MILWAUKEE TRANSPORT SERVICES, INC.
Operator of the Milwaukee County Transit System
1942 NORTH 17TH STREET
MILWAUKEE, WI 53205
PURCHASING AGENT: TELICE GILLOM
(414) 937-3290 | (414) 344-7080 *fax*
tgillom@mcts.org | www.ridemcts.com

BID #2016-49: PARTS CLEANING EQUIPMENT & SOLVENT SERVICES

Bids for Parts Cleaning Equipment & Solvent Services will be received by the Milwaukee Transport Services (hereinafter referred to as "MTS") Materials Management Department at the above address until **JANUARY 9, 2017 at 2:00 P.M. CST.**

Bids will be publicly opened and read at the above opening date and time in Room 104 of the Administration Building- Materials Management Department. Late bids will not be opened or accepted for evaluation. Any bids received after the established due date and time at the place designated for receipt of bids is late, without exception.

Requirements:
To supply MTS with Parts Cleaning Equipment and Solvent(s) per specifications. The contract resulting from this solicitation shall be for a three (3) year period at a firm fixed price, beginning February 1, 2017.

Specifications:
To comply with MTS Specification No. FM-14-05, Revised November 14, 2016, which is included in this bid document.

How to Bid and Award of Contract:
Bid a unit price per each. Award will be based on Items 1 and 2, less invoice discount of 30 days (if any). Prices to remain firm for three (3) years from date of award.

Award will be made to the lowest responsible bidder complying with the specifications, & will be based on what is deemed in the best interest of MTS. Every bid must be made upon the block form of the bid attached hereto; must give the price of each and every item bid in figures, and must contain the full name of every person, firm or corporation interested in the bid, the address of the person, firm or the President and Secretary of the corporation bidding; and if a corporation, the bid must give the name of the state in which it is incorporated. (In case of a partnership, the firm name and address, and name and address of each individual partner must be given.)

All responses must be returned in a sealed envelope provided by the vendor with bid number **2016-49** for **PARTS CLEANING EQUIPMENT AND SOLVENT SERVICES** clearly marked on the outside of the envelope and received by **JANUARY 9, 2016 – 2:00PM CST**. If bids are returned via Federal Express or UPS, the outer envelope must also be clearly identified with the bid number & title as stated above. Faxed or emailed bids shall not be allowed or accepted.

Bidders will not be permitted to withdraw the bid after it has been deposited with the Materials

Management Department. Written changes will be accepted up to the bid opening time, but only if submitted in a sealed envelope and plainly marked **"CHANGE TO BID #2016-49 FOR PARTS CLEANING EQUIPMENT AND SOLVENT SERVICES"**.

Bidder shall be responsible to obtain all documents pertaining to the bid via the website: **www.ridemcts.com**

Disadvantaged Business Enterprise (DBE) Goal:
The DBE goal for this contract is **4.8%**. To be considered for this project, Vendors **must** submit a Subcontractor/Supplier Information Sheet (DBE-02) with your Bid/Proposal. Additionally, the award of this Contract is conditioned upon your good faith efforts in achieving this project's DBE goal, and you must document those efforts by submitting with your Bid/Proposal one of the following:

- A signed and notarized *Commitment to Contract with DBE Firms* (DBE-14) form(s), one for each DBE documenting the participation achieved toward satisfying the goal *, evidencing your proposed participation plan to meet or exceed the DBE goal;

  OR
- A signed and notarized *Certificate of Good Faith Efforts* (DBE-01) form** and all relevant documentation, including a signed and notarized *Commitment to Contract with DBE Firms* (DBE-14) form for each DBE documenting the participation achieved toward satisfying the goal.

*DBE-14 form(s) must identify (1) the DBE firm(s) by name and address, (2) the scope(s) of work/service(s) to be provided, (3) the dollar amount(s) of such work, and (4) the percentage of the DBE goal to be met. The form must be signed by the Prime and notarized to be considered responsive. The signature of the DBE firm in the affirmation section is not required at time of bid, but will be required for the participation plan to be approved. Milwaukee County is entitled to reject your Bid/Proposal for failing to identify this information for each DBE.

DBE-01 form(s) must be complete to the fullest extent possible and outline communications with both solicited DBE firm(s) and Milwaukee County's Community Business Development Partners department (CBDP). Submission of form(s) with supporting documentation such as emails and similar correspondence is strongly recommended. **A necessary step in the good faith efforts process and for documentation in the *Certificate of Good Faith Efforts* (DBE-01) form, is contacting CBDP at 414-278-4747 or cbdp@milwaukeecountywi.gov for assistance in identifying DBE firms and understanding the County's DBE Program procedures.

During the Contract, the successful Bidder/Proposer and all subcontractors will use the County's online reporting system to document DBE participation. The *Disadvantaged Business Enterprise (DBE) Utilization Specifications* and forms to be used are included in this bid document.

The official directory of eligible DBE firms can be accessed through the following link: http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx

To access the North American Industry Classification System (NAICS), please go to Business Classifications by NAICS Code: http://www.census.gov/eos/www/naics/

Pre-Bid Conference:
A Pre-Bid Conference will be held on **DECEMBER 12, 2016** at **10:00 AM** at MTS' Administration Building, 1942 North 17th Street, Milwaukee, WI 53205. The purpose of this conference is to familiarize any prospective bidders with the DBE goal requirements for this solicitation, and answer any other questions regarding the information contained within this solicitation document.
A bidder not attending the Pre-Bid Conference will be deemed to be knowledgeable of MTS' requirements and this solicitation.

Deadline for Questions:
Any questions and/or comments regarding the information contained within this solicitation must be submitted via e-mail to Telice Gillom at tgillom@mcts.org on or before 4:30 p.m. CST on DECEMBER 16, 2016.

