



LAKELAND AREA MASS TRANSIT DISTRICT
SOLICITATION OVERVIEW

1. SOLICITATION #: IFB 16-030
2. ISSUE DATE: 05/19/16
3. FOR INFORMATION CONTACT: NAME: Lisa Harris, E-MAIL: lharris@ridecitrus.com, PHONE: 863-327-1314, FAX: 863-327-1345
4. BRIEF DESCRIPTION: Backup Server, Mail Archiver and Network Equipment

5. PRE-OFFER CONFERENCE: (See Section 1-D for more information.) LOCATION: N/A DATE AND TIME: N/A

6. SUBMIT OFFER TO THE FOLLOWING ADDRESS: Lakeland Area Mass Transit District (LAMTD), Attn: Lisa Harris, Contract Specialist, 1212 George Jenkins Blvd, Lakeland, FL 33815 or email offers to the address in block 3 (EMAIL IS PREFERRED)
7. OFFER SUBMISSION DUE DATE AND TIME: May 26, 2016 at 2:00 P.M. EST

8. SUBMIT WITH OFFER: Original offer and 2 photocopies including the exhibits and attachments listed on Page 2 of this form; unless otherwise stated under Section 1-J.

9. OFFERS WILL NOT BE PUBLICLY OPENED.

10. FIRM OFFER PERIOD: Offers shall remain firm for a period of 120 calendar days from the date specified in Block 7, above.

11. This solicitation and any resulting contract, respectively, consists of this form, the solicitation, attachments and exhibits, documents designated on Page 2 of this form, the contract response, and the resulting contract as stated in paragraph 3 of the contract.

OFFER

(To be completed by Offeror)

12. DISCOUNT FOR PROMPT PAYMENT: \_\_\_\_\_%, \_\_\_\_\_ Calendar Days (Please refer to Invoice and Payment clauses in Section 3)

13. If this offer is accepted within the period specified in Block 10, above, the offeror agrees to fully provide the goods and/or services covered by this solicitation at the prices and timelines specified in the solicitation.

14. ACKNOWLEDGEMENT OF AMENDMENTS: The offeror acknowledges receipt of the following solicitation amendments (write in all amendment numbers and amendment dates.

Table with 3 columns: Amendment Number and Date

15. OFFEROR'S NAME AND ADDRESS: (Type or Print)
16. NAME AND TITLE OF OFFEROR'S REPRESENTATIVE (PERSON AUTHORIZED TO EXECUTE CONTRACTS): (Type or Print)
17. OFFEROR'S REPRESENTATIVE SIGNATURE & DATE:
TELEPHONE: E-MAIL:
CELL PHONE: FAX:

AWARD

(To be completed by LAMTD)

18. DBE: There is no Disadvantaged Business Enterprise (DBE) goal established for this procurement. Federal funds are not utilized.

19. ACCEPTED AS TO: 20. TOTAL AMOUNT OF AWARD: 21. PO NUMBER:

22. LAMTD'S CONTRACTING OFFICER'S SIGNATURE & CONTRACT AWARD DATE:
Name: \_\_\_\_\_ Signature: \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

|   | NAME         | FORM DESCRIPTION                        | FORM # | SUBMIT WITH TECHNICAL OFFER? |
|---|--------------|---|--------|------------------------------|
| ● | Cover Sheet  | Solicitation Overview                   | CS-01  | YES                          |
| ● | Section 1    | Introduction/Instructions               | Below  | NO                           |
| ● | Section 2    | Statement of Work and/or Specifications | SEC-02 | NO                           |
| ● | Section 6    | Affidavits & Acknowledgment             | SEC-06 | YES                          |
| ● | Attachment 1 | Required Federal Clauses                | ATT-01 | NO                           |
| ● | Attachment 2 | Purchase Order Terms and Conditions     | ATT-02 | NO                           |
| ● | Attachment 3 | Price Schedule                          | ATT-03 | YES                          |

### REQUEST FOR QUOTES SECTION 1 - INSTRUCTIONS

- A. **Introduction.** The “Lakeland Area Mass Transit District” (LAMTD), herein after known as the District, has provided public transportation to the Polk County area since 1982 with a current employee population of about 135 individuals. The District operations include: roughly 39 fixed route buses, 16 paratransit demand response service vehicles, and ten support vehicles. Polk County is larger than the state of Rhode Island and equal in size to Delaware, and is situated along Interstate 4 between Orlando and Tampa. The total area of the county is approximately 2,010 square miles which makes it the fourth largest county in Florida, exceeded only by Dade, Palm Beach, and Collier counties. Polk County ranks as the eighth in populous of Florida's 67 counties; the Urbanized Lakeland Area houses 1/3 (over 200,000) of its currently estimated 609,000 residence. Additional, the agency's Board of Directors is composed of five members, who are sitting Polk County, Florida and City of Lakeland Commissioners.
- B. **Purpose.** The District seeks quotes from qualified firms interested in supplying Backup Server, Mail Archiver and Network Equipment for our Information Technologies (IT) Department's Transit Disadvantaged Project.
- C. **General.** Please review the information above, Page 1 of this form and all Invitation for Bid (IFB) attachments. Page 1 of this “Solicitation Overview” form must be submitted, along with the documents indicated in the table above, prior to deadline established for receipt of quotes. Failure of an offeror to submit all of the required information, to use forms other than those indicated, above, to take exceptions to this IFB or the Statement of Work, etc., may result in rejection of your quote.
- D. **Pre-offer Conference.** A Pre-offer Conference will not be held.
- E. **Questions or Concerns.** Questions or concerns about the Invitation for Bid (IFB) must be conveyed to LAMTD's Purchasing Agent identified in Block 3 of this Solicitation.
- F. **Extension of Time:** If an Offeror requires more time to prepare their offer, a request for extension may be forwarded in writing not later than five (5) working days prior to the due date for submittal.

Granting an extension will be based on the number of such requests and the reason(s) for each request. The decision to grant an extension will be solely at the discretion of the District. In the event of an extension, prospective Offerors will be notified immediately and appropriate addenda will be issued.

- G. **Conflict of Interest:** The Offeror shall state if it represents clients that may present conflicts or potential conflicts with representation of the District. Offerors shall provide a list of any potential conflicts by description. Offerors need not identify a particular client. If conflicts are listed, the Offeror shall address how these conflicts will be resolved. (See required Form D)

Any District employee or any member of the employee's immediate family who has a controlling financial interest, direct or indirect, with the District, or any person or agency acting for the District from competing or applying for any such contract as it pertains to this solicitation, must notify the District's Contracting Officer prior to their or their immediate family member's entering into any contract or transacting any business through a firm, corporation, partnership or business entity in which the employee or any member of the employee's immediate family has a controlling financial interest, direct or indirect, with the District or any person or agency acting for the District and that any such contract, agreement or business engagement entered in violation of this subsection, as amended, shall render this Agreement voidable.

- H. **Offer Preparation and Format:** The following paragraphs provide the instructions and order to be followed in preparing a response to this solicitation. The District reserves the right to reject any submittal as nonresponsive if the offeror fails to include any of the required information in the specified order.

If submitting in hard copy, each part of the offer should be labeled and tabbed for easy reference. All offer shall be submitted in 8 ½” by 11” format with foldouts utilized as necessary. Offers shall contain the following sections and shall include a “Table of Contents” identifying the page numbers of where to find the various sections and organized as follows with factors and any subfactors are described below.

- Section 1 Letter of Interest (Letter of Introduction to the Firm),
- Section 2 Price (Must be submitted on the Price Schedule provided by the District),
- Section 3 Required Submittals (Forms, Attachments, Exhibits, Licensing and/or Certifications), and
- Section 4 Promotional Literature (Not necessary and for informational purposes only).

I. **Pricing.** Pricing offered must be Firm-Fixed, Unit Price (price adjustments post award will not be permitted) and summarized on the Price Schedule provided. Offerors must adequately anticipate the level of work, freight, delivery and/or fuel surcharge, and appropriately include it in their quotes. Optional items must be quoted to be considered but may not necessarily be purchased at the time of award.

J. **Instructions for Submitting Offers:**

(a) Offers may be submitted via courier, parcel post, or other carrier to the address specified in Block 6, on or before the date specified in Block 7 and in the quantity specified in Block 8. Offers shall be enclosed in sealed envelopes or sealed cartons that should include the following on the address label:

- 1. Solicitation #, 2. Solicitation Title, 3. Offer due date/time, and 4. Offeror(s) name, address

(b) Electronic submissions shall require acknowledgment of receipt prior to the date and time specified in Block 7 and need only provide one pdf copy. The subject line shall contain the following: 1. Solicitation # and 2. Solicitation Title

K. **Affidavits/Acknowledgements:** The forms marked with (X) below must be submitted with your proposal. Failure to include the required forms may cause your proposal to be deemed non-responsive and/or lacking objective criteria by which a responsibility determination can be performed. Please insert into your proposal with a separate tab, as the last section in your binder or electronic offer. USE BLUE INK FOR THE ORIGINAL PROPOSAL.

|     |   |
|-----|---|
| X   | Form A- Cover Page for Proposal   |
| X   | Form B- Business Information  |
| X   | Form C- Disputes Disclosure   |
| X   | Form D- Conflict of Interest  |
| X   | Form E- Eligible Contractor Certificate                                 |
| X   | Form F- Affidavit of Non-Collusion                                      |
| N/A | Form G- Drug Free Workplace Certificate                                 |
| N/A | Form H- Lobbying Activities Certificate                                 |
| N/A | Form I- Buy America Act Certification                                   |
| X   | Form J – Disadvantaged Business Enterprise (DBE) Provisions             |
| N/A | Form K- Statement of Insurance  |
| N/A | Form L- Equal Employment Opportunity Certification                      |
| X   | Form M - Proposer's Questionnaire                                       |
| X   | Form N – Proprietary/Trade Secret Confidential Requests (if applicable) |
| N/A | Form P- Acknowledgement of Addenda (if applicable)                      |

L. **Term of Contract:** The term of this contract shall be for four (4) months from purchase order contract award.

M. **Award.** An award may be made to the responsible offeror(s) who submit the lowest total quote that meets the requirements of the IFB. A responsible offeror is one who affirmatively demonstrates to the District that it has adequate financial resources and the requisite capacity, capability, and facilities to perform the contract within the delivery period or period of performance, has a satisfactory record of performance on other comparable projects, has a satisfactory record of integrity and business ethics, and is otherwise qualified and eligible to receive award under the solicitation and laws or regulations applicable to the procurement. The issuance of a Purchase Order/Notice to Proceed shall be provided within 5 days of the Notice of Intent to Award.

