

**ST. CLOUD METROPOLITAN TRANSIT COMMISSION  
(Metro Bus)  
REQUEST FOR PROPOSAL  
On Premise Phone System Replacement**

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**Metro Bus  
665 Franklin Ave. N.E.  
St. Cloud, MN 56304**

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**Contacts:**

**Gary Korneck, Procurement Manager  
Phone: 320-529-4488  
Email: [gkorneck@stcloudmtc.com](mailto:gkorneck@stcloudmtc.com)**

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**PROJECT SCHEDULE:**

**RFP Publish Date:** Monday, October 24, 2022

**Pre-Proposal Interviews / Site Survey:** Monday, November 7, 2022, through Thursday, November 10, 2022, between the hours of 9:00 a.m. and 2:00 p.m. each day.

**Written Addenda Requests Due:** Friday, November 18, 2022, 5:00 p.m. CST

**Proposals Due:** Friday, December 16, 2022, 12:00 p.m. CST

**Proposal Review Period/Reference Checks:** Completed by Metro Bus on Friday, January 6, 2023

**Proposal Award:** Wednesday, January 11, 2023, 5:00 p.m. CST

**Signed Contract:** Wednesday, January 25, 2023, 5:00 p.m. CST

**Project Kickoff Meeting:** Wednesday, February 1, 2023 (Time to be determined).

**Notice to Proceed Letter:** Wednesday, February 1, 2023, 5:00 p.m. CST

**Estimated Project Completion:** TBD

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**1. STATEMENT OF INTENT**

The purpose of this Request for Proposal is to invite qualified vendors to participate in the competitive bidding process for the acquisition and implementation of an on-premise telephone system with the best solution that provides for a reliable, secure, and scalable system designed to meet Metro Bus’s current and future needs. The solution will include hardware, software, and installation for a new on premise telephone system.

**2. AGENCY BACKGROUND**

The St. Cloud Metropolitan Transit Commission (DBA - Metro Bus) was created by the Minnesota Legislature in 1969 to operate as a Transit Authority. Metro Bus is located in St. Cloud, MN about 70 miles northwest of Minneapolis-St. Paul and provides fixed route and paratransit bus service to the cities of St. Cloud, Sauk Rapids, Waite Park, and Sartell in a radius that covers approximately 36 square miles in central Minnesota.

Metro Bus has a current total staff of roughly 140 employees with an annual operating budget of approximately \$15 million in FY2021. Metro Bus is primarily funded by an 80% Federal and State grant appropriation with a 20% local contribution consisting of tax levy and bus fares.

**3. PROPOSAL INSTRUCTIONS**

**3.1 Primary Contact**

Any immediate questions, requests for clarifications, or comments related to this RFP must be submitted via email to: **Gary Korneck, Procurement Manager:**  
[gkorneck@stcloudmtc.com](mailto:gkorneck@stcloudmtc.com)

**3.2 Proposal Submission Requirements**

Proposals must be received by Metro Bus on: **Friday, December 16, 2022, 12:00 p.m. CST**

Proposals and all supporting documentation must be submitted via email to the Attention of:  
**Gary Korneck, Procurement Manager, [gkorneck@stcloudmtc.com](mailto:gkorneck@stcloudmtc.com)**  
**Phone: 320-529-4488** and **Steve Williams, I.T. Manager, [swilliams@stcloudmtc.com](mailto:swilliams@stcloudmtc.com)**  
**Phone: 320-529-4496.**

**It will be the responsibility of each vendor to ensure their proposal arrives before the deadline.**

**3.3 Late Proposals**

Late proposals will not be accepted, will be deemed “non-responsive” and will be left unopened.

### **3.4 Pre-Proposal Interviews / Site Survey**

Each interested vendor will be required to schedule a one (1) hour interview / site survey with the Metro Bus project team prior to submitting their proposal. Interviews can be scheduled at the dates and times listed on Page 1 under "PROJECT SCHEDULE". Pre-Proposal interviews / site surveys will be completed in-person with the Metro Bus project team. Vendors are asked to contact **Gary Korneck, Procurement Manager: Phone – 320.529.4488, [gkorneck@stcloudmtc.com](mailto:gkorneck@stcloudmtc.com)** to schedule their interview.

### **3.5 Addendums**

Any Metro Bus changes or revisions, or any vendor requests for clarification/revision to the RFP requirements must be communicated by written correspondence by: **Friday, November 18, 2022, 5:00 p.m. CST.** Any written addendum to this RFP will be collectively transmitted electronically to all known proposers. A copy of each addendum will also be placed on Metro Bus's website: <https://www.ridemetrobus.com/business-metro-bus/> where the RFP has been advertised. All changes/revisions or accepted vendor requests for clarification/revision will be incorporated into the terms and conditions of any resulting agreement.

### **3.6 Proposal Detail**

It will be the responsibility of each vendor to examine the entire RFP and supporting documentation thoroughly and to seek clarification of any item or requirement prior to submitting a proposal. Promotional material should not be included.