Right to Reject:
MTS reserves the right to make an award based on its own determination, or to reject and or all bids or portions of same, if in the opinion of MTS, the best interest of MTS will be served thereby. In awarding a contract, MTS reserves the right to consider all elements entering into the determination of the responsibility of the bidder. Any bid which is incomplete, conditional, obscure, or which contains additions not required, or irregularities of any kind, may be deemed non-responsive. In case of any discrepancy between the price written in the bid and that given in figures for any item, the price in writing will be considered as the bid.

Waiver of Informalities:
In its sole discretion, MTS may waive informalities and minor irregularities in bids received.

Binding Contract:
A bid received in response to this solicitation is an offer that can be accepted by MTS to create a binding contract without negotiation with any Firm.

Order of Precedence:
An order of precedence is hereby formally established and will be used to form a binding contract. The order is as follows:

1. Purchase Order.
2. All documents contained within and related to Bid #2016-49.
3. Bid from the successful vendor.

The order of precedence establishes that, in any conflict between the bid and the Purchase Order and/or Bid Documents, the Purchase Order and/or Bid Documents take precedence and control.

Tax Exemption:
MTS is an agency of Milwaukee County and is exempt from Wisconsin Sales Tax under Section 77.54 (9a) (b) of the Wisconsin Statutes, and is exempt from the Federal Excise Tax, and has been granted Exempt No. 39-73-0429K. Wisconsin Exempt No. CES014818. Bids shall be submitted excluding any of these taxes.

Bid in Effect:
All bids shall remain in effect for not less than sixty (60) days from the bid opening date. Any bid submitted pursuant to this solicitation shall constitute an offer based on the terms included herein and upon acceptance by MTS shall become the contract under which MTS and the Contractor shall perform, unless otherwise modified by mutual agreement of the parties. In no event will changes, amendments,

modifications or addendums, written or oral be considered after the contractor's submission of his/her bid without the express consent of MTS' Director of Materials Management.

Specifications to be Part of Contract:
Specifications, statements, and the requirements which accompany the bids, which are accepted therewith, and which do not conflict with the provisions herein contained, shall be part of any contract that is entered into for the purchase of any material or work, or both, herein anticipated by MTS.

Single Bid, If Received:
If only a single bid is received, MTS may require that the Bidder provide the necessary cost or pricing data to enable MTS to perform a cost or price analysis to ensure that the bid price is fair and reasonable. If requested, the Bidder shall provide the cost or price data within five (5) working days of the date requested. MTS reserves the right to reject or accept the bid on the basis of the cost or pricing data.
Where only one responsive and responsible bid is received, MTS may also negotiate price with the sole responsive bidder.

Amendments to Bid Document:
Any clarifications or further instructions to bidder will be sent to all bidders in addendum form. All questions and comments regarding this solicitation must be submitted via e-mail to Telice Gillom at tgillom@mcts.org on or before **DECEMBER 16, 2016 – 4:30 p.m. CST**.

a. If the solicitation is amended, then all terms and conditions which are not modified remain unchanged.

b. Bidders shall acknowledge receipt of any amendment to this solicitation:
    i. By signing and returning the ACKNOWLEDGEMENT OF ADDENDUM. MTS must receive the acknowledgement by the time and at the place specified for receipt of the bid.

c. If an Addendum is issued within 72 hours prior to the published time for the opening of Bids (excluding Saturdays, Sundays, and legal holidays) then the time for opening of Bids shall be extended one week with no further advertising of Bids required.

Any interpretation or clarification of the Contract Documents made in any manner other than a written Addendum shall not be binding and the Bidder shall not rely upon the interpretation or clarification that is not made in the form of a written Addendum.

Evidence of Ability to do Work:
MTS reserves the right to award a Contract to the lowest, responsive and responsible bidder(s) it deems responsive and responsible. The bidder(s) may be required, upon request, to prove to the satisfaction of MTS that the bidder(s) have the skill and experience and the necessary facilities and financial resources to perform the Contract in a responsible and satisfactory manner.

References:
MTS may require the lowest bidder(s) to furnish a list of at least three (3) references of who are currently, or within the past year have been customers of the Bidder and who have been provided similar amounts of the requirements being bid upon. The list shall include the following:

a) Name of Customer
b) Contact Person
c) Complete Address of Customer

d) Telephone Number
e) Email Address

If such references are requested, the list must be communicated verbally or mailed to and received by the Supply Management Department within three (3) working days (Monday through Friday) from the date the request is made by MTS. Failure to comply with this requirement will eliminate the bid from further consideration.

Inspection:
Materials or equipment purchased are subject to inspection and approval at MTS's destination. MTS reserves the right to reject and refuse acceptance of items which are not in accordance with the instructions, specifications, drawings or a part of the contractor's warranty (express or implied). Rejected materials or equipment shall be removed by, or at the expense of the contractor promptly after rejection.

Inspection of Services:
"Services" as used in this clause includes services performed, workmanship, and material furnished or utilized in the performance of services.

If any of the services do not conform to the contract requirements, MTS may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, MTS may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the Contract price to reflect the reduced value of the services performed.
If the Contractor fails to promptly perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, MTS may, by Contract or otherwise, perform the services and charge the Contractor any cost incurred by MTS that is directly related to the performance of such service.

Failure to Meet Specifications:
The delivery of any supplies hereunder which does not in all respects conform to these specifications will be rejected and the Contractor will be notified at once of such rejection and the reason therefore, which notice shall be confirmed in writing. If the Contractor fails to effect immediate replacement of rejected supplies meeting the requirements of the order and of the specifications, MTS may purchase replacements in the open market, and the Contractor and his surety shall be liable to MTS for any excess cost and expense.

Compliance with Laws:
The Contractor agrees that it will comply with all Federal, State, Municipal, and local laws, rules, and regulations that may be applicable to this contract.