Multiple offerors may be awarded. Awards shall be made by Lot Number.

N. **Contractual Provisions:**

THE SUCCESSFUL OFFEROR SHALL COMPLY WITH THE CONTRACT PROVISIONS SET FORTH IN THE MOST RECENT LAKELAND AREA MASS TRANSIT DISTRICT "GENERAL PROVISIONS DOCUMENT", AS MAY BE AMENDED FROM TIME TO TIME. THIS DOCUMENT IS ON THE DISTRICT'S WEBSITE ([www.ridecitrus.com](http://www.ridecitrus.com)) OR IS AVAILABLE FROM THE DISTRICT BY REQUEST.

[END]

## SECTION 2.0 – SCOPE OF WORK

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### 2.1 Scope of Work:

The scope of services described in this section ("Scope of Work") is a general guide and is not intended to be a complete list of all tasks and/or materials necessary to complete the supply of goods or services being requested. The Scope of Work contains information believed to be necessary to facilitate the delivery of Backup Server, Mail Archiver and Network Equipment that will meet the needs of the District and the Information Technologies (IT) Department's Transit Disadvantaged Project.

### 2.2 Introduction:

The Lakeland Area Mass Transit District (LAMTD), dba, Citrus Connection, hereafter referred to at the District, is requesting bids for the immediate delivery of the below noted Information Technology (IT) equipment. The proposed items are OEM specific as they must be compatible, consistent, and easily configurable with the District's existing equipment and configurations.

### 2.3 Solicitation Time Line:

|                                    |                    |
|------------------------------------|--------------------|
| SOLICITATION ISSUED                | DATE: 05/19/16     |
| OFFERS DUE                         | DATE: 05/26/16     |
| OFFER EVALUATIONS                  | DATE: 05/27/16     |
| BOARD REVIEW/APPROVAL              | DATE: pre-approved |
| NOTICE OF INTENT                   | DATE: 05/27/16     |
| CONTRACT AWARD & NOTICE TO PROCEED | DATE: 06/03/16     |

*NOTE: DATES REFERENCED ABOVE ARE TENTATIVE AND FOR PLANNING PURPOSES ONLY. THEY ARE SUBJECT TO CHANGE.*

### 2.4 General Requirements:

The successful Offeror(s) must be able to provide the "required" equipment, listed below, on or before June 20, 2016. Items marked as "optional" are contingent on upon funding approval and may not necessarily be purchased at time of award.

#### A. Goods or Services Requested:

| Line Item                                  | Resource Name   | OEM Part Number      | QTY |
|--|---|----------------------|-----|
| <b>Lot 1 Required Item - Backups</b>       |   |                      |     |
| 1.1  | BARRACUDA BACKUP SRV 690 W/5Y UPDATE                        | BBS690A55            | 2   |
| 1.2  |   | Freight              |     |
| <b>Lot 2 Required Item - Mail Archiver</b> |   |                      |     |
| 2.1  | Barracuda Message Archiver 450 - e-mail archiving appliance | BMA450A55            | 1   |
| 2.2  |   | Freight              |     |
| <b>Lot 3 Required Item - Network</b>       |   |                      |     |
| 3.1  | Brocade Essential Direct Support                            | 6740-1G-SVL-NDP-1    | 2   |
| 3.2  | Brocade 40 Gbps Direct Attached Copper Cable                | 40G-QSFP-QSFP-C-0101 | 1   |

|  |   |                       |         |
|--|---|-----------------------|---------|
| 3.3  | Brocade VDX 6740T-1G - Switch - L3 - managed - 48 x | BR-VDX6740T-56-1G-F   | 2       |
| 3.4  | Brocade Direct-Attach Copper Breakout Cable         | 40G-QSFP-4SFP-C-0101  | 2       |
| 3.5  | 48 Port PoE+ Bundle 2X10G 6X1G SFP+ Upgrade         | ICX7250-48P-2X10G     | 9       |
| 3.6  | S/W ICX7250 2X10+6X1 TO 8X10 UPLNK STKNG            | ICX7250-8X10G-LIC-POD | 4       |
| 3.7  | 10GBASE-LR,SFPP SMF LC CONNECTOR 8-PACK             | 10G-SFPP-LR-8         | 3       |
| 3.8  | DIRECT ATTACHED SFPP COPPER,1M,1-PACK               | 10G-SFPP-TWX-0101     | 2       |
| 3.9  |   |                       | Freight |
| <b>Lot 4 Optional Item - Server Upgrades</b> |   |                       |         |
| 4.1  | HP DL380 GEN9 E5-2670V3 PRF SRV 64GB                | E5-2670V3             | 3       |
| 4.2  | HP 16GB 2RX4 PC4-2133P-R KIT S-BUY                  | PC4-2133P-R           | 36      |
| 4.3  | HP 146GB 6G SAS 15K SFF                             |                       | 6       |
| 4.4  | HP GEN8 ETHERNET 1GB 4PORT 331T ADPT                |                       | 3       |
| 4.5  | HP 3Y 4H 24X7 DL38X PROCARE SVC                     |                       | 3       |
| 4.6  | RARITAN 16PT KVM/IP SWCH 1U DVI                     | DKX3-116              | 1       |
| 4.7  | RARITAN DOMINION KX II CIM USB PORT                 |                       | 8       |
| 4.8  |   |                       | Freight |
| <b>Lot 5 Optional Item - Storage</b>         |   |                       |         |
| 5  | LH Storage  |                       |         |
| 5.1  | HP STOREVIRTUAL 4530 600GB SAS STORAGE              |                       | 4       |
| 5.2  | HP 3Y 4 HR 24X7 PROACTIVE CARE SVC                  | H1K92A3               | 1       |
| 5.3  | HP G3 STOREVIRTUAL 45XX 46XX 47XX SUPP              | H1K92A3 RW4           | 4       |
| 5.4  | HP INSTALLATION AND STARTUP SERVICE                 | HA114A1               | 1       |
| 5.5  | HP STOREVIRTUAL 4000 STORAGE STARTUP SVC            |                       | 4       |
| 5.6  | HP FF 5700-40XG-2QSFP+ SWITCH                       | JG896A                | 2       |
| 5.7  | HP 58X0AF FRONT PORT BACK PWR FAN                   | JC683A                | 4       |
| 5.8  | HP A58X0AF 300W AC POWER SUPPLY                     | JG900A#ABA            | 4       |
| 5.9  | HPE 3Y 24X7 FF 5700 FC SVC                          | U4VF3E                | 2       |
| 5.10   | HP X240 10G SFP+ SFP 1.2M CABLE                     | JD096C                | 2       |
| 5.11   | HP 3M X240 10G SFP+SFP DAC CABLE                    | JD097C                | 2       |
| 5.12   |   |                       | Freight |

## 2.5 Other Requirements:

- A. Warranties: Any and all standard manufacturer's warranties must be stated and shall accrue to the benefit of the District. Any extended warranties, other than those listed above, may be offered as optional items
- B. Maintenance and Support: Any associated maintenance and support shall be outlined within the Offeror's proposal for no less than specified within the Statement of Work and with any rate escalation disclosed.
- C. Delivery: Product must be delivered to the District on or before June 20, 2016 at 3:00 p.m. Delivery/Freight charges must be indicated on the price schedule and shall be FOB Destination. Delivery location is: 1110 George Jenkins Blvd, Lakeland, FL 33815 and to the Attention of Miguel Medina.

## 2.6 The District shall:

- 1) Provide a Tax Exempt Certificate upon request or issuance of Purchase Order.

[END]

## SECTION 6.0 – AFFIDAVITS/ACKNOWLEDGEMENTS

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**FORM A – COVER PAGE FOR PROPOSAL**

OFFEROR'S NAME (Name of firm, entity or organization): \_\_\_\_\_  
\_\_\_\_\_

FEDERAL EMPLOYER IDENTIFICATION NUMBER: \_\_\_\_\_

**NAME AND TITLE OF OFFEROR'S CONTACT PERSON:**

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

**MAILING ADDRESS:**

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

City, State, Zip: \_\_\_\_\_

TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ E-MAIL ADDRESS: \_\_\_\_\_  
( \_ ) \_\_\_\_\_ ( \_ ) \_\_\_\_\_

OFFEROR'S ORGANIZATIONAL STRUCTURE: \_\_\_Corporation \_\_\_Partnership \_\_\_Proprietorship \_\_\_ Joint Venture  
\_\_\_ Other (Explain): \_\_\_\_\_

**IF CORPORATION,**

Date Incorporated/Organized: \_\_\_\_\_ State Incorporated/Organized: \_\_\_\_\_

States registered in as foreign corporation: \_\_\_\_\_

**OFFEROR'S SERVICE OR BUSINESS ACTIVITIES OTHER THAN WHAT THIS SOLICITATION REQUESTS FOR:**

**LIST NAMES OF OFFEROR'S SUBCONTRACTORS OR SUBCONSULTANTS FOR THIS PROJECT ON A SEPARATE FORM AND ATTACH HERETO.**

**CRIMINAL CONVICTION DISCLOSURE:**

Any individual who has been convicted of a felony during the past ten years and any corporation, partnership, joint venture or other legal entity having an officer, director, or executive who has been convicted of a felony during the past ten years shall disclose this information prior to entering into a contract with or receiving funding from the County.

Place a checkmark here only if Proposer has such conviction to disclose to comply with this requirement.

**OFFEROR'S AUTHORIZED SIGNATURE:**

The undersigned hereby certifies that this bid is submitted in response to this solicitation.

**THE EXECUTION OF THIS FORM CONSTITUTES THE UNEQUIVOCAL OFFER OF PROPOSER TO BE BOUND BY THE TERMS OF ITS PROPOSAL. FAILURE TO SIGN THIS SOLICITATION WHERE INDICATED BELOW BY AN AUTHORIZED REPRESENTATIVE SHALL RENDER THE PROPOSAL NON-RESPONSIVE. THE DISTRICT MAY, HOWEVER, IN ITS SOLE DISCRETION, ACCEPT ANY PROPOSAL THAT INCLUDES AN EXECUTED DOCUMENT WHICH UNEQUIVOCALLY BINDS THE PROPOSER TO THE TERMS OF ITS OFFER.**

Signed By: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Title: \_\_\_\_\_

**[END OF FORM A]**

**FORM B – BUSINESS INFORMATION**

**B.01 TYPE OF BUSINESS:**

The Proposer represents as part of its offer that it operates as (Mark (1) with an "X"):

- An individual
- A sole proprietorship
- Another entity
- A partnership
- A corporation

If incorporated, incorporated under the laws of the State of: \_\_\_\_\_.