### **3.7 Acceptance of Proposal**

- a. Metro Bus reserves the right to accept or reject any and all proposals, or any item or part thereof, or to waive any informalities or irregularities in a proposal.
- b. Metro Bus reserves the right to withdraw this RFP at any time without prior notice and makes no representations that any contract or agreement will be awarded to any consultant responding to this RFP
- c. Metro Bus reserves the right to postpone or delay proposal openings or contract award for its own convenience.
- d. Metro Bus will not be bound to any verbal or oral modifications to, or deviations from, the requirements set forth within this RFP. When provided by written request, consultants may amend or withdraw their proposal prior to the RFP due date and time. Vendors may not change the wording of their proposal after the RFP closing date and time and no words or comments may be added unless requested in writing by Metro Bus for purposes of clarification. Metro Bus will be under no obligation to receive further information, whether written or oral, after the RFP due date.

- e. Metro Bus will not be liable in any event for any pre-contractual expenses incurred by the vendor in preparation of responding to this RFP. The vendor shall not include any such expenses as part of its proposal.

**3.8 Agreement of Terms**

By submitting a proposal, the vendor agrees to all the terms and conditions set forth within this RFP. Vendors must not alter any portion of the RFP document apart from providing information as requested.

**3.9 Executed Agreement**

Metro Bus and the selected vendor will execute a contract agreement with the terms and conditions and scope of services within this Request for Proposal included as part of the final agreement. The term of this agreement is yet to be determined.

**3.10 Final Agreement**

The final agreement including all attachments, certifications, conditions, specifications, etc. as made part of this Request for Proposal will contain the entire understanding of the parties hereto. With the subject matter hereof and there are no other agreements, understandings, representations or warranties whether expressed, implied, statutory or otherwise, other than set forth herein.

**3.11 Modification of Terms**

Metro Bus reserves the right to modify the terms, conditions, scope of work and provided data within this RFP at any time at its sole discretion prior to the final RFP due date.

**3.12 Liability of Information**

Metro Bus has placed considerable effort to ensure the accuracy of the data provided within this Request for Proposal and all supporting documentation.

**3.13 Tax Exemption**

Metro Bus is tax exempt. A copy of Metro Bus's Certificate of Exemption Form will be provided upon written request.

**3.14 Proprietary Information**

Any information contained in a proposal that the vendor considers proprietary must be clearly identified as such. Metro Bus will respect requests for non-disclosure of proprietary information to the extent that restricted information conforms to the Freedom of Information Act and any court rulings.

**3.15 Governing Law**

Venue for any and all legal action regarding or arising out of the transaction covered herein shall be solely in the State of Minnesota. The laws of Minnesota shall govern this transaction.

**4. GENERAL CONDITIONS**

**4.1 Force Majeure**

To the extent that either party is not able to perform an obligation under this Agreement due to fire, flood, acts of God, severe weather conditions, strikes or labor disputes, war or other violence, acts of terrorism, epidemics, pandemics, any federal or state coronavirus mandates or protocols, any law or order of any governmental agency, or other cause beyond that party's reasonable control, that party may be excused from such performance so long as such party provides the other party with prompt written notice describing the condition and takes all reasonable steps to avoid or remove such causes of nonperformance and continues performance whenever and to the extent such causes are removed.

**4.2 Protest Procedures**

Proposers that feel an alleged violation of Metro Bus's procurement procedures has occurred during a solicitation may file a written protest with the Chief Executive Officer (CEO) up to the date and time of the proposal opening. The CEO will review the protest and determine if the proposals will be opened or delayed. The CEO's decision will be transmitted in writing to the protesting party within five city working days.

Proposers that feel that an alleged violation of Metro Bus's procurement procedure has occurred after proposal opening may file a written protest with the CEO up to three working days after the date and time proposals were opened. The CEO will review the protest and determine if the award of the contract to the responsive Proposer should be delayed. The CEO's decision will be transmitted in writing to the protesting party within three business working days.

Parties not satisfied by the CEO's decision regarding either type of protest described above, may, within five business working days of receipt of the CEO's written decision, appeal the decision to the Metro Bus Commission. The appeal must be made in writing. The Commission will schedule a hearing where the appellant may be heard. Once the Commission's decision is announced, no further local appeals may be made.

Proposers should file all protests in care of the CEO, as appropriate, at the following address:

Metro Bus

Request for Proposal Protest  
665 Franklin Avenue NE  
St. Cloud, MN 56304

The decision of the Metro Bus Board of Commissioners is final.

The Federal Transit Administration (FTA) will only review protests regarding the alleged failure of the purchases to have a written protest procedure or alleged failure to follow such procedures. Protestors may file a protest with the FTA regional office not later than five federal working days after a final decision by Metro Bus. Metro Bus will not award any contracts until it is sure that no protest has been filed with the FTA. The protest filed with the FTA shall:

- a. Include the name and address of the protestor.
- b. Identify the grantee, project number, and the proposal number.
- c. Contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.
- d. Include a copy of the local protest filed with the grantee and include a copy of the grantee's decision, if any.

Protests to the FTA should be addressed to:

Office of Program Oversight  
Federal Transit Administration  
200 West Adams Street, Suite 320  
Chicago, IL 60606

Proposers are cautioned that Metro Bus takes all protests seriously and that frivolous protests lacking factual basis will subject a protestor to assessment of Metro Bus's cost and legal fees in responding to the protest. Proposers must review the Metro Bus proposal protest guidelines carefully before filing a protest. At the time of filing a protest, the Proposer agrees to be bound by these guidelines.