Contract Continuation:
Contractor recognizes that the services under this contract are vital to MTS and to the public and must be continued without interruption. Contractor agrees that MTS, in its sole discretion, and by written notice to Contractor at least 90 days prior to contract expiration, may extend this Agreement for up to an additional 90 days. If so extended by MTS, Contractor shall continue to provide services under this Agreement, on the same terms as set forth in this Agreement. MTS may terminate any such extension by providing Contractor with 90 days' notice. Contractor further agrees to exercise its best efforts and cooperation to affect an orderly and efficient transition to any successor Contractor.

Contract/Contract Documents:

Contract Documents consist of the contract, the invitation to bid, the definitions, the information to bidders, the specifications, the exhibits and the bid forms including any modifications thereof incorporated in the documents prior to the contract award.

Equal Employment Opportunity:

In connection with the carrying out of any contract, the Contractor hereby certifies that it shall not discriminate against any employee or applicant for employment because of sex, handicap, religion, race, color or national origin. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their sex, handicap, religion, race, color or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Contractor shall at all times, comply with the provisions of Executive Order 11246, as amended, entitled "Equal Employment Opportunity".

Enclosures:

1. Spec. No. FM-14-05
2. Requirements/Certification Package

Documents to be returned with bid:

1. Bid Sheet
2. Signature Sheet
3. EEO Certificate
4. MSDS Sheets
5. Information from Attachment 1
6. Certification Regarding Lobbying
7. DBE Forms

Revised November 14, 2016

SPECIFICATION NO: FM-14-05

FOR PARTS CLEANING & SOLVENT SERVICE

1. SCOPE AND CLASSIFICATION

1.1 Scope

1.1a It is the intent of this specification to describe minimum requirements for parts cleaning equipment and solvent(s) service for use at the Milwaukee County Transit System. All parts, items, or features not specifically mentioned, which are necessary or which are normally furnished to provide a complete service, shall be furnished by the successful bidder at the bid price and shall conform in strength, quality of material and workmanship to that usually provided by the engineering practice indicated in this specification. Milwaukee County Transit System is managed and operated by Milwaukee Transport Services, Inc., and shall be referred to as MTS hereinafter.

1.2 Classification

1.2a The bidder shall supply parts cleaning solvent(s) and parts cleaning tanks. Set up MTS approved schedule for delivery and maintenance.

1.2b The bidder shall transport, store, recycle, and dispose of waste in accordance with all current applicable state and federal laws. In the event of a spill, while transporting, storing, recycling or disposing of unused or used solvent, the bidder shall pay all expenses of clean-up of that spill. In the event ground or water pollution results from the bidders handling or disposal of the unused or used solvent, the bidder shall pay all costs and damages arising from the pollution.

1.2c The bidder shall be responsible for completing any/all shipping manifests in compliance with any/all state and federal DOT laws as may be required and shall provide copies of same to MTS for yearend reports.

1.2d The agreement shall require the bidder to supply and deliver solvent to the various locations detailed in Section 5.1. The agreement shall also require the bidder to provide a complete maintenance program (including all parts) on all furnished equipment.

2. DOCUMENTS

2.1 License/Permits

2.1a The bidder shall provide proof of any required licenses from the State of Wisconsin or Federal Govt., with the bid.

2.1b The bidder shall also comply with any regulations as mandated by the following:

1. HSWA-Hazardous and Solid Waste Amendments
2. RCRA-Resource Conservation & Recovery Act
3. EPA-U.S. Environmental Protection Agency
4. DOT-Department of Transportation
6. SARA-Superfund Amendments & Re-authorization Act
7. CWA-Clean Water Act
8. TSCA-Toxic Substance Control Act
9. NEPA-National Environmental Policy Act
10. CAA-Clean Air Act

2.1c The bidder shall guarantee and warrant, in writing, that the chemical formulations proposed are capable of performing to MTS' satisfaction without damage or harm to the vehicles, mechanical parts, castings, applicator apparatus, or cleaning tank (s).

2.1d The bidder (manufacturer) shall furnish with the bid the following:

1. OSHA Material Safety Data Sheet (for each solvent).
2. Data and Specification Sheet (for each Solvent)
3. Specifications sheets for all cleaning equipment being proposed.

2.1e The bidder shall supply a list of antidote for persons coming in contact with cleaning chemicals.

2.1f Only one (1) compound or product shall be permitted; i.e., if a product requires a second product to accomplish cleaning - rinsing procedure, it shall NOT be accepted.

2.1g The bidder shall certify the product proposed has been used for one (1) year minimum in a similar operation/application. The bidder shall list the name, address and phone number of the contact person(s) of three (3) current users similar in size to MTS, of the product that have used it for the last year. Include all these in bid document.

3. REQUIREMENTS

3.1 Physical Product Requirements

3.1a The parts cleaning solvent shall be mineral spirits or standard solvent with a flash point above 140 degrees Fahrenheit.

3.1b The product(s) shall effectively clean all other items referred to in this specification.

3.1c The product(s) shall be supplied in liquid form and shall be suitable for the intended purpose. The product(s) shall have uniform consistency, be free from objectionable odor and shall not contain ingredients which would be harmful to the items to be cleaned. The product(s) shall not have any deleterious effect on the container in which it is packaged. Product(s) shall have the capability to be safely used by personnel using ordinary cleaning precautions.

3.1d The product(s) shall not contain ingredients deemed hazardous or for which the degree of hazard has yet to be determined. The liquid shall not harm the skin if flushed away with soap and water within five (5) minutes of contact. The product(s) shall have no adverse effects on health of, nor present any unusual hazard to, personnel when used for the intended purpose.

3.1e The product(s) shall not emit any offensive odors or any harmful vapors.

3.1f The product(s) shall not cause pitting or darkening of aluminum or stainless steel after immersion in the cleaning solvent.

3.1g The product(s) shall be free rinsing and shall leave no deposits, spotting, streaking, film or residues on surfaces cleaned, when used as prescribed.

