and/or directional manuals.
- vii. Understand and maintain knowledge of the transit system design.
- viii. Have a thorough understanding of customer relations or be trained in such matters.
- ix. Maintain a courteous attitude, answering to the best of their ability any passenger questions regarding the provision of service.
- x. Possess good character and reputation as determined by the Service Provider.

c. Employees of the Service Provider who normally and regularly come into direct contact with the public and/or City employees shall be clearly identifiable by, but not limited to, individual uniforms with name badges, name tags or identification cards approved by the City.

d. The Service Provider shall assure that its employees serve the public and/or City employees in a courteous, helpful, fair, and impartial manner. All employees of the Service Provider in both field and office shall refrain from

belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Service Provider.

- e. In the event a report is received alleging an employee(s) of the Service Provider was discourteous, belligerent, profane or in any way intimidating, either physically or verbally, the Service Provider shall, within 24 hours, submit a written report to the City's Transit Manager outlining the complete details of the incident. Said report shall include the nature of the incident, time, date, location, as well as the name, address and telephone number of the person alleging the violation. The report shall also include the name and title of the employee and what disciplinary action, if any, was taken.
- f. Please note that Service Providers' ability to attract and retain an adequate number of qualified vehicle operators is essential to efficient and effective service delivery. The Service Provider's inability to maintain an adequate well-trained number of operators and extra board personnel may otherwise result in performance issues that will not be satisfactory to the City, such as excessive missed trips, late trips, under-trained operators, and work coverage by supervisors and other management personnel. Such conditions may subject the Service Provider to liquidated damages or to termination of the Contract for non-performance as defined in the City Contracting Requirements section.

v. Management

- a. In addition to drivers, the Service Provider shall employ and train such other person as may be necessary in order to enable the Service Provider to perform the services provided for hereunder. Service Providers shall cause such persons, whether employed directly by the Service Provider or made available through subcontractors, to perform all necessary supervision, management, and coordination of all aspects of such services. In addition to on-site personnel, additional training and certain administrative activities may be provided by regional or national Service Provider personnel, so long as plans for these centralized functions are spelled out as a clear part of the Service Provider's Proposal. The Service Provider should supply the City with a job description for each proposed management or supervisory position dedicated to the project. The Transit Manager reserves the right to approve each member of the Service Provider's management staff and to require the Service Provider to add or

to eliminate management positions. Any elimination of management positions shall result in a credit of the hourly rate to the City. Any additions of management positions shall be negotiated with the City if there are to be any cost increases, prior to implementation.

- b. Personnel must also report all passenger complaints and operational problems to the City's Transit Manager within 24 hours of discovery.
- c. Specific management positions required include:

- 1. **General Manager-** The Service Provider will designate a General Manager who will oversee the proper operation of the Service. Due to the critical role of the position of General Manager, it is required that this person be identified and his/her resume included in each Service Provider's proposal. The City reserves the right to approve any changes of the General Manager for this service and will consider the award of this service Contract to be probationary pending full-time assignment of the General Manager for a maximum term of thirty (30) days. The Service Provider must receive the City's written approval prior to change of personnel of this position. The General Manager will provide both on-line supervision and management of the project's accounts and operating records and be available 100% to this project. The Service Provider General Manager must be accessible in person to the City at a minimum during system operating hours and via telephone or page, 24 hours a day. The General Manager must notify the City's Transit Manager whenever he/she will be absent for longer than one (1) day.

- On-line supervision shall include, but not be limited to the following duties:

- 1. Training and scheduling of all regularly assigned project personnel;
- 2. Arranging the assignments of backup personnel whenever necessary;
- 3. Distribution and collection of operating reports; and
- 4. Daily monitoring and security of the collection of all fares



- Project Management shall include, but not be limited to the following duties:

1. Preparation of monthly summaries of operations data;
2. Completion of annual NTD report;
3. Maintenance of project accounts;
4. Preparation of monthly invoices, which will document all charges;
5. Immediate responsibility for any operational problems and/or passenger complaints and accurately reporting these problems in a timely manner;
6. Resolution of issues and complaints reported by the City's Transit Manager
7. Coordination with City and transit oversight boards and commissions;
8. Accident review and analysis and reviews for accident chargeability; and
9. The hiring and discipline of personnel

2. **Supervisory Staff-** The Service Provider shall include in their proposal the resumes of additional supervisory staff (i.e., Operations & Training Manager, Maintenance Manager) that shall play critical roles in the provision of the service.

vi. Maintenance Personnel

- a. The Service Provider shall employ mechanics, shop, and bus service attendants (cleaners), and other personnel to perform maintenance on the City's vehicles. The City will take into consideration the Automotive Service Excellence (ASE) certification of the maintenance personnel in the review of this RFP. All repair work must be performed by maintenance personnel who have demonstrated experience and skills in the work to be performed. The Service Provider's maintenance personnel will be knowledgeable of engines, transmissions, major vehicle Heating Ventilation and Air Conditioning (HVAC) systems, wheelchair ramps/lifts, braking systems, diagnostic procedures, electrical

system, and related mechanical parts, methods, and procedures normally used in servicing mechanical equipment for transit vehicles provided by the City or Service Provider, which includes gasoline, diesel and battery electric propulsion systems

- b. The City reserves the right to approve or reject a subcontractor relationship for the maintenance of its equipment. If the Service Provider wishes to provide maintenance via subcontract, the City will require evidence of the maintenance subcontractor provider's capability and experience with transit fleets using gasoline, diesel, and battery electric propulsion systems.

#### d. Employee Training

##### i. General Requirements

- a. The Service Provider's requirements for service orientation range from covering the completion of trip and vehicle reports to the operation of vehicle communication system (i.e., radios, talking bus system, electronic destination signs, electronic fareboxes, digital camera operations), passenger counters and any other technology installed on buses to the safe operation of all vehicles in the City's fleet, to training in sensitivity to passenger needs.

##### ii. Vehicle Operation

- a. The Service Provider shall provide a program of driver training in vehicle orientation, safe equipment operation, passenger relations, fare collection, route and schedule orientation, and on-time performance prior to permitting any driver to operate any bus in revenue service. The Service Provider shall also provide an ongoing safety program and a defensive driving program to ensure a safe operating environment. Further, the Service Provider will retain operators in any above areas as required by changes in the service, fare or operating environment or as demonstrated by unsatisfactory performance. The Service Provider shall make such changes in its safety and training program as the City may, from time-to-time, reasonably request.

##### iii. Safety and Customer Service Training

- a. The Service Provider must provide operators with training on the safe operation of the vehicles prior to operating in scheduled service, and the City must approve all training as to scope. As the City values all passengers, the Service Provider must provide its operators with customer relations/sensitivity training. Operators providing transit service shall complete the Passenger

Assistance Safety and Sensitivity (PASS), Transportation Safety Institute (TSI) or equivalent training course. The Service Provider's training personnel must be certified to conduct such training. This training should include understanding how to best deal with passengers who have disabilities that physical or mental. On-going training in support of safe operations shall be essential component of the operator's training program, and all operators shall be subject to review based on their performance record. The City reserves the right to participate in training sessions to learn firsthand the level of instruction.

- b. Upon request of the City, Service Provider shall be able to provide training to City personnel to obtain a CDL or participate in a bus operator training course at the local Community College.
- c. Service Provider shall seek third party testing ability from the DMV.

iv. Statistical Counts and Counting Devices

- a. The Service Provider will require its bus operating personnel to make manual and automated counts on their buses of operating statistics that the City shall deem necessary. Such statistics may be passenger counts by fare category; notations of boarding and alighting locations or changes in trip manifest information. These counts may be by observation and recorded manually, through the use of manually operated counting devices, or with automated fareboxes, whichever applies. The City will provide or cause to have provided training to the Service Providers designated supervisory and/or instructional personnel. The Service Provider shall provide this training to all of its affected operators, mechanics and other personnel that use or repair the equipment. Such statistical data, whether manually or electronically collected and/or recorded shall be made available to the City daily, weekly and/or as otherwise specified in electronic format. Such information shall be formatted as specified by the City.

e. Reporting Requirements

- i. The Service Provider shall be required to maintain all project records as requested by the City in approved formats. The Service Provider shall permit authorized representatives of the City as designed by the City's Transit Manager to examine all data and records related to the project upon request by the City or according to the scheduled reporting periods. All project records prepared by the Service Provider shall be owned by the City and made available to the City at no additional charge.

ii. The City may elect to authorize representatives of other project funding partners to inspect, audit and analyze the records of the Service Provider in operating this service. The Service Provider shall maintain all records within the area and make the available to the City for four (4) years following final payment. In addition to hard copies, records will be made available in a PC-compatible format to be specified. The Service Provider shall supply all needed computer equipment and peripherals and shall use software compatible with that used by the City (Microsoft Office or Adobe Acrobat). If the City provides any computer or office equipment initially, the Service Provider will be responsible for any replacements, and must return City purchased equipment back to the City when no longer needed. The Service Provider management employees and dispatchers/supervisors must have email and mobile telephone and text capability in order to electronically communicate with City staff on a daily basis.

iii. Financial Records

- a. The Service Provider shall establish and maintain within a separate account all project expenditures and any other relevant financial records or documents. The Service Provider must conform to the FTA Uniform System of Accounts.

iv. Invoices

- a. The Service Provider General Manager shall submit monthly invoices to the City within 15 calendar days of the following month for services rendered during the reporting period. The Service Provider shall maintain records for routes in Burlington, Alamance County and Gibsonville. The invoice shall detail the number of hours and bus miles in each jurisdiction. Additional invoicing methods may be required during the Contract term.

v. Management Information System (MIS)

- a. The Service Provider shall be responsible for producing and maintaining a current and relevant MIS database (not Microsoft Excel) for the City as required at no additional charge. The MIS will serve as a database for both the City and the Service Provider to monitor and evaluate the productivity of the service. As a minimum, the Service Provider's key management personnel and subcontractors' management personnel shall be required to have email and electronic file transmission capabilities with the City at all times.
- b. The following gives an indication of the general types of reports and submittal dates required. Because some overlap exists between required data elements, the Service Provider should exercise economy wherever possible by maintaining a single database from which various report data is extracted.

- i. Daily Operations Report: No later than 12 noon on the following transit system operated day, the Service Provider shall submit to the City's Transit Manager, a Daily Operations Report using the form found in the Appendix Forms section, Appendix C, or an agreed upon equivalent. This report shall summarize the previous day's operations activities including a driver report, identified missed trips, road calls, additional/added miles and hours, number of vehicles in preventative maintenance status, number of on-time trips monitored, number of complaints/compliments received, traffic conditions, vehicle accidents/incidents, personnel levels, and driver training status. All unusual circumstances regarding the daily operations should be noted on this form. Identifying a missed trip on this form shall constitute a proper report of such error and avoid the "Non-Reporting" liquidated damage amount.
- ii. Weekly Report
  - The daily portion of the MIS database shall be compiled on a trip-by-trip basis for each route operated by the Service Provider. The report shall contain, at a minimum, the following items: weekly ridership for each route, paratransit ridership/cancellation/no-shows (if applicable), a ridership analysis, daily revenue, daily mileage per vehicle and hour for hour ridership data. Such reports shall be made in the format approved by the City and submitted to the City no later than 12 noon on each Tuesday for the previous seven (7)-day period.
- iii. Monthly Report
  - The completed monthly MIS shall be made available to the City in a format approved by the City and submitted to the City no later than the 15<sup>th</sup> business day of the following month.
- iv. Operator Reports
  - The Service Provider shall cause each driver of each bus to collect data and prepare a daily report to provide all necessary information to update the MIS database. The Service Provider shall at all times maintain such reports
- v. Performance Reports

- The Service Provider shall from time-to-time be requested by the City to prepare and deliver bus service performance reports and other data in addition to or as a substitute for the data required to be reported as part of the MIS submission.

c. Passenger Complaints

The Service Provider shall be responsible to providing customer service via the (336) 222-5465 (LINK) telephone line, Monday-Saturday between 8 a.m. and 5 p.m. The City shall be responsible for providing the telephone line forwarded to the Service Provider. As part of providing customer service for Link Transit, the Service Provider will handle all customer complaints as explained below:

- i. Complaints Received by the Service Provider: The Service Provider will receive and document most telephone, written, email or walk-up customer complaints; however, Service Provider employees may receive such kinds of complaints from time to time and will always be the principal recipient of customer inquiries/complaints on the buses. All Service Provider employees shall document operational problems or passenger complaints in a database, provided by the Service Provider with access provided to the City. Comments and resolutions shall also be submitted directly to the City's Transit Manager weekly, by 12 noon. The failure to submit complaints will subject the Service Provider to liquidated damages as defined in the City Contracting Requirements section.
- ii. Complaints Received by the City: The City will receive and document passenger comments/complaints, log them into a customer service database. provided by the Service Provider and forward the copies to the Service Provider for investigation and response either via email, fax, or other direct delivery to the Service Provider. Within two (2) business days of receiving a documented customer comment, the Service Provider shall provide the City with all required information regarding the bus operator's name, bus number, and location via email or hard copy. The Service Provider will document a response to the comment noting any personnel actions such as discipline or retraining that will occur. After the City acts upon such complaints, the City will provide the Service Provider with summary information from its complaint database for the Service Provider's use. The City places great

important upon the timely and through resolution of passenger complaints. The Service Provider will be required to attach the same significance to each passenger complaint.

d. Vehicle Records

- i. The Service Provider shall maintain a complete vehicle history of every vehicle provided within this program. The fleet maintenance system shall be automated and be part of the Service Provider's electronic MIS report. The Service Provider shall maintain an individual file for each revenue vehicle, to include by data of action, all preventive and repair maintenance functions including warranty work, inspections, parts usage, unscheduled maintenance, fuel and oil usage, labor expended on each vehicle, and any other pertinent maintenance data. Paper and electronic versions of these files shall be organized by vehicle number. The Service Provider is responsible for keeping the vehicle file current throughout the term of the Contract and shall make available complete copies of all vehicle files to the City at the end of the Contract. The City or its agent shall have immediate access to all vehicle maintenance records, including the fleet maintenance system during planned or unannounced visits or inspections of the Service Provider's facility for the duration of the Contract.

e. Vehicle Defect Reports

- i. The Service Provider shall maintain records regarding any vehicle defect that occurs. Vehicle defect cards shall be made available to operators and staff on all vehicles operated under this Contract. A vehicle defect report shall be completed daily on each vehicle prior to service, after service and filed chronologically by vehicle number. The vehicle defect reports shall be kept on file for the duration of the Contract term and copies of all defect reports shall be made available to the City by request and upon completion of the Contract. The Service Provider shall submit a summarized vehicle maintenance report to the City by the 15<sup>th</sup> business day of each month. The report shall be in a form as designated by the City.

f. Accident/Incident Report

- i. The Service Provider shall be required to notify the City regarding any accidents or incidents in service provision. Notification must be made

by telephone or email within 60 minutes and in writing within 48 hours on a City-approved accident or incident form.

ii. The Service Provider shall notify the City of any of the following accident/incidents and any time a vehicle is not able to operate on a normal schedule:

- Collisions between a City vehicle and another vehicle, person, or object;
- Single vehicle accidents or incidents;
- Passenger accidents, including falls while passengers are entering, occupying, or exiting the vehicle;
- Disturbances, fainting, sickness, death, or assaults;
- Accidents the driver witnesses;
- Vandalism to the vehicle while in service and/or out of service;
- Passenger complaints of injury or property damage or other circumstances likely to result in the filing of claims against the Service Provider or the City;
- Any passenger, driver, supervisor, and service complaint that arises from an accident. If the accident/incident involves injuries or extensive property damage, the City shall be notified immediately (regardless of the hour or day); and
- Accident or incidents that occur at the operating and maintenance facility.

iii. Failure to adhere to the above conditions will subject the Service Provider to liquidated damages as defined in the City Contracting Requirements section.

g. Disaster Recovery Plan

i. The Service Provider must provide the City a copy of its written disaster recovery plan to be used in the event of a fire or any other disaster. This disaster recovery plan should include off-site storage or backup information.

h. Safety Plan

i. To ensure City's compliance with Fixing America's Surface Transportation ("FAST") Act, Service Provider's General Manager or



Operations & Training Manager shall serve as City's Transit Safety Officer. Service Provider shall develop – in coordination with City shall prepare a safety plan for City's transit operations for inclusion in City's overall Safety Plan to be submitted to the FTA that is compliant with the FAST requirements as defined here: <https://www.transit.dot.gov/regulations-and-guidance/safety/safety-management-systems-sms> and that adopts the Safety Management System approach.

- ii. Service Provider shall ensure that Safety and Training and Operations Managers participate in monthly System Safety meetings with City personnel. Service Provider shall conduct periodic emergency readiness training and drills. Service Provider shall also participate in such drills at the direction of City.
  - iii. Service Provider Operations & Training Manager shall obtain USDOT Transit Safety and Security Program certification within two (2) years of being assigned to safety management duties under this Contract.
  - iv. Service Provider shall provide to its applicable employees a program for post-accident training.
  - v. The Safety Plan shall be due within 90 days after the start of this Contract, no later than September 30, 2022 and shall be created to fit with City's existing operations and not from a boilerplate template.
- i. Security Plan
- i. Service Provider shall develop – in coordination with City – a Transit System Security Program and Emergency Preparedness Plan (“TSSEPP”) that covers passengers, employees, vehicles, and facilities. Guidance on the development of this plan is available in a report entitled, the Public Transportation System Security and Emergency Preparedness Planning Guide (DOT-VNTSC-FTA-03-01) dated January 2003. The TSSEPP should assign responsibility for security management from the most senior executive to the first line supervisory personnel. The TSSEPP must address the following mechanisms:
    - ii. Interagency coordination with City, police, fire and emergency responders in Link Transit's service area and other transit operators
    - iii. Evacuation assistance plan utilizing City's transit fleet

- iv. Investigating security incidents
- v. Security and emergency management training for all personnel
- vi. Regular threat and vulnerability analyses in cooperation with City
- vii. Compilation and reporting of data associated with the NTD's Safety and Security Module
- viii. Completion of Transportation Safety Institute courses by Service Provider.
- ix. Participation in any other safety committees on behalf of City.
- x. Disaster recovery, to be used in the event of a fire or any other disaster and must include at a minimum off-site storage of fleet and critical supplies, secure backup of key data and information, adequate facilities, and sufficient equipment to allow resumption of essential operating functions (including data processing and revenue handling) within 24 hours of the disaster). Other required elements include but are not limited to furnishing cell telephones or other City-approved communication devices for operators to maintain communications in the event radio communications system becomes inoperative and securing the buses by providing a security guard or by other method when vehicles are idle, in the event the secured bus yard is off-limits.
- xi. The TSSEPP shall include a plan to respond to emergencies and routine problems that may occur. Occurrences include, but are not limited to:
  - Passenger injuries
  - Passenger disturbances
  - Passenger illnesses
  - Vehicle failures
  - Inclement weather
  - Accidents
  - Detours
  - Employee injuries
  - Strikes/walkouts/work stoppage
  - Terrorist incidents
  - Nuclear event
  - Earthquakes
  - Pandemic
  - Other natural disasters beyond control of Service Provider.

- xii. The TSSEPP shall be due, no later than September 30, 2022 and shall be created to fit with City's existing operations and not from a boilerplate template.
- xiii. Unless the disaster is the result of a willful act or negligence on Service Provider's part, City will pay for reasonable extra costs associated with implementing activities associated with this plan.

j. Other

- i. In addition to the above-mentioned formal reports, the Service Provider shall keep up-to-date and accurate records of the following (at a minimum):
  - Driver pre-trip inspection logs;
  - Daily dispatcher report;
  - Daily driver logs by run;
  - Daily road call reports;
  - Farebox information by driver run by day;
  - Records for bus operating personnel as required to meet USDOT Commercial Driver Regulations; and
  - Other information as deemed appropriate
- ii. This information should not be submitted to the City on a regular basis, unless otherwise directed. These records could be made available to the City by the Service Provider at the City's request.

f. Coordination

i. Primary Contact

- a. The Service Provider's designated General Manager shall be responsible for all day-to-day coordination efforts with the City. All correspondence from the Service Provider shall be directed to the City's Transit Manager attention.

ii. Service Coordination

- a. Service Provider shall, as directed by the City, coordinate closely with affected municipal, county, state and private representatives on all service matters that affect the daily operation of the City's transit services, such as road closures, or inclement weather and as they may affect the operation of the bus service.

iii. Passenger Surveys

- a. Documentation of the services will be provided through passenger surveys. Operators will administer these surveys. City staff or other authorized representatives of the City also could perform surveys. It is the responsibility of

the Service Provider to ensure the cooperation of all personnel with any operational procedures pertaining to survey work, including the distribution of survey questionnaires and other such tasks.

iv. Coordination Meetings

- a. City staff and Service Provider meetings shall include at least one meeting every month. Upon mutual agreement, these meetings may be scheduled more or less frequently at the City's request to discuss the status, performance, and proposed improvements of the transit system. This requirement may be set less frequently upon mutual consent of both parties.

v. Citizen Meetings/Workshops

- a. The Service Provider shall, upon request of the City, attend citizen meetings/workshops, as well as the PTAC to provide information concerning the transit system.

g. Use of Vehicles/City Assets

i. Customer Service

- a. Periodically, the City may conduct customer surveys of current and previous passengers to ensure that the level of customer service is maintained to the City's satisfaction.

ii. Advertising Sales Program

- a. The City retains all rights to interior and exterior third-party advertisement on any and all vehicle(s) for this Service. The City has sole responsibility for the generation of revenue by advertising on the interior and exterior of these vehicles or any leased/rented vehicles supplied by the Service Provider. The Service Provider will be required to assist with any advertising signs/vehicle wraps and literature, provided to the Service Provider by the City, and to remove said advertising on removal dates indicated by the City.

iii. Exclusive Use

- a. The Service Provider shall not enter into an agreement with any other party of use of equipment and/or personnel dedicated to this Service without the approval of the City.

iv. USDOT and Operated By Markings

- a. The Service Provider shall include "Operate by Service Provider Logo" and its USDOT markings on the bottom of both sides of the buses in a location agreeable by the City's Transit Manager.