**B.02 DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

The Proposer represents as part of its offer that it (Mark (1) one with an "X"):

- Is
- Is not

Disadvantaged Business Enterprise (DBE). A "DBE" is defined as "a small business concern" which is at least 51 percent owned by one or more socially and economically disadvantaged individuals. In the case of any publicly owned business, one or more socially and economically disadvantaged individuals own at least 51 percent of the stock. The noted DBE's management and daily business operations controlled by one or more of the socially and economically disadvantaged individuals who own it. For purposes of this definition, socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Asian-Pacific Americans, Asian-Indian Americans, Native Americans; and women, regardless of race, ethnicity or origin.

**B.03 CONTINGENT FEE**

Except for full-time bona fide employees working solely for the Proposer, the offeror represents as part of its offer that it (Mark (1) one with an "X"):

- Has
- Has not

Employed or retained any company or persons to solicit or obtain this contract, and (Mark one with an "X"):

- Has
- Has not

Paid or agreed to pay any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

The Proposer agrees to provide information relating to subparagraph A. above, as requested by the Contract Administrator.

**B.04 INTEREST OF PUBLIC OFFICIALS**

The Proposer represents and warrants that no employee, official, or member of the Board (Executive Committee) of LAMTD is or will be interested or benefited directly or indirectly in this Contract.

**B.05 COVENANT AGAINST GRATUITIES**

The Proposer represents as part of its offer that neither it nor any of its employees, representatives or agents have offered or given gratuities (in the form of entertainment, gifts or otherwise) to any director, officer or employee of LAMTD, with the attempt toward securing favorable treatment in the awarding, amending, or the making of any determination with respect to the performing of the Contract. See the General Provisions Clause entitled "Interest of Public Officials."

**B.06 PREVIOUS CONTRACTS AND COMPLIANCE REPORTS**

The Proposer represents as part of its offer that it (Mark (1) one with an "X"):

- Has
- Has not

Participated in a previous contract or subcontract, subject either to the Equal Opportunity clause of this solicitation. The clause originally contained in "USA-DOT-FTA-Master Agreement" authorized by 49 U.S.C. § 5301 et seq. Section 12 Civil Rights part C. "Equal Employment Opportunity" representations indicating submission of required compliance reports, signed by proposed subcontractors, submitted before subcontract or awards.

**B.07 AFFIRMATIVE ACTION COMPLIANCE**

A. The Proposer represents as part of its offer that it has a workforce of \_\_\_\_\_ (# of employees): It (Mark one with an "X"):

- Has developed and has on file
- Has not developed and does not have on file



B. At each establishment, affirmative action programs required by the rules and regulations of the Secretary of Labor (41 CFR 60-1 and 60-2), or it (Mark one with an "X"):

**Has**

**Has not**

Previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

**B.08 PARENT COMPANY AND IDENTIFYING DATA**

A. The Proposer represents as part of its offer that it (Mark one with an "X"):

**Is**

**Is not**

Owned or controlled by a parent company. A parent company, for the purpose of this provision, is one that owns or controls the activities and basic business policies of the proposer. To own the proposing company means that the parent company must own more than 50 percent of the voting rights in that company. A company may control a Proposer as a parent although not meeting the requirements for such ownership. When the company is able to formulate, determine, or veto basic policy decisions of the offeror through the use of dominant minority voting rights, use of proxy voting, or otherwise.

B. If the Proposer is not owned or controlled by a parent company, it shall insert its own Employer's Identification Number below:

C. If the Proposer is owned or controlled by a parent company, it shall enter in the blocks below the name and main office address of the parent company, and the parent company's Employer's Identification Number.

**NAME OF PARENT COMPANY AND MAIN OFFICE ADDRESS (INCLUDE ZIP AND PHONE):**

---

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**PARENT COMPANY'S EMPLOYER'S IDENTIFICATION #:** \_\_\_\_\_

**B.09 CERTIFICATION OF INDEPENDENT PRICE DETERMINATION**

A. By submission of this offer, the Proposer certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

1. The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other offeror or with any competitor.
2. Unless otherwise required by law, the prices quoted in this offer, have not been knowingly disclosed by the Proposer. The Proposer before the opening (in the case of an advertised procurement) or prior to award (in the case of a negotiated procurement) will not knowingly disclose it either directly or indirectly to any other Proposer or to any competitor.
3. No attempt made or will be made by the Proposer to induce any other person or firm to submit or not to submit an offer, or to restrict competition.

B. Each person signing this offer certifies that:

1. He or she is the person in the Proposer's organization responsible within that organization for the decision as to the prices offered herein and that he/she has not participated, and will not participate, in any action contrary to A.1. through A.3 above or
2. He or she is not the person in the Proposer's organization responsible within that organization for the decision as to the prices offered herein but that they are authorized in writing to act as an agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to A.1. through A.3 above, and as their agent does hereby so certify.

**B.10 DISADVANTAGED BUSINESS ENTERPRISE GOALS**

If goals are established by submission of this offer, the Proposer certifies that it will comply with the provisions of this solicitation entitled "Disadvantaged Business Enterprise Program" and will meet such goals as are established in any ensuing contract.

**B.11 CLEAN AIR AND WATER CERTIFICATION**

Applicable if the offer exceeds \$100,000, or the Contract Administrator believes that orders under an indefinite contract in any year will exceed \$100,000, if a facility to be used has been the subject of a conviction under the Air Act [42 U.S.C. 7413 (c) (1)] or the Water Act [33 U.S.C. 1319 (c)], and is listed by the Environmental Protection Agency (EPA) as a violating facility, and the acquisition is not otherwise exempt.

**B.12 By submission of this offer, the Proposer certifies that:**

- A. Any facility to be used in the performance of this proposed contract mark (1) with an "X":  
 **Is**  **Is not listed on the EPA List of Violating Facilities**
- B. It will immediately notify the Contracting Officer, before award, of the receipt of any communication from the administrator, or a designee of the EPA, that any facility which it proposes to use for the performance of the Contract is under consideration to be listed on the EPA List of Violating Facilities. It will include a certification substantially the same as this certification, including this paragraph C., in every nonexempt subcontract.

**B.13 CERTIFICATION ON NON-SEGREGATED FACILITIES**

- A. By the submission of this offer, the Proposer certifies that it does not and will not maintain or provide for its employees any segregated facilities. Not at any of its establishments and that it does not and will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.
- B. The Proposer agrees that a breach of this certification is a violation of the Equal Opportunity Clause in the contract. As used in this certification, the term "segregated facilities" means: waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, work and or entertainment facilities that are segregated by explicit directive or are in fact segregated based on race, color, religion or nation origin, because of habit, local custom or otherwise.
- C. Proposer further agrees that (except where it has obtained identical certifications from proposed subcontractors for specific times) Proposer will:
  - 1. Obtain identical certifications from proposed subcontractors before the award of subcontract under which the subcontractor will be subject to the Equal Opportunity Clause.
  - 2. Retain such certifications in its files; and forward the following notice to the proposed subcontractors (except if the proposed subcontractors have submitted identical certifications for specific times).

**NOTICE TO PROSPECTIVE SUBCONTRACTORS OF REQUIREMENTS FOR CERTIFICATIONS OF NONSEGREGATED FACILITIES**

Certification on Non-segregated Facilities must be submitted before the award of a subcontract under which the subcontractor will be subject to the Equal Opportunity clause. The certification may be submitted either for such subcontract or for all subcontracts during a period (i.e. quarterly, semiannually or annually). Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.

**B.14 CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS, PRIME CONTRACT**

- A. In accordance with provisions of 49 CFR Part 29 and the certification instructions contained therein, the Proposer certifies, to the best of its knowledge and belief, that it and/or any of its Principals (mark one with an "X"):

**Are**  **Are not**

Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from the award of contracts by any Federal department or agency or by LAMTD (mark one with an "X");

**Have**  **Had not**

Within a three-year period preceding this offer, convicted of or had a civil judgment rendered against them for: commission of fraud rendered against them or a criminal offense concerning obtaining, attempting to obtain, or performing a public (Federal, State or local) contract or subcontract, violation of Federal or State antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property (mark one with an "X");

**Are**  **Are not**

Presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in subparagraph A.2. of this certification; and (mark one with an "X");

**Have**  **Had not**

Within a three-year period preceding this offer, had one or more public (Federal, State, or local) contracts terminated for cause or default. "Principals," for the purposes of this certification, means officers, directors, owners, partners, key employees, or any other person within the business entity who have primary management or supervisory responsibilities: or a person who has a critical influence on a contract or substantive controls over contracts, whether or not employed by the offeror.

- B. The Proposer shall provide immediate written notice to the Contract Administrator, if, at any time before contract award, the Proposer learns that its certification was erroneous when submitted or has become erroneous due to changed circumstances.
- C. Where the Proposer is unable to certify that positively to any of the statements in this certification, the Proposer shall attach an explanation to this offer. A certification that any of the items in subparagraph A of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification may be considered in determining the Proposer responsibility. Failure of the offeror to furnish a certification or provide such additional information as requested by the Contract Administrator may render the offeror unresponsive.
- D. Nothing contained in the foregoing construed to require establishment of a system of records in order to render, in good faith, the certification required by subparagraph A of this provision. The knowledge and information of a Proposer is not required to exceed that which a prudent person in the ordinary course of business normally possess.
- E. The certification in subparagraph A of this provision is a material representation of fact upon which reliance placed when making award if it is later determined that the Proposer knowingly rendered an erroneous certification. In addition to other remedies available to LAMTD or the Federal Government or any of its departments or agencies, the Contract Administrator may end the contract resulting from this solicitation for default.
- F. The Proposer further agrees by submitting the offer that it will include the following clause, without modification, in all subcontracts and in all solicitations for subcontract:
- G. The following information is required in order for the agency to determine whether your firm is maintaining the appropriate financial controls necessary to safeguard the public's interest.

The name of your financial accounting software is: \_\_\_\_\_,

Provided by [insert vendor name]: \_\_\_\_\_.

I have / have not [circle one in blue ink] installed the latest version of that software. The software database is backed up via the following method:

\_\_\_\_\_  
\_\_\_\_\_

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION, SUBCONTRACTS**

- 1. In accordance with the provisions of 49 CFR Part 29 and the certification instructions contained therein, the prospective subcontractor certifies, by submission of this offer that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this contract by any Federal department or agency or by the District.
- 2. Where the prospective subcontractor is unable to certify to any of the statements in this certification, such prospective subcontractor shall attach an explanation to this offer.