3.2 Storage Requirements

3.2a Product(s) furnished under this specification shall be furnished in sealed, DOT approved, shipping containers.

3.2b The bidder shall supply a pressure sensitive warning and precaution label for the protection of the work persons involved, to be affixed to all cleaning tanks and shipping containers. The bidder shall replace such labels when deemed illegible by MTS

3.3 General

3.3a The bidder shall supply and transport parts cleaning solution(s) from their facility to the various locations specified in Section 5.1.

3.3b The bidder shall provide all labor and equipment necessary to transport and deliver

to their respective locations, the parts cleaning solution(s) and any parts required to maintain the furnished equipment.

3.3c The bidder shall be required to maintain a detailed file of all shipping manifest records of all solvent(s) transported for MTS. These records shall be available to MTS upon request. A current shipping manifest shall accompany each delivery.

4. SAMPLE, TEST AND INSPECTION

4.1 Sample

4.1a Sample invoice(s) and/or other form(s) to be used during the term of the agreement shall be provided with the bid and shall become part of the bidding information. MTS reserves the right to request changes in any of the forms to be used.

4.1b References from three (3) firms similar in size to MTS, within the local area, where a similar service has be provided in the past two (2) years shall be provided with the bid. References shall include company names, addresses, telephone numbers and the names of the contact person. MTS reserves the right to check all trade references listed to certify that bidder can in fact meet the requirements of the service requested in the specification. (See Section 2.2g)

5. DELIVERY AND PREPARATION

5.1 DELIVERY

5.1a The solvent(s) shall be delivered F.O.B. destination freight prepaid to the following four (4) locations: (See Attachment 1 for Model Types)

Fleet Maintenance Facility (EPA ID #WID982074296)
Contact: Manager Richard Talatzko 414-937-3283
1525 West Vine Street
Milwaukee, WI 53205

QTY	MODEL	SERVICE TERM
1	30	6 weeks
2	44	4 weeks

Fond du Lac Garage (EPA ID #WID981959836)
Contact: Manager Jerry Morrison 414-343-1762
2932 North 35th Street
Milwaukee, WI 53210

QTY	MODEL	SERVICE TERM
1	44	4 weeks

Fiebrantz Garage (EPA ID #WID981959828)
Contact: Manager Dwyane Reese 414-937-3297
1900 West Fiebrantz Avenue
Milwaukee, WI 53209

QTY	MODEL	SERVICE TERM
1	44	4 weeks

Kinnickinnic Garage (EPA #WID981959810)
Contact: Manager Ron McCorkel 414-937-3260
1710 South Kinnickinnic Avenue
Milwaukee, WI 53204

QTY	MODEL	SERVICE TERM
1	44	4 weeks

5.1b Delivery shall be made between 7:00 AM and 2:00 PM, Monday through Friday at all locations.

5.1c All deliveries shall be detailed on the receipt. All deliveries shall require an MTS maintenance MANAGERS (or designee's) signature on the delivery ticket for each location. (Managers listed with location)

5.2 Responsibilities of Bidder

5.2a The bidder shall set up and maintain an MTS approved delivery schedule to assure adequate supplies to maintain operations.

5.2b The bidder shall provide assistance necessary for manifest paperwork, lab analysis, and service analysis to provide an efficient and cost effective solvent service to MTS.

5.2c In the event MTS should have to contract for emergency service, due to bidder's failure to provide, bidder shall be responsible for any additional costs incurred to maintain cleaning operations. MTS reserves the right to deduct costs from invoices.

5.2d The bidder shall operate a plant of adequate size and facilities to properly and expeditiously complete a contract of the size required by the specifications. MTS may require an inspection of said facilities before award of contract and/or during said contract.

5.2e The bidder shall be responsible for providing prompt expert chemical advise and on-the-job technical service regarding the use of their product(s). To insure this requirement, the bidder shall include name(s), address(es), and telephone numbers(s) of said representative(s). (The bidder must insure that a representative is located within the statistical Milwaukee Metropolitan Area.) MAP 1.

6. NOTES

6.1 MTS Operating Contract

6.1a The continuation of this agreement beyond December 31st of any given year, shall be contingent upon MTS receiving the necessary funding from government agency.

6.2 Contractual Provisions

6.2a The agreement shall run for three (3) years from the initial installation date.

6.2b This agreement may be cancelled by either party for cause, with a thirty (30) day written notification to the other party. NOTE: MTS will invoke this option if minimum requirements of this specification are not met.

6.2d MTS shall not pay any penalties in case of cancellation.

6.2e If necessary, MTS will sign a service agreement with the bidder. If any provisions of the service agreement conflict with the bid and specifications, the bid and specifications will prevail.

6.2f No changes whatsoever shall be allowed without prior written authorization of the Materials Management Department.

6.3 Clarification to Specifications

6.3a For further clarification on these specifications, please contact the person listed below.

7. CHANGES TO BID/SPECIFICATIONS

7.1 No verbal responses from any agent of MTS shall be acted upon. For non-protest clarifications, submit questions in writing to:

Telice Gillom
Purchasing Agent
Milwaukee Transport Services, Inc.
l942 North l7th Street
Milwaukee, WI 53205
(414) 937-3241 | (414) 344-7080 FAX
e-mail: tgillom@mcts.org

ATTACHMENT 1

THE FOLLOWING INFORMATION SHALL BE INCLUDED WITH BID:

l. Location and size of facilities. (3.3a of the Specs.)

2. Name(s), address(es) and telephone number(s) of representative(s).(5.2e of the Specs.)

3. Guaranty/Warranty, that chemical formulations are capable of performing, etc. (2.1c of the Specs.)

4. a) OSHA Material Safety Data Sheet (for each product).

   b) Data and Specification Sheet (for each product).

   c) Laboratory of field results. (2.1d of the Specs.)