#### **4.3 Liability Insurance Requirements**

Each vendor will submit to Metro Bus, prior to any services performed, certificates of the vendor's insurance coverage indicating the presence of coverages and limits no less than the following:

1. Workers' Compensation:

Coverage A. Statutory Benefits.

Coverage B. Employer's Liability.

Bodily Injury by accident                      \$1,000,000 each accident

Bodily Injury by disease \$1,000,000 policy limit  
 Bodily Injury by disease \$1,000,000 each employee

Coverage must include a Waiver of Subrogation endorsement as it pertains to the vendor's negligence.

2. Commercial Auto Coverage:

Auto Liability limits of not less than \$1,000,000 each accident, combined Bodily Injury and Property Damage Liability insurance. Certificate to reflect coverage for "Any Auto" or "All Owned, Scheduled, Hired and Non-Owned".

Coverage must include a Waiver of Subrogation endorsement as it pertains to the vendor's negligence.

3. Commercial General Liability:

Each Occurrence Limit: \$1,000,000

Personal Injury/Advertising Injury Limit: \$1,000,000

General Aggregate Limit: \$2,000,000

(Other than Products/Completed Operations)

Coverage must include a Waiver of Subrogation endorsement as it pertains to the vendor's negligence.

**5. DISADVANTAGED BUSINESS ENTERPRISE (DBE) (49 CFR Part 26)**

The St. Cloud Metropolitan Transit Commission (Metro Bus) has established a Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) program in accordance with regulations of the U. S. Department of Transportation (DOT), 49 CFR Part 26, to ensure all entities have an equal opportunity to participate in DOT assisted contracts.

The objectives of Metro Bus's DBE/SBE program and of 49 CFR Part 26 are:

- a. To ensure non-discrimination in the award and administration of DOT assisted contracts;
- b. To create a level playing field on which DBE's can compete fairly for DOT assisted contracts;
- c. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
- d. To ensure that only firms that meet 49 C.F.R. Part 26 eligibility standards are permitted to participate as DBE's;
- e. To help to remove barriers to the participation of DBE's in DOT assisted contracts;
- f. To promote the use of DBE's in federally assisted contracts and procurement activities;
- g. To assist the development of firms that can compete successfully in the marketplace outside the DBE/SBE program.



- h. To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBE's.

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26. Therefore, the vendor/contractor must satisfy the requirements for DBE participation as stated herein. These requirements are in addition to all other Equal Opportunity Employment (EEO) requirements of this contract. The St. Cloud Metropolitan Transit Commission shall make all determinations with regard to whether or not a bidder/offeror is in compliance with the requirements stated herein.

The vendor/contractor, its subrecipients, or its subcontractors shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. The vendor/contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the vendor/contractor to carry out these requirements is a material breach of this contract, which may result in termination of the contract or such remedy as deemed appropriate by the St. Cloud Metropolitan Transit Commission which may include, but is not limited to:

- a. Withholding monthly progress payments;
- b. Assessing sanctions;
- c. Liquidated damages (if applicable);
- d. Disqualifying the vendor/contractor from future bidding as non-responsible (49 CFR Part 26.13 (b)).
- e. The St. Cloud Metropolitan Transit Commission will only accept DBE's who are:
  - f. Certified at the time of bid opening or proposal evaluation;
  - g. An out-of-state firm who has been certified by either a local government, state government, or federal government entity who is authorized to certify DBE status;
  - h. An agency whose DBE certification process has received FTA approval.

The vendor/contractor is required to pay its subcontractors for satisfactory performance of their work in relation to this contract no later than thirty (30) days after the vendor/contractor's receipt of payment for that work from the St. Cloud Metropolitan Transit Commission or in accordance with state statutes, whichever is more restrictive. In addition, the vendor/contractor is required to return any retainage payments to those subcontractors within thirty (30) days (or in accordance with state law, whichever is more restrictive) after the subcontractor's work related to this contract is satisfactorily completed.

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

**DBE PARTICITPATION GOAL:** There is no DBE participation goal for this contract.

**6. EVALUATION AND SELECTION**

**6.1** Metro Bus will evaluate all proposals submitted and will select the proposal that best demonstrates the experience and capability to perform the scope of work defined in this RFP.

**6.2** Each proposal will be initially reviewed to ensure it follows the proposal format and instructions and that all required documentation has been properly executed and submitted. Proposals that do not follow the specific format will not be considered.

**6.3 Basis for Award**

<b>Evaluation Elements</b>	<b>Max Score</b>
<b>Solution that fits best with Metro Bus’s needs</b>	30
<b>Customer service history</b>	10
<b>Delivery timeline</b>	10
<b>Implementation plan</b>	10
<b>Integration with current systems</b>	20
<b>Price</b>	10
<b>References</b>	10
<b>TOTAL POINTS</b>	<b>100</b>

**6.4 Award of a Contract**

- a. Terms and conditions of a contract will be negotiated upon completion of the evaluation process. Metro Bus staff will recommend the contract be awarded to the best value responsible respondent whose proposal is most advantageous to Metro Bus based upon the evaluation criteria listed above.
- b. Cost shall not be the sole determining factor, however, Metro Bus, at its option, may request a best and final offer from the selected vendor regarding the Scope of Work and other associated fees.