Certified:

Name of Proposer Firm/Company: \_\_\_\_\_

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

Print Name: \_\_\_\_\_

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

**OFFERORS MUST SET FORTH FULL, ACCURATE AND COMPLETE INFORMATION AS REQUIRED BY THIS SOLICITATION (INCLUDING THIS EXHIBIT). FAILURE TO DO SO MAY RENDER THE OFFER NONRESPONSIVE OR UNACCEPTABLE.**

**A FALSE STATEMENT IN ANY BID OR PROPOSAL SUBMITTED TO THE DISTRICT MAY BE A CRIMINAL OFFENSE IN VIOLATION OF APPLICABLE FEDERAL AND/OR STATE LAWS.**

**[END OF FORM B]**

**FORM C – DISPUTES DISCLOSURE**

Answer the following questions by placing an “X” before “YES” or “NO”.

1. Has your firm or any of its officers, received a reprimand of any nature, a fine, or been suspended by the Securities and Exchange Commission, Florida Department of Professional Regulation or any other regulatory agency or professional association in your state within the last five (5) years?

- YES  NO

2. Has your firm, or any member of your firm, been declared in default, terminated or removed from a contract or job related to the services your firm provided in the regular course of business within the last five (5) years?

- YES  NO

3. Has your firm: (a) had filed against it, and/or (b) filed any request for equitable adjustment, contract claims, or litigation in the past five (5) years that is related to the services your firm provides in the regular course of business?

- YES  NO

I hereby certify that all statements made are true and agree and understand that any misstatement or misrepresentation or falsification of facts shall be cause for forfeiture of rights for further consideration on this project.

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

\_\_\_\_\_  
AUTHORIZED SIGNATURE OFFICER TITLE

\_\_\_\_\_  
PRINTED OR TYPED NAME STATE OF: COUNTY OF:

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

By \_\_\_\_\_, of \_\_\_\_\_(Corporation), a

\_\_\_\_\_ Corporation, on behalf of the corporation. He/She is personally known

to me or has produced \_\_\_\_\_ as identification.

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

**[END OF FORM C]**

**FORM D – CONFLICT OF INTEREST AFFIDAVIT**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority duly authorized in the state and county aforesaid to take acknowledgments, personally appeared \_\_\_\_\_, as (title) \_\_\_\_\_ of (name of firm) \_\_\_\_\_ ("Affiant"), who after first being duly sworn, deposed and stated the following:

1. I am the (title) \_\_\_\_\_ of (name of firm) \_\_\_\_\_ with a local office in \_\_\_\_\_ and principal office in \_\_\_\_\_. The above named entity is submitting a Proposal for LAMTD, d.b.a Citrus Connection, described as: IFB, RFP, RFQ or RFQu # \_\_\_\_\_, entitled: \_\_\_\_\_.
2. The Affiant has made diligent inquiry and provides the information contained in this Affidavit based upon his/her own knowledge.
3. The Affiant states that only one submittal for the above proposal is being submitted on behalf of the above named entity and that the entity has no financial interest in other entities submitting proposals for the same project.
4. Neither the Affiant nor the above named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraints of free competitive pricing in connection with the entity's submittal for the above proposal. This statement restricts the discussion of pricing data until the completion of negotiations if necessary and execution of the contract for this project.
5. Neither the entity nor its affiliates, nor anyone associated with them is presently suspended or otherwise ineligible from participation in contract letting by any local, State, or Federal Agency.
6. Neither the entity, nor its affiliates, nor anyone associated with them have any potential conflict of interest due to any other clients, contracts, or property interests for this project.
7. I certify that no member of the entity's ownership or management is presently applying for an employee position or actively seeking an elected position with the District.
8. I certify that no member of the entity's ownership or management, or staff has a vested interest in any aspect of the District.
9. In the event that a conflict of interest is identified in the provision of services, I, on behalf of the above named entity, will immediately notify the District.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed/Printed Name and Title

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Personally known \_\_\_\_ OR produced identification \_\_\_\_\_. Identification type: \_\_\_\_\_

Notary Public: State of \_\_\_\_\_ County of \_\_\_\_\_.

Printed, typed, or stamped commissioned name of notary public

My commission expires: \_\_\_\_\_.

**[END OF FORM D]**

**FORM E – ELIGIBLE CONTRACTOR CERTIFICATE**

The \_\_\_\_\_ (Name of Proposer) hereby certifies that it IS / IS NOT (*circle one in blue ink*) included on the U.S. Comptroller’s lists of persons or firms currently debarred for violations of various public contracts incorporating labor standards provisions. The proposer further certifies that:

- A. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- B. No part of this contract shall be subcontracted to any person or firm ineligible for award of a government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**Submitted (DATE):** \_\_\_\_\_

**Signature:** \_\_\_\_\_

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

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

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

**City, State, & Zip:** \_\_\_\_\_

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

**[END OF FORM E]**

**FORM F – AFFIDAVIT OF NON COLLUSION**

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

Before me, the undersigned authority duly authorized in the state and county aforesaid to take acknowledgments, personally appeared \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_ ("Affiant"), who after first being duly sworn, deposed and stated the following:

1. That I am the proposer (if the proposer is an individual) or a partner of the proposer (if the proposer is a partnership) or an officer or employee of the proposing corporation, having authority to assign on its behalf (if the proposer is a corporation);
2. That the proposer has arrived at the attached proposal or proposals independently, and have been submitted without collusion with, and agreement, understanding or planned common course of action with any other vendor of material proposals, designed to limit independent bidding or competition;
3. That the contents of the proposal or proposals have not been communicated by the proposer, employees or agents to any person not an employee or agent of the proposer. Surety on any bond furnished with the proposal or proposals, will not be communicated to any such person prior to the official opening of the proposal or proposals; and
4. That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Typed/Printed Name and Title

\_\_\_\_\_  
Firm Name

\_\_\_\_\_  
F.E.I. Number (used on employers Quarterly Federal Tax returns.)

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Personally known \_\_\_\_ OR produced identification \_\_\_\_\_. Identification type: \_\_\_\_\_

Notary Public: State of \_\_\_\_\_ County of \_\_\_\_\_.

Printed, typed, or stamped commissioned name of notary public

My commission expires: \_\_\_\_\_.

**[END OF FORM F]**

## **FORM J – DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROVISIONS**

**LAMTD's FY15 DBE Goal is 2%.** The District supports and encourages DBE certified firms to participate in the proposal process; the District DBE Program goal is 2% of total contract expenditures. The District only recognizes DBE status based on whether the firm has attained certification from the Florida Department of Transportation Unified Certification Program (UCP).

### **1. DBE GOAL**

A DBE Goal has not been assigned to this particular contract; however, LAMTD encourages Offerors to provide contract opportunities to Disadvantaged Business Enterprises. If the Offeror will use a DBE certified subcontractor in this contract, please contact the Contract Specialist for this solicitation and a reporting form that must accompany your firm's invoice submittals will be provided to you.

### **2. POLICY STATEMENT**

The District has established an overall agency goal of 2% participation by certified Disadvantaged Business Enterprises (DBEs) in procurements of all goods and services. All businesses to be considered DBEs for the purposes of achieving this goal must provide with its proposal a current certification.

### **3. BANKS AND FINANCIAL INSTITUTIONS**

The Contractor is encouraged to utilize the services of disadvantaged, minority and woman-owned banks and financial institutions. The identity of such banks is available at [http:// www.fms.treas. gov/mbdp/current.list.html](http://www.fms.treas.gov/mbdp/current.list.html).

### **4. DIRECTORY OF DBE'S**

The Unified Certification Program (UCP) maintains an electronic DBE directory of all firms certified in Florida. The directory is located at <https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>. The local certifying UCP agency is the Hillsborough County Aviation Authority (HCAA) located at the Tampa International Airport. Appropriate forms to apply for DBE certification are available at <http://www.tampaairport.com/sitemap.asp>.

**[END OF FORM J]**



**FORM M – PROPOSER - QUALIFICATION QUESTIONNAIRE**

Part A: Experience and Performance

1. Please provide the following information, along with your proposal for no less than three (3) and no more than five (5) project completed within the last three (3) years:

Please detail in writing any contracts with Public Entities and significant projects performed that best illustrate the relevant experience of the firm and current staff for the District’s anticipated projects, for the previous ten years, using the following required information *(use separate pages for up to five (5) current or completed projects best illustrating the experience of the firm and current staff on similar projects)*:

Project Company name: \_\_\_\_\_

Project Manager: \_\_\_\_\_

Location (incl. city, state, zip): \_\_\_\_\_

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

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

Number of years in business: \_\_\_\_\_

Project size: \$\_\_\_\_\_ (gross S.F. of construction or novation/remodel:\_\_\_\_\_

Nature of your firm’s responsibility on the project: \_\_\_\_\_

\_\_\_\_\_

Date project was completed or is anticipated to be completed:\_\_\_\_\_

Was the project completed on-time: yes\_\_\_\_\_ no\_\_\_\_\_

Key professions involved on this project:

Responsibility:

Key Professional Name:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_

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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**PART B: ABOUT YOUR FIRM**

- 1. Address of your firm: \_\_\_\_\_
- 2. Number of full-time employees your firm employs: \_\_\_\_\_
- 3. Date your firm was created (if it has changed ownership, please describe the nature of the merger and acquisition and date thereof): \_\_\_\_\_

4. List any professional licenses, permits, commercial certifications, and qualifications your firm possesses.

| Type: | State Agency or Organization<br>to contact for verification. | License/Certification Number: |
|-------|--|-------------------------------|
| _____ | _____  | _____                         |
| _____ | _____  | _____                         |
| _____ | _____  | _____                         |

5. List sub-contractors that you have worked with or from your typical bid list that you would solicit for bids of subcontracting opportunities on known projects described in Scope of Work (e.g., plumber, electrician, roofing, etc) *use additional pages if necessary:*

| Skill: | Company Name: | Address: |
|--------|---------------|----------|
| _____  | _____         | _____    |
| _____  | _____         | _____    |
| _____  | _____         | _____    |
| _____  | _____         | _____    |
| _____  | _____         | _____    |
| _____  | _____         | _____    |
| _____  | _____         | _____    |

6. Name of your principle financial institution (e.g., commercial bank account provider) for financial responsibility check (include name, address, and phone number):

\_\_\_\_\_  
\_\_\_\_\_

7. State your firm's total annual average receipts over the past three years. \_\_\_\_\_

**[END OF FORM M]**

**FORM N – TRADE SECRET/CONFIDENTIAL/PROPIETARY INFORMATION REQUESTS**

**Instructions:** The special and standard terms contained in this RFQ explaining this subject matter apply. In addition, you must mark the section you are requesting to be withheld from a public records request within the proposal itself and by filling out this form and attaching it to your other required forms. Blanket statements or page footnotes request non-disclosure will be rejected. Cost/price or fee information you provide to the agency is always subject to full public disclosure.