5. A list of antidotes. (2.1e of the Specs.)

6. Certification that the product has been used for at least one (l) year in a similar application. (2.1g of the Specs.)

7. Tank specification sheet complete with dimensions for each specified model on the bid. (Sheet to be similar to Attachment l of the Specs.)

8. Licenses and insurance as required. (Section 2 of the Specs.)

9. Wisconsin EPA#.

All of the above attachments must be clearly marked with Item Number - example:

Location and size of facilities shall be labeled "Attachment #l", etc.

Failure to provide all requested information may disqualify bid from evaluation and/or award.

BID SHEET

The undersigned bidder proposes to furnish the materials and services herein described at and for the prices hereinafter named, according to specification on file in the office of the Director of Materials Management, and, if successful, hereby agrees to enter into an agreement with Milwaukee Transport Services, Inc.

ITEM 1 **MODEL 30 PARTS CLEANER WITH MINERAL SPIRITS MAINTENANCE TERM**

SIX (6) WEEK SERVICE INTERVAL

Bid price in Words_____ each

Bid price in Figures $_____ each

ITEM 2 **MODEL 44 PARTS CLEANER WITH MINERAL SPIRITS MAINTENANCE TERM**

FOUR (4) WEEK SERVICE INTERVAL

Bid price in Words_____ each

Bid price in Figures $_____ each

SIGNATURE SHEET

CASH DISCOUNT:
Cash invoice discount for payment of invoices following receipt and acceptance of goods or services _____% 30 days.

DELIVERY:
Price shall include delivery, FOB destination freight prepaid to Milwaukee Transport Services, Inc., 1525 W. Vine St., Milwaukee, WI 53205, unless otherwise noted in this bid.

BY SIGNING THIS BID YOU ARE AGREEING WITH THE FOLLOWING STATEMENTS:

1. This bid has been made without any connection with any other bidder and is in all respects fair and without collusion or fraud.

2. This bid has been made with the understanding that no elected officer/employee of Milwaukee Transport Services, Inc., or Milwaukee County is interested therein, directly or indirectly.

3. The specifications for this bid has been read and understood.

4. Your company has never defaulted on any contract with Milwaukee Transport Services, Inc., or Milwaukee County.

In signing and submitting this quote, the proposer assures Milwaukee Transport Services, Inc., that the furnishing of the subject materials, services or equipment is under his/her control and accepts and has read all the Terms and Conditions of MTS, of this quote and all of its documents. If the proposer's performance, in the event he/she is successful is contingent upon the act of another party, the proposer assures MTS that he/she has the necessary commitments to complete the contract which may be awarded him/her.

Date: _____

Submitted by: _____

Name of firm: _____

Address of firm: _____

Signed per: _____
(Manual signature required)

Print name: _____

Title: _____ Email: _____

Telephone: _____ Fax: _____

DUNS #: _____

____No bid at this time
____Please retain on bidder list

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BID REQUIREMENTS
REQUIREMENTS/CERTIFICATIONS
PACKAGE

A. Certifications

THE FOLLOWING MUST BE SIGNED AND RETURNED WITH ALL BIDS:

1. Equal Employment Opportunity Certificate
2. Designation of Confidential and Proprietary Information
3. Buy America Certificate
4. Certification of Restrictions On Lobbying
5. Milwaukee County DBE Utilization Forms

THE SUBSTANCE ABUSE CERTIFICATION MUST BE SIGNED AND RETURNED WITH BIDS FOR SAFETY-SENSITIVE FUNCTIONS

1. Substance Abuse Certification

B. General Directions/Terms and Conditions for Bidding

C. Federal Transit Administration (FTA) - Required Third-Party Contract Clauses for Non-Rolling Stock

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATE
FOR
MILWAUKEE COUNTY CONTRACTS

In accordance with Section 56.17 of the Milwaukee County General Ordinances and Title 41 of the Code of Federal Regulations, Chapter 60, SELLER or SUCCESSFUL BIDDER or CONTRACTOR or LESSEE or (other-specify_____ (henceforth referred to as **VENDOR**), certifies to MILWAUKEE COUNTY as to the following and agrees that the terms of this certificate are hereby incorporated by reference into any contract awarded.

Non-Discrimination

VENDOR certifies that it will not discriminate against any employee or applicant for employment because of race, color, national origin, age, sex or disability, which includes, but is not 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.

VENDOR will post, in conspicuous places available to its employees, notices to be provided by the County setting forth the provisions of the non-discriminatory clause.

A violation of this provision shall be sufficient cause for the County to terminate the contract without liability for the uncompleted portion or for any materials or services purchased or paid for by the contractor for use in completing the contract.

Affirmative Action Program

VENDOR certifies that it will strive to implement the principles of equal employment opportunity through an effective affirmative action program, which shall have as its objective to increase the utilization of women, minorities, and persons with disabilities and other protected groups, at all levels of employment in all divisions of the seller, successful respondent or contractor's work force, where these groups may have been previously under-utilized and under-represented

Non-Segregated Facilities

VENDOR certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained.

Subcontractors

VENDOR certifies that it has obtained or will obtain certifications regarding non-discrimination, affirmative action program and non-segregated facilities from proposed subcontractors that are directly related to any contracts with Milwaukee County, if any, prior to the award of any sub-contracts, and that it will retain such certifications in its files.

Reporting Requirements

Where applicable, **VENDOR** certifies that it will comply with all reporting requirements and procedures in Title Code 41 Code of Federal Regulations, Chapter 60.

Affirmative Action Plan

VENDOR certifies that, if it has 50 or more employees, it has filed or will develop and submit (within 120 days of contract award) for each of its establishments a written affirmative action plan. Current affirmative action plans, if required, must be filed with ANY one of the following: The Office of Federal Contract Compliance Programs, or the State of Wisconsin, or the Milwaukee County Department of Audit, Milwaukee County - City Campus, 9th Floor, 2711 W. Wells Street, Milwaukee, Wisconsin 53208. If a current plan has been filed, indicate where filed_____ and the year covered_____. Please provide proof of your AA Plan approval.