- c. The contract award will not be final until Metro Bus and the successful proposer have executed a mutually satisfactory contractual agreement. No project activity may begin prior to the execution of a contractual agreement between the successful proposer and Metro Bus along with a written and fully executed Notice to Proceed.
- d. If the successful proposer refuses or fails to execute the contract, Metro Bus may award the contract to another proposer whose proposals comply with all the requirements of the RFP and any associated addenda.

## **7. VENDOR PROPOSAL OBLIGATIONS**

### **7.1 Company Information**

- a. Official company name
- b. Corporate company address
- c. Affiliate company address
- d. Primary contact name, title, phone number, email
- e. Subcontractor name, info and contact list (if any)

### **7.2 References**

Each proposer must provide a minimum of three (3) reference contacts that incorporate similar project work that has been provided by the proposer within the previous three (3) years (**Attachment B**).

### **7.3 Price Proposal**

- a. The proposer must submit a detailed price proposal and itemized cost for all equipment, software, services, licensing, training, profit, overhead, and miscellaneous expenses. Annual maintenance agreements, support services, and licensing and hosting fees must be proposed for a period of five (5) years.
- b. Sufficient detail will be provided so that Metro Bus may assess the reasonableness of each price proposal and assure equal evaluation of all proposals. Proposals that fail to provide and identify separately itemized expenses may be deemed non-responsive and will not be considered.
- c. Proposals must include any additional pricing for items that may represent value to Metro Bus but are not included in the specifications. These items should be clearly noted as "options" and will not be judged in the base price proposal.

**Metro Bus qualifies for local Government pricing on the State of MN Cooperative Purchasing Venture (CPV) contract. Metro Bus is exempt from all local, state, and federal excise taxes.**

**7.4 Proposer’s Checklist**

Each proposer must complete and include with their proposal a Proposer’s Checklist (**Attachment A**) that includes a list of the most pertinent tasks that must be addressed by each proposer prior to submitting a proposal.

**7.5 Confidential Material**

All materials submitted in response to this RFP ultimately become public record, subject to inspection after the contract award. Unrestricted disclosure of proprietary information places it in the public domain. Information clearly defined with the words “Confidential Disclosure” and placed in a separate envelope marked as such shall be considered Trade Secret Data under the Minnesota Government Data Practices Act (MGDPA). Any material to be treated as Trade Secret Data must include a justification for the request. The request will be reviewed and either approved or denied by Metro Bus. If denied, the vendor shall have the opportunity to withdraw their entire proposal or to remove the confidential or proprietary restrictions. Neither cost nor pricing information, nor the total proposal, will be considered confidential or proprietary. Any costs to preserve the Trade Secret Data designation under the MGDPA shall be the responsibility of the vendor.

**8. METRO BUS FACILITIES**

**8.1 Operations Center, 665 Franklin Avenue N.E., St. Cloud, MN 56304** - Primary location of the administrative offices, paratransit call center, maintenance shop, and vehicle storage.

**8.2 Transit Center, 510 1<sup>st</sup> Street South, St. Cloud, MN 56301** - Multimodal transfer facility located in downtown St. Cloud.

**8.3 Mobility Training Center, 700 West St. Germain, Suite 100, St. Cloud, MN 56301** - Located in downtown St. Cloud, this facility features a simulated bus riding, bus stop, and street environment for training and assessing an individual’s physical and cognitive abilities as they pertain to using public transportation.

**9. EXISTING EQUIPMENT, INFRASTRUCTURE, AND FEATURES**

Each Metro Bus facility has a separate voice VLAN that is used for the phone system. Each building is connected to each other via a single mode fiber.

- a. The existing Mitel HX Office 250 on premise controller hardware, virtual servers, and demarc are located at the Operations Center facility.

- b. Telephone endpoints consist of thirty-four (34) Mitel 5330e and thirty-one (31) 5340e phones (sixty-five (65) combined).
- c. There are eight (8) analog endpoints including a multi-function copier/fax (1 line), a MultiTech FFx40 analog fax server (2 lines), several analog credit card processing devices (3 lines), and a Polycom conference room phone (2 lines – current phone is moved between rooms).
- d. There is one (1) legacy digital endpoint that is used as a paging phone and is connected to the paging intercom amplifier.
- e. There is one (1) Mitel 8662 endpoint.
- f. Ten (10) of the endpoints also have the built-in Mitel wireless headset.
- g. There is one (1) 48-button PKM (programmable key module).
- h. There are two (2) SIP to analog devices that are used to dial 911 from our two remote locations so the address that the 911 dispatcher sees matches the correct building address.
- i. There is one PRI that has twenty-three (23) voice channels. There are five (5) analog phone lines (POTS).
- j. Features that are used include but are not limited to voicemail, phantom extensions, hot desk extensions, hunt groups, conference assistant, ACD/contact center agents, full call recording of a subset of hunt group calls (8 ports), record a call on demand call recording, call twinning, music on hold (5 different source files), real time call reporting, call reporting, voicemail / email synchronization, day mode / night mode, and DID call processing.

## **10. SCOPE OF WORK**

### **10.1 Overview**

- a. Investigate ongoing support and availability of existing Mitel endpoints.
- b. If a system is proposed that is completely compatible with Mitel 5330e / 5340e endpoint, then the proposal may assume that the existing Mitel endpoints will be used in the new system.
- c. Sixty-nine (69) telephone endpoints are required (65 current 5330e/5340e + 1 8662 + 1 digital + 2 future expansion), all endpoints should be the same model where possible.
- d. The ability to support current analog devices with room for expansion.
- e. One forty-eight (48) button PKM (or similar) is required with digital display for the keys preferred.