#### h. Branding and Public Relations

- i. All branding, public information and media relations are the responsibility of the City. Branding and promotion activities include but are not limited to all advertisement media, business contacts to promote the Service(s), flyers, schedules, route maps, direct mail, banners, radio, TV, press releases, media contracts, trade publications, and any other such advertisement tools which may be utilized. The Service Provider shall direct all media inquiries, request for information, interviews, etc. to the City's Transit Manager.
- ii. Schedules/Map/Distribution
  - a. Schedules and route maps are to be designed and printed by the City. Distributions of maps are to be coordinated with the City to ensure that distribution locations can be frequently supplied. These costs shall not be included in the proposal costs. The City may, from time-to-time, call upon the Service Provider to assist in delivering materials when operators or supervisors will be passing distribution locations in route to or from the start or end of a route.
- iii. Bus Promotions
  - a. The Service Provider shall provide buses under the Contract as the City may from time-to-time specify for promotional appearances, uses and photographs.
- iv. Media Relations
  - a. The Service Provider shall refer all media requests to the City Transit Manager and shall not provide any information to the media or other agencies without prior approval by the City.
- v. Timetables
  - a. The Service Provider shall make timetables, maps, and other City prepared marketing materials available on all buses as well as deliver them to specific locations throughout the service area as defined by the City used for the provision of the service. It is the Service Provider's responsibility to always have sufficient supply of printed timetables by coordinating restocking with the City Transit Manager. The City shall be responsible for printing all timetables, maps, and other marketing materials. Service Provider shall provide an inventory of these materials due as part of the monthly report.
- vi. Rider Alerts
  - a. The Service Provider shall ensure that City-generated Rider Alerts are properly posted in the brochure racks behind the operator's seat. Notices shall be removed on the stated removal date.

#### i. Uniforms

i. Standard Uniform

a. The Service Provider shall provide standardized uniforms for all bus operators, mechanics and supervisors. The design of said uniforms shall require concurrence of the City. The uniform for operators and supervisors shall consist of the following:

1. **Uniform dress shirt-** To be blue and pressed, displaying the operator's name. Polo style shirt may be used in the summer months. Nothing on the shirt may identify the Service Provider's name or logo. Supervisory uniform shirts shall be light green. The Link Transit logo shall be present on all uniforms. The Service Provider logo shall also be on the uniform as well.
2. **Jacket-** to be blue with the Link Transit and Service Provider logo. The jacket should be comfortable enough to ensure it protects employees from all-weather elements, including a hood for head covering.
3. **Safety Vest** – to be florescent green with the Link Transit logo on the back. Safety vests shall only be worn when outside the vehicle or in the maintenance areas and not while operating the bus.
4. **Dress trousers-** black or gray.
5. **Shoes-** All operators and supervisors will be required to wear black shoes while on duty. Tennis/basketball shoes, cowboy boots, suede shoes, sandals, and open-toed shoes are not allowed for driving safety reasons.
6. **Name Tag/ID Card-** Each driver and supervisor must wear a nametag/ID card bearing the operator's name on the left pocket of their shirt, blazer, or jacket with the Link Transit logo and the Service Provider logo.
7. **Belts-** All belts are to be black .
8. **Head gear-** Any issued head gear shall be blue, black, or gray in color and shall include the Link Transit logo.
9. **Watch** – A watch set to [www.time.gov](http://www.time.gov) shall be provided as that is the official time for Link Transit. Cell telephones shall not be used as watches.

- ii. Mechanics shall have a jumpsuit or coveralls with the Link Transit logo and name sewed on it. There shall also be reflective material on the jumpsuit or coveralls.
  - b. Appearance
    - i. At all times while performing their duties, vehicle operators and supervisors must maintain a clean and neat appearance, adhering to the approved uniform listed above.
  - c. Personal Grooming and Hygiene
    - i. Each driver and supervisor must also adhere to a code of personal grooming and hygiene established by the Service Provider in conjunction with the City. The policy shall be submitted to the City's Transit Manager for approval.
- j. Fares and Fare Collection
  - i. Fare Policy
    - a. The City will establish all fare structures, policies, media, promotions, and discounts, which may include passes, cash, coins, tickets, tokens, transfers, and coupons. All Service Provider employees must be familiar with and adhere to all parts of the adopted fare structure. The Service Provider shall cooperate to ensure the sale of these passes and coupons. The Service Provider shall not utilize any tickets, transfers, tokens, passes, cards, or other non-cash fare substitutes other than those specified by the City. ***As of June 2021, Link Transit is fare free, however, that can change anytime during the Contract. Should Link Transit begin collecting fares, the following would apply in this section. The City will provide notice 30 days in advance to Service Provider regarding implementation of fares.***
  - ii. Fare Collection and Accountability
    - a. The Service Provider's operators or other authorized personnel will collect from all passengers on each bus the amount of fare (including collection of, and/or notation of use, upon any passes, cards, tickets, tokens, vouchers, coupons, and transfers) determined in accordance with specifications and schedules specified by the City. Operators shall record required information regarding the use of promotional fare media.
  - iii. Procedure for Collecting Fares

- a. All operators shall inform passengers immediately upon boarding the bus to deposit the fare in the farebox or use electronic swipe card.
- iv. Correlation of Fares and Passengers
  - a. The Service Provider should ensure that each passenger is depositing the correct fare in the farebox. The Service Provider shall ensure that the amount of fares collected is consistent with the number of passengers using the Service. Significant discrepancies between the number of reported passengers and the revenue collected shall constitute improper monthly reporting and is subject to liquidated damages as defined in the City Contracting Requirements section.
- v. Security and Ownership of Fares
  - a. All fare collected in connection with all categories of bus services shall be the property of the City and shall be deposited by passengers immediately upon boarding the buses in the fareboxes provided on each bus. The Service Provider shall maintain the security of such fareboxes and associated revenue collection system. The Service Provider shall be responsible for providing security over collected funds, equipment in service, and all inventoried fareboxes and associated equipment.
- vi. Written Security Procedures and Fare Collection Monitoring
  - a. The Service Provider must maintain adequate internal controls for all operations, specifically including revenue handling. The Service Provider must establish security procedures acceptable to the City Transit Manager and **submit these procedures with the proposal.** These procedures include methods to monitor fare collection and the utilization of controls and security devices that will prevent theft and expose pilferage. At least annually, the City will review the Service Provider's procedures and submit written findings of any deficiencies. The Service Provider is required to provide written responses to the City within 15 days and implement corrective actions within 30 days of any written findings from the City. Should there be any discrepancies between the actual count and the data count and an investigation proves failure to adequately protect the City's revenues by the Service Provider, then the Service Provider is responsible for reimbursement to the City.
- vii. Revenue Accounting and Reconciliation
  - a. The Service Provider must include a **Revenue Handling Plan** as part of its proposal. Some of the requirements to be incorporated in this plan include:



- i. All passes, cash, coin, tickets, tokens, vouchers, coupons, and transfers must be stored in secure areas.
    - ii. The revenue room or any other area where the Service Provider is handling fares shall be subject to video surveillance and random inspections by City staff and/or external auditors.
  - b. Revenue accounting and reconciliation requires the Service Provider to do the following:
    - i. The Service Provider shall separate and retain all cash and/or coins for deposit. This includes strapping paper bills and rolling coins. Passes, cards, tickets, tokens, vouchers, coupons, and transfers must be returned to the City.
    - ii. Prepare daily reports that **verify** revenue collections match reported passengers.
    - iii. Submit the daily deposit slips to the City's Finance Department on a weekly basis or at monthly close out.
    - iv. Submit the monthly revenue report to the City's Finance Director (or designee) and the City's Transit Manager (See sample of monthly report attached in the Appendix Forms section, Appendix B).
    - v. Perform weekly written reconciliation of revenue collected with ridership information. The format for the reconciliation must be reviewed and approved by the City. These weekly written reconciliations must be available for review at the City's request.
  - c. Farebox System
    - i. The City-provided vehicles will be equipped with fare boxes (Genfare brand). The Service Provider is responsible for the operation and maintenance of all fareboxes provided by the City. The City will approve the fare collection/fare handling procedures prior the implementation of the Contract.

k. Substance Abuse Testing

- i. The Service Provider must implement a written Drug and Alcohol Testing program that is in compliance with FTA Regulations found at 49 CFR Parts 40, 653 and 654. This program must be submitted and approved by the City prior to implementation of the final Contract. This includes having written policies describing which employees are subject to testing, what types of testing will occur, which behavior is prohibited and the consequences of violating the policy. The following types of tests must be included in the Service Provider's program:

- a. Pre-Employment;
  - b. Post-Accident;
  - c. Random;
  - d. Reasonable suspicion;
  - e. Return to Duty;
  - f. Follow-Up; and
  - g. Resting (alcohol only)
- ii. The Service Provider's Drug and Alcohol Testing Program must be project specific to the City's transit system. Corporate-wide policies that have been found to comply with FTA regulations may be used as long as they are first modified to be specific to the City transit system. This includes identifying specific contact people, testing centers, and resources. The Service Provider's Policy shall not contradict any requirements of the City's Drug and Alcohol Testing Policy. The Service Provider's Drug and Alcohol Testing Program is subject to approval and audit by the FTA. Any recommended changes by FTA shall be implemented in the Service Provider's Drug and Alcohol Testing Policy.
- a. **Reporting-** The Service Provider must also maintain a variety of records to document compliance with the FTA's Drug and Alcohol testing requirements. Procedures need to be in place detailing, which records need to be kept, their duration, and when individual employee records may be released. The Service Provider must make use of the most recently approved U.S. DOT Drug Testing Custody and Control and the U.S. DOT Breath Alcohol Testing (OMB No. 2105-0529) forms.
  - b. **Annual Report Submission-** No later than January 31 of each calendar year, the Service Provider shall submit a properly completed FTA Drug & Alcohol Management Information System (DAMIS) annual report summarizing the drug and alcohol test results from the City transit system from the previous calendar year.. The Service Provider must fill out separate DAMIS Report forms for each subcontractor as well.
  - c. **Proper Licensing-** The Service Provider must secure the services of a Department of Health and Human Resources certified Testing Laboratory and use an Evidential Breath Testing device approved by the National Highway Traffic Safety Administration (NHTSA). The Service Provider's Medical Review Officer (MRO), Blood-Alcohol Technician (BAT), and Substance Abuse Professional (SAP) must all be properly certified and licensed according to 49 CFR Parts 653 and 654. Prior to the beginning of this Contract, the Service Provider shall submit copies of all required licenses and certifications for these individuals, labs, and devices to the City. At any

time should any of the individuals or firms listed above be changed, the Service Provider shall immediately notify the City.

- d. **Confidentiality-** To the extent permitted by law, the City’s Transit Manager and other authorized representatives from the City, State of North Carolina or FTA should be documented in the Service Provider’s Policy to have access to test results and other documentation that the Service Provider’s General Manager has access to. The City’s Transit Manager and other authorized representatives from the City, State of North Carolina, or FTA shall have access to the names of the Testing Laboratory, Medical Review Officer (MRO), Blood-Alcohol Technician (BAT), and Substance Abuse Professional (SAP).

**PARATRANSIT SERVICE PROVISION SCOPE OF WORK**

Purpose of Solicitation: The City is seeking to Contract with a Service Provider, who is the most responsive and advantageous to the City with cost and other factors considered to provide an easy to use and cost-effective paratransit public transit solution both for the City and the passengers that use the services. The City will provide the fuel to be used for all described services.

- a. **Ridership & Estimates:** The City has provided an example of the structure of the current ADA paratransit service, as well as the ADA paratransit ridership information for the past four years.

Estimated Trips for the Contract					
	Peak Vehicles	Vehicles Available	Estimated Annual Revenue Vehicle Hours		
			Year One	Year Two	Year Three
Link Transit	2	3	Weekday*	Weekday*	Weekday*
ADA			4,000	4,000	4,000
Paratransit			Saturday 1,000	Saturday 1,000	Saturday 1,000
Total			5,000	5,000	5,000
			Estimated 10% increase each year.		

\*Does not exclude Holidays

ADA Paratransit Ridership				
FY2017	FY2018	FY2019	FY2020	FY2021
2,348	4,527	5,091	4,821	4,946

**b. Fixed Route Service Provision Scope of Work Section Applicable to Paratransit**

i. The following subsections also apply to the Paratransit Service Provision Scope of Work.

1. General Description of tasks to be performed

2. Description of Services:

- a. Services Operations Plan: Service Span, Holidays, Dispatching, Service/Support Vehicle, Communications System, Fuel, Technology-Video Surveillance
- b. Personnel Organization
- c. Employee Training
- d. Reporting Requirements
- e. Coordination
- f. Use of Vehicles/City Assets
- g. Branding & Public Relations
- h. Uniforms
- i. Fares/Fare Collection
- j. Substance Abuse Testing

**c. Maintenance Scope of Work Section**

i. All subsections also apply to the Paratransit Service Provision Scope of Work.

**d. Specific Components**

i. The Service Provider will provide ADA paratransit services to compliment the fixed route system. The City may provide replacement vehicles over the life of this Contract to support the ADA paratransit services. Until the City is able to provide vehicles, the Service Provider shall provide vehicles which shall be 2019 or newer and low floor in nature, branded with the City's Link Transit paint and decal scheme. Upon delivery of the City's paratransit vehicles, the Service Provider shall remove the cost associated with these vehicles from their hourly rate.

ii. ADA paratransit will provide door-to-door service, meaning operators are to assist all passengers from door of the originating point to the door of destination on every one-way trip, excluding documented circumstances where safety or security issues warrant curb-to-curb services. Should a paratransit passenger request curb-to-curb service, the request should be documented and provided. All services shall be provided in accordance with FTA Circular 4710. Details available here:

[https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final\\_FTA\\_ADA\\_Circular\\_C\\_4710.1.pdf](https://www.transit.dot.gov/sites/fta.dot.gov/files/docs/Final_FTA_ADA_Circular_C_4710.1.pdf)

- iii. The City shall be responsible for accepting and reviewing all applications for ADA paratransit service eligibility and provide documentation of eligibility to the Service Provider. All paratransit related forms will be provided by the City . The application will require a medical signature to confirm the applicant's certification for paratransit services.
- iv. The City will be responsible for issuing the service eligibility identification card and notifying individuals when they have been approved for this service. The Service Provider will only provide ADA paratransit services to approved and certified individuals as provided by the City.
- v. This passenger information shall be maintained in an approved electronic passenger database provided by the Service Provider.
- vi. The Service Provider will be responsible for providing a dispatch and reservation center to handle dispatching of paratransit vehicles and taking reservations and cancellation calls separate and apart from dispatch.
- vii. The dispatch and reservation system should include computer aid dispatch for the ADA paratransit service, as well as incident/driver/vehicle/scheduling management. Mobile Data Terminals (MDTs) shall play an integral part in the everyday operation of the dispatch-driver interaction, including but not limited to, pre/post trip inspections, trip manifests, visual display of schedule adherence information, mobile messaging, manual/automated collection of passenger trips/counts/fare, etc.
- viii. The Service Provider is responsible for entering all current ADA paratransit passengers into the scheduling software and to begin scheduling trips beginning on or before July 1, 2022. The Service Provider will begin providing trips on July 1, 2022. The Service Provider shall provide access to the City in using this system. The system must be the most up-to-date system that the vendor provides and must have the most current polygons to demonstrate a ¾ mile radius of Link Transit routes in operation by day and time.
- ix. The Service Provider shall propose a staffing plan to provide adequate reservation/scheduling personnel necessary to respond to incoming calls for reservation requests, trips revisions, general information and complaints or commendations. The personnel must be well-versed regarding FTA ADA regulations (fixed route and paratransit) and the City's requirements for provision of the service. Customer service and ADA sensitivity training and skills are vital for all reservation personnel and paratransit operators.
- x. Sufficient staff must be provided to respond to calls in a timely manner. A separate telephone line shall be maintained and advertised for the service. The goal shall be set that 95% of all calls be answered within three (3) minutes to ensure that passengers do not experience excessively long wait times. Calls must not be placed on hold for longer than two (2) minutes.

- xi. Reservation personnel must maintain an electronic daily log of all telephone requests received and include information on trip denials (there should be none for any approved and certified ADA paratransit passengers requesting service), trip revisions and cancellations for ADA paratransit services. This log shall be provided monthly to the City as part of the monthly report submission.
- xii. Reservation personnel are also required to return all telephone messages left by passengers within one hour during normal business hours and within one hour the next business day if the message is left during non-business hours or on Sunday. Hours for the reservation center shall be 8:00 a.m. to 5:00 p.m. Monday-Saturday and 1:00 p.m. to 4:00 p.m. (or as necessary) operating hours on Sunday to manage and prepare for Monday trips. Reservation personnel must be equipped with and be able to understand TDD/TTY relay services provided by 711 for communications with hearing impaired passengers. The telephone system provided by the Service Provider shall allow for passengers to leave messages, including trip reservation requests or cancellations, during non-reservation hours and must always be in good working order. Any issues with the telephone system must be report to the City's Transit Manager immediately.
- xiii. The Service Provider must include in their staffing plan and cost proposal at the minimum one dispatcher/reservationist for ADA paratransit calls and dispatching only, separate from the fixed route system. Dispatch personnel will be required to monitor ADA paratransit communications throughout the operating hours and communicate with drivers, supervisors, and maintenance personnel, regarding operations, service, safety, and customer service issues. Detailed logs must be kept on all communications through an electronic system. A strong supervision component is required for the ADA paratransit service. The supervisory component must include ensuring that ADA requirements are being followed in the ADA paratransit service delivery and that information related to fares, mileage and revenue hours are being report accurately. All state and federal reporting shall be the responsibility of the Service Provider and provided to the City at timely intervals. The City and the Service Provider shall coordinate on the reporting process and all responses to state and federal agencies.
- xiv. Operators must wait five (5) minutes at the trip origin location after arriving within the required 30-minute window for the appointed pick-up time before a passenger can be considered a no-show. Operators must radio in to dispatch immediately in all cases when a passenger is a no-show and dispatch must document the details of the no-show. The details of the no show that dispatch must document include vehicle arrival and departure time to ensure compliance within the 5-minute window and any attempts made to contact the passenger, which should be made prior to the assigned vehicle departing from the location. Some form of documentation shall be provided for no-shows (door hangers, etc.).

- xv. Maximum one-way travel time should not exceed 180 minutes during the 90-minute fixed route headway on the fixed route transit system. Should Link Transit change the headway or expansion of the fixed route system, the ADA paratransit service shall also adjust the travel time and service parameters respectively. At no circumstance shall the paratransit trip exceed double the frequency of the fixed route transit system.
  - xvi. It is the City's expectation for the Service Provider to implement and collect the current and approved fare (subject to change at any time). The Service Provider must be in conformity with the City's approved accounting principles/revenue handling practices and ensure that cash collections and financial/revenue data is accurate. The minimum processes for fare collection will be through cash/ticket/pass system (tickets/passes approved by the City for purchase). All fares will be collected and deposited in accordance with City financial policies. Daily and monthly revenue reports will be required to match the trips provided to the revenue collected and deposited. City approved liability and risk insurance shall be maintained for the duration of the Contract term. **Note:** *If the City decides to offer fare free fixed service, paratransit services will also become fare free.*
  - xvii. Operators must ensure that each passenger pays the appropriate fare prior to being provided transportation services. The verification process includes either checking the passenger database for pre-payment of trip at the time of the reservation or collecting the total amount of fare electronically. Operators will record revenue counts by passenger on the operator's manifest for all ADA paratransit trips. Operators will also record on the manifest all critical times and mileage necessary to document: ADA paratransit revenue hours and revenue mileage-begin at first pick-up and ends at last drop-off. It excludes lunch and breaks; and service operation- sign in, depart yard, arrive/depart each pickup, arrival back at yard and sign off.
  - xviii. The Service Provider should maintain frequent communication and coordination with the City's Transit Manager to monitor any system changes or service adjustments. The defined fixed routes will be provided to the Service Provider with the ADA paratransit service area identified, initially and the Service Provider is responsible for address verification and geographic service eligibility (within  $\frac{3}{4}$  of a mile on either side of the fixed route). The ADA paratransit service is only eligible for trips during the same time and days of the fixed route system. The City will provide geocode digital mapping and General Transit Feed Specification (GTFS) mapping files that can identify the ADA paratransit service area and addresses which shall be inputted in the scheduling system and updated as the fixed route transit system changes.
- e. **ADA Specific Requirements**
- i. All operators must be trained to comply with Title II and Title III of the ADA and any additional ADA or FTA training or testing that may be required by law. Refresher training on this subject

should be conducted on an annual basis. All personnel are responsible for knowledge of the ADA paratransit system design and ADA paratransit requirements. The requirements include but are not limited to eligibility and reservations policies and pick-up time windows, connects to the fixed route and other regional public transportation services, tie down requirements, lift/ramp operation, personal aid/assistant standards, service animal regulations, reasonable accommodation procedures, general first aid and maintenance of ADA accessibility features on each vehicle. Service Provider personnel must maintain a courteous attitude, answering to the best of their ability any passenger questions regarding the provision of both ADA and non-ADA services. Personnel must also report all passenger complaints and operational problems to project management staff, which in turn must communicate those complaints and issues to the City's Transit Manager.

**f. Quality Assurance Program**

- i. Explain in detail how the customer service, safety and security program components will be monitored to ensure the delivery of a high-quality service, including a call monitoring system that will record calls between ADA paratransit passengers and reservationists/schedulers. The Service Provider must have the ability to produce and share the call recordings, if requested. If the required telephone system is not in place, please provide a specific date for the system installation.