VENDOR will also require its lower-tier subcontractors who have 50 or more employees to establish similar written affirmative action plans.

Employees

VENDOR certifies that it has_____employees in the Standard Metropolitan Statistical
(No. of Employees)

Area (Counties of Milwaukee, Waukesha, Ozaukee and Washington, Wisconsin)
and_____employees in total.
(Total No. of Employees)

Compliance

VENDOR certifies that it is not currently in receipt of any outstanding letters of deficiencies, show cause, probable cause, or other notification of noncompliance with EEO regulations.

Executed this_____day of_____ 20____ by:

Firm Name: _____

Address:_____

City/State/Zip_____

Telephone: _____
(Title)

WARNING: An unsigned form shall be considered as a negative response.

By_____
(Signature)

DESIGNATION OF CONFIDENTIAL AND PROPRIETARY INFORMATION

The attached material submitted in response to Proposal No._____ includes proprietary and confidential information which qualifies as a trade secret, as provided in Section l9.36(5), Wis. Stats., or is otherwise material that can be kept confidential under the Wisconsin Open Records Law. As such, we ask that certain pages, as indicated below, of this proposal response be treated as confidential material and not be released without our written approval.

We request that the following pages not be released:

Section	Page #	Topic

IN THE EVENT THE DESIGNATION OF CONFIDENTIALITY OF THIS INFORMATION IS CHALLENGED, THE UNDERSIGNED HEREBY AGREES TO PROVIDE LEGAL COUNSEL OR OTHER NECESSARY ASSISTANCE TO DEFEND THE DESIGNATION OF CONFIDENTIALITY.

This does not apply to proposal prices. Prices are always open. Other information usually cannot be kept confidential unless it is a trade secret. Trade secret is defined in s.l34.90(l)(c), Wis. Stats. as follows: "Trade secret" means information, including a formula, pattern, compilation, program, device, method, technique or process to which all of the following apply: l. The information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. 2. The information is the subject of efforts to maintain its secrecy that are reasonable under the circumstances.

Failure to include this form in the proposal response may mean that all information provided as part of the proposal response will be open to examination and copying. Milwaukee Transport Services, Inc., considers other markings of confidential in the proposal document to be insufficient. The undersigned agrees to hold Milwaukee Transport Services, Inc., harmless for any damages arising out of the release of any materials unless they are specifically identified above.

_____	_____
Name-Authorized Representative	Company Name
_____	_____
Signature-Authorized Representative	Date

BUY AMERICA REQUIREMENTS (Non-Rolling)
49 U.S.C. 5323(j)
49 CFR Part 661

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as non-responsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.

Date _____

Signature _____

Company _____

Name _____

Title _____

Certificate of Non-Compliance with Buy America Requirements

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

Date _____

Signature _____

Company _____

Name _____

Title _____

LOBBYING
31 U.S.C. 1352
49 CFR Part 19 & 49 CFR Part 20

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]
Contractors who apply or bid for an award of $100,000 or more shall file the certification required by 49 CFR Part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form—LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Req. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.
[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than $10,000 for each such expenditure or failure and not more than $100,000 for each such expenditure or failure.]

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

_____ Signature of Contractor's Authorized Official

_____ Name of Contractor's Authorized Official

_____ Title of Contractor's Authorized Official

_____ Date

Substance Abuse Certifications

The Milwaukee County Transit System adheres to the Federal Transit Administration's (FTA) regulations which requires any contractor of MCTS that is involved in safety sensitive functions must annually submit the following Substance Abuse Certifications:

A. Drug-Free Workplace Agreement

As required by U.S. DOT regulations, ``Drug-Free Workplace Requirements (Grants)," 49 CFR part 29, Subpart F, and as modified by 41 U.S.C. 702, the Applicant agrees that it will provide a drug-free workplace by:

(1) Publishing a statement notifying its employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace and specifying the actions that will be taken against its employees for violation of that prohibition;

(2) Establishing an ongoing drug-free awareness program to inform its employee about:
(a) The dangers of drug abuse in the workplace;
(b) Its policy of maintaining a drug-free workplace;
(c) Any available drug counseling, rehabilitation, and employee assistance programs; and
(d) The penalties that may be imposed upon its employees for drug abuse violations occurring in the workplace;

(3) Making it a requirement that each of its employees to be engaged in the performance of the grant or cooperative agreement be given a copy of the statement required by paragraph (1) of this certification;

(4) Notifying each of its employees in the statement required by paragraph (1) of this certification that, as a condition of employment financed with Federal assistance provided by the grant or cooperative agreement, the employee will be required to:
(a) Abide by the terms of the statement; and
(b) Notify the employer (Applicant) in writing of any conviction for a violation of a criminal drug statute occurring in the workplace no later than five (5) calendar days after that conviction;

(5) Notifying FTA in writing, within ten (10) calendar days after receiving notice required by paragraph (4)(b) above from an employee or otherwise receiving actual notice of that conviction. The Applicant, as employer of any convicted employee, must provide notice, including position title, to every project officer or other designee on whose project activity the convicted employee was working. Notice shall include the identification number(s) of each affected grant or cooperative agreement;

(6) Taking one of the following actions within thirty (30) calendar days of receiving notice under paragraph (4)(b) of this agreement with respect to any employee who is so convicted:
(a) Taking appropriate personnel action against that employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or
(b) Requiring that employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, state, or local health, law enforcement, or other appropriate agency; and

(7) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (1), (2), (3), (4), (5), and (6) of this agreement. The Applicant agrees to maintain a list identifying its headquarters location and each

workplace it maintains in which project activities supported by FTA are conducted, and make that list readily accessible to FTA.