### **10.2 All phones must:**

- a. Provide fixed or soft keys for features and extensions, at a minimum to include transfer, conference, hold, volume, speaker on/off.
- b. Be IP based and powered via PoE.

- c. Allow for multiple call keys (for second or third call to come in either local extension or external direct dial).
- d. Have a message waiting key / light.
- e. Have a large display.
- f. Display caller ID of all external callers (Name and Number when provided by carrier) and the name and extension of internal callers.
- g. Have a full duplex speaker system and a mute key.
- h. Must support gigabit and include two switch ports (one jack to wall and one to computer).
- i. Display missed, received, and dialed logs and have the ability to clear logs.
- j. Support hot desk login.

**10.3 Telephones that require wireless headsets (quantity of twelve (12)) must have:**

- a. Fully integrated headset that does not require a separate handset lifter to answer calls.
- b. The ability to use a headband or earpiece for wearing of headset.
- c. The ability to answer and disconnect from calls from headset.
- d. Audio feedback through headset for incoming calls.
- e. The ability to last at least 16 hours between charges.

**10.4 911 Calls**

The system must have the ability to correctly select the correct outgoing line to make 911 calls on. Because we have three locations and only one system, calls from two of the locations will appear as the incorrect address if dialed. To resolve this issue, our current system has an analog line installed in the two locations that is connected to the network via a SIP adapter. The system will automatically select the correct line for an emergency call based on the extension number. A solution for calling 911 must be included in the proposal. The existing analog lines can be used in this solution.

**10.5 Required Features**

- a. Receive internal extension and one or more DID calls on the same phone and display the caller information of the additional calls while on the original call.
- b. Hold.
- c. DID (direct inward dial), using 4 digits from carrier.
- d. Transfer to extension.
- e. Transfer to voicemail.
- f. Conference.
- g. Support for analog devices.
- h. Auto dial (internal extensions and external numbers).

- i. Phones must display caller ID (name and number) when provided and stay with call when transferred.
- j. Phones must display name and number of internal calls.
- k. Ability to control and display the outgoing caller information on a per device basis.
- l. Speed dial.
- m. Last number redial.
- n. Call forward busy.
- o. Call forward no answer.
- p. Call pickup.
- q. Music on hold with multiple file sources that can be assigned.
- r. Hunt groups.
- s. Hands free two-way speakerphone.
- t. Independent volume adjustment for speakerphone, ringer, handset, and headset.
- u. On demand call recording.
- v. Toll restriction on specific phones.
- w. Electronic labeling of the keys on each phone.
- x. Hot desk.
- y. Phantom extensions.
- z. Mobile phone twinning with unanswered calls going to voice mail.
- aa. At least 6 different ring tone options.

## **10.6 Voice Mail**

- a. Individual mailboxes.
- b. Message waiting light on all phones that lights up even if phone is in use.
- c. Allows messages to be saved and transferred.
- d. Messages must have date and time stamp.
- e. Message envelope must include caller's phone number, if available from caller ID.
- f. Announcement-only mailbox option.
- g. Allow remote retrieval of messages via a standard touch-tone phone.
- h. Include a directory option and allow for certain users not to be listed in the directory.
- i. Allow for remote change of greeting announcement.
- j. Allow for primary and secondary greeting announcements and the ability to switch between them.
- k. Message waiting light must extinguish after a message is retrieved, regardless of whether the message is saved or deleted.
- l. Mailboxes must require passwords for access and allow end users the ability to change their own passwords.
- m. Allow for the ability to retrieve messages that were accidentally deleted.
- n. Allow users to skip to the next section (skip through envelope to message) or skip to the next message without listening to the entire message.

**10.7 Auto attendant must allow for:**

- a. Dial by name.
- b. Dial by number.
- c. Ability to play closed messages based on day of week and time of day.
- d. Ability to program holidays by date and time.
- e. Ability to play special circumstance messages such as inclement weather.

**10.8 Unified Messaging**

- a. Integrate with Microsoft Office 365. (Note: Microsoft no longer supports Basic Authentication Protocol).
- b. Allow users email inbox to receive voicemail.
- c. Integration should be full (when message is read in either system it will be marked as read in the other system and if it is deleted in one system it is automatically deleted in the other system).
- d. The phone number of the caller must be in the email from field or part of the subject line.

**10.9 Paging**

The system must allow for multiple paging options including the ability to page to phones (all or a subset based on a defined group), the current garage intercom system (through the existing PC amplifier) or both.

**10.10 Miscellaneous Features**

- a. System must support all existing phone lines including PRI, SIP, and POTS with room for expansion.
- b. Meet-Me conferencing with programmable conference numbers and up to 8 callers.
- c. Robust reporting software with customizable reports.
- d. Real time reporting software.
- e. Real time kiosk mode software that can display customizable times with real time call data (total calls, answered calls, calls in queue, etc.).