**MAINTENANCE SCOPE OF WORK**

**a. General Requirements**

- i. The Service Provider shall maintain the vehicles in the highest state of repair and conform to the maintenance requirements listed below. All maintenance items and reporting shall be coordinated with the City 's Transit Manager and the City's Fleet Management Superintendent, located at the Burlington Equipment Service Facility at 218 East Summit Avenue, Burlington, N.C. Transit vehicles shall be properly rotated in daily service to achieve similar odometer miles and overall condition for each transit vehicle. City reserves the right to assign vehicle types to specific routes or services.
  - a. **Vehicle Condition:** The Service Provider shall maintain all vehicles and vehicle equipment required by this Contract in proper repair and condition satisfactory to the City. The Service Provider shall maintain all equipment in conformance with the manufacturer's warranty requirements throughout the life of the Contract. The Service Provider must ensure that all vehicle manufacturer warranty work is accomplished to guarantee City compliance with necessary warranty requirements.



b. **Variations and OEM:** No variation or vehicle system modifications will be allowed without written authorization from the City. Only original equipment manufacturer (OEM) parts and supplies may be used unless the Service Provider submits a written request to the City, with all relevant documentation, for a specific case by case waiver from this requirement and is granted that request. As a result of the required vehicle repairs, the Service Provider shall ensure that all reassembly tasks are performed in such a manner that the vehicle remains in the OEM configuration as it was received. This includes, but is not limited to, the wiring configuration and clamping and body assembly.

b. **Applicable Codes and Regulations**

i. All vehicles to be used for this transit service shall be safe for operation on public streets and freeways and meet all requirements in the Federal and State Motor Vehicle Safety Standards for a bus. All parts of the vehicle and all equipment mounted on or in the vehicle shall conform to this vehicle safety standard.

a. **Inspections:** Each vehicle is required to be inspected annually by the City by December 31 of that particular year or may be done by an appropriate regulatory agency. The City shall be notified of inspections performed by any other government agency other than the City. The results of those inspections shall be transmitted to the City, and any applicable signed certification shall be displayed or carried on the vehicles. If a regulatory agency revokes the permits to operate the vehicles in this service as a result of unsatisfactory inspection ratings, the buses shall not operate, and liquidated damages will be applied.

b. **Quality Assurance and Audits:** The City shall have immediate and unrestricted access to all vehicle maintenance records during planned and unannounced visits or inspections to vehicles and the Service Providers' facility for the duration of the Contract. The City shall be entitled, at any times, to conduct inspections of any bus in order to determine compliance with the provisions hereof. The Service Provider shall, upon request by the City, immediately remove from operation any bus which is determined by the City to be in non-compliance and shall repair, clean, or take any other actions reasonably requested by the City in order to cause such bus to be in compliance. Nothing in this provision or in any inspection or approval by the City of any bus shall relieve the Service Provider of its obligation to maintain and operate each bus in strict compliance with the provisions thereof.

c. **Permit and Fee Structure:** All operators and vehicles operating in the State of North Carolina may be subject to State fees, which should be included in the Service

Provider's base cost. Other vehicle licensing fees from other governmental entities for vehicle operated in this service will also be paid for by the Service Provider. All vehicles must have applicable vehicle permits, system decals or paint scheme, and all operators must have current CDL with all proper endorsements. The Service Provider must also have all applicable City, County, and State business licenses.

**c. Preventative Maintenance (PM)**

- i. Through an approved PM Program, the Service Provider shall cause all components of each bus, including its body, frame, furnishing, mechanical, electrical, hydraulic, or other operating system to be maintained in proper working condition, free from damage and malfunction. As part of this Contract, the Service Provider shall submit to the City a complete and comprehensive PM program. The PM program submitted by the Service Provider to the City will meet or exceed the standard manufacturers recommended or specified guidelines, including all add-on equipment installed by the second stage manufacturer. When two service categories are provided by the manufacturer such as "normal service" and "severe service", the severe service category guidelines will be used in establishing the PM program by the Service Provider. In addition, all maintenance work shall conform, but not be limited to, the requirements of the manufacturer's warranties.
- ii. The Service Provider will collect oil samples monthly as part of its PM program. The Service Provider will use the results of these tests to adjust the PM program and also submit oil sample reports to the City's Fleet Maintenance Division for review.
- iii. Preventive Maintenance of Heating and Air Conditioning System
  - a. The Service Provider shall provide a separate preventive maintenance program for the vehicle-heating and vehicle-air conditioning system that meets or exceeds the manufacturer's recommended or specified PM program. All repairs and maintenance shall be performed according to the laws established by the North Carolina Department of Environmental Protection for air conditioning service. The Service Provider shall describe the brand name and model number of the refrigerant recycling system proposed and whether this system is currently in use by the Service Provider or is yet to be purchased as a result of the award of this Contract.
  - b. The Service Provider shall properly maintain operating heating and air-conditioning systems on all revenue vehicles. At a minimum, vehicle-heating systems shall be operable between October 15 and April 1 and vehicle air-conditioning systems shall be operable between April 2 and October 14. During winter service operation, the measured temperature anywhere within the interior of the coach will not be less than 65 degrees Fahrenheit. During the summer service operation, the interior vehicle

temperature shall be no greater than the higher of either 75 degrees Fahrenheit or 20 degrees below the ambient temperature (i.e., 100-degree ambient temperature = 80 degrees in the bus). No revenue vehicle shall be operated in revenue service without a properly functioning heating or air-conditioning system.

**d. Vehicle Damage**

- i. The Service Provider shall repair as required all vehicle damage that occurs through the performance of this Contract. The Service Provider shall institute repairs of any significant damage to vehicles prior to returning to service in a reasonable timeframe. All repairs made relative to vehicle damage shall be performed by competent repair facilities capable of restoring the damaged vehicles back to their original configuration, appearance, and structural integrity. All vehicles damage repairs should be photographed and approved by the City's Transit Manager and Fleet Management Superintendent prior to initiating the repair.
- ii. If vehicles are damaged as a result of poor maintenance by the Service Provider, then the City may choose to have all required vehicle repairs performed by a company of the City's choosing and subsequently invoice the Service Provider for the cost of repairs. This amount will be deducted from current monies owed to the Service Provider. Failure to comply with these provisions will result in the City's having all required vehicle repairs performed by a company of the City's choosing and subsequent deduction of the cost of the repairs from current monies owed to the Service Provider. In addition, the Service Provider will be liable for relevant liquidated damage assessment as defined in the City Contracting Requirements section.
- iii. Upon completion and on the same day of each PM, the Service Provider shall bring the transit vehicle to the City's Equipment Services Facility for a PM Follow-Up Inspection. A copy of the PM report must be provided as part of this inspection. Such inspection will include a visual review of work conducted and referenced on the PM report. The City's Equipment Services Facility is open Monday through Friday from 7 a.m. to 4 p.m.. The Service Provider shall plan PM's such that they can arrive at the City's Equipment Services Facility no later than 3 p.m. to allow adequate time to accommodate and complete the PM Follow-Up Inspection. This PM Follow-Up Inspection shall not serve as a replacement for the auditing program described within this section.

**e. Responsibility**

- i. In no event shall the City be required to repair, replace, or maintain any provided vehicle/bus unless the Service Provider fails to repair the City provided vehicles within a 60day period

**f. Parts/Lubricants/Supplies**

- i. Service Provider, at its sole cost and expense, shall maintain stores of and provide lubricants, repairs, parts, and supplies required for the maintenance and operation of all buses and service vehicles utilized in this Contract. Once installed; tires, parts and other supplies that are ordered for the operation and maintenance of City vehicles would become City assets.
  - a. **Tires:** The Service Provider shall be responsible for providing replacement tires for the transportation of all revenue vehicles without additional cost to the City. The Service Provider shall not re-tread, re-groove or by any means alter any tires on buses.
  - b. **Inventories:** The Service Provider shall maintain reasonable inventory levels to assure timely repair of vehicles/equipment. The Service Provider supplied parts inventory shall remain the property of the Service Provider upon completion of the term of this Contract. The City may, at its discretion, choose to purchase said inventory at a mutually agreed upon fair market cost upon termination of the Contract.
- g. **Painting of Vehicles**
  - i. The City will have a distinctively painted/wrapped fleet of transit vehicles. At the start of the Contract, all vehicles will be provided by the City with the proper paint, wrap and decals. Any needed decal wraps or paint after the start of the Contract will be the responsibility of the Service Provider. If any vehicle cannot be used to perform services due to physical damage or needed repairs, it will be the responsibility of the Service Provider to locate and acquire a replacement vehicle approved by the City to perform the services at no additional cost to the City. All buses in revenue service must have the appropriate decals, wrap, paint and Link Transit logo whether they are City or Service Provider provided.
- h. **Vehicle Cleaning**
  - i. The Service Provider shall be responsible for maintaining the cleanliness of all vehicles used in the provision of the service in order to provide a positive public image and appearance. As part of this Contract, the Service Provider shall submit to the City a complete Vehicle Cleaning Program. The Service Provider shall be assessed liquidated damages for any vehicle deemed unclean by the City.
    - a. **Vehicle Exteriors:** The exteriors shall be washed a minimum of every three (3) days, unless circumstances warrant a more frequent service, or, in case of water restrictions, the Service Provider may opt to contact exterior cleaning to a vendor that recycle wash water. The exterior of each vehicle shall be kept clean from road dust, mud, tar, grime, and graffiti. The Service Provider shall remove all graffiti from the exterior and interior of the vehicles as soon as it is found or as soon as it is practical at the end of the day or before it goes in service the next day. If the graffiti is offensive or vulgar and cannot be removed, that vehicle shall be taken out of service

immediately. If graffiti is etched or scratched into the surface of the glass rather than paint, the piece of glass must be replaced as soon as possible. Replacement shall take no longer than one week unless parts are unavailable.

- b. **Vehicle Interiors:** At a minimum, but more often as needed, interiors shall be swept, cleaned of trash, dusted and the floor spot-mopped once daily. Weekly, each vehicle shall be deep cleaned, which includes, but is not limited to the ceiling, walls, floors, seats, driver area and dash, ancillary equipment, and windows. The Service Provider shall provide upholstery cleaner to clean each seat once a week during this deep cleaning process. Additionally, the Service Provider will be required to remove all noticeable trash, such as newspapers and litter from each vehicle after each run. If any area of a vehicle shall become defaced with graffiti the vehicle shall be removed from service until the graffiti is removed.
- c. **Interior Pest Control:** The interior passenger compartment of each vehicle shall be free of roaches and other insects or vermin, as well as noxious odors from cleaning products, pest control products, and exhaust fumes emitted by the engine of such vehicle. The Service Provider is expressly prohibited from using any pest control product, or application procedure for such product, that would be hazardous to the health and well-being of the passengers and driver of such vehicle. The vehicles shall undertake pest control monthly and immediately after discovery of pests on the vehicles by passengers or City personnel.
- d. **Unclean Buses:** Any transit vehicle found by the City to not be in compliance with these vehicle appearance provisions will be removed from service immediately without limiting the Service Provider's service obligations. In addition, the Service Provider shall be subject to the liquidated damage provisions concerning vehicle appearance and/or deficient vehicle condition. Once all required actions have been completed by the Service Provider to correct any deficiencies found within this provision, the City must inspect and approve all actions taken prior to the vehicle being eligible for use in scheduled service.
- e. **COVID-19 Specific Requirements:** Vehicles shall be fogged at the minimum weekly and hand sanitizers, masks and trash cans must be placed in every vehicle and replenish by the Service Provider as needed at the Service Provider's cost.

#### i. Facility Cleaning

- i. The Service Provider shall maintain the interior and exterior of its facilities, including kitchens, bathrooms, and lounges in neat and clean conditions, free of trash and debris at all times. This includes the employee parking areas, bus yard and all other areas clean and clear of

debris. The Service Provider is completely responsible for all custodial trash removal and waste handling inside the maintenance building. Shop floors shall be swept once a day and oil spills shall be cleaned immediately, in accordance with OSHA regulations.

**j. Modification and Repair of Destination Signs/Talking Bus Annunciators**

- i. In the event of route changes that affect the destination sign readings, the City will specify the change in writing and the Service Provider will revise the destination sign and any talking bus annunciator to reflect that change. The Service Provider shall perform any required maintenance to ensure constant display operation of all revenue vehicle destination signs and any talking bus annunciators.

**k. Vehicle Status Board**

- i. The Service Provider shall maintain a status board and an electronic file in the shop where vehicles are maintained. The status board shall contain, but not be limited to the following:
  - Vehicle Number;
  - Vehicle Mileage;
  - Date and Mileage of last PM;
  - Date and Mileage of last safety inspection;
  - Date and Mileage of next PM;
  - Date and Mileage of next safety inspection;
  - Vehicles not fit for revenue service; and
  - Vehicle documentation, warranty information, registration, and all other vehicle related documents

**l. Maintenance Auditing Program**

- i. During the term of the Contract, the City or an independent maintenance consultant may provide expert review of the Service Provider's maintenance practices and audit the condition of the City's vehicles at the time..
- ii. **Cooperation:** These fleet audits will include extensive vehicle inspections, utilizing the pits and lifts of the facility, and also involve inspection of maintenance documentation and Service Provider's procedures. Road testing and oil/fluid analysis will be involved. The Service Provider must provide full cooperation to the City or Consultant and arrange for efficient use of their time through facility and vehicle access.
- iii. **Access to Reports:** The City intends for these audits to act not only as an independent monitoring of the Service Provider's maintenance efforts but also as a method for the Service Provider to demonstrate constant improvement. Audit reports will be available to the Service Provider, and the City or consultant will provide follow-up meetings and suggestions.

- iv. **Fluid Analysis:** Prior to the collection of oil or other fluids for analysis, the City shall notify the Service Provider in advance. The Service Provider must inform the City of any scheduled preventive maintenance on any bus that might affect the samples to be tested.
- v. **Repairs:** Any deficiencies in the vehicle fleet identified by the audits shall be repaired by the Service Provider at no additional cost to the City. Within ten (10) days after notification of such deficiencies, the Service Provider shall present a written repair schedule/timeline to the City for approval. Failure to submit such a schedule or to complete the repairs according to an approved schedule will permit the City to procure a third party to complete such work at the Service Provider's expense. This failure also subjects the Service Provider to liquidated damages as defined in the City Contracting Requirements section.

### **PROPOSING ORGANIZATION'S BACKGROUND AND EXPERIENCE**

Please answer the following questions as completely as possible, placing your answer immediately after the question to which it applies. **If you wish to add supplemental information, it shall be labeled "Supplemental Information"**.

1. **Official Name**

Provide the legal name and address of the Service Provider and state of incorporation submitting the proposal. Also identify all subcontractors or joint venture partners.

2. **Proposed Project Team**

If the Service Provider's proposal submission is composed of a team of more than one company or if the Service Provider plans on using any subcontractor(s), to provide any of portion of the Transit Services listed in this RFP, the Service Provider must provide identifying information for each. Provide a description, which includes the teaming relationships, form of partnership, each team member's contribution, and the experience of each team member, which qualifies them to fulfill their responsibility. Provide descriptions and references for the projects on which team members have previously collaborated.

3. **Proposal Response Items**

Please organize your proposal by responding to the following items:

- a. **Qualifications of Proposing Service Provider**

- i. Explain the general character of work performed by your firm.
- ii. Describe your firm's qualifications and experience performing the work described in this RFP. Information about experience should include direct experience with small urban fixed route and paratransit services.
- iii. Describe the performance standards your firm has established for its contract operations.

- iv. How is the performance of your manager and other contract management personnel evaluated?
- v. What would be your initial response to a request by the client to remove the General Manager?
- vi. Does your firm have an Equal Employment Opportunity and Affirmative Action Program? If yes, explain your firm's program and accomplishments in detail.
- vii. List at least three state, municipal, federal government and/or commercial references that your firm has had contracts with within the past five years where small urban fixed route and paratransit services were similar in scope, size or discipline to the City-required services described in this RFP. Include information regarding improvement in ridership, on-time performance, safety record, cost containment, and productivity. Provide a contact name, telephone number and email of a person that can discuss your firm's performance under the Contract.
- viii. Can your firm meet the proposed start date as indicated in the Service Provision Scope of Work section?
- ix. Describe how your firm will meet the stated insurance requirements and provide proof of insurability by a qualified insurance provider.
- x. Has your firm ever had a contract terminated or mutually terminated through a settlement agreement by a client in the last ten (10) years? How did your firm respond to problems identified by the client during the period allowed for corrective actions?

**b. Proposed Staff Qualifications and Organization of the Operation**

- i. Who will be the General Manager for this project? Explain this person's background and experience and include a resume.
- ii. Who will be the Operations & Training Manager or other member(s) of the Management Team for this project? Explain each of these person's background and experience and include a resume.
- iii. Who will be the Maintenance Manager? What percentage of his/her time will be devoted to this project? Explain this person's background, experience, and include a resume.
- iv. Who will be in charge of data reporting required by the City? Explain this person's background and include a resume.
- v. How will the ADA Paratransit Program be managed?
- vi. Explain the nature of the General Manager's relationship with corporate management and how and with whom the City would interact with regarding corporate support. Provide an organization chart and staffing plan, with describes the Service Provider's



proposed on-site staff distribution to accomplish this work. The staffing plan should include a chart, which partitions the time commitment of each professional staff member across the proposed tasks. This section should also quantify a listing of the number of full-time equivalent personnel by title proposed for the on-going management and operation of the system including:

1. Operators;
  2. Maintenance Personnel (by title);
  3. Dispatchers;
  4. Street Supervisors; and
  5. Administrative/Clerical (by title)
- vii. Provide a complete listing and description of all the ASE certifications held by your maintenance staff. Include the staff person's name, the date they obtained the certification, and the expiration date of their certifications. If contract maintenance is proposed, provide the information and qualifications of the Service Provider to be used.
  - viii. Who in your management team will have the responsibility for the hiring and training of operators? Explain and provide a resume if this person is different from a proposed team member described above.
  - ix. Provide a Start-Up plan including a timeline. Provide a list of personnel that will be available the first three weeks of service and include the duties of each person.
  - x. Identify any additional personnel, if any, who will be required for full-time employment on a subcontract or consultant basis. The technical areas, character and extent of subcontract or consultant activity will be indicated and the anticipated sources will be specified and qualified. Special mention shall be made of direct technical supervisors and key technical personnel and approximate percentage of the total time each will be available for this project.
  - xi. Provide a narrative summary describing how the organization will ensure quality service by investing in its employees. Include the organization's plans to retain quality employees.
  - xii. Identify if your Service Provider or any of your personnel are members of a labor union. Indicate if your firm has ever been involved in a work stoppage and what steps were taken to resume service and in what timeframe.

#### **4. Operation and Maintenance Methodology**

- a. Provide a written understanding of the service and a description of all major activities to be performed during the on-going system management and operation.

- b. Provide the location, address, size, and detailed description of all facilities that will be used in conjunction with the service.
- c. Will any support vehicles be necessary? Explain. List the make, model, year, mileage, and condition of each support vehicle proposed. **NOTE: Support vehicles are the responsibility of the Service Provider.**
- d. Describe your firm's on-going safety program for the service.
- e. Describe how your firm resolves passenger complaints.
- f. As appearance is important to the passenger, tell us how your firm will maintain the appearance of its uniformed personnel.
- g. As reporting requirements in the proposed Contract are quite extensive, please explain how your firm intends to meet these requirements.
- h. Describe in detail your firm's plan to comply with the City's requirements regarding fare collection, security, reconciliation, and on-board security as described in the Service Provision Scope of Work section.
- i. Describe your firm's drug testing policy and program for this Contract.
- j. Describe how your firm will respond to vehicle breakdowns including your plan for on-street supervision and staging of extra vehicles and operators.
- k. Describe in detail your firm's plan regarding preventive maintenance of revenue vehicles.
- l. Describe the heating and air-conditioning program to be followed under this Contract.
- m. Describe internal (on-site) and corporate quality control programs designed to ensure that service performance standards are met.
- n. Include a detailed description of bus operator hiring, training, retraining and evaluation processes including minimum driver qualifications and pre-employment criteria. Describe how operators will be assigned to specific routes to ensure continuity and local knowledge to passengers. Also include a detailed description of supervisory and dispatcher/administrative hiring, training, and retraining processes.
- o. Include a detailed description of mechanic hiring, training, and retraining processes including the minimum mechanic qualifications and trade certifications.
- p. Provide a detailed description of your Service Provider's vehicle cleaning program.

## 5. Proposed Costs

- a. Complete Required Form, **Form Six**, Cost Proposal, and include it in your response under title Proposed Costs. Utilizing **Form Six**, Cost Proposal, please provide a cost proposal for fixed route operations with an increased fixed route service based on the revenue vehicle hour rate definition for fixed route and paratransit service.. To ensure a standardized basis for the

comparison of various proposals, all proposals costs must be specified on **Form Six**. **Form Six** is broken out into two schedules:

1. Revenue Vehicle Hour Costs;
  2. Cost Schedule Breakdown for Years 1, 2 & 3 of Revenue Vehicle Hours;
- b. Wage or minimum pay hour requirements the Service Provider may have with its employees will not affect the City's ability to pay the Service Provider on an individual revenue hour basis. The City will not accept any restrictions or minimum servicing hour requirements either by day, or other time period or any other way other than by individual Revenue Vehicle Hour.

## 6. **Proposing Offeror's Financial Qualifications**

Please respond to the following items as completely as possible, placing your answer immediately after the item to which it applies.

### a. Analytical Approach

- i. The evaluation of the financial viability of the Service Provider was developed with one primary goal in mind: to protect the City from risk of default by a selected Service Provider due to financial instability. Various analytical techniques will be used to assess the financial strength and stability of each Service Provider, focusing on profitability, solvency, and efficiency.
- ii. The analysis will include an evaluation of specific financial indices and ratios in an effort to maximize objectivity and provide measures that are more directly comparable among Service Providers. Other factors which may impact the financial position of a Service Provider will also be assessed. These factors include past experience in providing similar fixed route services and demonstration of the ability to provide an adequate performance bond and to obtain sufficient levels of liability insurance. Relevant information regarding recent litigation and bankruptcy filings, which may materially affect a Service Provider's position, will be examined. In addition to credit rating and credit reports, bank and vendor references will be used to evaluate the credit worthiness of each Service Provider.