Check ONE:

\_\_\_\_\_ My proposal does not contain and trade secret/confidential or proprietary information.

\_\_\_\_\_ My proposal DOES contain trade secret/confidential or proprietary information, and the appropriate Florida Statute citations pertaining to the request for non-disclosure should a public records request ensue are provided below, along with a written explanation for EACH request for non-disclosure (copy and attach additional sheets shown next page as necessary):

**Request No.1** – Proposal Page \_\_\_\_\_, Section Number \_\_\_\_\_.  
Citing Florida Statute Number: \_\_\_\_\_

**Explanation:**

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**Request No.2** – Proposal Page \_\_\_\_\_, Section Number \_\_\_\_\_.  
Citing Florida Statute Number: \_\_\_\_\_

**Explanation:**

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[END OF FORM N]

# ATTACHMENT 1 – LAMTD REQUIRED FEDERAL CLAUSE RIDER

## LAKELAND AREA MASS TRANSIT DISTRICT Required Federal Contract Clause Rider

**ACCEPTANCE.** Performance resulting from a competitive solicitation shall constitute the awardee's acceptance of the following clauses, which are required by Federal law as LAMTD will expend Federal Transit Administration grant funding for this procurement.

### **PAYMENT**

**Payment.** The District agrees to pay the Contractor for the Services the amount provided in the Scope of Services.

**Procedure for Invoicing.** Invoicing for services must be rendered in accordance with the District Purchasing Policies and the Florida Prompt Payment statute, posted on the LAMTD web site, on a monthly basis, or as otherwise provided in the Contract Documents. The invoice must be sent to: Accounts Payable, P.O. Box 1687, Lakeland FL 33802.

**Time of Payment by the District.** Consistent with the Florida Prompt Payment Statute (F.S. Ch. 218.70, et seq.), and further subject to the terms and conditions provided herein, the District shall make full payment within net 45 days after receipt and approval by the District of the Contractor's invoice, unless otherwise stated herein.

**Prohibited Costs.** The District may request additional documentation from the Contractor prior to payment of any invoice or bill from the Contractor. The District may disallow and deduct any cost for which proper documentation is not provided. Notwithstanding any other provision in this Contract or any other document, the provisions of Federal Acquisition Regulations (FAR) 31.201 through 31.205 regarding "Allowable Costs" govern, and are hereby incorporated by reference herein. Such prohibited costs include, but are not limited to: general advertising/public relations; alcoholic beverages; bad debts; contingency reserves; contributions and donations; dividends or other profit distributions; excess depreciation; entertainment; fines, penalties, and mischarging costs; first-class/business class air travel; goodwill amortization; insurance for catastrophic losses; interest and related taxes for refinancing; legal judgments, fines, and related attorney's fees; lobbying costs; losses on other contracts; organization expenses and related taxes for reorganizing; certain taxes for federal income and excess profits; relocation cost ; dues, memberships, conferences, and subscriptions.

**Receipt of Payment by Contractor as Release of the District.** The acceptance by the Contractor, its successors, or assigns, of any progress or final payment due pursuant to this Contract, shall constitute a full and complete release of the District from any and all claims, demands, or causes of action whatsoever that the Contractor, its successors, or assigns may have against the District in connection with the Services performed hereunder, through the date that the Services are rendered and for which such payment is made.

**Subcontractors.** In the event the Contractor is utilizing any subcontractors for the furnishing of Services (which must be approved by the District prior to engaging the subcontractor in any work pursuant to this Contract), then, upon request by the District, the Contractor shall further provide to the District copies of billings and other invoices which may be received from any such subcontractors and, in addition, the Contractor will obtain releases from time to time in favor of the District from any subcontractor(s) for work so performed by that subcontractor. The District shall have the right from time to time to directly contact and discuss with the subcontractor any work performed by that Subcontractor under the Contract Documents, but the District will not have any liability or obligation to said subcontract or said subcontractor.

### **CONTRACTOR'S OBLIGATIONS.**

The Contractor shall, for the consideration set forth herein, and at its sole cost and expense, as an independent Contractor, provide all labor, materials, equipment, tools, supplies and incidentals necessary to

perform this Contract in the manner and to the full extent as set forth in the Contract Documents.

Contractor will render its Services in accordance with the standard of care, skill and diligence exercised by members of the same profession providing similar services under similar conditions at the locale of the project and at the time the Services are to be performed. The Contractor's performance shall be considered acceptable when:

The Contractor's performance has been inspected and approved by the District and, if applicable, all punch-list items have been properly corrected to the District's satisfaction; and

All the other duties and obligations to be performed by the Contractor under the Contract Documents have been satisfactorily met or performed, including the delivery to the District of any materials or documentation relating to the Services, including any warranty materials.

The Contractor shall conform to all applicable governmental requirements and regulations, whether or not such requirements and regulations are specifically set forth in the Contract Documents. The Contractor in this regard understands that the District is a public agency which receives both federal and state funding. Therefore, the Contract Documents and the performance by the Contractor shall be subject to any applicable rules and regulations promulgated by the Federal Transit Administration ("FTA").

The Contractor shall pay license fees and all sales, consumer, use and other similar taxes relating to the Contract, and the matters to be performed thereunder. The District is exempt from payment of Florida sales and use taxes. The District will sign an exemption certificate submitted by the Contractor, if required. The Contractor shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the District, nor is the Contractor authorized to use the District's tax exemption number in securing such materials. The District reserves the right to "direct buy" any materials to be furnished by the Contractor under the Contract Documents and, if the District requests, the parties will enter into an appropriate agreement reflecting said direct purchase, the effect of which will be for the District to directly purchase those materials. Accordingly, the contract amount will be reduced by the amount of the purchase price paid by the District for said materials, in addition to the delivery cost of those materials to be physically acquired and/or delivered to the Contractor, with full warranties regarding those materials as if those materials were purchased from the Contractor. Any bonds furnished by the Contractor will apply to those materials.

The Contractor shall be responsible for payment of its employee(s)' Federal Insurance Contributions Act ("FICA") and Social Security benefits with respect to this Contract.

Unless otherwise expressly set forth in the Contract Documents, the Contractor shall be responsible to secure, at the Contractor's expense, all necessary permits and approvals. The Contractor shall promptly furnish copies of all such permits and approvals to the District as and when obtained.

The Contractor shall be responsible to coordinate all tests and inspections necessary for the proper execution and timely completion of this Contract.

The Contractor shall be required to obtain and maintain during the term of the Contract at its sole expense, any and all insurance required under the Contract Documents or as may be otherwise reasonably required by the District and, if applicable, to show the District as an insured under said insurance and to furnish appropriate certificates to the District. The required insurances are: **Automobile Liability Insurance** shall be maintained by the Contractor with a combined single limit of not less than the statutory minimum permitted by Florida law, as well as Bodily Injury and Property Damage in accordance with the laws in the State of Florida, as to the ownership, maintenance, and use of all owned, non-

owned, leased or hired vehicles. "Lakeland Area Mass Transit District" will be named as additional insured. **Professional Liability Insurance** shall be maintained by the Contractor with an each occurrence limit of not less than \$100,000.00 protecting the Contractor against claims of LAMTD for negligence, errors, mistakes or omissions in the performance of services to be performed and furnished by the Contractor. **Workers Compensation** shall be maintained by the Contractor for all employees engaged in the work under this Contract in accordance with the laws of the State of Florida. Employers Liability Insurance shall be maintained by the Contractor at limits not less than the following and shall include a waiver of subrogation in favor of LAMTD: \$500,000 for each accident; \$500,000 for disease (each employee); \$500,000 for diseases in the aggregate.

The Contractor, at the request of the District, shall further provide to the District such other information as the District may reasonably request from time to time. Further, the Contractor shall at the District's request meet and have its employees and representatives meet with the District from time to time, regarding any of the Services to be rendered under the Contract.

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 their employees, agents or others for whose acts they are 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.

Goods required for daily consumption, or where the delivery is an emergency, a replacement, or is overdue, the convenience of the District shall govern. If, in calculating the number of calendar days from the order date, the delivery date falls on a Saturday, Sunday or holiday, delivery shall be made not later than next succeeding business day.

#### **NON-DISCRIMINATION/CIVIL RIGHTS REQUIREMENTS**

The following requirements apply to the underlying contract:

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

**Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including

apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(4) **Access Requirements to Individuals with Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. The Contractor shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. 12101 et seq. and 49 U.S.C. 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. 1612; and the following regulations and any amendments thereto:

U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

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;

U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 39;

Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 36;

DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

General Services Administration regulations, "Construction and Alteration of Public Buildings," "Accommodations for the Physically Handicapped," 41 C.F.R. Part 101-10;

Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

(5) 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.

**DISPUTE RESOLUTION**. Providing there is no conflict with Part 49 of Title 48 of the Federal Acquisition Regulations (48 C.F.R. 49), the District may elect to refer any and all disagreements, disputes, controversies or claims with the Contractor ("**Legal Dispute(s)**") to the American Arbitration Association ("**AAA**") provided, however, that nothing in this paragraph shall in any way limit the right of the District to terminate this Agreement under paragraph 10 hereof. On filing for such arbitration, the District shall appoint one arbitrator, the Contractor shall appoint a second arbitrator, and AAA shall appoint a third arbitrator. Once a claim in arbitration has been filed, the parties shall have sixty (60) days to conduct discovery pursuant to the discovery rules of the United States District Court for the Middle District of Florida, Tampa Division, and the parties agree that the arbitrators shall enforce such discovery rules in a manner in which such rules would be enforced in such court and that the mandatory disclosures under Rule 26 of the Federal Rules of Civil Procedure shall apply. Once such sixty (60) day

discovery period has ended, each of the parties shall have an additional fifteen (15) days to file a written brief which shall not exceed fifty (50) pages and which shall support such party's position in the Legal Dispute. The arbitrators shall then render a binding decision regarding the Legal Dispute based on such written briefs. Notwithstanding the foregoing, either party may seek appropriate injunctive relief from any court of appropriate jurisdiction for any threatened or actual breach, which may cause immediate and irreparable harm. The parties hereby consent and agree that any action, suit or proceeding arising in connection with any Legal Dispute relating to this Contract shall be brought only in the exclusive jurisdiction of 10<sup>th</sup> Judicial Circuit of the State of Florida or the United States District Court for the Middle District of Florida, Tampa Division; provided, however, that any Legal Dispute arising out of this Contract shall first be subject to the District's option to refer such Legal Dispute to the AAA as provided in this paragraph 11.