**10.11 Federal Acquisition Regulation (FAR) 52.204-25**

Proposers must abide by the following Federal clause:

- a. **“Prohibition on Contracting for Certain Telecommunications and Video Surveillance Services or Equipment”** found at the following web link:  
<https://www.acquisition.gov/far/52.204-25>

**10.11 Removal of Legacy Technology**

Vendor must include with their proposal a detailed plan for the following:

- a. De-installation, removal, and disposal of all existing legacy equipment.



- b. Trade-in value of all existing legacy equipment must be included within each vendors price proposal.
- c. Disposal cost if trade-in of equipment is not an option must be included within each vendors price proposal.

## **11. PROJECT IMPLEMENTATION**

### **11.1 General Requirements:**

- a. The vendor will install and configure the entire system, including any Metro Bus provided computer hardware and integration with existing systems at all Metro Bus facilities.
- b. The vendor shall specify rack space needed for hardware as needed.
- c. The vendor shall comply with Metro Bus's naming conventions and network configuration standards.
- d. The vendor shall provide all necessary personnel, tools, test equipment, transportation, hardware and supplies as required for complete installation.
- e. The vendor shall be responsible for its own and its sub-contractor's performance and safety.
- f. Installations shall be performed in accordance with all Federal, State, and local laws and regulations.
- g. The vendor shall supply all network cabling (i.e. – Cat6 or Fiber) necessary to operate system components.
- h. Existing Metro Bus infrastructure, affected by, or to be integrated into the new system, (i.e. – LAN/WAN networks) shall not be reduced at any time during system implementation.
- i. The vendor will be authorized to undertake installations only after Metro Bus approval of a pre-installation inspection for each installation site.
- j. The vendor must document and notify Metro Bus of any existing infrastructure that may be affected by the new installation.
- k. Upon completion, the vendor shall be responsible for restoring the condition of any affected existing infrastructure to their pre-installation condition.
- l. The vendor will be responsible for the security of their equipment prior and during installation.

### **11.2 Planning/Procedures**

The vendor will submit an installation plan for Metro Bus approval prior to undertaking any installations. Where applicable, the plan will provide detail on:

- a. Equipment installation locations/mounting.
- b. Routing, conductors, color-coding, labeling, power connections, communications, and ground circuits.
- c. Connections/modifications, restorations of any existing infrastructure.

- d. Work area and equipment storage requirements.
- e. Methods and quality standards.
- f. Supervision and quality assurance procedures.

The plan will include a process of pre and post-installation checklists for tests performed by installers. The installations will not be considered complete until Metro Bus provides sign-off on the pre and post-installation checklist.

### **11.3 Metro Bus Responsibilities**

- a. Metro Bus will provide space for the vendor to establish secure storage areas. (Vendor will provide details regarding type of equipment and space required for storage).
- b. Metro Bus will provide facility access and parking.
- c. Metro Bus will provide remote access to relevant virtual networks/servers.
- d. Metro Bus will provide workspace for on-site testing/training and central system installations.
- e. Metro Bus will provide for all electrical requirements.

### **11.4 Acceptance Testing**

#### **11.4.1 Test Procedures**

- a. The vendor will submit an Acceptance Test Procedures (ATP) document for Metro Bus approval prior to undertaking any testing. The ATP will indicate specific tests to be completed as well as the date and time.
- b. The vendor will be required to reschedule testing if Metro Bus representatives cannot be present or other circumstances prevent testing from taking place.
- c. The ATP shall clearly address:
  - a) How each specification requirement will be validated, including the method for performing the test.
  - b) The results that constitute success for each test.
  - c) Responsibilities of both the vendor and Metro Bus during each test.

The ATP will be submitted to Metro Bus at least fifteen (15) days in advance of any testing. Metro Bus must approve all ATP's prior to the start of any test procedures.

The ATP document will incorporate the following testing stages for the proposed system:

- a) Installation acceptance test.
- b) User acceptance test.

Metro Bus may authorize the vendor to proceed to the next testing stage with certain deficiencies not yet resolved upon signed approval by Metro Bus of an action plan provided by the vendor to resolve all outstanding issues from the previous test stage.

### **11.5 Acceptance Criteria**

- a. The vendor will provide written test results documentation after completion of the testing phase. The list shall be used as a punch list to track which contract requirements have not yet been established at each stage of testing.
- b. System Acceptance will not be granted until all contract requirements have been formally demonstrated. The test results document must be approved by Metro Bus before system acceptance will be granted.

### **11.6 Documentation**

The vendor shall provide an As-Built Document (ABD) to Metro Bus for approval. The ABD document will include:

- a. All reference and user manuals for system components, including those components supplied by 3<sup>rd</sup> party vendors.
- b. All warranty documentation, including components supplies by 3<sup>rd</sup> party vendors.
- c. The version number of all software and license counts, including those supplies by 3<sup>rd</sup> party vendors.
- d. A user manual for the system components and other relevant applications.
- e. A systems manual documenting the following:
  - a) The configuration and topology of the central systems hardware and software.
  - b) Central systems software operations and functions.
  - c) Scheduled maintenance required for the central systems.
  - d) Complete Item number listing of all hardware.

### **11.7 Training**

Training will be administered in the following manner upon the completion of implementation and testing:

- a. Administrative user training.
- b. Support staff training.
- c. End-user training.