B. Prevention of Alcohol Misuse and Prohibited Drug Use Certification

If the Applicant is required by Federal regulations to provide the following certification concerning its activities to prevent alcohol misuse of prohibited drug use in its transit operations, FTA may not provide Federal assistance to that Applicant until it provides this certification by selecting Category "10".
As required by FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations", at 49 CFR part 655, subpart I, the Applicant certifies that it has established and implemented an anti-drug and alcohol misuse program, and has complied with or will comply with applicable requirements of FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations", at 49 CFR part 655.

All contractors who perform safety-sensitive functions for the Milwaukee County Transit Systems (e.g. overhaul and or rebuild engines, parts and vehicles) are required to certify. (Detailed information regarding the substance abuse certification can be obtained at www.fta.dot.gov.)

The undersigned contractor hereby certifies that it will comply with the requirements.

Executed this _____ day of _____, 20___

_____
(Company)

By _____ _____
(Authorized Signature) (Print/type Name)

_____
(Title)

MILWAUKEE COUNTY TRANSIT SYSTEM
IS OPERATED AND MANAGED BY
MILWAUKEE TRANSPORT SERVICES, INC.

GENERAL DIRECTIONS FOR SUBMITTING BIDS

1. How to Bid

All bids shall be in writing (PRINTED) or typed and all prices and amounts stated in words and figures. All bids shall be submitted on the official form furnished by Materials Management and signed with the firm's name and manually signed by an officer or employee authorized to sign bids. Unsigned bids shall not be considered. If this form does not provide sufficient space, bidders may attach a sheet supplying the additional information. This sheet shall also be signed as described above in order to properly identify attachments to bid.

2. How to Amend a Bid Before Due Date and Time

After a bid has been filed with Materials Management Department and the bidder desires to amend his/her bid, he/she may do so before the due date and time by filing an amendment, fully identified with the original bid submitted by number, commodity and opening date. All of the conditions and provisions of the original bid will be in effect. This must be submitted before the date and time for receipt of bids as set forth in the bid documents. No bids or amendments will be accepted after the bid opening date and time specified.

3. Facsimile Response Not Allowed

Proposals will <u>not</u> be accepted in response to this Bid, by facsimile, modem, telephone or other electronic means. Furthermore, no proposal will be accepted that is not legible and clear.

TERMS AND CONDITIONS OF BID

Calculation of time in days and hours shall exclude Saturdays, Sundays and major holidays.

1. Award

Award will be made to the lowest responsive, responsible bidder meeting specifications. MTS reserves the right to award a separate contract for each item unless otherwise specified in the bid; any group of items.

MTS reserves the right to make an award based on its own determination, or to reject any or all bids or portions of same, if in the opinion of MTS, the best interest of MTS will be served thereby.

2. Tie Bids

If there are tie bids, award will be made in accordance with tie bid provisions as outlined in Chapter 32 of the Milwaukee County General Ordinances.

3. Changes in Specifications

Changes to specifications are not permitted. Bids not meeting the minimum requirements specified shall be rejected. All merchandise shall be new and unused unless otherwise specified in the specifications.

4. Defaulting Bidders Excluded

No bids will be accepted from any person, firm or corporation that has failed to perform faithfully any previous contract with MTS unless said person, firm or corporation has been reinstated on the eligible list of bidders by the Director of Materials Management.

5. Delays in Delivery

Delays in delivery caused by bona fide strikes, government priority or requisition, riots, fires, sabotage, acts of God or any other delays deemed by the Director of Materials Management to be clearly and unequivocally beyond the contractor's control, will be recognized. The vendor may be relieved of meeting the delivery time specified if vendor files with the Director of Materials Management a request for extension of time, signed by a responsible official, giving in detail all the essential circumstances which upon verification by Director of Materials Management justifies such extension.

6. Delivery Terms

Bids shall include delivery costs to the specified delivery point, all transportation charges prepaid and borne by you.

7. Taxes

MTS is exempt from Federal Excise Taxes and Wisconsin State Sales Tax. Bids shall be submitted without such taxes.

8. Code of Ethics

The Milwaukee County Code of Ethics states in part, "No person may offer to give to any Public official or employee or his immediate family, and no Public official or employee or his immediate family may solicit or receive anything of value pursuant to an understanding that such officers or employees' vote, official actions or judgment would be influenced thereby."

No person(s) with a personal financial interest in the approval or denial of a contract being considered by a County department or with an agency funded and regulated by a County department, may make a campaign contribution to any County official who has approval authority over that contract during its consideration. Contract consideration shall begin when a contract is submitted directly to a County department or to an agency until the contract has reached final disposition, including adoption, county executive action, proceedings on veto (if necessary) or departmental approval**.** This provision does not apply to those items covered by Section 9.15 unless an acceptance by an elected official would conflict with this section. The language in Section 9.05(2)(l) shall be included in all Request for Proposals (RFP) and bid documents.

9. Funds

If funds are not appropriated for payment of this contract, Purchaser may terminate contract at the end of any fiscal year upon 30 days written notice.
MTS operates the transit system for, and under an agreement with, Milwaukee County, Wisconsin. All multi-year contracts / agreements with MTS are contingent upon Milwaukee County retaining MTS as the operator of the transit system. The continuation of this agreement beyond December 31 of any given year, shall be contingent upon MTS receiving the necessary funding from the government agency.

10. Insurance

The successful bidder agrees to evidence and maintain proof of financial responsibility to cover costs as may arise from claims of torts, statutes and benefits under Workers' Compensation claims as required by the State of Wisconsin, including Employers' Liability and insurance covering General and Automobile Liability coverages in the following minimum amounts.