#### **MISCELLANEOUS.**

**Captions and Headings.** The captions and headings provided herein are for convenience of reference only and are not intended to be used in construing the terms and provisions hereof.

**Number and Gender.** Whenever herein the singular or plural is used the same shall include the other where appropriate. Words of any gender shall include all genders when the context so requires.

**Multiple Counterparts.** This Contract may be executed in a number of identical counterparts each of which is an original and all of which constitute collectively one agreement. In making proof of this Contract in any legal action, it shall not be necessary to produce or account for more than one such counterpart.

**Attorney Fees.** In the event of any legal action, including arbitration proceedings, seeking enforcement of this Contract, the prevailing party shall be entitled to recover reasonable attorneys' fees and the costs of such proceedings from the other party, including without limitation fees and costs associated with any trial, appellate or bankruptcy proceeding.

**Waiver Of Jury Trial.** EACH PARTY HEREBY AGREES NOT TO ELECT A TRIAL BY JURY OF ANY ISSUE TRIABLE OF RIGHT BY JURY, AND WAIVES ANY RIGHT TO TRIAL BY JURY FULLY TO THE EXTENT THAT ANY SUCH RIGHT SHALL NOW OR HEREAFTER EXIST WITH REGARD TO THE CONTRACT DOCUMENTS, OR ANY CLAIM, COUNTERCLAIM OR OTHER ACTION ARISING IN CONNECTION THEREWITH. THIS WAIVER OF RIGHT TO TRIAL BY JURY IS GIVEN KNOWINGLY AND VOLUNTARILY BY EACH PARTY, AND IS INTENDED TO ENCOMPASS INDIVIDUALLY EACH INSTANCE AND EACH ISSUE AS TO WHICH THE RIGHT TO A TRIAL BY JURY WOULD OTHERWISE ACCRUE.

**Assignment.** The District has selected the Contractor to render the Services based in substantial part on the personal qualifications of the Contractor; as such, the Contractor may not assign or transfer any right or obligation of this Contract in whole or in part, without the prior written consent of the District, which consent may be granted or withheld in the sole discretion of the District. The Contractor may utilize subcontractors as otherwise permitted and provided in the Contract Documents. Any assignment or transfer of any obligation under this Contract without the prior written consent of the District shall be void *ab initio*, and shall not release the Contractor from any liability or obligation under the Contract, or cause any such liability or obligation to be reduced to a secondary liability or obligation.

**Survival and Severability.** Should any provision of this Contract be determined to be illegal or in conflict with any laws of the State of Florida or the Federal government, the validity of the remaining provisions shall not be impaired.

**No Third-Party Beneficiary.** It is specifically agreed that this Contract is not intended by any of the provisions of any part of this Contract to establish in favor of any other party, the public or any member thereof, the rights of a third-party beneficiary hereunder, or to create or authorize any private right of action by any person or entity not a signatory to this Contract to enforce this Contract or any rights or liabilities arising out of the terms of this Contract.

**AMENDMENT OF CONTRACT.** This Contract may not be modified or amended without the prior written consent of the party to be charged by said amendment or modification. This provision may not itself be changed orally. The Contractor specifically is aware and understands that any material or substantial change to this Contract may require approval of the District's Governing Board for any such change to be valid.

**ENTIRE CONTRACT.** This Contract, including the Contract Documents referenced above, together with any exhibits or attachments hereto constitutes the entire agreement between the parties.

**ACCESS TO RECORDS AND REPORTS.** In accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the District, the Federal Transit Administration (FTA) Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or the FTA Administrator's authorized representatives including any PMO Contractor access to Contractor's records and construction sites (if any) pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. In accordance with 49 CFR 18.39(i)(11), the Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than seven years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the District, 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. 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.

**ENERGY CONSERVATION.** The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

**FEDERAL CHANGES.** Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the District 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.

#### **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS.**

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with

a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

**INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA)**

**TERMS.** Whether or not expressly set forth in the preceding contract provisions, all standard terms and conditions required by the United States Department of Transportation (DOT) are hereby incorporated by reference. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any District requests which would cause the District to be in violation of the FTA terms and conditions.

**PUBLIC RECORDS.** The District is subject to Florida's Government in the Sunshine Law, Chapter 286, Florida Statutes (the "**Sunshine Law**") and the Public Records Act, Chapter 119, Florida Statutes (the "**Public Records Act**"). It is possible that the Contractor, as a result of the Contract, may also be subject to the Sunshine Law and the Public Records Act and, if so, the Contractor will promptly respond in accordance with the statute to any and all third party requests for "public records," as that term is defined in the Public Records Act. In regard to any such request, the Contractor will promptly notify the District. The District's determination as to the necessity of such response shall be presumptively correct.

**NO WAIVER OF SOVEREIGN IMMUNITY.** Nothing contained in this Contract shall be construed to waive the sovereign immunity of the District under Chapter 768, Florida Statutes, and any amendments thereof, or under any other provision of law.

**NO OBLIGATION BY THE FEDERAL GOVERNMENT.**

(1) The District 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 District, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) 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.

**TIME IS OF THE ESSENCE.** In performing this contract, the Contractor agrees that time is of the essence.

**UNDOCUMENTED WORKERS.** This Contract shall be immediately terminated for cause according to Section 10 should the Contractor, after exhausting its right to appeals, be found liable or guilty by any state or federal authority concerning violations of any immigration employment laws or regulations, if the violation involved labor connected to the performance of this contract.

**OFFICIALS NOT TO BENEFIT.** No member of or delegate to Congress, or a member of the District's governing body, shall be admitted to any share or part of this contract or to any benefit arising from it. However,

this clause does not apply to this contract to the extent that this contract is made with a corporation for the corporation's general benefit.

**TERMINATION. Default by Contractor.**

(a) The District may, in its sole and absolute discretion, by written notice of default to the Contractor, terminate all or any part of this Contract if (i) the Contractor fails to perform the Services described herein, within the time specified herein or any extension thereof; or (ii) if the Contractor fails to satisfy any of the other material provisions of the Contract, or so fails to make progress as to endanger performance of this Contract in accordance with its terms; and in either of these two circumstances does not cure such failure within a period of ten (10) days (or such longer period as the Contracting Officer may in his/her absolute discretion authorize in writing) after receipt of notice from the Contracting Officer specifying such failure. In the event that the District elects to waive its remedies for any breach by the Contractor of any covenant, term or condition of this Contract, such waiver by the District shall not limit the District's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

**Termination by the District for Convenience.** This Contract may be terminated by the District in its absolute discretion, in whole or in part, whenever the District Contracting Officer or the District shall determine that such termination is in the best interest of the District. Any such termination shall be effected by delivery of a notice of termination by the District to the Contractor, specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective. The Contractor shall be paid its costs, including contract closeout costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to the District. Settlement of claims by the Contractor under this paragraph shall be in accordance with the provisions set forth in Part 49 of Title 48 of the Federal Acquisition Regulations (48 C.F.R. 49), except that wherever the word "Government" appears it shall be deleted and the word "District" shall be substituted in lieu thereof.

**Default by the District.** In the event the District is in default under this Contract, the Contractor shall first provide written notice to the District of said condition alleged by the Contractor to be a default, and the District shall have a reasonable period of time, not to exceed sixty days, within which to cure said default. During said period, the Contractor shall continue to provide the services to the District.

**Remedies for Default by Contractor.** If this Contract is terminated by the District for default by the Contractor, the District shall, except as otherwise expressly set forth in the Contract Documents, retain any and all remedies available to it against the Contractor. By way of illustration and not limitation, the District may proceed to obtain the remaining Services from another third party and thereby recover from the Contractor any "excess costs" incurred by the District in so doing.

**SUSPENSION AND DEBARMENT**

If this purchase exceeds \$25,000, the following provisions apply:

(1) This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

(2) The certification in this clause is a material representation of fact relied upon by the District. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to the District, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(3) Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or

disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.

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

#### **Clean Air and Water Act**

##### **(a) Definitions:**

(1) "Air Act," as used in this clause, means the Clean Air Act (42 U.S.C. 7401 *et seq.*).

(2) "Clean air standards," as used in this clause, means:

(i) Any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738.

(ii) An applicable implementation plan as described in Section 110(d) of the Air Act [42 U.S.C. 7410(d)];

(iii) An approved implementation procedure or plan under Section 110(c) or Section 111(d) of the Air Act [42 U.S.C. 7411(c) or (d)]; or

(iv) An approved implementation procedure under Section 112(d) of the Air Act [42 U.S.C. 7412(d)].

(3) "Clean water standards," as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. 1342), or by local government to ensure compliance with pre-treatment regulations as required by Section 307 of the Water Act (33 U.S.C. 1317).

(4) "Compliance," as used in this clause, means compliance with:

(i) Clean air or water standards; or

(ii) A schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

(5) "Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised, by a Contractor or subcontractor, used in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee of the Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

(6) "Water Act," as used in this clause, means Clean Water Act (33 U.S.C. 1251 *et seq.*).

##### **(b) The Contractor agrees:**

(1) To comply with all the requirement of Section 114 of the Clean Air Act (42 U.S.C. 7414) and Section 308 of the Clean Water Act (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in Section 114 and Section 308 of the Air Act and the Water Act, and all regulations and guidelines issued to implement those acts before the award of this contract;

(2) That no portion of the work required by this prime contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) To use best effort to comply with clean air standards and clean water standards at the facility in which the contract is being performed; and

(4) To insert the substance of this clause into any nonexempt subcontract, including this paragraph (b)(4).

**Seismic Safety:** The recipient must include seismic safety provisions in its third party contracts for the construction of new buildings or additions to existing buildings as required by 42 U.S.C. Sections 7701 *et seq.*, and DOT regulations, "Seismic Safety," 49 CFR Part 41 at Sections 41.117 and 41.120.

#### **Restrictions on Lobbying**

(a) The Contractor shall timely comply with the requirements of the lobbying restrictions set forth in 31 U.S.C. § 1352 and 49 CFR Part 20, and as those authorities may be hereafter amended.

(b) If a Standard Form LLL, Disclosure of Lobbying Activities, is required to be completed by the Contractor or subcontractor at any tier, such disclosure form shall be furnished to the Contracting Officer.

#### **CONFORMANCE WITH ITS NATIONAL ARCHITECTURE**

**National Intelligent Transportation Systems Architecture and Standards** - To the extent applicable, the Recipient agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.