## **12. WARRANTY AND MAINTENANCE SUPPORT**

- a. The warranty period for the system shall run concurrently for all system components for twenty-four (24) months from the date of system acceptance.
- b. The vendor shall offer an option to extend the warranty period for additional years for up to five (5) years from the date of system acceptance. Extended warranty fees

must be included as an option in each vendor's price proposal. The vendor shall document any differences in the warranty terms for these option years in their proposal.

- c. The vendor shall warrant that it has reviewed and evaluated all information furnished by Metro Bus has made all inquiries necessary such that the vendor is fully aware of Metro Bus's business requirements and intended uses of system, as set forth or referenced in the Request for Proposal and any Addenda, Amendments or Final Proposal Requests.
- d. The vendor warrants that the system satisfies the foregoing requirements in all material respects and will be fit for such intended uses. The vendor warrants that the documentation provided shall completely and accurately reflect the operation and maintenance of the equipment and software, and provide Metro Bus with all information necessary to maintain the system.
- e. If there is a change in the production configuration of any equipment or software being installed prior to system acceptance, Metro Bus will require that all previously installed equipment and software be upgraded to match the updated configuration.
- f. The vendor warrants compliance with all applicable laws and regulations relating to the project.
- g. The vendor warrants that its employees, agents, and subcontractors assigned to perform services under this contract shall have the proper skill, training and background to perform in a competent and professional manner and that all work will be so performed. Metro Bus reserves the right to remove any subcontractors if their work is deemed incompetent or unprofessional.
- h. During the warranty period, the vendor will at no cost to Metro Bus, furnish such materials, labor, equipment, software, documentation, services and incidentals as are necessary to maintain the system in accordance with the warranty.
- i. The vendor will provide any software updates and patches for the current software version at no cost to Metro Bus during the warranty period.
- j. In addition to the foregoing warranties, the vendor will assign to Metro Bus, and Metro Bus will have the benefit of, any and all Subcontractors', Suppliers', and other vendors' warranties and representations with respect to the deliverables provided.
- k. In its agreements with Subcontractors, Suppliers and other vendors, the vendor will require that such parties:

- a) Consent to the assignment of such warranties and representations to Metro Bus.
- b) Agree that such warranties and representations shall be enforceable by Metro Bus in its own name; and
- c) Furnish documentation on the applicable warranties to Metro Bus.

The vendor shall provide a single point of contact for all warranty administration during the warranty period.

### **12.1 Customer Support**

Software support during the warranty period shall include:

- a. Technical support for all proposed hardware and software, with a 24x7, 365 day per year support line;
- b. Provide licensing, installation, and integration of all released software patches and updates for the proposed solution;
- c. Supplementary support in accordance with an agreed-to escalation procedure. (The proposal must define the proposed support escalation procedures);
- d. Ability for Metro Bus to view the status of their support request(s) at any time through an online tracking system to be provided by the vendor.

### **12.2 Hardware-Software Maintenance/Upgrades**

- a. The vendor is required to notify Metro Bus at least six (6) months in advance when it is expected that the current software releases and related hardware systems will no longer be supported.
- b. The vendor will ensure that all existing software configurations are protected after the system has been upgraded or updated for the entire duration of the time Metro Bus uses the product.
- c. The vendor must consult with and comply with Metro Bus's I.T. Manager's direction when making any changes to supported systems.

## **13. CONTRACT OBLIGATIONS AND REQUIREMENTS**

### **13.1 Contract Obligations**

- a. The contents of the RFP and the commitments set forth in the selected proposals shall be considered contractual obligations, if a contract ensues. Failure to accept these obligations may result in cancellation of the award.
- b. The contract will bind the vendor to furnish and deliver at the proposed price, and in accordance with conditions of said accepted proposal and specifications.

- c. The vendor's products, services and facilities shall be in full compliance with all applicable Federal, State, and local health, environmental and safety laws, regulations, standards and ordinances, regardless of whether they are referred to by Metro Bus.
- d. The vendor shall be familiar with and operate within the guidelines set forth by the Occupational Safety and Health Act.

### **13.2 Single Bid Response**

In the event only one bid proposal is received in response to this Request for Proposal, a detailed cost may be requested from the single proposer. A cost/price analysis and/or audit may be performed to determine if the proposed pricing is fair and reasonable.

### **13.3 Invoicing**

- a. The vendor will only submit an invoice as progress payment milestones have been achieved. The vendor will provide a "percentage complete" status report for the project with each invoice. (All hardware equipment must be delivered "on-site" to Metro Bus prior to receipt of invoice).
- b. **Metro Bus will withhold five (5%) percent retainage on each invoice.** The total retainage amount from each invoice will be released by Metro Bus after final executed project close-out acceptance.

## **14. REQUIRED ATTACHMENTS IN RESPONSE TO RFP**

- a. Attachment A – Proposer's Checklist
- b. Attachment B – Proposer Information/Past Project/Reference List

## **15. REQUIRED CERTIFICATION DOCUMENTS**

### **15.1 Certifications and Affidavits Required**

The following certifications and other attachments have been provided as part of this Request for Proposal and are required to be submitted with each proposal:

- a. Integrity Certification/Debarment-Suspension
- b. Non-Collusion Declaration
- c. Schedule C-Contractors Schedule of DBE Participation
- d. Schedule D-Certification of Compliance with DBE Requirements
- e. Schedule F-Letter of Intent to Perform as a Subcontractor

**15.2 Failure to include these required documents with your proposal will constitute your proposal as non-responsive and it will not be considered.**

**16. CONTRACTING ETHICS**

**16.1 Gratuities**

It is a breach of contracting ethics for any person to offer, give, or agree to give any Metro Bus employee or former employee, or for any Metro Bus employee or former employee to solicit, demand, accept, or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing, or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy, or other particular matter, pertaining to any program requirement or a contract or subcontract, or to any solicitation or proposal therefore.