### b. Performance Bond

- i. Within 15 days after Contract award by the Burlington City Council, the Service Provider shall furnish to the City a performance bond with a corporate surety in the amount equal to 100 percent of the annual Contract sum, which shall be conditioned upon the faithful performance of every term, condition, and provision of the Contract.

The performance bond must be approved or revised by the City. The Service Provider will pay any and all costs associated with the performance bond.

- ii. Each Service Provider must show evidence of their ability to obtain the bond requirements above and include such evidence in their RFP.

c. Guarantor

- i. Service Providers may elect to enhance their financial ability standing by proposing a guarantor. The nature of the relationship between the Service Provider and its guarantor is critical to protect the City in the event that the contracting Service Provider defaults on its obligations. If the parent company of a proposing Service Provider is serving as the guarantor, then the parent company **must indicate in a letter its willingness to guarantee all contractual obligations of the Service Provider.** If your organization is proposing a guarantor that has a relationship with the Service Provider other than a parent/subsidiary relationship, then a detailed explanation of all past and present relationships between the Service Provider and its guarantor must be provided, in addition to a letter from the guarantor indicating its willingness to guarantee all contractual obligations of the Service Provider.
- ii. Any financial information requested of the Service Provider in the following section must similarly be provided for the guarantor. In the event of a joint submission, all proposing entities must provide statements specifying the extent to which each entity will act as guarantor and provide all relevant financial documents for all entities involved in the joint venture. Additionally, if there is more than one guarantor, then the guarantors must be jointly and separately obligated.

d. Requests for Financial Information

- i. Please furnish the following financial information in a separate and sealed envelope for the proposing Service Provider, guarantor(s), and any subcontractor included as having a significant role (defined as providing more than 10 percent of the services) in providing services to the City:
  1. Evidence that demonstrates the ability to obtain the insurance as required in the General Terms and Conditions section. Such evidence may take the form of certificates of insurance showing that the Service Provider already has such insurance policies, or letters from qualified insurance companies evidencing a commitment to provide such insurance for the Service Provider;
  2. Annual audited financial reports for each of the past three fiscal years, prepared in accordance with Generally Accepted Accounting Principles (GAAP), and all relevant notes;

3. The most recent Form 10-K and Form 10-Q filed with the Securities and Exchange Commission (SEC); or if the Service Provider is not regulated by the SEC, then the most recent quarterly financial report;
4. Description of any material adverse changes in financial position within the past five years; any material changes in the mode of conducting business; any bankruptcy proceedings, mergers, acquisitions, takeovers, joint ventures, and/or divestitures within the past five years. In addition, provide a clear and definitive statement of the following:
  - Years of providing urban fixed route bus services by the Service Provider and/or predecessor organization, and
  - Whether or not the Service Provider (and/or predecessor and guarantor) has declared bankruptcy within the last five years.
5. Description of the financial impact of any past or pending legal proceedings and judgments, that could materially affect the Service Provider's financial position or ability to provide services to the City;
6. All credit reports, credit bulletins, and any other published statements by the most recognized agencies (i.e. Standard & Poor's Rating Group, Moody, Investor Services, Dun & Bradstreet, and Value Line) that have been issued or published within the past five years regarding the Service Provider and any guarantors;
7. The prospectus or offering statement for the Service Provider's latest security or equity offering, if applicable;
8. The Service Provider name, contact person, telephone number, and email of at least two references from bank or institutional lenders which have extended credit to the Service Provider in the past five years; or if the Service Provider has not applied for credit in the past five years, the contact person's name, telephone number, email address and fax number of at least two references from banks with which the Service Provider conducts business;
9. The Service Provider name, contact person, telephone number, and email of at least two credit references from major suppliers/vendors;
10. Completion of the Financial Resources Data Form found as Exhibit A the Reference Form found as Exhibit B;
11. Any additional information, which the Service Provider believes is appropriate to fully reflect the financial strength of the Service Provider or guarantor.

- ii. Failure to provide such information is cause for rejection of the Service Provider's Proposal at the sole discretion of the City. For any subcontractor, the City reserves the right, at its sole discretion, to reject the subcontractor if it fails to meet the minimum financial requirements. In the event that the City rejects the subcontractor, the Service Provider must assume the responsibilities of the subcontractor or find a replacement satisfactory to the City.
- e. Litigation
- i. Answer the following questions for the Service Provider and each subcontractor:
    1. Is there, or within the last five years has there been, any litigation or governmental or regulatory action pending or threatened against the organization that might have a bearing on its ability to provide bus services to the City in accordance with this RFP, or to satisfy the obligations that it proposes to guarantee? If so, identify and describe each such lawsuit or proceeding.
    2. Identify all lawsuit filed during the past five years in which a claim was made that the organization or any person or entity that owns greater than 5 percent interest in the organization: (a) failed to properly provide bus services; (b) engaged in theft, fraud, or other willful misconduct, or negligently hired employees who allegedly engaged in such conduct; or (c) failed to pay a debt or contractual obligation when due.
    3. Submit declarations of the current status of all pending criminal, civil, or administrative litigation that commenced within the past ten years involving the Service Provider, guarantor, or current officers of either Service Provider. Current officers are defined as those individuals who are presently serving or have served within the last two years as an officer of the Service Provider.

## **7. Other Considerations**

- a. For each entity identified under the Official Name subsection, specify the entity's total revenue, number of employees, products and services, affiliated companies, and other descriptive information.
- b. For each entity identified under the Official Name subsection, provide relevant documents that describe the entity's financial status, such as audited financial statements, annual reports, or 10-K reports, and the DUNS number.
- c. If Service Provider does not have the audited financial statements requested above, it is the responsibility of the Service Provider to provide the City with information of sufficient quantity and with verifiable sources to ascertain that the Service Provider is financially

capable of performing the services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your proposal from the procurement process.

### 8. Financial Qualifications

This evaluation will take into account the financial strength of the Service Provider and its guarantors and subcontractors, and their ability to meet the short and long term financial requirements of the Contract, including but not limited to the information provided in response to the Proposing Offeror’s Financial Qualifications subsection of this RFP. The City will issue a pass/fail finding on the financial strength of each Service Provider based on the data submitted in the Service Provider proposal. The City reserves the right to deem a proposal non-responsive if the City issues a “fail” finding. The City reserves the sole right to reject any and all proposals found non-responsive.

### PROPOSAL EVALUTION CRITERIA

Proposals will be evaluated based on an assessment of the completeness of each proposal and the respective Service Provider’s ability to meet the requirements of this RFP. This section provides a description of the evaluation criteria that will be used to evaluate the proposals. To be deemed responsive, it is important for the Service Provider to provide appropriate details to demonstrate satisfaction of each criteria and compliance with the performance provisions outlined in this RFP. Proposals must contain information specifically related to the proposed services and specifically requested herein. Failure of any Service Provider to submit information requested may result in the elimination of the proposal from further evaluation.

The total points given to a proposal by the individual evaluators will be averaged to determine the proposals overall score. All proposals will be evaluated on the following basis:

Qualifications	Overall quality of Proposal, including responsiveness and comprehensiveness. Adequacy and appropriateness of proposed staffing plan. Experience and ability of corporate support in supporting City’s fixed route and paratransit service. Overall technical capability, including administration, fixed route, and paratransit operations, scheduling and dispatching (including experience with computerized paratransit and maintenance software), safety, risk management, and training.	20
Key Personnel Qualifications	Experience of Service Provider’s on-site management personnel with projects of comparable size and scope as well as a thorough understanding of the services to be provided to City, and the background, safety and customer service philosophy and programs, commitment to providing quality transit services. Service Provider’s level of management, dispatch, road supervision, and maintenance support staffing adequate for effective operation of City’s program of services, including ability to develop a well-established working relationship with City.	30
DBE Participation	Use of M/DBEs to deliver portions of the requirements established in the RFP. Any proposal indicating less than the required twenty percent (20%)	20

	participation will be awarded “0” points. All Offerors demonstrating 20% or more will be evaluated from highest to lowest.	
Innovation	Use of innovation and technology to reduce operational costs, improve quality control, and provide the best customer experience possible to City.	10
Pricing	Cost ability to provide high quality services at a competitive price and the financial stability of the Service Provider. The cost evaluation is completed by dividing the total points awarded to each proposal by its proposed cost. In this method, a value is presented in the form of a cost per point. The proposal with the lowest cost per point represents the best value to the City and would receive the award.	20
<b>Total</b>		<b>100</b>

The technical proposals will be evaluated using the following criteria that are listed in descending order of importance: (The criteria will be rated on the response to the identified questions and request for information from the Proposing Offeror’s Background and Experience section.

- a. Experience with small urban fixed route and paratransit transit service with a complimentary paratransit service and references within the Qualifications of Proposing Offeror’s subsection
- b. Proposed personnel abilities/experience within the Proposed Staff Qualifications and Organization of the Operation subsection
- c. Organization of the operation within the Proposed Staff Qualifications and Organization of the Operation subsection
- d. Operation and Maintenance Methodology subsection
- e. Financial Strength within the Proposing Offeror’s Financial Qualification subsection

**Financial Qualifications**

This evaluation will take into account the financial strength of the Service Provider and its guarantors and subcontractors, and their ability to meet the short and long term financial requirements of this Contract, including but not limited to the information provided in response to the Proposing Offeror’s Financial Qualifications subsection. The City will issue a pass/fail finding on the financial strength of each Service Provider based on the data submitted in the Service Provider proposal.

**Proposal Quality and Completeness**

The City will evaluate the proposals for quality, completeness and compliance with the terms, conditions, requirements, and specifications stated in this RFP. Regardless of exceptions taken, Service Provider(s) shall provide pricing based on the terms set forth in this RFP. Exceptions shall be identified in accordance with Fair Trade Certifications as defined in the General Terms and Conditions section. The quality and completeness of the proposal will not be scored but will be considered in the overall determination of the



Service Provider's responsiveness. The City reserves the right to reject any proposal that is deemed to have excessive exception or exceptions that serve to limit the Service Provider's requirements to indemnify and hold harmless the City.

### **Cost Proposals**

Under this criterion, proposals will be compared in terms of the proposed revenue vehicle hour rates for fare free service, fare collection service, double service, and cost per trip for paratransit services. The cost per individual revenue vehicle hour will account for 20 percent of the evaluation.

### **Interviews, Meetings and Negotiations with Service Providers**

The Offeror may be required to appear before the City and/or its representatives for an interview. During such interview, the Offeror may be required to orally and otherwise present information about its proposal and to respond in detail to any questions posed.

Additionally, meeting may be held to clarify issues or to address comments, as the City deems appropriate. Offerors will be notified in advance of the time and format of such meetings.

### **CITY CONTRACTING REQUIREMENTS**

The City will enter into a Contract with the successful Service Provider that contains the terms and conditions set forth in this RFP. The Service Provider must state specifically in its proposal any exceptions to the terms and conditions included in this section, and any proposed additional terms or conditions deemed important by the Service Provider. The City will take any such exceptions and proposed additions into account during the evaluation and selection process. Any terms and conditions that the Service Provider does not specifically object will be incorporated into the Contract. Notwithstanding the foregoing, the City reserves the right to change the proposed contractual terms and conditions prior to or during Contract negotiations if it is in the City's best interest to do so.

The terms and conditions set forth in this section are not all inclusive. Contractual services will be competitively negotiated in compliance with the terms of the FTA's Master Agreement (as amended) and available here: <https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>. Since Federal funds will be used, any additional Federal requirements will also apply.

The City reserves the right to reject any and all proposals received, although the City also reserves the right to waive irregularities.

The City may propose additional terms and conditions based on the responses to this RFP and the City's analysis of the successful Service Provider's proposal.

As used in this section of the RFP, the term "Agreement" shall refer to the Contract entered into between the City and the successful Service Provider, and the term "Services" shall mean operation of the Link Transit Fixed Route & Paratransit System to be performed by the Service Provider under the Contract.

**a. Description of Services**

The Contract will set forth the Services to be provided in detail. The Services will include those described in this RFP and the successful proposal, and any modifications agreed to by the parties.

The Service Provider shall be responsible for all other functions necessary for the safe, reliable, and efficient operation of the service that are not specifically discussed herein.

**b. Term**

The initial term of the Contract will be three (3) years with the City retaining the unilateral right to renewal for two (2), one (1)-year terms or any part thereof with the same terms and conditions of the original Contract. Pricing should be provided for all three (3) possible years of service.

Compensation for the initial three (3) -year term of the Contract shall be as approved in this procurement process. Compensation for years four (4) through five (5) shall be subject to negotiation by the parties using the Consumer Price Index (CPI) for all Urban Areas as the basis.

Notwithstanding the above, continued performance of this Contract is conditioned on the availability of City funding. If such funding appropriations are not granted or if no funds remain for performance, then the affected multi-year Contract will be terminated.

**c. Invoices to the City**

By the 15<sup>th</sup> business day of the month, the Service Provider shall submit a monthly invoice to the City of Services performed the previous month. Invoices must be accompanied by the Monthly Ridership and Vehicle Maintenance Reports as outlined in the Service Provision Scope of Work Reporting Requirement Section. The invoices shall also be organized by revenue miles and hours of transit service in the city limits of Burlington, the unincorporated areas of Alamance County and in the town limits of Gibsonville. Failure to submit these reports will prevent approval and payment of the invoice. The City will pay the Service Provider within 30 business days of receipt

of an accurate, properly submitted, uncontested invoice. Payment shall be based on the total number of revenue vehicle hours provided. The City will deduct any assessments due from the payment owed the Service Provider. The City will not be penalized for late payments.

The multiplication of the scheduled vehicle revenue hours actually operated each month times the Service Provider's proposed rate per vehicle revenue hour shall equal the monthly payment for fixed route service (less any liquidated damages or other justified withholdings). The vehicle revenue hourly costs proposed shall remain firm and shall include all charges that may be incurred in fulfilling the terms of this Contract. The Contract amount may vary according to the number of revenue hours of service identified by the City.

Any wages or minimum pay hour requirements that the Service Provider may have with its employees will not affect the City's ability to pay an individual revenue vehicle hour basis. The City will not accept any restrictions or minimum servicing hour requirements either by day, or other time period, or in any other way other than by individual revenue vehicle hour.

Copies of invoices and payrolls that support monthly invoices, and other documents as may be required by the City, may be required to establish that the amounts are allowable. Expenses, vehicle revenue hours and vehicle revenue miles for the Service shall be shown separately on the invoice. The Service Provider must also provide a monthly mileage and fuel usage statistics by vehicle and type of Service. Samples of a Service Provider's invoice are included in Appendix G and a monthly mileage/fuel usage report is attached as Appendix A. All invoices and related records are subject to audit by the City or representatives of other funding partners.

**d. Service Provider Personnel Removal or Replacement**

The City will have the right to require the removal and replacement of any "key personnel" of the Service Provider or the Service Provider's subcontractor providers who are assigned to provide Services to the City. As used in this Contract, the term "key personnel" shall mean the Service Provider General Manager and any other personnel of the Service Provider or its subcontractor providers fulfilling a key role in the management of Link Transit,. Any temporary or permanent replacement personnel recommended by the Service Provider will have to be approved in writing by the City prior to their placement in service.

**e. General Warranties**

Service Provider represents the warrants that:

1. It is a corporation duly incorporated, validly existing and in good standing under the laws of the state of its incorporation, and is qualified to do business in North Carolina;
2. It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
3. The execution, delivery, and performance of this Agreement have been duly authorized by the Service Provider;
4. No approval, authorization, or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Contract;
5. In connection with its obligations under this Contract, it shall comply with all applicable Federal, State and local laws and regulations and shall obtain all applicable permits and licenses; and
6. The Service Provider shall not violate any agreement with any third party by entering into or performing this Contract.

**f. Additional Representations and Warranties**

Service Provider represents warrants and covenants that:

1. The Services shall satisfy all requirements set forth in this Contract, including but not limited to the attached exhibit forms;
2. For the term of the Contract, the Service Provider will perform in conformity with the specifications and requirements defined in this RFP; and
3. All work performed by the Service Provider and/or its subcontractor providers pursuant to this Contract shall meet industry accepted standards and shall be performed in a professional and skillful manner by staff with the necessary skills, experience, and knowledge.

**g. Liquidated Damages**

The City and the Service Provider acknowledge and agree that the City will incur damages in the Service Provider fails to meet the requirements set forth in the RFP. The parties further acknowledge and agree that the damages, which might be reasonably anticipated to accrue as a result of failure to meet one or more of the above, are difficult to ascertain due to their indefiniteness and uncertainty. Accordingly, the Service Provider agrees to pay liquidated damages at the rates set forth below.

The City shall monitor its transit services in order to assess the performance of the Service Provider in delivering the service. The monitoring activities shall include but not be limited to

vehicle cleanliness, schedule adherence, completed vehicle trips, the on-time and accurate submission of reports, heating and air-conditioning system performance, and unsatisfactory/unsafe performance by an operator. The City shall maintain the right to assess liquidated damages against the Service Provider, as set forth herein, based on the Service Provider's failure to meet the established standards. These standards and liquidated damages applicable thereto shall include the following performance criteria and be assessed on the basis of spot checks or the specified number of verifiable passenger complaints in each category.

**NOTE: With the exception of inadequate staffing infractions, liquated damages shall be waived for the first 30 days of in-service operation, assuming the Service Provider has made good faith effort to affect a smooth transition and start-up, determined at the City's Transit Manager discretion.**

1. **Waiving Damages-** The City's Transit Manager reserves the right to waive the imposition of liquidated damages at its discretion. Waiver or failure to assess liquidated damages in any circumstance does not negate or abridge the City's right to assess such damages in the future for the same infraction or infractions of the Contract for which the City previously waived or failed to assess such damages. This provision shall not abridge or affect any other remedy, which the City may have for any damages that the City may incur in consequence of the failure of the Service Provider to perform in accordance with Contract specifications.
2. **Concerns-** Service Provider shall cooperate with the City to fully explore and investigate any concerns regarding the services and performance standards. In its evaluation of liquidated damage assessment, the City will consider the Service Provider's efforts to complete the following:
  - a. **Action/Correction Plans-** The Service Provider may complete a written corrective plan for corrective action. Deadlines for corrective action will be established based on what is considered by the City to be an acceptable amount of time.
  - b. **Dispute-** In the event of a dispute over the assessment of liquidated damages, any amount of the monthly billing not in dispute shall be made according to the normal payment terms.
3. **Liquidated Damage Basis-** Notwithstanding the above, the City shall impose liquidated damages on the following basis:

All liquidated damage assessments will be made based upon either (1) City staff or agent observation or (2) reports/complaints regarding the same infraction by passengers, the general public or Service Provider notification.

4. **Adhere to Schedule-** The Service Provider shall strive to maintain on-time performance and every reasonable effort made by the Service Provider to operate all services on schedule. Operational difficulties that result in missed trips or vehicles not operating as required by the RFP must be reported to the City.

The City recognizes that the Service Provider at times has little control over traffic conditions. The City will focus schedule adherence monitoring efforts on the following:

- a. Beginning routes/runs on time; and
- b. Not leaving scheduled stops (pick up points) early

However, for all services, liquidated damages will be assessed for other schedule adherence performance failures due to:

- a. Operators being inadequately trained (resulting in unnecessarily slow operation or getting lost);
- b. Vehicles being improperly maintained (resulting in breakdowns);
- c. Vehicles being refueled while in service;
- d. Relief driver tardiness

It is expected that the Service Provider's operators, dispatchers and other supervisory personnel will set their watches using the official National Institute of Standards and Technology (NIST) time at [www.time.gov](http://www.time.gov) and that is agreed upon with the City.

Liquidated damages shall be imposed if the Service Provider does not meet the following general schedule adherence standards.

- a. **Early Trip-** If a service trip departs in advance of the scheduled departure time at any designated time point, or any scheduled bus stop (boarding location) the liquidated damages shall be \$150 per occurrence.
- b. **Late Trip >5 Minutes, <15 Minutes-** If a service trip departs more than five (5) minutes, but less than 15 minutes following the scheduled departure time at any designated time point or the bus storage yard, the liquidated damages shall be \$100 per occurrence.
- c. **Late Trip >15 Minutes-** If a service trip departs more than 15 minutes following the scheduled departure time at any designated time point or the bus storage yard the liquidated damages shall be \$150 per occurrence.

- d. **Incomplete Trips-** If a service trip is not completed in its entirety; the trip shall be considered a missed trip and subject to liquidated damages of \$400.
- e. **Missed Trip-** If the Service Provider fails to operate a trip, liquidated damages will be assessed in the amount of \$400 per occurrence. The scheduled revenue vehicle hour time for that trip will also be deducted and not paid to the Service Provider. Missed trips also include, interlined, passed, or combined trips. If a service trip departs later than next scheduled departure, at any location along a route it shall also be deemed a missed trip.
- f. **Failure to Report Missed Trips-** If the Service Provider fails to report any missed trips on the daily operations reports submitted to the City, then all liquidated damages assessed above shall be doubled in amount.
- g. **Vehicle Breakdown-** If a replacement vehicle is not provided within 45 minutes of a reported breakdown, a liquidated damage assessment of \$400 for the missed trip will be assessed. Service revenue vehicle hours not completed will also be deducted.

#### 5. Personnel/Duties

- a. **Uniforms/Grooming-** If any Service Provider employee fails to comply with the City's policies regarding general appearance, uniforms/grooming, the liquidated damages will be \$50 per occurrence.
- b. **Collecting Correct Fares-** If any Service Provider employee fails to collect the correct fare or does not correctly record the fare collected, the liquidated damages will be \$50 per occurrence. Liquidated damages for incorrect fare collection may only be invoked on the second or later documented occurrence with any one operator.
- c. **Proper Destination Signs-** For failing to show the proper vehicle message sign(s), including front, side and rear signs, the liquidated damages will be \$100 per occurrence.
- d. **Use of Technology On Buses -** For failing to use technology on the buses properly, the liquidated damages will be \$100 per occurrence.
- e. **Driver Unsafe Operation of Vehicles-** Unsafe operation of a vehicle will result in \$250 in liquidated damages per occurrence.
- f. **Seat Notice/Rider Alert Distribution/Timetables Posting-** Failure to post City seat notices or have timetables on board in highly visible places and distribute such notices on each passenger seat or hand to each boarding passenger will result in a penalty of \$50 per occurrence.