## Attachment 2 - Purchase Order Terms and Conditions

SELLER (or, VENDOR) AND BUYER (or, the DISTRICT) AGREE THAT IN THE ABSENCE OF A FORMAL, WRITTEN CONTRACT THE FOLLOWING PROVISIONS CONTROL. THESE PROVISIONS MAY BE FURTHER MODIFIED BY A TASK OR WORK ORDER, IF ATTACHED TO THE PURCHASE ORDER. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, THE PROVISIONS OF FEDERAL TRANSIT ADMINISTRATION CIRCULAR 4220.1F AND THE FEDERAL RULES OF ACQUISITION (48 C.F.R. CHAPTER 1) GOVERN. IN ADDITION, THE REQUIRED FEDERAL CLAUSES ARE HEREBY INCORPORATED INTO THE FOLLOWING TERMS AND CONDITIONS BY REFERENCE AS SET FORTH IN THE DISTRICT'S GENERAL CONTRACTING PROVISIONS.

### A. SHIPMENT AND DELIVERY.

1. VENDOR TO PACKAGE GOODS. Vendor at Vendor's cost will package goods in accordance with commercial practice to secure the lowest appropriate transportation cost, with requirement of the common carrier and with applicable specifications. Each shipping container shall be clearly and permanently marked as follows: (i) Vendor's name and address, (ii) Buyer's name and the address of the place of delivery referred to below, (iii) purchase order or purchase release number, if applicable, (iv) container number and total number of containers, for example, "box 1 of 4 boxes," and (v) the container bearing the packing list. Buyer's count or weight shall be conclusive on shipments not accompanied by packing list.
2. SHIPMENT UNDER RESERVATION PROHIBITED. Vendor shall not ship the goods under reservation. No tender of a bill of lading will operate as a tender of goods.
3. TITLE AND RISK OF LOSS. Title and risk of loss of the goods shall not pass to Buyer until Buyer actually receives and takes possession of the goods at the place of delivery referred to below.
4. TRANSPORTATION CHARGES. F.O.B. Destination. Freight Prepaid and Allowed unless delivery terms are specified otherwise. If the quoted delivery terms do not include transportation costs, buyer shall reimburse Vendor for transportation costs in the amount specified in Vendor's bid, or actual costs, whichever is lower. If transportation costs are based on actual costs, a copy of the freight bill showing actual charges for the shipment must be attached to the invoice. Buyer shall have the right to designate what method of transportation shall be used to ship the goods.
5. SUBSTITUTIONS. No substitutions permitted without written approval of LAMTD.
6. PLACE OF DELIVERY. The place of delivery shall be that set forth in the block of the purchase order or purchase release entitled "Ship To". Any change thereto shall be effected by modification as provided for in Clause E5, "Modifications," hereof. The terms of this contract are "no arrival, no sale."
7. TIME OF DELIVERY. Delivery shall be made during normal working hours only, unless prior approval has been obtained from LAMTD.
8. INSPECTION AND TESTS. All goods will be subject to inspection and test by LAMTD. Tests shall be performed on samples submitted with the bid or quote or on samples taken from regular shipment. All costs shall be borne by the vendor in the event goods fail to meet or exceed all conditions and requirements. Goods delivered and rejected in whole or in part may, at LAMTD's option, be returned to the vendor or held for disposition at vendor's expense. Latent defects may result in revocation of acceptance.
9. SPECIAL TOOLS AND TEST EQUIPMENT. If the price bid, quoted or stated includes the cost of any special tooling or special test equipment fabricated or required by Vendor for the purpose of filling this order, such special tooling equipment and any process sheets related thereto shall be identified by Vendor and shall become the property of the Buyer.
10. NEW AND UNUSED. Unless otherwise specified, all goods will be new and unused.
11. DELAY. If delay is foreseen, vendor shall give written notice to Buyer. Vendor must keep the Buyer advised at all times of status of order. Default on promised delivery (without accepted reasons) or failure to meet specifications authorizes LAMTD to purchase goods or services elsewhere and charge full increase, if any, in cost and handling to defaulting vendor.

### B. PAYMENT.

1. INVOICES AND PAYMENT. Vendor shall submit one original copy of an itemized invoice showing purchase order number and purchase release number, if applicable. Transportation costs shall be included in the invoice, if applicable, and a copy of the freight bill shall be included if transportation costs are based on actual costs. Copies of the bill of lading and the freight waybill shall be included when applicable. LAMTD will incur no penalty for late payment if payment is made in 30 or fewer days from receipt of goods or services and an uncontested invoice. Invoices shall be mailed to: Accounts Payable, LAMTD, PO Box 1687, Lakeland FL, 33802. Vendor shall advise the Accounts Payable Department, in writing, of any changes in remittance address. All invoices are subject to the provisions of the Local Government Florida Prompt Payment Act, Florida Statute Chapter 218.70-218.80, or as revised.
2. TAXES. Buyer is exempt from most Federal Excise, State or City sales taxes. Buyer shall furnish tax-exemption certificates upon request. Vendor shall not collect or pay taxes for which exemption certificates have been furnished.
3. PRICE INCREASE. If prices are higher than specified in the purchase order, the new prices must be approved by Buyer in writing prior to shipment.
4. ACCOUNTS CLOSED. Each month's accounts will be closed on the first of the following month and bills received after the closing date will not be included in such accounts. Drafts will not be honored by Buyer.

### C. WARRANTIES.

1. PRICE. The prices to be paid by the Buyer shall be those contained in Vendor's bid or, if no bid, in Vendor's quotation, and Vendor warrants that such prices are no higher than Vendor's current prices on orders by other purchasers for products of the kind and specifications covered by this agreement for similar quantities under similar or like conditions and methods of purchase. If Vendor breaches this warranty, the prices of the items shall be reduced to the Vendor's current prices on orders by other purchasers, or Buyer may cancel this contract without liability to Vendor.
2. PRODUCT. Vendor shall not limit or exclude any implied warranties and any attempt to do so shall render this contract voidable at the option of the Buyer. Vendor warrants the goods furnished will conform to the specifications, drawings, and descriptions accompanying or referred to in the bid invitation or request for quotation and to any samples furnished by Vendor, if any, and shall be fit for Buyer's purposes. In the event of a conflict between the specifications, drawings and descriptions, the specifications shall govern. Manufacturer's standard warranty shall apply unless otherwise specified.
3. SAFETY. All electrical items must meet all applicable OSHA standards and regulations, and bear the appropriate listing from UL, FMRC or NEMA. Vendor warrants the goods conform to any standards promulgated by the U.S. Department of Labor under the Occupational Health and Safety Act of 1970 or other applicable standards.
4. PATENTS OR COPYRIGHTS. The vendor agrees to protect LAMTD from claims involving infringement of patents or copyrights.
5. WARRANTY OF TITLE. Vendor warrants that the title to all material, supplies and equipment furnished is free of liens and encumbrances.

### D. DEFAULT TERMINATION.

1. TERMINATION. The performance of work under this order may be terminated in whole or in part by the Buyer by the delivery to the Vendor of a written "Notice of Termination" specifying the extent to which performance of work under the order is terminated and the date upon which such termination becomes effective. Buyer shall not be liable to Vendor for any work done or materials purchased after such termination or for lost profits or other damages. Such right of termination is in addition to and not in lieu of rights of Buyer otherwise set forth in this contract.
2. FORCE MAJEURE. If either party hereto is delayed in carrying out its obligations under this contract because of acts of God, war or riot or labor stoppages, the party shall give notice and full particulars of such delay supported by sufficient evidence in writing, to the other party within a reasonable time after occurrence of the delay and the time for performance by the party shall be extended by the number of days of the delay, except as hereinafter provided.
3. RIGHT TO ASSURANCE. Whenever LAMTD has reason to question the Vendor's intent to perform, LAMTD may demand that the Vendor give written assurance of this intent to perform. In the event that a demand is made, and no assurance is given within ten (10) business days, LAMTD may treat this failure as an anticipatory repudiation of the Contract.

### E. GENERAL PROVISIONS.

1. ASSIGNMENT. No right, interest or obligation in or under this contract shall be assigned or transferred by Vendor without the written consent of the Buyer. Any attempted assignment or transfer by Vendor without such consent shall be ineffective.
2. ANTI-TRUST. Vendor hereby assigns to Buyer any and all claims for overcharges associated with this contract arising under the anti-trust laws of the United States 15 U.S.C.A. Section 1, et seq. (1973), and the anti-trust laws of the State of Florida.
3. ADDENDA. The addendum or addenda attached to this contract are incorporated into and are a part of this contract.
4. WAIVER. No waiver of a claim or right arising out of a breach of this contract shall be effective unless it is supported by consideration and is in writing signed by the aggrieved party.
5. MODIFICATIONS. This contract can be modified only by a writing signed by both parties.
6. INTERPRETATION. This writing is intended by the parties as a final expression of their agreement and is intended also as a complete and exclusive statement of the terms of their agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any item used in this agreement. Whenever a term defined by the Uniform Commercial Code is used in this agreement, the definition contained in the Code is to control.
7. APPLICABLE LAW, VENUE. This contract shall be governed, construed and interpreted under the laws of the State of FLORIDA. Venue for any litigation arising under this contract shall lie in Polk County, Florida.
8. INSURANCE. In the event the Vendor, its employees, agents or subcontractors enter premises occupied or under the control of LAMTD in the performance of this contract, the Vendor agrees that it will maintain public liability and property damage insurance in reasonable limits covering the obligations set forth above, and will maintain worker's compensation coverage (either by insurance or if qualified pursuant to law, through a self insurance program) covering all employees performing this contract on premises occupied or under the control of LAMTD. In supplying any services hereunder, Seller warrants that it is, and undertakes such performance as, an independent contractor, with sole responsibility for the payment of all federal and/or state unemployment insurance, social security and/or other similar taxes incurred hereunder. Any performance by Seller under this Purchase Order on Buyer's premises shall be in full compliance with Buyer's safety and other rules and procedures and with all federal and state laws and regulations regarding

workplace safety, including without limitation, laws pertaining to occupational safety and health. Prior to commencement of any services hereunder on Buyer's premises and until the satisfactory completion thereof, Seller shall, at its expense, maintain the following minimum insurance coverages on an "occurrence" basis (and not on a "claims made" basis):

| Kind of Insurance  | Minimum Limits   |
|--|--|
| Workers' Compensation  | Statutory  |
| Employer's Liability   | \$1,000,000 bodily injury by accident, each accident                               |
|  | \$1,000,000 bodily injury by disease, policy limit                                 |
|  | \$1,000,000 bodily injury by disease, each employee                                |
| Commercial General Liability Combined Single Limits:                         | \$1,000,000  |
| Including Contractual Liability Occurrence and Products/Completed Operations | \$2,000,000 General Aggregate \$2,000,000 Products/ Completed Operations Aggregate |
| Business Auto Liability Single Limits:                                       | Combined   |
| (Any Auto) including Hired and Non-Owned Autos                               | \$1,000,000 per accident   |

9. Seller may be requested to furnish to Buyer certificates of insurance showing the above coverages with an insurer with an AM Best rating of "A VIII" or better and providing for at least thirty (30) days prior written notice of cancellation or modification resulting in a reduction below the required minimum coverages and naming Buyer as an additional insured under Commercial General Liability using ISO form CG 20 26 or its equivalent, or in the case of Buyer's distribution of Seller's products, ISO form CG 20 15 or its equivalent. If Seller fails to furnish such certificates or maintain such insurance, Buyer shall have the right to cancel this Purchase Order immediately. Seller, for itself and its insurers, hereby waives subrogation against Buyer, and Seller agrees that, with respect to claims against Buyer arising out of Seller's performance hereunder, Seller's insurance shall be primary and Buyer's insurance shall be excess and non-contributory. Seller's obligations to maintain such insurance shall in no way limit the liability or obligations assumed by Seller hereunder.
10. ADVERTISING. Vendor shall not advance or publish without Buyer's prior written consent the fact that Buyer has entered into this contract, except to the extent necessary to comply with proper requests for information from an authorized representative of the federal, state, or local government.