**16.2 Kickbacks**

It is a breach of contracting ethics for any payment, gratuity, or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith, as an inducement for the award of a subcontract or order.

**16.3 Contingent Fees**

It is a breach of contracting ethics for a person to be retained, or to retain a person, to solicit or secure a Metro Bus contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

**16.4 Collusion**

It is a breach of contracting ethics for a person to collude, conspire, or agree with other persons, firms or corporations to submit a sham proposal, to refrain from proposal, to fix prices, costs, or profits, or to secure any other advantage against Metro Bus.

**16.5 Certification**

When signing the Proposal Quotation Form, Vendors are cognizant of these requirements and thereby certify that it has not breached any of the foregoing contracting ethics. No Vendor shall sign the proposal without reviewing all material facts. False or fraudulent certifications shall subject the Vendor to all penalties and

remedies provided by law, and to liability for Metro Bus costs and fees, including attorney's fees, in enforcing this provision.

### **16.6 Specification Documents**

These documents shall not include any exclusionary or discriminatory provisions that are not needed to meet the requirements of Metro Bus.

## **17. STANDARD DOT CONDITIONS**

The FTA Standard DOT Conditions are incorporated as a required component of this Request for Proposal document. A copy of the Standard DOT Conditions can be accessed at the following web address: <https://www.ridemetrobus.com/business-metro-bus/>

## **18. FTA THIRD PARTY CONTRACT CLAUSES**

### **No Federal Government Obligation to Third Parties**

The Recipient 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 Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

### **Program Fraud and False or Fraudulent Statements or Related Acts**

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 penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

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. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.



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.

### **Access to Records and Reports**

**a. Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

**b. Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3)

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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

**c. Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

**d. Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

### **Federal Charges**

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 Metro Bus 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.

### **Civil Rights and Equal Opportunity**

Metro Bus is an Equal Opportunity Employer. As such, Metro Bus agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, Metro Bus agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, 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. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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 the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, 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. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

## **Incorporation of FTA Terms**

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the most current FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Metro Bus requests which would cause Metro Bus to be in violation of the FTA terms and conditions.

**21. METRIC REQUIREMENTS 15 U.S.C. §§205 2007-Pub. L. 110-69** As required by U.S. DOT or FTA, Metro Bus agrees to use the metric system of measurement in its Project activities, pursuant to the Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a *et seq.*; Executive Order No. 12770, "Metric Usage in Federal Government Programs," 15 U.S.C. § 205a note; and other U.S. DOT or FTA regulations, guidelines, and policies. To the extent practicable and feasible, the Metro Bus agrees to accept products and services with dimensions expressed in the metric system of measurement.

**22. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS (ITS) ARCHITECTURE AND STANDARDS** 23 U.S.C. Section 517(d) 23 U.S.C. §502 Intelligent transportation system (ITS) property

and services must comply with the National ITS Architecture and Standards to the extent required by 23 U.S.C. Section 517(d) and FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 FR 1455 et seq., January 8, 2001, and later published policies or implementing directives FTA may issue. Consequently, third party contracts involving ITS are likely to require provisions to ensure compliance with Federal requirements.

**23. CORRIDOR PRESERVATION 49 U.S.C. 5323(q)** The Recipient agrees not to develop right-of way acquired under 49 U.S.C. § 5323(q), as amended by MAP-21, in anticipation of its Project until all required environmental reviews for that Project have been completed.

**24. VETERANS EMPLOYMENT 49 U.S.C. 5325 (k) Veterans Employment.** As provided by 49 U.S.C. § 5325(k): a. To the extent practicable, Contractor agrees that it: 1. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, and 2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee, and b. Contractor also assures that its sub-recipients will: 1. Will give a hiring preference to veterans (as defined in 5 U.S.C. § 2108), who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or appropriated for 49 U.S.C. chapter 53, to the extent practicable, and 2. Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

## **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.

## **Termination for Convenience**

Metro Bus may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in Metro Bus's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Metro Bus to be paid the Contractor. If the Contractor has any property in its possession belonging to Metro Bus, the Contractor will account for the same, and dispose of it in the manner Metro Bus directs.

## **Termination for Default [Breach or Cause]**

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, Metro Bus may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in

which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by Metro Bus that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, Metro Bus, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

### **Opportunity to Cure**

Metro Bus, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to Metro Bus's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Metro Bus setting forth the nature of said breach or default, Metro Bus shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Metro Bus from also pursuing all available remedies against Contractor and its sureties for said breach or default.

### **DBE**

The contractor, subrecipients or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- a. Withholding monthly progress payments.
- b. Assessing sanctions.
- c. Liquidated damages; and/or
- d. (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

**DBE PARTICIPATION GOAL:** There is no DBE participation goal for this contract.

## **Recycled Materials**

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. part 247.