- g. **Driver Training/Records-** If the Service Provider uses inadequately or improperly trained vehicle operators in revenue service (except during training when accompanied by a supervisor or trainer) a liquidated damage assessment of \$250 shall be imposed per occurrence. Failure to initially check or monitor vehicle operators' driving records or using vehicle operators with unacceptable driving records in revenue service shall also result in liquidated damages of \$250 per occurrence.
- h. **Inadequate Management/Administrative Staffing-** As described in the Service Provision Scope of Work section, the Service Provider is responsible for maintaining key personnel administrative positions filled and immediately notify the City of any absences or vacancies. Failure to have key personnel on staff for this service at least six (6) weeks prior to the first day of service of the project, or failure to replace vacancies in key personnel within 60 days with approved replacements will result in the City deducting one and a half times (1.5X) the daily prorated amount of that position's salary and fringe benefits from current monies owed to the Service Provider.

## 6. Reporting

- a. **Late/Inaccurate Reports-** If the Service Provider fails to comply with the City's reporting requirements either by submitting reports after the due date and time or by submitting inaccurate reports, the liquidated damages will be \$50 for each day the report is overdue.
- b. **Accident/Incident Reporting-** If the Service Provider fails to report an accident or incident according to the City's requirements the liquidated damages will be \$50 for the first occurrence, \$100 for the second occurrence, and \$250 for each occurrence thereafter during the Contract term.
- c. **Complaint/Customer Comment Reporting-** If the Service Provider fails to maintain the required passenger comment database, or if the Service Provider fails to report customer comments to the City as required in the Service Provision Scope of Work section, the liquidated damages will be \$100 for the first occurrence, and \$200 for the second and subsequent occurrences.

## 7. Maintenance

Observation of vehicle maintenance-related infractions may be made by City staff, through two verifiable passenger complaints, by an agent of the City, or by a regulatory/inspection agency.



- a. **Vehicle Cleaning-** If any bus fails to comply with the requirements regarding vehicle cleaning, the liquidated damages will be \$100 per occurrence.
- b. **Preventive Maintenance Intervals-** Preventive maintenance shall be performed according to Service Provider's preventive maintenance program. The Service Provider's Preventive Maintenance Plan shall be submitted as part of this RFP, which must be approved by the City prior to the start of the Contract. Failure to complete preventive maintenance at the approved intervals shall result in a liquidated damage assessment of \$300 per occurrence and a \$50 liquidated damage assessment for each day such preventive maintenance is overdue.
- c. **Vehicles Taken Out of Service-** The Service Provider shall meet or exceed the standards set forth for the operation of all vehicles. The Service Provider shall maintain the vehicles so as to pass an inspection and all vehicles must be in compliance with North Carolina standards. If any service vehicle becomes unavailable for service as a result of a failed inspection by any regulatory agency, by the City, or by an agent of the City acting on its behalf, liquidated damages will be \$300 per day per vehicle during the period of non-availability. If the North Carolina Division of Motor Vehicles, the USDOT, or other regulatory agency revokes the permits to operate the vehicles in this service as a result of unsatisfactory inspection ratings, the buses shall not operate and a \$300 per vehicle per day penalty shall be assessed until a satisfactory inspection report is obtained.
- d. **Deficient Vehicle Condition-** In the event any revenue vehicle is rejected temporarily by the City as a result of deficient vehicle condition or appearance, \$300 per day per vehicle in liquidated damages will be assessed until the condition is satisfactory to the City.
- e. **Heating and Air-Conditioning Performance-** If a vehicle is reported to operate without heating or air conditioning or is otherwise in violation of the heating and air conditioning standards, \$100 in liquidated damages will be assessed per incident.
- f. **Vehicle Records-** The Service Provider shall maintain a complete and up to date vehicle file. Failure to do so shall result in liquidated damages of \$50 for each day the records are not available or updated.
- g. **Safety Related Items-** Vehicle inspected by the City or its agent which are found to have serious safety defects shall result in that vehicle being pulled out of service immediately and liquidated damages of \$500 per vehicle shall be imposed on the

Service Provider. If that vehicle is found in service with the same problem or the same problem is found at next inspection by the City or its agent, the liquidated damage assessment shall be \$750 for the second offense and ensuing offenses.

- h. **Wheelchair Ramps-** The Service Provider shall ensure that all vehicles in service have operating ramps to safely load and unload wheelchair passengers. Failure to do so shall result in a liquidated damage assessment of \$300 per occurrence. Failure to inspect a wheelchair ramp as part of each vehicle’s pre-trip inspection shall result in a liquidated damage assessment of \$100 per occurrence.
- i. **Graffiti-** Failure to remove graffiti from vehicles according to the City’s standards, whether interior or exterior, shall result in an assessment of liquidated damages of \$300 per occurrence.

The imposition and payment of liquidated damages, as provided herein, shall not preclude the City from seeking to litigate or recover other damages, which the City may be entitled to including monies paid to third parties as necessary to ensure uninterrupted service continuation and internal staff time.

## 8. **Non-Appropriation of Funds**

If funding needed by the City to make payments under this Contract for a given fiscal year is not available, the City will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the City will promptly notify the Service Provider of the non-appropriation, and this Contract will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the City, which is attributable to non-appropriation of funds, shall constitute a breach of or default under this Contract.

## 9. **Termination**

### a. **Termination Without Cause**

The City, through its Transit Manager, may terminate the Contract for any reason after determining that termination is in the City’s best interest. Any such termination shall be effective by the delivery to the Service Provider of a written notice of termination at least 90 days before the date of termination, specifying the date upon which such termination becomes effective.

- b. In the event of a termination without cause, the City shall negotiate an equitable settlement of termination costs. Such costs shall not include (a) non-project-

specific overhead; (b) punitive, exemplary, special, indirect, consequential, or incidental damages; or (c) loss of anticipatory profit.

**c. Termination for Default by Either Party**

By giving written notice to the other party, either party may terminate this Contract upon the occurrence of one or more of the following events:

1. The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Contract, provided that, unless otherwise stated in this Contract, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within 30 calendar days of receipt of written notice of default from the non-defaulting party; or
2. The other party attempts to assign, terminate, or cancel this Contract contrary to the terms hereof; or
3. The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default shall identify this section of this Contract and shall state the party's intent to terminate this Contract if the default is not cured within the specified period.

**d. Additional Grounds for Default Termination by the City**

By giving written notice to the Service Provider, the City may also terminate this Contract upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

1. The Service Provider make or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Contract, Service Provider's proposal, or any covenant, agreement, obligation, term or condition contained in this Contract; or

2. The Service Provider takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Contract, or failure to provide the proof of insurance as required by this Contract; or
3. Fails to fulfill or maintain in a timely and proper manner any obligations, duties, or provisions of or under this Contract.
4. The City may terminate this Contract upon the Service Provider's default of any material duty or obligation of the Service Provider under this Contract and the Service Provider's failure to cure such default within 30 calendar days of the City's written notice to the Service Provider of such default. If the default is not capable of cure within said 30 calendar days, the Service Provider shall provide written notice to the City together with a schedule of cure within 15 calendar days of the City's notice of default, shall begin action to cure the default within said 30 calendar days, and shall diligently proceed to cure the default.
5. The Service Provider fails to consistently meet the service response time requirements for transporting passengers or the reporting requirements of the RFP.
6. In the event of a strike by employees of the Service Provider that causes a disruption in the provision of service as outlined in the Contract, the City may, at its discretion, terminate the Contract without penalty, provided the City shall comply with the terms and conditions of any transit employee protection requirements applicable to this Contract as determined by the United States Department of Labor.

e. **Obligations Upon Expiration or Termination**

Upon expiration or termination of this Contract, the Service Provider shall promptly (a) return to the City all computer programs, files, documentation, data, media, related material and any other material and equipment that is owned by the City; and (b) allow the City or a new Service Provider access to the systems, software, infrastructure, or processes of the Service Provider that are necessary to complete the Services.

f. **Substitute Performance**

The parties acknowledge that time is of the essence in performing the Services, and that if the Service Provider fails to meet response times as set forth in this RFP and Contract; the City may take any of the following actions with or without terminating this Contract, and in addition to and without limiting any other remedies it may have. If the Service Provider fails to provide the service as described in this Contract on any day (or days) for which this Contract calls for service to be provided, the Service Provider will be in default, and the City may take any of the following actions:

1. Employ such means as it may deem advisable and appropriate to obtain alternative Services until the matter is resolved and the Service Provider is again able to perform its obligations under this Contract; and
2. Deduct any and all expenses incurred by the City in obtaining alternative Services from another Service Provider from any money then due or to become due to the Service Provider and should the City's cost of continuing the operation exceed the amount due to the Service Provider, collect the amount due from the Service Provider and also to assert a lien on all real and personal properties of the Service Provider.

**g. Cancellation of Orders and Subcontracts**

In the event this Contract is terminated by the City for any reason prior to the end of the term, the Service Provider shall upon termination immediately discontinue all Services in connection with this Contract and promptly cancel all existing order and subcontracts, which are chargeable to this Contract.

**h. No Effect on Taxes, Fees, Charges or Reports**

Any termination of this Contract shall not relieve the Service Provider of the obligation to pay any fees, taxes, or other charges then due to the City, nor relieve the Service Provider of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Service Provider from any claim for damages previously accrued or then accruing against the Service Provider.

**i. Specific Performance and Injunctive Relief**

The Service Provider agrees that the Services are important to the City's operation and that monetary damages are not an adequate remedy for the Service

Provider's failure to provide Services as required by this Contract, nor could monetary damages be the equivalent of the performance of such obligation.

j. **Other Remedies**

Upon termination of this Contract, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedies.

**10. Publicity or Statements to the Press**

No advertising, sales promotion, or other materials of the Service Provider or its agents or representatives may identify or reference this Contract or the City in any manner absent the City's prior written consent.

As a condition of entering into this Contract, the Service Provider further agrees to refrain from the following absent the City's prior written approval: (1) making any statement to the media regarding the subject matter of this Contract or the City's position on any issue relating to this Contract; or (2) making any statement to the media on any issue which is in the City's judgement is likely to cause the Service Provider or City staff to be viewed as anything other than neutral with respect to the subject matter of this Contract, or cast doubt on the competence or integrity of the City.

Failure to comply with this section by the Service Provider shall constitute a material breach and without limiting any other remedies the City may have, shall entitle the City to terminate this Contract for default.

**11. Transition Services Upon Termination**

Upon termination or expiration of this Contract, the Service Provider shall cooperate with the City to assist with the orderly transfer of the Services, functions and operations provided by the Service Provider hereunder to another provider or to the City as determined by the City in its sole discretion. Prior to termination or expiration of this Contract, the City may require the Service Provider to perform and if so required, the Service Provider shall perform certain transition Services necessary to migrate the work of the Service Provider to another provider or to the City itself as described below (the "Transition Services"). Transition Services may include but shall not be limited to the following:

- a. Pre-Migration Services

- i. Working with the City to jointly develop a mutually agreed upon Transition Services Plan to facilitate the termination of the services; and
  - ii. Notifying all affected Service Providers and subcontractors of the Service Provider
- b. Migration Services
  - i. Performing the Transition Service Plan activities
- c. Throughout Process and Post-Migration Services
  - i. Answering questions regarding the services on an as-needed basis; and
  - ii. Providing such other reasonable services needed to effectuate an orderly transition to a new Service Provider

Transition services will include but not be limited to the following:

*Access-* The Service Provider shall provide the City and any new Service Provider reasonable access to the operating facility and the City’s revenue vehicles.

*Data-* The Service Provider shall share (to the extent permitted by law) with the new service provider wage, benefit, employee records and other relevant information relating to any Service Provider employees who at any time engaged in providing the City’s Services.

*Documents-* The Service Provider shall provide the City and new service provider copies of all leases, permits, licenses and other relevant documents.

*Substance Testing-*The Service Provider shall provide the City with all documents pertaining to FTA Drug and Alcohol requirements including a completed FTA DAMIS report for its period of operations.

*Maintenance-* The Service Provider shall provide the City all records associated with the Contract including all FTA-required maintenance documentation.

*Record Retention-* The Service Provider shall retain all records associated with this service, not provided to the City at the transition, in its possession for a minimum of three years.

## 12. Vehicles

The Service Provider shall return to the City all vehicles in sound mechanical and operating condition less normal wear and tear, in accordance with the standards of the Contract. The condition of the City’s vehicles shall be determined by a fleet inspection conducted by an independent maintenance consultant (the “Independent Inspector”) or a City designee, selected by the City. The Independent Inspector shall not be a competitor of the Service Provider in provisions of Services. The Independent Inspector shall, after examining the vehicle fleet, prepare and submit to the parties:

- a. A written report identifying any corrective work necessary to return the City's vehicles to sound mechanical and operating condition, less ordinary wear, and tear; and
- b. An estimate of the cost of any repairs necessary to meet the standard set forth above.

The Service Provider at its sole cost and expense shall do such identified repairs or the Service Provider shall, at its election, pay the City the sums set forth in the inspection report for such repairs. The Service Provider shall notify the City within 30 days of the date it receives the Independent Inspector's report whether it intends to complete the repair work itself or whether it intends to pay the City for the cost of said work. In the event the Service Provider elects to do the work itself, the Service Provider shall, within five days of such election, post a letter of credit or other security acceptable to the City in an amount equal to the estimated repair costs, to be payable to the City if the repairs are not completed by the conclusion of the Contract. In the event the Service Provider elects to pay the City for the cost of the repairs, the Service Provider shall do so in full within five (5) days of such election.

The parties together with the Independent Inspector shall conduct a final acceptance of the City's vehicles on or about the date the Contract expires to determine that the repair work required to be done pursuant to the inspection report is in fact complete. If the Service Provider elects to complete the repair work itself and any repair work remains incomplete as of the date the City's vehicles are returned, then the Service Provider elects to complete the repair work itself and any repair work remains incomplete as of the date the City's vehicles are returned, then the Service Provider shall pay the City on that date an amount equal to the cost of the remaining repair work as determined by the Independent Inspector or the City shall use the security posted by the Service Provider.

Provided the Service Provider either posts security acceptable to the City or pays the City any payments required to complete the repair work as stated in this subparagraph, the City shall not withhold or deduct any sums otherwise due to the Service Provider pursuant to the invoices rendered by it for Services completed up to and including the date the Contract terminates and all such invoices shall be paid in accordance with the Contract.

### **13. Audit**



During the term of this Contract and for a period of three years after termination or expiration of this Contract for any reason, the City shall have the right to audit, either itself or through a third party, the books and records (including but not limited to the technical records) of the Service Provider to ensure the Service Provider's compliance with all the terms and conditions of this Contract, including but not limited to the term of this section.

#### **14. Licensing**

The Service Provider shall provide notarized copies of all valid licenses and certificates required to performance of the work. The notarized copies shall be delivered to the City's Transit Manager no later than ten (10) days after the Service Provider receives the notice of award from the City. Current notarized copies of licenses and certificates shall be provided to the City within 24 hours of demand at any time during the Contract term. Licenses and certificates required for this Contract include, by way of illustration and not limitation, the following: 1) a business license valid in North Carolina; 2) any additional licenses pertaining to or that may be required to be held by field professionals participating in the Contract work.

#### **15. Compliance with Laws and Codes**

The Service Provider shall ensure that the Services are in compliance with all local, state, and federal laws and regulations. In performing the Services, the Service Provider shall stay abreast of all current laws and amendments and comply with all local, state, and federal laws and regulations.

The Service Provider shall at a minimum apply risk management practices accepted by the transit industry.

#### **16. Relationship of the Parties**

The relationship of the parties established by this Contract is solely that of independent Service Providers and nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day activities of the other; or (ii) constitute such parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common whatsoever. Neither party nor its agents or employees is the representative of the other for any purpose and neither has power or authority to act as agent or employee to represent, to act for, bind, or otherwise create or assume any obligation on behalf of the other.

**17. Right to Approve Equipment**

The Service Provider agrees to allow the City to inspect and approve all equipment to be used to perform the Services. The City reserves the right to inspect all vehicles to make sure that they meet or exceed the City's expectations with regard to appearance, operation, and any other physical aspect of the vehicle that they City may deem appropriate. At any time, the City may require vehicles to be pulled from active service until such time as the Service Provider resolves such problems with the vehicle as determined by the City. If such vehicle remains in service against the recommendation of the City, the Service Provider will be subject to fines in the amount of \$100.00 per hour per day of use, upon official notification from the City. The City reserves the right to inspect all vehicles before services begin and randomly throughout the length of the Contract without notice. Failure to comply will result in the City requiring that the vehicle be removed from service. The City may assess fines as referenced above or consider the Service Provider's actions a breach of the Contract.

**18. Assignment**

The obligations of the Service Provider pursuant to this Contract are not to be transferred, sub-contracted or assigned to any person or organization without the express written consent of the City.

In the event of any such assignment, the assignee shall comply with any conditions that the City may reasonably require for assignment of the Contract, and shall accept such assignment and perform all work and other obligations of the Service Provider as fully as if the Contract were originally made by the assignee. Any such assignment shall not relieve or excuse the Service Provider from responsibility for performance to the City in the event the assignee does not fully perform all work and other obligations of the Service Provider under this Contract.

**19. Successors and Assigns**

This Contract shall be binding upon the heirs, personal representatives, successors and assigns of the parties hereto; provided, however, this provision shall not be deemed to authorize the assignment or other transfer of this Contract which may only be accomplished as expressly provided in this Contract.

**20. Indemnification**

The Service Provider shall indemnify, defend, and hold harmless the City and the City's officers, employees and agents from and against any and all losses, damages, costs,

expenses (including reasonable attorney's fees), obligations and other liabilities (including settlement amounts) that arise directly or indirectly from:

- a. Any infringement of any copyright, trademark, patent, or other proprietary rights, or any misappropriation of any trade secrets, in connection with any software, documentation, services or other products supplied directly or indirectly by the Service Provider in connection with this Contract, or any allegation of any of the foregoing (collectively referred to as "Infringement Claim");
- b. Any act(s) of negligence or willful misconduct by the Service Provider or any of its agents, employees, or subcontractor providers (or any allegations of any of the foregoing), including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal;
- c. Lawsuits resulting from criminal misbehavior by any Service Provider employee;
- d. Lawsuits resulting from the violent or criminal behavior of passengers while in performance of the services;
- e. The City's refusal to produce any items of "Confidential Information" (as defined in the Confidentiality and Non-Disclosure Agreement) of the Service Provider after receiving a request for such item and after being instructed by the Service Provider not to produce it; or
- f. Any claims by any persons or entities supplying labor or material to the Service Provider in connection with the performance of the Service Provider's obligations under this Contract.
- g. If an Infringement Claim occurs, the Service Provider shall either: (i) procure for the City the right to continue using the affected product or service; or (ii) repair or replace the infringing product or service so that it becomes non-infringing, provided that the performance of the services or any component thereof shall not be adversely affected by such replacement or modification.

The Service Provider agrees to assume complete and absolute liability and to indemnify and save harmless the City, its agents, and employees from and against any and all claims, demands, suits, judgments, and settlements for sums of money for or on account of any matter or issue pertaining to or arising from or in any way connected with the performance of the services described in this RFP unless due to the negligence or intentional wrongdoing of the City.

The Service Provider shall remain liable for complying with North Carolina General Statute 44A, Article 1, including North Carolina General Statute 44A-7(g), 44A, Article 1, unless due to negligence or wrongdoing by the City.

## **21. Subcontracting**

Should the Service Provider choose to subcontract, the Service Provider shall be the prime Service Provider and shall remain fully responsible for performance of all obligations, which it is required to perform under this Contract. Any subcontract entered into by the Service Provider shall be subject to the approval of the City and shall name the City as a third part beneficiary.

## **22. Insurance**

### **a. Types of Insurance**

The Service Provider shall obtain and maintain during the life of the Contract, with an insurance company rated not less than A by A.M. Best, authorized to do business in the State of North Carolina with the following conditions:

1. The insurance required for this Contract must be on forms acceptable to the City.
2. The Service Provider shall provide that the insurance contributing to satisfaction of insurance requirements in the General Terms and Conditions section. Minimum Scope and Insurance Requirements shall not be cancelled, terminated, or modified by the Service Provider without written approval for the City.
3. The Service Provider shall promptly notify the Risk Management Office and City's Transit Manager of any accidents arising in the course of operations under the Contract causing bodily injury or property damage.
4. The City reserves the right to obtain complete, certified copies of all required insurance policies, at any time.
5. Failure of the City to demand a certificate of insurance or other evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency from evidence that is provided shall not be construed as a waiver of the Service Provider's obligation to maintain such insurance.

6. By requiring insurance herein, the City does not represent that coverage and limits will necessarily be adequate to protect the Service Provider and such coverage and limits shall not be deemed as a limitation of Service Provider's liability under the indemnities granted to the City in this Contract.
7. The City shall have the right, but not the obligation of prohibiting Service Provider or any subcontractor from entering the project site or withhold payment until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the City .
8. Insurance is to be placed with insurers licensed to do business in the State of North Carolina with an A.M. Best's rating of no less than A, unless specific approval has been granted by the City .

Automobile Liability: Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$10,000,000 bodily injury each person, each accident and \$10,000,000 property damage, or \$10,000,000 combined single limit-bodily injury and property damage. The City shall be named as additional insured on the auto policy.

Automobile Collision and Comprehensive Coverage: The Service Provider agrees to maintain automobile collision and comprehensive coverage equal to the full replacement value of all revenue and non-revenue vehicles with a \$5,000 deductible. Said deductible shall be the responsibility of the Service Provider.