### F. PROHIBITED CONDITIONS.

1. PROHIBITION AGAINST PERSONAL INTEREST IN CONTRACTS. No officer or employee of Buyer, or member of Congress during his tenure, or within two years after its expiration shall have a financial interest, direct or indirect, in any contract with Buyer, or shall be financially interested, directly or indirectly, in the sale to Buyer of any materials, supplies or service, except on behalf of Buyer as an officer or employee. Any willful violation of this provision, with the knowledge, expressed or implied of the person or corporation contracting with Buyer shall render the contract involved voidable by Buyer.
2. GRATUITIES. The Buyer may, by written notice to the Vendor, cancel this contract without liability to Vendor if it is determined by Buyer that gratuities, in the form of entertainment, gifts or otherwise were offered or given by the Vendor, or any agent or representative of the Vendor, to any officer or employee of Buyer with a view toward securing a contract or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of such a contract. In the event this contract is not canceled by Buyer pursuant to this provision, Buyer shall be entitled, in addition to any other rights and remedies, to recover or deduct from amounts due Vendor the approximate cost to Vendor of such gratuities.
3. COLLUSION. Vendor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for commission percentage, brokerage or contingent fee except bona fide employees of bona fide established commercial or selling agencies maintained by the Vendor for the purpose of securing business and disclosed to Buyer prior to the date of this contract. For breach of this warranty Buyer, may in addition to any other rights it may have, deduct from the contract price or otherwise recover the full amount of such commission, percentage, brokerage or contingent fee, cancel this contract without liability to Seller.
4. DEBARRED CONTRACTORS. Vendor certifies that it is not included on the U.S. Comptroller General's Excluded Parties Listing service (www.epls.gov), or Florida Department of Management Services lists of persons or firms currently debarred for violations of public contracts.

### Attachment 3 - Price Schedule

The line item unit price(s) must include all costs that the offeror intends to recover, such as, but not limited to: supervision, labor, equipment, materials, financing, carrying charges, and all other such charges to accommodate the supplies/services and delivery requirements, all overhead and fee or profit.

No price adjustments will be made, unless specifically provided for by an additional provision included in this contract.

| Line Item                                    | Resource Name   | OEM Part Number       | QTY | Unit Cost | Total       |
|--|---|-----------------------|-----|-----------|-------------|
| <b>Lot 1 Required Item - Backups</b>         |   |                       |     |           |             |
| 1.1  | BARRACUDA BACKUP SRV 690 W/5Y UPDATE                        | BBS690A55             | 2   |           | \$ -        |
| 1.2  |   | Freight               |     |           | \$ -        |
| <b>Subtotal Lot 1</b>                        |   |                       |     |           | <b>\$ -</b> |
| <b>Lot 2 Required Item - Mail Archiver</b>   |   |                       |     |           |             |
| 2.1  | Barracuda Message Archiver 450 - e-mail archiving appliance | BMA450A55             | 1   |           | \$ -        |
| 2.2  |   | Freight               |     |           | \$ -        |
| <b>Subtotal Lot 2</b>                        |   |                       |     |           | <b>\$ -</b> |
| <b>Lot 3 Required Item - Network</b>         |   |                       |     |           |             |
| 3.1  | Brocade Essential Direct Support                            | 6740-1G-SVL-NDP-1     | 2   |           | \$ -        |
| 3.2  | Brocade 40 Gbps Direct Attached Copper Cable                | 40G-QSFP-QSFP-C-0101  | 1   |           | \$ -        |
| 3.3  | Brocade VDX 6740T-1G - Switch - L3 - managed - 48 x         | BR-VDX6740T-56-1G-F   | 2   |           | \$ -        |
| 3.4  | Brocade Direct-Attach Copper Breakout Cable                 | 40G-QSFP-4SFP-C-0101  | 2   |           | \$ -        |
| 3.5  | 48 Port PoE+ Bundle 2X10G 6X1G SFP+ Upgrade                 | ICX7250-48P-2X10G     | 9   |           | \$ -        |
| 3.6  | S/W ICX7250 2X10+6X1 TO 8X10 UPLNK STKNG                    | ICX7250-8X10G-LIC-POD | 4   |           | \$ -        |
| 3.7  | 10GBASE-LR,SFP LC CONNECTOR 8-PACK                          | 10G-SFP-LR-8          | 3   |           | \$ -        |
| 3.8  | DIRECT ATTACHED SFPP COPPER,1M,1-PACK                       | 10G-SFP-TWX-0101      | 2   |           | \$ -        |
| 3.9  |   | Freight               |     |           | \$ -        |
| <b>Subtotal Lot 3</b>                        |   |                       |     |           | <b>\$ -</b> |
| <b>Lot 4 Optional Item - Server Upgrades</b> |   |                       |     |           |             |
| 4.1  | HP DL380 GEN9 E5-2670V3 PRF SRV 64GB                        | E5-2670V3             | 3   |           | \$ -        |
| 4.2  | HP 16GB 2RX4 PC4-2133P-R KIT S-BUY                          | PC4-2133P-R           | 36  |           | \$ -        |
| 4.3  | HP 146GB 6G SAS 15K SFF                                     |                       | 6   |           | \$ -        |
| 4.4  | HP GEN8 ETHERNET 1GB 4PORT 331T ADPT                        |                       | 3   |           | \$ -        |
| 4.5  | HP 3Y 4H 24X7 DL38X PROCARE SVC                             |                       | 3   |           | \$ -        |
| 4.6  | RARITAN 16PT KVM/IP SWCH 1U DVI                             | DKX3-116              | 1   |           | \$ -        |
| 4.7  | RARITAN DOMINION KX II CIM USB PORT                         |                       | 8   |           | \$ -        |
| 4.8  |   | Freight               |     |           | \$ -        |
| <b>Subtotal Lot 4</b>                        |   |                       |     |           | <b>\$ -</b> |
| <b>Lot 5 Optional Item - Storage</b>         |   |                       |     |           |             |
| 5  | LH Storage  |                       |     |           |             |
| 5.1  | HP STOREVIRTUAL 4530 600GB SAS STORAGE                      |                       | 4   |           | \$ -        |
| 5.2  | HP 3Y 4 HR 24X7 PROACTIVE CARE SVC                          | H1K92A3               | 1   |           | \$ -        |
| 5.3  | HP G3 STOREVIRTUAL 45XX 46XX 47XX SUPP                      | H1K92A3 RW4           | 4   |           | \$ -        |
| 5.4  | HP INSTALLATION AND STARTUP SERVICE                         | HA114A1               | 1   |           | \$ -        |
| 5.5  | HP STOREVIRTUAL 4000 STORAGE STARTUP SVC                    |                       | 4   |           | \$ -        |
| 5.6  | HP FF 5700-40XG-2QSFP+ SWITCH                               | JG896A                | 2   |           | \$ -        |
| 5.7  | HP 58X0AF FRONT PORT BACK PWR FAN                           | JC683A                | 4   |           | \$ -        |
| 5.8  | HP A58X0AF 300W AC POWER SUPPLY                             | JG900A#ABA            | 4   |           | \$ -        |
| 5.9  | HPE 3Y 24X7 FF 5700 FC SVC                                  | U4VF3E                | 2   |           | \$ -        |
| 5.10   | HP X240 10G SFP+ SFP 1.2M CABLE                             | JD096C                | 2   |           | \$ -        |
| 5.11   | HP 3M X240 10G SFP+SFP DAC CABLE                            | JD097C                | 2   |           | \$ -        |
| 5.12   |   | Freight               |     |           | \$ -        |
| <b>Subtotal Lot 5</b>                        |   |                       |     |           | <b>\$ -</b> |
| <b>Lot 6 Optional Item - Misc.</b>           |   |                       |     |           |             |
| 5  | Miscellaneous Optional Items:                               |                       |     |           |             |
| 5.1  |   |                       |     |           | \$ -        |
| 5.2  |   |                       |     |           | \$ -        |
| 5.3  |   |                       |     |           | \$ -        |
| 5.4  |   |                       |     |           | \$ -        |
| 5.5  |   | Freight               |     |           | \$ -        |
| <b>Subtotal Lot 6</b>                        |   |                       |     |           | <b>\$ -</b> |
| <b>Project Totals</b>                        |   |                       |     |           |             |
| Total Required Items (Lots 1-3)              |   |                       |     |           | \$ -        |
| Total Optional Items (Lots 4-6)              |   |                       |     |           | \$ -        |
| <b>TOTAL PRICE + OPTIONAL ITEMS</b>          |   |                       |     |           | <b>\$ -</b> |

IN COMPLIANCE WITH THE ABOVE, THE UNDERSIGNED AGREES IF THIS OFFER IS ACCEPTED WITHIN 90 DAYS FROM QUOTE DUE DATE, TO FURNISH ANY OR ALL ITEMS FOR WHICH PRICES ARE OFFERED ABOVE AT THE PRICE (S) OFFERED, DELIVERED AT DESIGNATED POINT (S), WITHIN THE TIME PERIOD SPECIFIED.

Name & Title of Offeror's Representative:

Signature & Date:

(Print or Type Name & Title)

(Signature of Offeror's Representative)

(Date)

\*CAUTION: A false statement in any offer submitted to the District may be a criminal OFFENSE.