Commercial General Liability: Bodily injury and property damage liability as shall protect the Service Provider and any subcontractor provider performing work under this Contract, from claims of bodily injury or property damage which arise from operation of this Contract, whether such operations are performed by the Service Provider, any subcontractor provider, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$10,000,000 bodily injury each occurrence/aggregate and \$10,000,000 property damage each occurrence/aggregate, or \$10,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Contract. Completed

operations liability endorsement shall continue in force for three years following completion of the Contract.

THE CITY OF BURLINGTON MUST BE NAMED AS AN ADDITIONAL NAMED INSURED ON THE CONTRACTOR'S POLICY.

Fidelity Bond: Providing blanket employee dishonesty, including faithful performance covering the Service Provider, its agents and all employees, officers, directors, and any independent Service Providers in an amount of not less than \$100,000.

Worker's Compensation and Employers Liability: The Service Provider shall meet the statutory requirements of the State of North Carolina, \$100,000 per accident limit providing coverage for employees and owners.

The Service Provider shall not commence any work in connection with this Contract until it has obtained all of the foregoing types of insurance and proof of such insurance has been approved by the City. The Service Provider shall not allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained and approved.

THE CITY OF BURLINGTON MUST BE NAMED AS AN ADDITIONAL NAMED INSURED ON THE CONTRACTOR'S POLICY.

b. Liability Limits

Liability insurance may be arranged by General Liability and Automobile Liability policies for the full limits required, or by a combination of underlying liability policies for lesser limits with the remaining limits provided by an Excess or Umbrella Liability policy.

c. Other Insurance Requirements

The City shall be exempt from and in no way liable for any sums of money, which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Service Provider and/or subcontractor providing such insurance.

**The Service Provider is advised that if any part of the work under this Contract is sublet, the subcontractor shall be required to meet all insurance requirements as listed above. However, this will in no way relieve the Service Provider from meeting all insurance requirements or otherwise being responsible for the subcontractor.**

The City shall be named as an additional insured for operations or services rendered under the general liability coverage. The Service Provider’s insurance shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from the Service Provider operations under this Contract.

Certificates of such insurance will be furnished to the City and shall contain the provisions that the City be given 30 days written notice of any intent to amend or terminate by either the insured or the insuring company.

Should any or all of the required insurance coverage be self-funded/self-insured, a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance shall be furnished.

**23. Notices**

Any notice, consent or other communication required or contemplated by this Contract shall be in writing and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by fax to the intended recipient at the address set forth below:

For the Service Provider:	For the City:
To Be Determined	City of Burlington Link Transit 234 East Summit Ave P.O. Box 1358 Burlington, NC 27216 Phone: (336) 222-7350 Fax: (336) 222-5004
With Copy To:	With Copy To: City Manager Director of Planning and Transportation 425 South Lexington Ave

	P.O. Box 1358 Burlington, NC 27216 Phone: (336) 513-5022 Fax: (336) 513-5452
To Be Determined	

Notice shall be effective upon the date of receipt by the intended recipient, provided that any notice that is sent by fax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. mail or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

**24. Non-Discrimination**

The City is committed to promoting equal opportunities and eliminates prohibited discrimination in all forms. For purposes of this section, prohibited discrimination means discrimination in the solicitation, selection, and/or treatment of any subcontractor, vendor, supplier, or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability, or other unlawful form of discrimination. Without limiting the foregoing, prohibited discrimination also includes retaliating against any person, business, or other entity for reporting any incident of prohibited discrimination. It is understood and agreed that not only is prohibited discrimination improper for legal and moral reasons, prohibited discrimination is also an anti-competitive practice that tends to increase the cost of goods and services to the City and others. As a condition of entering into this Contract, the Service Provider represents warrants and agrees that it does not and will not engage in or condone prohibited discrimination. Without limiting any rights, the City may have at law or under any other provisions of this Contract, it is understood and agreed that a violation of this provision constitutes grounds for the City to terminate this Contract.

As a condition of entering into this Contract, the Service Provider further agrees to: (a) promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors;



and (b) provide to the City within 60 days after completion of performance under this Contract a Final Payment Affidavit in the form attached to this Contract as Exhibit C. Failure to maintain or failure to provide such information constitutes grounds for the City to terminate or withhold payment under this Contracts.

#### **25. Drug-Free Workplace**

The City is a drug-free workplace employer. In order to be eligible to submit a proposal for a City Contract, a prospective Service Provider must certify that it will, if awarded the Contract, provide a drug-free workplace and comply with the rules and regulations set forth by the FTA during the performance of the Contract. The Service Provider hereby certifies that it has, or it will within 30 days after execution of this Contract:

1. Notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the workplace and specifying actions that will be taken for violations of such prohibition;
2. Establish a drug-free workplace awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) the Service Provider's policy of maintaining a drug-free workplace, (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;
3. Notify each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlined above, and (ii) notify the Service Provider of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;
4. Impose a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation, or abuse program by, an employee convicted of a drug crime;
5. Make a good faith effort to continue to maintain a drug-free workplace for employees; and
6. Require any party to which it subcontracts any portion of the work under the Contract to comply with the above provisions.

By submitting a proposal, a prospective Service Provider certifies that it will comply with the City's drug-free Workplace requirement. A false certification or the failure to comply with the above drug-free workplace requirements during the performance of this Contract shall be grounds for suspension, termination, or debarment.

If the prospective Service Provider is an individual, the drug-free workplace requirement is met by not engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Contract.

## **26. Miscellaneous**

### **a. Entire Agreement**

This Contract and the Contract documents, including all exhibits and attachments, all of which are hereby incorporated herein by reference, constitute the entire agreement between the parties with respect to its subject matter and there are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations, and proposals, written or oral.

### **b. Changes in Responsibility**

Mutually agreed upon changes in the division of responsibilities between the City and the Service Provide shall require a change in either the base and/or marginal Contract rates.

### **c. Governing Law and Jurisdiction**

The parties acknowledge that this Contract is made and entered into the City of Burlington located in Alamance County, North Carolina. The parties further acknowledge and agree that North Carolina law shall govern all the rights, obligations, duties, and liabilities of the parties under this Contract and that North Carolina law shall govern the interpretation and enforcement of this Contract and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles).

The parties further agree that any and all legal actions or proceedings relating to this Contract shall be brought in a state or federal court sitting in Alamance County, North Carolina. By execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections, which they may have with respect to venue in any court sitting in Alamance County, North Carolina.

### **d. Binding Nature and Assignment**

This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign this Contract without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.

e. Amendments to the Contract

Any changes in this Contract must be mutually agreed upon by the parties and must be incorporated by written amendments to this Contract and will not be valid unless signed by both parties.

f. City Not Liable for Delays

It is agreed that the City shall not be liable to the Service Provider, its agents or representatives or any subcontractor for or on account of any stoppages or delay in the performance of any obligations of the City or any other party hereunder.

g. Force Majeure

The Service Provider shall not be excused from performance under this Contract by virtue of force majeure events. The Service Provider shall take precautions sufficient to ensure that force majeure events (including but not limited to fire, flood, earthquake, hurricane, elements of nature, strikes, labor disputes, and acts of God) do not result in any failure or delay in the performance of the Service Provider's obligations pursuant to this Contract. Failure to comply with this provision will constitute a default under this Contract and grounds for immediate termination.

The Service Provider shall not be liable for any failure or delay in the performance of its obligations pursuant to this Contract and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied:

1. If such failure or delay:

- i. Could not have been prevented by reasonable precaution;
- ii. Cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and
- iii. If, and to the extent, such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions or court order.

2. An event, which satisfies all of the conditions set forth above, shall be referred to as a "Force Majeure Event." Upon the occurrence of a Force Majeure Event, the Service Provider shall be excused from any further performance of those of its obligations which are affected by the Force

Majeure Event for as long as (a) such Force Majeure Event continues and (b) the Service Provider continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

3. Upon the occurrence of a Force Majeure Event, the Service Provider shall immediately notify the City by telephone (to be confirmed by written notice within two days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Service Provider from performing its obligations for more than five (5) days, the City shall have the right to terminate this Contract by written notice to Service Provider.
4. Strikes, slowdowns, lockouts, walkouts, industrial disturbances, and other labor disputes **shall not** constitute Force Majeure Events and shall not excuse the Service Provider from the performance of its obligations under this Contract.

h. Severability

The invalidity of one or more of the phrases, sentences, clauses, or sections contained in this Contract shall not affect the validity of the remaining portion of this Contract so long as the material purposes of this Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

i. Approvals

All approvals or consents required under this Contract must be in writing.

j. Waiver

No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.

k. Survival of Provisions

Those sections of this Contract and the exhibits which by their nature would reasonably be expected to continue after the termination of this Contract shall survive the termination of this Contract, including but not limited to all definitions and a list of surviving sections which will be included in the final Contract.

l. Interests of the Parties

The Service Provider covenants that its officers, employees, and shareholders have no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract.

m. No Bribery

The Service Provider certifies that neither it, any of its affiliates or subcontractor providers, nor any employees of any of the forgoing has bribed or attempted to bribe or offer gratuities to an officer or employee of the City in connection with this Contract.

n. Change in Control

In the event of a change in "control" of the Service Provider (as defined below), the City shall have the option of terminating this Contract for default by written notice to the Service Provider. The Service Provider shall notify the City within ten days after it becomes aware that a change in control will occur. As used in this Contract, the term "control" shall mean the possession, direct or indirect, of either:

The ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in Service Provider; or

The power to direct or cause the direction of the management and policies of Service Provider whether through the ownership of voting securities, by Contract or otherwise.

o. Familiarity and Compliance with Laws and Ordinances

The Service Provider agrees to make itself aware of and comply with all local, state, and federal ordinances, statutes, laws, rules and regulations applicable to the services. Service Provider further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be

limited to workers' compensation, the Fair Labor Standards Act (FLSA), the ADA, the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work.

p. Contract Monitoring

The City shall have the right to audit the Service Provider's compliance with the terms and conditions of this Contract, including but not limited all provisions related to payment and performance. The City shall have the right to conduct such audits, either through its own staff or through an independent auditor, at such times as the City deems appropriate. The Service Provider shall fully cooperate with all such audits and shall make available for copying and inspection all books and records requested by the City or its designated agent. The Service Provider shall further allow the City or its designated agent to inspect the Service Provider's facilities in connection with such audits. The City shall pay its own expenses relating to such audits but shall not have to pay any expenses or additional costs of the Service Provider. Notwithstanding the forgoing, in the event an audit reveals an overcharge to the City in excess of \$1,000 or a failure to perform services that has cost the City more than \$1,000, the Service Provider shall reimburse the City for all costs relating to the audit, including but not limited to internal staff hours and amounts paid to an outside auditor.

On demand of all books of account, computer files and other records, reports, and financial statements of the Service Provider in any way pertaining to the provisions of the services described in this RFP shall be made available to the City for audit. Such records shall be clearly identified, readily accessible and be retained by the Service Provider for at least three years after the termination of the Contract.

q. Harassment

The Service Provider agrees to make itself aware of and comply with the City's Harassment Policy. The City will not tolerate or condone acts of harassment based upon race, sex, religion, national origin, color, age, or disability. Violators of this policy will be subject to Contract termination.

r. Taxes

The Service Provider shall pay all applicable federal, state, and local taxes, which may be chargeable against the performance of the services.

s. Waiver of Right to Jury Trial

The City and Service Provider waive and will waive all rights to have a trial by jury in any action, proceeding, claim or counterclaim brought by either of them against the other on any matter whatsoever arising out of or in any way related to or connected with this Contract.

# Required Form- Form One

## REQUEST FOR PROPOSALS ACKNOWLEDGEMENT FORM

The Service Provider hereby certifies receipt of the Request for Proposals package for the City of Burlington, North Carolina, "Service Provider for the Link Transit Fixed Route & Paratransit System". This form should be completed upon receipt of the City's Request for Proposals package and faxed or mailed to the City. Please email the completed Request for Proposals Acknowledgement Form to the attention of:

Sonjia Cross  
City of Burlington Purchasing Division  
237 W Maple Avenue, P.O. Box 1358  
Burlington, NC 27216  
Email: [scross@burlingtonnc.gov](mailto:scross@burlingtonnc.gov)

Date: \_\_\_\_\_

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

Title: \_\_\_\_\_

Service Provider Name: \_\_\_\_\_

Please check the appropriate space provided below and provide the requested information:

\_\_\_\_ We plan to submit a Proposal in response to "Service Provider for the Link Transit Fixed Route & Paratransit System"

Primary Contact Name: \_\_\_\_\_

Contact E-mail address: \_\_\_\_\_

Contact telephone: \_\_\_\_\_ Fax number: \_\_\_\_\_

Secondary Contact Name: \_\_\_\_\_

Contact E-mail address: \_\_\_\_\_

Contact telephone: \_\_\_\_\_ Fax number: \_\_\_\_\_

\_\_\_\_ We do not plan to submit a Proposal in response to "Service Provider for the Link Transit Fixed Route & Paratransit System."

Reason: \_\_\_\_\_



# Required Form- Form Two

## ADDENDA RECEIPT CONFIRMATION FORM

Solicitation of the Service Provider for the Link Transit Fixed Route & Paratransit System

ADDENDUM #:

DATE:

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I certify that this proposal complies with the General and Specific Specifications and Conditions issued by the City except as clearly marked in the attached copy of all addenda for this RFP. It is the responsibility of the Service Provider to be sure they have reviewed all the addenda associated with this RFP.

\_\_\_\_\_  
(Please Print Name)

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Service Provider Name

# Required Form- Form Three

## PROPOSAL SUBMISSION FORM

Solicitation of the Service Provider for the Link Transit Fixed Route & Paratransit System

This Proposal is submitted by:

Service Provider: \_\_\_\_\_

Signed: \_\_\_\_\_

Name: (Typed) \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

(Area Code) Telephone Number

Facsimile: \_\_\_\_\_

(Area Code) Telephone Number

It is understood by the Service Provider that the City reserves the right to reject any and all proposals, to make awards on all items or on any items according to what is in the best interest of the City, to waive formalities, technicalities, to recover and rebid this RFP. Proposals will be considered valid for one-hundred and eighty (180) calendar days from the date of proposal submission.

\_\_\_\_\_  
Service Provider

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Please type or print name)

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



# Required Form- Form Five

## PROJECT FUNCTIONAL REQUIREMENTS

The City has created a matrix to help the Offerors understand the expectations of the City and to aid in the comparison of the proposals.

Each proposal must include the matrix in this form with the appropriate code denoted by the Offeror for each requirement of the services.

The inability of a Offeror to successfully meet all of the functional requirements listed in this form will not invalidate the proposal, although those proposals, which do meet all of the functional requirements, will be given priority.

Service Providers are to provide their response under each and every subsection with one of the following response codes:

Code	Functional Requirement of Proposed Proposal Requirements
"N"	Offeror cannot meet the requirement
"Y"	Offeror currently meets the requirement
"F"	This requirement will be met if awarded a Contract (Explanation Required)
"X"	The requirement will be met by the proposed solution in some other way (Explanation Required)

If the Offeror does not completely comply with a requirement, then state the reason why on an attached sheet. Service Providers should clearly identify any inability to meet the defined requirements. For the clauses requiring detailed information or description, provide as much information as is necessary to adequately answer the question. If additional response space is needed, the Service Provider must provide the response on a separate page and reference the attached response by section number.

# Required Form- Form Five

Will the Service Provider be able to comply with the following?	Feature Code
<b>Service Provision Scope of Work Section</b>	
Startup	
Operate Service	
Equipment Maintenance	
Facility	
Description of Services	
Employee Training	
Reporting Requirements	
Coordination	
Use of Vehicles/City Assets	
Uniforms	
Fares & Fare Collection	
<b>Maintenance Scope of Work Section</b>	
General Requirements	
Preventive Maintenance	
Vehicle Damage	
Fuel	
Parts, Lubricants, Supplies	
Vehicle Cleaning	
Maintenance Auditing Program	
<b>City Contracting Requirements Section</b>	
Paratransit Service	
Maintenance	
Vehicles	

# Required Form- Form Six

## COST PROPOSAL FORM

### REVENUE HOUR & TRIP COSTS

Please complete the following forms to indicate scheduled revenue hour charge. Fill out all tables.

For Contract years one, two, and three; the City will pay the rate for each revenue hour of service operated as proposed in the tables below. The City is requesting the Offeror to provide a fixed route revenue hour cost for both a fare collection service, fare free collection service and double route service as described. The City is also requesting the Offeror to provide the cost per trip for paratransit service. Should the City decide to extend the Contract, compensation in Contract years four and five will be subject to negotiation between both parties. There will not be separate pay rates for weekday versus weekend service or special trip requests or for any other service (if provided).

The calculation of total cost will include the cost of the City, as well as any indirect costs of the City associated with monitoring the Contract.

<b>Years 1, 2 &amp; 3</b>		<b>YEARS 1, 2 &amp; 3</b>
	<b>Annual Vehicle Revenue Hours</b>	<b>Proposed Rate</b>
<b>Service</b>		
<b>Fixed Route Transit System Service</b> (City provides seven (7) vehicles)	20,540	
<b>Maintenance Facility</b>		
<b>Two Additional Spare Vehicles</b>		
<b>Maintenance of City Vehicles</b>		
<b>Paratransit Service</b>	5,000	
<b>Total Hourly Rate</b>	25,540	
<b>Years 1, 2 &amp; 3 with Increased Service</b>		<b>YEARS 1, 2, 3</b>
	<b>Annual Vehicle Revenue Hours</b>	<b>Proposed Rate</b>
<b>Service</b>		
<b>Fixed Route Transit System Service</b> (City provide 7 vehicles & Service Provider provides others)	38,350	
<b>Maintenance Facility</b>		
<b>Two Additional Spare Vehicles</b>		
<b>Maintenance of City Vehicles</b>		
<b>Paratransit Service</b>	<u>5,000</u>	
<b>Total Hourly Rate</b>	<u>43,350</u>	

\*These are estimated revenue vehicle hours only. Actual payment will be made on the actual revenue vehicle service hours provided.

# Required Form- Form Six

## COST SCHEDULE BREAKDOWN FOR FIXED ROUTE REVENUE VEHICLE HOURS

Complete the attached forms detailing unit and total costs for key items in each of your proposals. Your total costs, divided by the annual revenue hours, should total to the fixed revenue hourly rate you specified in the Revenue Hour Cost Table. Complete the attached forms for each of two request options as described above.

### COST SCHEDULE FOR FIXED ROUTE REVENUE VEHICLE HOURS

Personnel	No.	Hourly Wage or Starting Salary	Fringe & Health Benefits	Total Annual Cost
Full-Time Operators		Per Hour:	Per Hour:	
		Annual Cost:	Annual Cost:	
Part-Time Operators		Per Hour:	Per Hour:	
		Annual Cost:	Annual Cost:	
Street Supervisors				
Dispatchers				
Maintenance Manager				
Mechanics				
Fleet Servicing Attendants				
Operations & Training Manager				
General Manager				
Administrative/Clerical				
a.				
b.				
Other				
a.				
b.				
c.				



<b>Subtotal</b>				
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# Required Form- Form Six

## COST SCHEDULE FOR FIXED ROUTE REVENUE VEHICLE HOURS (Cont.)

Note: Assume the Daily Scheduled Revenue Hours

Maintenance	Number			Total Cost
Facility				
a. Lease or acquisition cost				
b. Utilities				
c. Maintenance / Upkeep				
d.				
e.				
Description of Major Shop Equipment				
a.				
b.				
c.				
d.				
e.				
Description of Subcontracted Services				
a.				
b.				
c.				
Tires				
Parts & Supplies				
Other Equipment & Service Vehicles				

# Required Form- Form Six

Bus Wash Supplies & Other Consumables				
Oil & Lubricants				
c. Maintenance / Upkeep				
Other				
a.				
b.				
c.				
<b>Subtotal</b>				

# Required Form- Form Six

## COST SCHEDULE FOR FIXED ROUTE REVENUE VEHICLE HOURS (Cont.)

Note: Assume the Daily Scheduled Revenue Hours

Administrative Expenses	Number	Unit Costs	Total Costs
Office Equipment			
a.			
b.			
c.			
d.			
Subcontracted Services			
a.			
b.			
c.			
Telephone			
Insurance			
Printing			
Office Supplies			
Permits/Licenses			
Profit			
Other Costs			
a.			
b.			
c.			
<b>TOTAL</b>			



# Required Form- Form Six

## COST SCHEDULE BREAKDOWN FOR PARATRANSIT REVENUE VEHICLE HOURS

Complete the attached forms detailing unit and total costs for key items in each of your proposals. Your total costs, divided by the annual revenue hours, should total to the fixed revenue hourly rate you specified in the Revenue Hour Cost Table. e. If areas are not applicable or the cost is included within the fixed route service, please note that in the respective box.

### COST SCHEDULE FOR PARATRANSIT REVENUE VEHICLE HOURS

Personnel/ Maintenance	No.	Hourly Wage or Starting Salary	Fringe & Health Benefits	Total Annual Cost
Full-Time Operators		Per Hour:	Per Hour:	
		Annual Cost:	Annual Cost:	
Part-Time Operators		Per Hour:	Per Hour:	
		Annual Cost:	Annual Cost:	
Street Supervisors				
Dispatchers				
Maintenance Manager				
Mechanics				
Fleet Servicing Attendants				
Operations & Training Manager				
General Manager				
Administrative/Clerical				
a.				
b.				
Other				
a.				
b.				
Fleet				
Facility Costs				
a. Lease				
b. Utilities				

<b>Subtotal</b>				
-----------------	--	--	--	--

# Required Form- Form Six

## COST SCHEDULE FOR PARATRANSIT REVENUE VEHICLE HOURS (Cont.)

Administrative Expenses	No.	Unit Costs	Total Annual Costs
Office Equipment			
a.			
b.			
c.			
d.			
Subcontracted Services			
a.			
b.			
c.			
Telephone			
Insurance			
Printing			
Office Supplies			
Permits/Licenses			
Profit			
Other Costs			
a.			
b.			
c.			
<b>TOTAL</b>			



# Appendix A

# Monthly Mileage & Fuel Report

SAMPLE MONTHLY MILEAGE/FUEL USAGE REPORT						
MONTH ENDED XX/XX/0X						
	BUS #	START ODOMETER	END ODOMETER	TOTAL MILES	TOTAL GALLONS	AVERAGE MILES PER GALLON
<b>TOTAL</b>						
<b>TOTAL BUS SERVICE</b>						

## Monthly Revenue Report (Example)

DATA REVENUE GENERATED	COINS	BILLS	Transfers	Passes	Fare	Half Fare	Free	Regional Fare	Day Pass	Total
<b>WEEKLY TOTAL</b>	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$



# Appendix C

# Daily Report of Operations

DAILY REPORT OF OPERATIONS (example)									
Date: _____					Weather: _____				
Day of Week: _____					Special Events: _____				
OPERATIONS EXCEPTIONS TO NORMAL SCHEDULE									
BUS NO.	BUS TIME	ROUTE	DESCRIPTION			PAX HELD.	TIME HELD.	ACTION TAKEN	INTLS
SERVICE REPORT					SERVICE REPORT				
LOG #	DESCRIPTION				LOG #	DESCRIPTION			
VEHICLES USED			SCHEDULED SERVICE			ACCIDENTS		PM INSPECTIONS	
	AM	PM		Miles	Hours	Collision		Due	
PEAK (sched)			Regular			Passenger		Actual	
Actual						On-the-Job		Op. Reported	
			Lost/ added			Incidents		Defects	
Sp. Movements								SHOPPED	BUS#
Shopped			TOTAL					Over 2 days	
Spare			<b>SP MOVEMENTS/CONTRACTED TRANS</b>					Past 5 p.m.	
TOTAL			Description	Miles	Hours	Pax	SERVICE COM		
Personnel	OPS						Lost/added service by route		
TOTAL									
Trainees									
Comp									
Day Off									
Vacation									
Sick/Rep.									
Missout									
Suspended									
Excused									
Holiday			Wheelchair Boardings:			Late Buses:			
Empls. Work									
SIGNATURES: OPERATIONS: AM: _____ MAINTENANCE: _____									
PM: _____									

# Appendix E Transit Service Map

## ESTIMATED REVENUE HOURS

### Current Route Status

Route	Weekday Revenue Hours	Saturday Revenue Hours
Blue	14	10.5
Red	13.5	10.5
Orange	13	10.5
Green	14	10.5
Purple	14	10.5
Daily Total	68.5	52.5
Weekly Total	342.5	N/A
Annual Total	17,810	2,730

\* Does not exclude Holidays

GRAND TOTAL: 20,540 revenue vehicle hours

### Increased Route Status to 45 Minute Frequency

Route	Weekday Revenue Hours (2 buses per route)	Saturday Revenue Hours (1 bus per route)
Blue	28	10.5
Red	27	10.5
Orange	26	10.5
Green	28	10.5
Purple	28	10.5
Daily Total	137	52.5
Weekly Total	685	N/A
Annual Total	35,620	2,730

\* Does not exclude Holidays

GRAND TOTAL: 38,350 revenue vehicle hours

### Paratransit Trips

Paratransit	Weekday Trips & Revenue Hours	Saturday Trips & Revenue Hours
	4,800 trips (estimate 400 a month)	200 trips (estimate around 4 a day)
	4,000 revenue hours	1,000 revenue hours

GRAND TOTAL: 5,000 revenue vehicle hours based on 5,000 passenger trips

# Appendix E Transit Service Map

**NOTE: These Revenue Hour Totals represent current estimates and are subject to modification. The City reserves the right to increase or decrease these hours per the procedures outlined in the RFP.**

**DIGITAL FILES INCLUDING GOOGLE EARTH FILES ARE ALSO PROVIDED TO ASSIST WITH ROUTE PLANNING AND TIME TABLE DEVELOPMENT. FOR MORE INFORMATION ABOUT THE SYSTEM AND ROUTES, VISIT [www.linktransit.org](http://www.linktransit.org).**



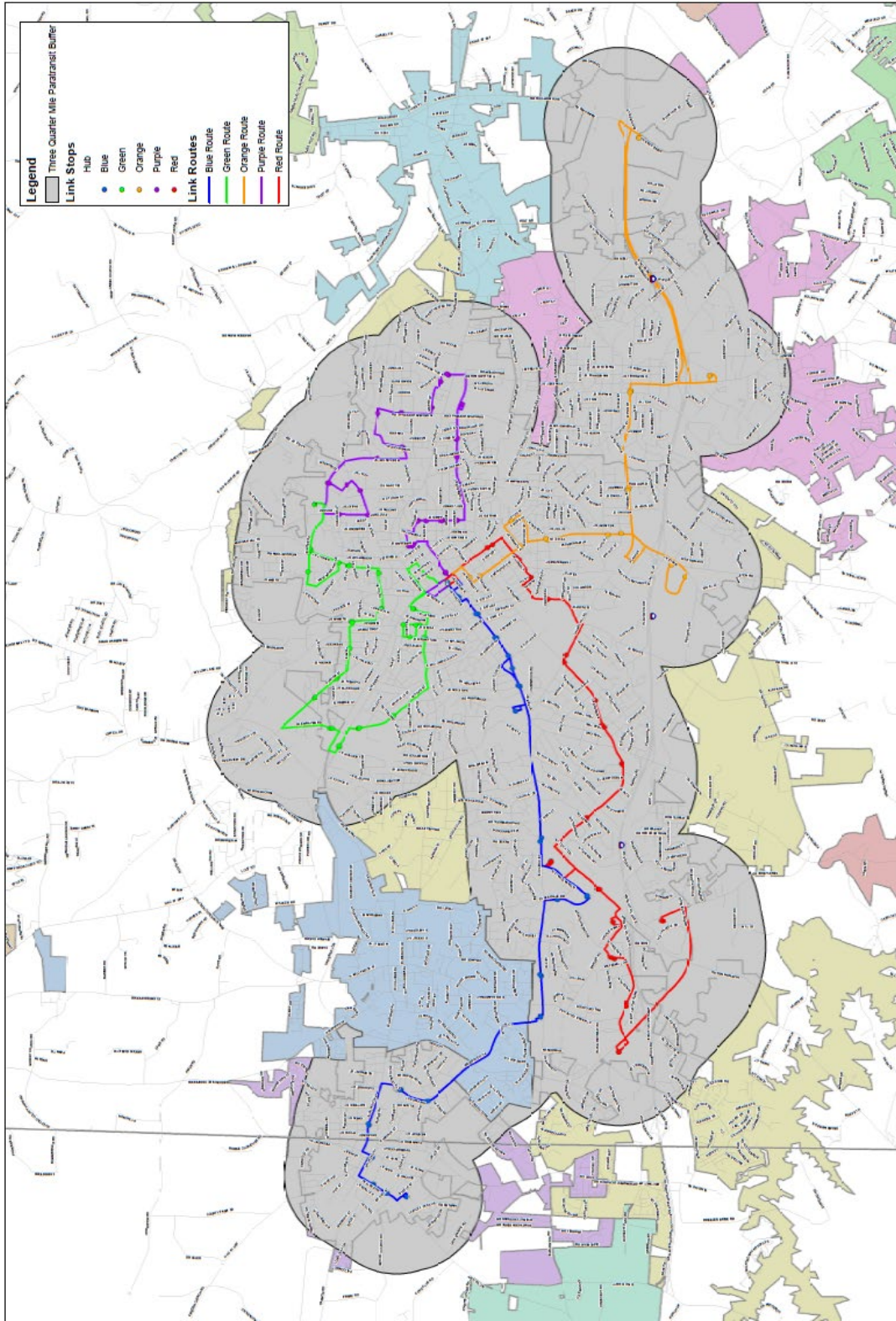
# Appendix E Transit Service Map



# Appendix F

# ADA Paratransit Service Map

**GEOCODE DIGITAL MAPPING AND GTFS MAPPING FILES WILL BE PROVIDED TO THE CONTRACTED SERVICE PROVIDER.**



Operations for Month of \_\_\_\_\_

Route	Weekday	Saturday	Rate	Days	Total Hours	Total Due
-------	---------	----------	------	------	-------------	-----------

# Appendix G

# Sample Invoice Summary

Blue						
Red						
Orange						
Green						
Purple						

	Total Hours	Total Amount Due
Total Fixed Route: City of Burlington		\$ Above Amount Due
Total Fixed Route: Town of Gibsonville		\$ Amount Due
Total Fixed Route: Alamance County		\$ Amount Due
Total Adjustments:		
Grand Total Fixed Route Due this Invoice:		\$ Burl/Gib/AC Total

**Maintenance for Month of \_\_\_\_\_**

Route	Weekday	Saturday	Rate	Days	Total Hours	Total Due
Blue						
Red						
Orange						
Green						
Purple						

	Total Hours	Total Amount Due
Total Fixed Route: City of Burlington		\$ Above Amount Due
Total Fixed Route: Town of Gibsonville		\$ Amount Due
Total Fixed Route: Alamance County		\$ Amount Due
Total Adjustments:		
Grand Total Fixed Route Due this Invoice:		\$ Burl/Gib/AC Total

**\*\*NOTE: Total Service Rate Split between Operations & Maintenance for Fixed Route Operations**



## Appendix H

## Vehicle Specification and Asset List

Below are the vehicle specifications for the Fixed Route service. The City will email or fax the specific specifications by request. Request must be made to the City's Transit Manager via email at [jandoh@burlingtonnc.gov](mailto:jandoh@burlingtonnc.gov).

Asset ID	Asset Class	Year	Make	Model	Seating	Size	Type
8001	CU-Cutaway Bus	2015	Chevrolet	Express 350	23/2	29 Foot LTV	Rolling Stock
8002	CU-Cutaway	2015	Chevrolet	Express 350	23/2	29 Foot LTV	Rolling Stock
8003	CU-Cutaway	2015	Chevrolet	Express 350	23/2	29 Foot LTV	Rolling Stock
8004	CU-Cutaway	2015	Chevrolet	Express 350	23/2	29 Foot LTV	Rolling Stock
8005	CU-Cutaway	2015	Chevrolet	Express 350	23/2	29 Foot LTV	Rolling Stock
8006	CU-Cutaway	2015	Chevrolet	Express 350	23/2	29 Foot LTV	Rolling Stock
8007	CU-Cutaway	2015	Chevrolet	Express 350	23/2	29 Foot LTV	Rolling Stock

Presently, the spare fixed route and paratransit vehicles is provided by the incumbent Service Provider. It is expected that the proposed Service Provider provides two (2) gasoline fixed route low floor transit spare vehicles, 2019 or newer and three (3) gasoline paratransit low floor vehicles, 2019 or newer until replaced by the City.

The City anticipates providing the following fleet in 2023:

- Five (5) 28 foot gasoline low floor transit vehicles – 7 years/200,000 mile vehicles by FTA minimum standards
- Two (2) 30 foot battery electric buses – 12 year/500,000 mile vehicles by FTA minimum standards
- Three (3) 25 foot gasoline low floor paratransit vehicles - 4 years/100,000 mile vehicles by FTA minimum standards

# Exhibit A

# Financial Resources Data Form

		1	2	3	4	5
		2016	2017	2018	2019	2020
A.	Total Revenues					
B.	Net Income					
C.	Total Assets					
D.	Current Assets					
E.	Total Liabilities					
F.	Current Liabilities					
G.	Equity					

Using the information provided in the table, calculate:

### A. Revenue Growth Percentages

2017:  $(A2-A1)/A1$  \_\_\_\_\_ %  
 2018:  $(A3-A2)/A2$  \_\_\_\_\_ %  
 2019:  $(A4-A3)/A3$  \_\_\_\_\_ %  
 2020:  $(A5-A4)/A4$  \_\_\_\_\_ %

### B. Profitability Percentages/ Return on Revenue

2017:  $B2/A2$  \_\_\_\_\_ %  
 2018:  $B3/A3$  \_\_\_\_\_ %  
 2019:  $B4/A4$  \_\_\_\_\_ %  
 2020:  $B5/A5$  \_\_\_\_\_ %

### C. Revenue Growth Percentages

2017:  $C2 - E2$  \$ \_\_\_\_\_  
 2018:  $C3 - E3$  \$ \_\_\_\_\_  
 2019:  $C4 - E4$  \$ \_\_\_\_\_  
 2020:  $C5 - E5$  \$ \_\_\_\_\_

### D. Profitability Percentages/ Return on Revenue

2017:  $A2/(D2-F2)$  \_\_\_\_\_ %  
 2018:  $A3/(D3-F3)$  \_\_\_\_\_ %  
 2019:  $A4/(D4-F4)$  \_\_\_\_\_ %  
 2020:  $A5/(D5-F5)$  \_\_\_\_\_ %

### E. Working Capital

2017:  $(A2-A1)/A1$  \_\_\_\_\_ %  
 2018:  $(A3-A2)/A2$  \_\_\_\_\_ %  
 2019:  $(A4-A3)/A3$  \_\_\_\_\_ %  
 2020:  $(A5-A4)/A4$  \_\_\_\_\_ %



# Exhibit B

# Reference Form

## Bank/Institutional References

1. Bank/Inst. Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

2. Bank/Inst. Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

## Credit References

1. Creditor Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

2. Creditor Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

## Contracted Agencies References

1. Agency Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

2. Agency Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_

3. Agency Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_ Email: \_\_\_\_\_



# Appendix H

# Vehicle Specification and Asset List

\*Use additional pages or other formats similar to this form as needed.

## NON-DISCRIMINATION CERTIFICATION

Contract Title: Link Transit System Fixed Route & Paratransit Service Contract

Offeror: \_\_\_\_\_

The undersigned Offeror hereby certifies and agrees that the following information is correct:

1. In preparing its proposal, the Offeror has considered all proposals submitted from qualified, potential subcontractors and suppliers and has not engaged in or condoned prohibited discrimination.
2. For purposes of this certification, prohibited discrimination means discrimination in the solicitation, selection, and/or treatment of any subcontractor, vendor, supplier, or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or other unlawful form of discrimination. Without limiting the foregoing, prohibited discrimination also includes retaliating against any person, business, or other entity for reporting any incident of prohibited discrimination.
3. Without limiting any other provision of the solicitation for proposals on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the proposal submitted by the Offeror on this project and terminate any Contract awarded based on such proposal.
4. As a condition of contracting with the City, the Offeror agrees to promptly provide the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors. Failure to maintain or failure to provide such information constitutes grounds for the City to reject the RFP submitted by the Offeror and terminate any Contract awarded on such RFP.

\_\_\_\_\_  
Name of Service Provider

BY: \_\_\_\_\_  
Signature of Authorized Official

\_\_\_\_\_  
Title

Attest/Witness:

\_\_\_\_\_  
Secretary/Name of Witness

(AFFIX CORPORATE SEAL)

## **Exhibit D**

## **FTA Contract Clauses**

The following Federal Transit Administration (FTA) Contract Clauses are to be reviewed and signed in designated places to be considered eligible for this Contract opportunity. This project is being funded with participation of the USDOT and all applicable Contract clauses and signatory forms contained herein are required to be completed in whole in order for this Contract to be considered a responsive RFP submission.

# Federal Requirements & Special Conditions

## FEDERAL REQUIREMENTS AND SPECIAL CONDITIONS

### 1. General

The work performed under this contract will be financed, in part, by grants provided under programs of the Federal Transit Administration. Citations to federal law, regulation, and guidance references include, but are not limited to, the Master Agreement FTA MA (21), dated October 1, 2014, FTA Circular 4220.1F, dated November 1, 2008; "Best Practices Procurement Manual", updated March 13, 1999 with revisions through October 2005; Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards," 2 C.F.R part 1201, dated December 19, 2014, will supersede and apply in lieu of U.S. DOT's common grant rules, 49 C.F.R. parts 18 and 19, State and Local Governments and Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations and any subsequent amendments or revisions thereto.

**THE FOLLOWING MAY BE USED SYNONYMOUSLY:**

**"OFFEROR" AND "CONTRACTOR", "PURCHASER", "PROCURING AGENCY" AND "OWNER"**

### 2. Federal Changes

Contractor shall at all times comply with all applicable Federal Transit Administration (FTA) regulations, policies, procedures, and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### 3. Notification of Federal Participation

To the extent required by Federal law, the State of North Carolina agrees that, in administering any Federal assistance Program or Project supported by the underlying Grant Agreement or Cooperative Agreement, any request for proposals, solicitation, grant application, form, notification, press release, or other publication involving the distribution of FTA assistance for the Program or the Project that it will identify the FTA grant source by listing the Catalog of Federal Domestic Assistance Number of the program. The following FTA grant programs will be eligible to participate in this bid, 20.505, 20.507, 20.500, 20.513, 20.509, 20.516, 20.519, 20.521, 20.525, and 20.526. Federal funding assistance up to eighty (80%) percent may be provided.

### 4. Definitions

*Third Party Agreement*, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following agreements, such as:

- (1) Third party contracts,
- (2) Leases,
- (3) Third party subcontracts; and
- (4) Other similar arrangements or agreements.

# Federal Requirements & Special Conditions

*Third Party Participant*, in accordance with the Master Agreement unless FTA determines otherwise in writing, includes all of the following participants, such as:

- (1) Third party contractors,
- (2) Lessees,
- (3) Third party subcontractors, and
- (4) Other participants in the Project

## 5. **Conflict of Interest**

No employee, officer, board member, or agent of the City shall participate in the selection, award, or administration of a contract supported by Federal Transit Administration (FTA) funds if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when the employee, officer, board member, or agent, any member of his or her immediate family, his or her partner, or an organization that employs, or is about to employ any of the above, has a financial or other interest in the firm selected for award.

## 6 **Lobbying**

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, PL 104-65 (2 U.S.C. §1601, et seq.). Contractors who apply or bid for an award of \$250,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S. C. 1352. Each tier shall comply with Federal statutory provisions or the extent applicable prohibiting the use of Federal assistance funds for activities designed to influence congress to a State legislature on legislation or appropriations, except through proper official channels. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

***The requisite "Lobbying Certification" is included as ATTACHMENT A (attach Standard Form-LLL if necessary) and must be executed for contracts of \$100,000 or more and prior to the award of the contract.***

## 7. **Civil Rights**

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, 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, religion, national origin, sex, disability, or age, In

# Federal Requirements & Special Conditions

addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(a) The third party contractor and all lower tiers shall comply with all provisions of FTA Circular 4702.1 "Title VI Requirements and Guidelines for Federal Transit Administration Recipients", issued October 1, 2012.

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

(a) Race, Color, Religion, National Origin, Disability, Age, Sexual Origin, Gender Identity, or Status as a Parent - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, Title VI of the Civil Rights Act, 28 C.F.R. § 50.3, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, and as further amended by Executive Order 13672, "Further Amendments to Executive Order 11478, Equal Employment Opportunity in the Federal Government, and Executive Order 11246, Equal Employment Opportunity," July 21, 2014, 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, religion, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff, or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Equal Employment Opportunity Requirements for Construction Activities. For activities determined by the U.S. Department of Labor (U.S. DOL) to qualify as "construction," the Contractor agrees to comply and assures the compliance of each subcontractor at any tier of the Project, with all applicable equal employment opportunity requirements of U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000(e) note, and also with any Federal laws, regulations, and directives affecting construction undertaken as part of the Project.

(3) **Nondiscrimination on the Basis of Age** – The Contractor agrees to comply with all applicable requirements of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq., and with implementing U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance, 45 C.F.R. Part 90, which prohibit discrimination against individuals on the basis of age.

# Federal Requirements & Special Conditions

The Age Discrimination in Employment Act (ADEA) 29 U.S.C. §§ 621 through 634 and with implementing U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. Part 1625, which prohibits discrimination against individuals on the basis of age.

(4) **Nondiscrimination on the Basis of Sex** - The Contractor agrees to comply with all applicable requirements of Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§ 1681 *et seq.*, and with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25, that prohibit discrimination on the basis of sex.

(5) **Access for Individuals with Disabilities** - The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, with 29 U.S.C. § 794, which prohibits discrimination on the basis of disability; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities. In addition, the Contractor agrees to comply with applicable Federal regulations and directives and any subsequent amendments thereto, except to the extent the Federal Government determines otherwise in writing, as follows:

- (1) U.S. DOT regulations "Transportation Services for Individuals with Disabilities (ADA)" 49 C.F.R. Part 37;
- (2) U.S. DOT regulations "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F. R. Part 38;
- (4) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- (5) U.S. DOJ regulations "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities." 28 C.F.R. Part 36;

# Federal Requirements & Special Conditions

- (6) U.S. GSA regulations "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
- (7) U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (8) U.S. Federal Communications Commission regulations "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 49 C.F.R. Part 64, Subpart F;
- (9) U.S. Architectural and Transportation Barriers Compliance Board regulations, "Electronic and Information Technology Accessibility Standards." 36 C.F.R. Part 1194;
- (10) FTA regulations, "Transportation of Elderly and Handicapped Persons," 49 C.F.R. part 609; and
- (11) Federal regulations, "Miscellaneous Civil Rights Amendments (RRR)," pertaining to nondiscrimination on the basis of disability within 49 C.F.R. Parts 27, 37, and 38 were published in 79 Fed. Reg. 21402, April 16, 2014; and
- (12) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

(6) **Access to Services for Persons with Limited English Proficiency.** The Contractor agrees to comply with Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 *Fed. Reg.* 74087, December 14, 2005, except to the extent that the Federal Government determines otherwise in writing.

(7) **Drug or Alcohol Abuse-Confidentiality and Other Civil Rights Protections.** To the extent applicable, the Contractor agrees to comply with the confidentiality and other civil rights protections of the Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. §§ 1101 *et seq.*, with the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. §§ 4541 *et seq.*, and with the Public Health Service Act of 1912, as amended, 42 U.S.C. §§ 290dd through 290dd-2, and any amendments thereto.

(8) **Other Nondiscrimination Laws.** The Contractor agrees to comply with applicable provisions of other Federal laws and regulations, and follow applicable directives prohibiting discrimination, except to the extent that the Federal Government determines otherwise in writing.



# Federal Requirements & Special Conditions

(9) 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.

(10) Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

## 8. Contracting with Disadvantaged Business Enterprises

The newest version on the Department of Transportation's Disadvantaged Business Enterprise (DBE) program became effective in 2014. The City's most current DBE program is the DBE Program Goal and Methodology-Federal Fiscal Year 2022-2024.

a. This contract is subject to the requirements of U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26. The City's overall goal for DBE participation is **0.11%**.

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

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

c. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Procuring Agency. In addition, these may apply:

- **the contractor may not hold retainage from its subcontractors; or**
- **is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed; or**
- **is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the Procuring Agency and contractor's receipt of the partial retainage payment related to the subcontractor's work.**

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

# Federal Requirements & Special Conditions

## 9. Clean Air Act

(a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to Section 306 of the Clean Air Act as amended, 42 U.S.C. § 7606, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 through 7671q. The Contractor agrees to report any violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to the State and/or FTA and the appropriate EPA Regional Office.

(b) The Contractor also agrees to include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with Federal Assistance provided by FTA.

## 10. Clean Water

(a) The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to Section 508 of the Clean Water Act, as amended, 33 U.S.C. § 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. §§ 1251 through 1377, The Contractor agrees to report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(b) The Contractor also agrees to include these requirements in each subcontract exceeding \$250,000 financed in whole or in part with Federal assistance provided by FTA.

## 11. Energy Conservation

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. Sect. 6321 et seq.

## 12. 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 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.

# Federal Requirements & Special Conditions

## *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's, 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 hydro seeding 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

# Federal Requirements & Special Conditions

(e) Plastic trash bag

## 13. Cargo Preference Requirements

Applicability to Contracts: The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Applicability to Micro-Purchases: Micro-purchases are defined as those purchases under \$5,000. These requirements do not apply to micro-purchases; except for construction contracts over \$2,000.

Flow Down Requirements: The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

Model Clause/Language: The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

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 business days following the date of loading for shipments originating within the United States or within 30 business 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 FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) 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.

## 14. Fly America

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

# Federal Requirements & Special Conditions

## 15. Buy America

FTA's Buy America law and regulations apply to projects that involve the purchase of more than \$150,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in an FTA assisted project. The Buy America regulation at 49 C.F.R. § 661.13 requires notification of the Buy America requirements in a recipients' bid or request for proposal for FTA funded contracts.

The contractor agrees to comply with 49 U.S.C. 5323(j), 49 C.F.R. part 661, and the FAST Act Section 3011, effective date October 1, 2015, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Appendix A grants a general public interest waiver from the Buy America requirements that apply to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data.

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j) (2) (C) and 49 C.F.R. § 661.11. Train Control, Communication and Traction Power Equipment. For purposes of Buy America, rolling stock includes train control, communication, and traction power equipment (49 U.S.C. 5323(j) (2) (C)). See also 49 CFR 661.11(t), (u), and (v). The domestic content requirement in effect on the date a contract was signed for train control, communication, and traction power equipment will control. If the contract is signed in FY2016 or FY2017, the contract shall require an overall domestic content that exceeds 60 percent; if a contract is signed in FYs 2018 or 2019, the contract must include an overall domestic content percentage that exceeds 65 percent; and if a contract is signed in FY2020 or beyond, the domestic content must exceed 70 percent.

For purchase orders placed against State schedules on or after October 1, 2015, for rolling stock that will be delivered in FY 2016 or 2017, the domestic content requirement must exceed 60%. For purchase orders placed against State schedules for rolling stock that will be delivered in FYs 2018 or 2019, the domestic content must exceed 65%, and for purchase orders placed against State schedules for rolling stock that will be delivered in FY 2020 or beyond, the domestic content must exceed 70%.

The Offeror or offeror must submit to the Procuring Agency the appropriate Buy America certification in the bid or offer. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

The Buy America requirements flow down from FTA to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

**Effective October 1, 2015 small purchases (under the \$150,000 threshold) made with FTA funds, will not be subject to the Buy America requirement. The value of small purchases should be determined by using the "contract price" and not "unit price".** This provision of the FAST Act applies to all purchases for capital, operating, or planning funds.

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***PROPOSALS THAT ARE SUBMITTED WITHOUT THE COMPLETED BUY AMERICA CERTIFICATION MUST BE REJECTED AS NONRESPONSIVE. OFFERORS ARE ADVISED THAT SUBMISSION OF BOTH CERTIFICATIONS WITH THE BID IS ALSO CONSIDERED NONRESPONSIVE AND WILL RESULT IN REJECTION OF THE BID; ONLY ONE CERTIFICATION (either D or E) SHALL BE SUBMITTED.*** The certification requirement does not apply to lower tier subcontractors.

## 16. **Debarment and Suspensions**

This contract is a covered transaction for purposes of 2 CFR Part 1200, which adopts and supplements the provisions of U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR Part 180. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 2 CFR 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded, or disqualified as defined at 2 CFR 180.940, 180.935 and 180.945.

The contractor is required to comply with 2 CFR 180, Subpart C and must include the requirement to comply with 2 CFR 180, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the Offeror or Offeror certifies as follows:

The certification in this clause is a material representation of fact relied upon by the **Procuring Agency**. If it is later determined that the Offeror or Offeror knowingly rendered an erroneous certification, in addition to remedies available to **Procuring Agency**, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Offeror or Offeror agrees to comply with the requirements of 2 CFR 180, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The Offeror or Offeror further agrees to include a provision requiring such compliance in its lower tier covered transactions.

The Procuring Agency agrees and assures that its third party contractors and lessees will review the "System for Award Management" at <https://www.sam.gov/> before entering into any sub-agreement, lease or third party contract.

The Procuring Agency will be reviewing all third party contractors under the "System for Award Management" at <https://www.sam.gov/> before entering into any contracts.

If the Procuring Agency, recipient, or subrecipient suspends, debars, or takes similar action against a Third Party Participant or individual, the Agency, recipient, or subrecipient will provide immediate written notice to the:

- (a) FTA Regional Counsel for the Region in which the Agency is located or implements the Project,
- (b) FTA Transit Manager if the Project is administered by FTA Headquarters Office, or
- (c) FTA Chief Counsel.

# Federal Requirements & Special Conditions

*The requisite Debarment and Suspension Certification is included as ATTACHMENT B (attach additional statement if necessary) and must be executed for contracts of \$25,000 or more and prior to the award of the contract.*

## **17. Termination or Cancellation of Contract**

The City, by written notice, may terminate this contract, in whole or in part, when it is in the best interest of the project. If this contract is terminated, the City shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

The City may terminate this contract in whole or in part, for the City's convenience or because of the failure of the Contractor to fulfill the contract obligations. The City 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 City all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. A 30-day notice of termination shall be required.

If the termination is for the convenience of the City 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 may complete the work by issuing another contract or otherwise and the Contractor shall be liable for any additional cost incurred by the City.

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.

## **18. Breach of Contract**

If the Contractor does not deliver the required services or 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 may terminate this contract for default. Termination shall be effected 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 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, 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.

# Federal Requirements & Special Conditions

The City in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 30 days 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 the Contractor fails to remedy to City's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Contractor of written notice from City setting forth the nature of said breach or default, The City 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 from also pursuing all available remedies against Contractor and its sureties for said breach or default.

If there is credible evidence that a Third Party Participant (Contractor) has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct involving Federal funding, notification of FTA is required.

If a legal matter as described above emerges, the Recipient must promptly notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or FTA Regional Counsel for the Region in which the Recipient is located and the NCDOT.

## 19. Resolution of Disputes

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

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

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

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

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties,



# Federal Requirements & Special Conditions

obligations, rights, and remedies otherwise imposed or available by law. No action or failure to act by the City, Architect or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

## 20. Protest Procedures

To ensure that protests are received and processed effectively the Purchaser shall provide written bid protest procedures upon request. In all instances information regarding the protest shall be disclosed to the Federal Transit Administration (FTA). All protest requests and decisions must be in writing. A protester must exhaust all administrative remedies with the Purchaser before pursuing remedies through the FTA. Reviews of protests by the FTA will be limited to the Purchaser's failure to have or follow its protest procedures, or its failure to review a complaint or protest. An appeal to the FTA must be received by the Department within three (3) business days of the date the protester knew or should have known of the violation. An appeal to FTA must be received by the cognizant FTA regional or Headquarters Office within five (5) business days of the date the protester knew or should have known of the violation. Violations of Federal law or regulation 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 authorities.

## 21. Nonconstruction Employee Protection Requirements

Section 102 of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C Sections 327 through 333 are mandated under DOL regulation 29 C.F.R. Section 5.5.

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$ 10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3) **Withholding for unpaid wages and liquidated damages** - The Project shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or

# Federal Requirements & Special Conditions

subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

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

## 22. **No Federal Government Obligations to Third Parties**

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

The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

# Federal Requirements & Special Conditions

## 23. False or Fraudulent Statements or Claims

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with this Project. Accordingly, upon execution of the underlying contract or agreement 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 apply, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation to the Federal Government or includes a false, fictitious, or fraudulent statement or representation in any agreement involving a project authorized under 49 U.S.C. chapter 53 or any other Federal statute, the Federal Government reserves the right to impose on the Contractor the penalties of 18 U.S.C. § 1001 or other applicable Federal statute to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## 24. Record Retention and Access to Records and Reports

The Contractor agrees to permit, and require its subcontractors to permit, the U.S. Secretary of Transportation, and the Comptroller General of the United States, and, to the extent appropriate, the State, or their authorized representatives, upon their request to inspect all Project work, materials, payrolls, and other data, and to audit the books, records, and accounts of the Contractor and its subcontractors pertaining to the Project, as required by 49 U.S.C. § 5325(g).

Contractor also agrees, pursuant to 49 C.F.R. 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. D. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5303, 5307, 5309, 5310, 5311, 5316, or 5317.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The State of North Carolina, Office of the State Auditor, now requires that all records now be retained for five (5) years after that 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

# Federal Requirements & Special Conditions

Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all such litigation, appeals, claims or exceptions related thereto.

## 25. Privacy

To the extent that the Contractor, or its subcontractors, if any, or any to their respective employees administer any system of records on behalf of the Federal Government, Contractor agrees to comply with, and assure the compliance of its subcontractors, if any, with the information restrictions and other applicable requirements of the Privacy Act of 1974, as amended, 5 U.S.C. Sect. 552, (the Privacy Act).

The Contractor shall obtain the express consent of the Department and the Federal Government before the Contractor, and any subcontractors, or any of their respective employees operate a system of records on behalf of the Federal Government. Failure to do so may result in termination of the Contract and civil and criminal penalties for violation of the Privacy Act.

The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## 26. State and Local Disclaimer

The use of many of the suggested clauses are not governed by Federal law, but are significantly affected by State law. The language of the suggested clauses may need to be modified depending on state law, and that before the suggested clauses are used in the grantees procurement documents, the grantees should consult with their local attorney.

## 27. Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, 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 (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

## 28. Hold Harmless

Except as prohibited or otherwise limited by State law, the Contractor agrees to indemnify, save, and hold harmless the City of this Contract and its officers, agents, and employees acting within the scope of their official duties against any liability, including all claims, losses, costs and expenses accruing or resulting to any other person, firm, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this contract, and from any and all claims and

# Federal Requirements & Special Conditions

losses accruing or resulting to any person, firm, or corporation that may be injured or damaged by the contractor or subcontractor in the performance of this contract and that are attributable to the negligence or intentionally tortuous acts of the contractor.

The Contractor represents and warrants that it shall make no claim of any kind or nature against the City or its agents who are involved in the delivery or processing of contractor goods to the City. The representation and warranty in the preceding sentence shall survive the termination or expiration of this contract.

## 29. Safe Operation of Motor Vehicles

### a. Seat Belt Use.

Pursuant to Executive Order No. 13043, April 16, 1997, 23 U. S. C. § 402, the Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally-operated vehicles and include this provision in any third party subcontracts, leases or similar documents in connection with this project.

### b. Distracted Driving, Including Texting While Driving.

Consistent with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. Section 402 note, and DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, FTA encourages each third party contractor to promote policies and initiatives for its employees and other personnel that adopt and promote safety policies to decrease crashes by distracted drivers, including policies to ban text messaging while driving, and to include this provision in any third party subcontract leases or similar documents in connection with this project.

### c. Safety. The Contractor is encouraged to:

- (a) Adopt and enforce workplace safety policies to decrease crashes caused by distracted operators including policies to ban text messaging while driving Service Provider-owned or rented vehicles; Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or any vehicle, on or off duty, and using an electronic device.
- (b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

### d. Definitions

- (1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

# Federal Requirements & Special Conditions

- (2) "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell telephone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

## **30. Metric System**

To the extent required by U.S. DOT or FTA, the Contractor agrees to use the metric system of measurement in its Contract activities as may be required by 49 U.S.C. Sect. 205a et seq.; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. Sect. 205a; and other regulations, guidelines and policies issued by U.S. DOT or FTA. To the extent practicable and feasible, the Contractor agrees to accept products and services with dimensions expressed in the metric system of measurement.

## **31. Geographic Information and Related Spatial Data.**

In accordance with U.S. OMB Circular A-16, "Coordination of Geographic Information and Related Spatial Data Activities," August 19, 2002, and OMB Circular A-16, Supplemental Guidance "Geospatial Line of Business," November 10, 2010, the Contractor agrees to implement this Project so that any activities involving spatial data and geographic information systems activities financed directly or indirectly, in whole or in part, by Federal assistance, are consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

## **32. Exclusionary or Discriminatory Specifications or Requirements**

The Contractor agrees that it will comply with the requirements of 49 U.S.C. Sect. 5325(h) by refraining from using any funds derived from FTA in performance of this Contract to support any sub-contracts using exclusionary or discriminatory specifications or requirements.

## **33. North Carolina State Ethics Requirement**

Pursuant to Governor Perdue's Executive Order # 24, this section should be included in the terms and conditions of all contracts let by the Governor's Cabinet Agencies and the Office of the Governor:

- 1) "By Executive Order 24, issued by Governor Perdue, and N.C. G.S. § 133-32, it is unlawful for any vendor or contractor ( i.e. architect, Offeror, contractor, construction manager, design professional, engineer, landlord, offeror, seller, subcontractor, supplier, or vendor), to make gifts or to give favors to any State employee of the Governor's Cabinet Agencies (i.e., Administration, Commerce, Correction, Crime Control and Public Safety, Cultural Resources, Environment and Natural Resources, Health and Human Services, Juvenile Justice and Delinquency Prevention, Revenue, Transportation, and the Office of the Governor). This prohibition covers those vendors and contractors who:

# Federal Requirements & Special Conditions

- (1) have a contract with a governmental agency; or
- (2) have performed under such a contract within the past year; or
- (3) anticipate bidding on such a contract in the future.

For additional information regarding the specific requirements and exemptions, vendors and contractors are encouraged to review Executive Order 24 and G.S. Sec. 133-32.

Executive Order 24 also encouraged and invited other State Agencies to implement the requirements and prohibitions of the Executive Order to their agencies. Vendors and contractors should contact other State Agencies to determine if those agencies have adopted Executive Order 24.”

To be added near the signature portion of all contracts let by the Governor’s Cabinet Agencies and the Office of the Governor:

“North Carolina G.S. § 133-32 and Executive Order 24 prohibit the offer to, or acceptance by, any State Employee of any gift from anyone with a contract with the State, or from any person seeking to do business with the State. By execution of any response in this procurement, you attest, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.”

## **34. Sensitive Security Information**

Each third party contractor must protect, and take measures to ensure that its subcontractors at each tier protect, “sensitive security information” made available during the administration of a third party contract or subcontract to ensure compliance with “The Homeland Security Act”, as amended, specifically 49 U.S.C. Section 40119(b), The Aviation and Transportation Security Act, as amended, 49 U.S.C. § 114(r), U.S. DOT regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 15, and U.S. Department of Homeland Security, Transportation Security Administration regulations, “Protection of Sensitive Security Information,” 49 C.F.R. part 1520.

## **35. NC e-Verify Requirements**

To ensure compliance with the e-Verify requirements of the North Carolina G.S., all contractors, including any subcontractors employed by the contractor(s), by submitting a bid, proposal, or any other response, or by providing any material, equipment, supplies, services, etc., attest and affirm that they are aware and in full compliance with Article 2 of Chapter 64, (NCGS64-26(a)) relating to the E-Verify requirements by executing and submitting the e-verify Affidavit included in this Invitation for Bids as Attachment C.

# Federal Requirements & Special Conditions

## ATTACHMENT A CERTIFICATION REGARDING LOBBYING

*(To be submitted with all bids or offers exceeding \$100,000; must be executed prior to Award)*

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 subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.  
This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transactions 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 \$250,000 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

Subscribed and sworn to before me this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, in the State of \_;  
and the County of \_\_\_\_\_.

Notary Public \_\_\_\_\_  
My Appointment Expires \_\_\_\_\_



# Federal Requirements & Special Conditions

## ATTACHMENT B

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY and VOLUNTARY EXCLUSION LOWER TIER COVERED TRANSACTION

*(To be submitted with all bids exceeding \$25,000.)*

- (1) The prospective lower tier participant (Offeror/Contractor) certifies, by submission of this bid or proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (2) The prospective Offeror/Contractor also certifies by submission of this bid or proposal that all subcontractors and suppliers (this requirement flows down to all subcontracts at all levels) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
- (3) Where the prospective lower tier participant (Offeror/Contractor) is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this bid or proposal.

The lower tier participant (Offeror/Contractor), \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of this statement of its certification and disclosure, if any.

DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

SERVICE PROVIDER \_\_\_\_\_

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

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

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

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

Notary Public \_\_\_\_\_

My Appointment Expires \_\_\_\_\_

# Federal Requirements & Special Conditions

## ATTACHMENT C

STATE OF NORTH CAROLINA  
COUNTY OF ALAMANCE

### AFFIDAVIT OF COMPLIANCE WITH N.C. E-VERIFY STATUTES *(To be submitted with all bids)*

I, \_\_\_\_\_ (hereinafter the "Affiant"), duly authorized by and on behalf of  
\_\_\_\_\_ (hereinafter the "Employer") after being first duly sworn deposes and says as follows:

1. I am the \_\_\_\_\_ (President, Manager, CEO, etc.) of the Employer and possess the full authority to speak for and on behalf of the Employer identified above.
2. Employer understands that "E-Verify" means the federal E-Verify program operated by the United States Dept. of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law.
3.  Employer employs 25 or more employees and is in compliance with the provisions of N.C. General Statute §64-26. Employer has verified the work authorization of its employees through E-Verify and shall retain the records of verification for a period of at least one year.  
  
 Employer employs fewer than 25 Employees and is therefore not subject to the provisions of N.C. General Statute §64-26.
4. All subcontractors engaged by or to be engaged by Employer have or will have likewise complied with the provisions of N.C. General Statute §64-26.
5. Employer shall keep the State of North Carolina informed of any change in its status pursuant to Article 2 of Chapter 64 of the North Carolina Statutes.

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

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

\_\_\_\_\_  
Printed Name and Title

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

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

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

Notary Public \_\_\_\_\_

(SEAL)

My Appointment Expires \_\_\_\_\_

# Federal Requirements & Special Conditions

## ATTACHMENT D

### CERTIFICATE OF COMPLIANCE WITH BUY AMERICA ROLLING STOCK REQUIREMENTS *(Including train control, communication, and traction power equipment)*

*(To be submitted with all bids exceeding \$150,000 if the requirements are met.)*

The Offeror hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j), and the regulations in 49 CFR Part 661.11.

DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

SERVICE PROVIDER \_\_\_\_\_

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

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

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

Notary Public \_\_\_\_\_

My Appointment Expires \_\_\_\_\_

# Federal Requirements & Special Conditions

## ATTACHMENT E

### CERTIFICATE OF NON-COMPLIANCE WITH BUY AMERICA ROLLING STOCK REQUIREMENTS *(Including train control, communication, and traction power equipment)*

*(To be submitted with all bids exceeding \$150,000 if the requirements are not met. A bid, which includes this certification may not be eligible for award without documented proof of the exception)*

The Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j) but may qualify for an exception to the requirement consistent with 49 U.S.C. Section 5323(j)(2)(C), and regulations in 49 CFR 661.7.

DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME \_\_\_\_\_

TITLE \_\_\_\_\_

SERVICE PROVIDER \_\_\_\_\_

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

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

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

Notary Public \_\_\_\_\_

My Appointment Expires \_\_\_\_\_

# Federal Requirements & Special Conditions

## ATTACHMENT F

### DISADVANTAGED BUSINESS ENTERPRISE (DBE) CERTIFICATION

*THIS FORM IS TO BE COMPLETED BY ANY PROPOSER WISHING TO BE IDENTIFIED AS A DBE OR BY ANY PROPOSER WISHING TO IDENTIFY DBE PARTICIPATION IN ITS PROPOSAL.*

#### SCHEDULE OF DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION

If a Proposer is a DBE or if a proposer intends to utilize DBE Firms in the development, manufacture, or delivery of goods or services or as a joint venture under this proposal, the following schedule must be completed:

The \_\_\_\_\_ will utilize the following:  
(Name of Proposer)

DBE Firm(s) in the development, manufacture, or delivery of goods or services or as a joint venture under this proposal:

<u>Item # and Description</u>	<u>Name of DBE Proposer</u>	<u>Type of Work or Parts to be Used/Performed</u>	<u>% of Proposal Attributable to DBE</u>
-------------------------------	-----------------------------	---	--

- 1.
- 2.
- 3.
- 4.
- 5.

Total % of Proposal Price Attributable to DBE: \_\_\_\_\_

Signature of Proposer: \_\_\_\_\_

Date: \_\_\_\_\_