Type of Coverage	Minimum Limits
Wisconsin Workers' Compensation	Statutory or Proof of all States Coverage
Employers' Liability	$100,000/$500,000/$100,000
United States Longshoreman and Harbor Workers Compensation Act Coverage	If required by law
Commercial General Liability	
Bodily Injury & Property Damage	$1,000,000 Per Occurrence
(Incl. Personal, Injury, Fire, Legal Contractual & Products/Completed Operations	$1,000,000 General Aggregate
Automobile Liability	
Bodily Injury & Property Damage	$1,000,000 Per Occurrence
All autos-owned, non-owned and/or hired	
Uninsured Motorists	Per Wisconsin Statutes

MILWAUKEE TRANSPORT SERVICES, INC AND MILWAUKEE COUNTY , AS ITS INTEREST MAY APPEAR, SHALL BE NAMED AS AN ADDITIONAL INSUREDS FOR GENERAL & AUTOMOBILE LIABILITY, AND BE AFFORDED A THIRTY DAY (30) WRITTEN NOTICE OF CANCELLATION OR NON-RENEWAL. DISCLOSURE MUST BE MADE OF ANY NON STANDARD OR RESTRICTIVE ADDITIONAL INSURED ENDORSEMENT, AND ANY USE OF THE NON STANDARD OR RESTRICTIVE ADDITIONAL INSURED ENDORSEMENT WILL NOT BE ACCEPTABLE. A CERTIFICATE INDICATING THE ABOVE COVERAGES SHALL BE SUBMITTED TO 1942 N. 17TH STREET, MILWAUKEE, WI 53205, FOR REVIEW AND APPROVAL BY MTS INC. FOR THE DURATION OF THIS AGREEMENT.

Coverages shall be placed with an insurance company approved by the State of Wisconsin and rated "A" or better per Best's Key Rating Guide. Additional Information as to policy form, retroactive date, discovery provisions and applicable retentions, shall be submitted to MTS Inc., if requested, to obtain approval of insurance requirements. Any deviations, including the use of purchasing groups, risk retention groups, etc., or requests for waiver from the above requirements shall be submitted in writing to MTS Inc. for approval prior to the commencement of activities under this agreement.

11. Indemnification Agreement

The successful bidder shall indemnify and hold harmless Milwaukee Transport Services, Milwaukee County, their employees, agents and assigns, from any and all liability for damages on account of injury, including death, to persons, including employees of Milwaukee Transport Services or Milwaukee County, or for damage to property which actually or allegedly results from or actually or allegedly arises in connection with the performance of services or the furnishing of goods or products provided in connection with this bid. In addition, the successful bidder shall reimburse Milwaukee Transport Services, Inc. and Milwaukee County for all costs, expenses, including all costs of defense attorneys fees, and all other losses incurred by Milwaukee Transport Services, Inc. or Milwaukee County in connection with any claims, demands and causes of action, whether meritorious or not, which may be brought against Milwaukee Transport Services, Inc., Milwaukee County or their employees, agents or assigns, arising in whole or in part from goods, services or products provided or furnished for this bid.

12. Intellectual Property Indemnification

The successful bidder shall defend, at its expense, any action brought against MTS or Milwaukee County or their employees to the extent that it is based on a claim that the goods, services, or products provided in connection with this purchase order infringes any patent, trade secret, trademark, copyright, or other proprietary right. Successful bidder shall indemnify MTS and Milwaukee County for any costs, damages, and fees, including any costs, damages, and fees finally awarded against MTS and Milwaukee County, which are attributable to such claim, provided that MTS or Milwaukee County notifies successful bidder of the claim. MTS and Milwaukee County shall permit successful bidder, at successful bidder's sole discretion, to defend, compromise or settle the claim. MTS and Milwaukee County shall provide all available information, assistance and authority to enable Vendor to do so, provided successful bidder reimburses MTS and Milwaukee County for such activity.

13. Independent Contractor

Nothing contained in the Agreement shall constitute or be construed to create a partnership or joint venture between MTS, Inc. or its successors and the Contractor or its successors or assigns. In entering into this Agreement, and in acting in compliance herewith, Contractor is at all times acting and performing as an independent Contractor, duly authorized to perform the acts required of it hereunder.

14. Retention of Records

Contractor agrees to retain all records related to this contract for a period of at least three years from final date of payment of this contract

15. Audit of Records

Contractor shall permit the authorized representative of the Milwaukee County Auditor, after reasonable notice, the right to inspect and audit all data and records of Contractor related to carrying out the contract for a period of up to three years after completion of the contract. If subcontracts and/or associates are utilized, prime contractor shall have a written contractual agreement with County approved subcontractors

and/or associates which bind the subcontractor to the same audit contract terms and conditions as the prime Contractor.

16. Non-Discrimination

The contractor, lessee, offeror, supplier, purchaser, etc., agrees not to discriminate against any employee or applicant for employment because of race, religion, color, national origin, age, sex, or handicap, which includes, but not limited to: recruitment or recruitment advertising; employment; upgrading; demotion or transfer, layoff or termination; rates of pay or other forms of compensation; selection for training, including apprenticeship. A violation of this provision shall be sufficient cause for MTS to terminate the contract, lease, order, etc. pursuant to County Ordinance 56.17 - Non Discriminatory Contracts.

17. Disadvantaged Business Enterprise

The contractor, sub recipient 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 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Milwaukee County has assigned an overall annual goal for participation of certified disadvantaged business enterprises (DBE) contracts. All bidders/proposers are hereby directed to consider certified DBE subcontractors when carrying out the requirements of this contract.

The directory of firms can be obtained by contacting Community Business Development Partners (CBDP) at (414) 278-4747 or by visiting the following Internet site: https://app.mylcm.com/wisdot/Reprts/WisDotUCPDirectory.aspx

For additional certified firms or understanding Milwaukee County procedures regarding the DBE Program, contact CBDP at (414) 278-5248.

18. Termination for Convenience

MTS may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in MTS's best interest. The Contractor shall be paid its cost, 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 MTS to be paid the Contractor. If the Contractor has any property in its possession belonging to MTS, the Contractor will account for the same and dispose of it in the manner MTS directs.

19. Termination for Default

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract 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, MTS may terminate this contract for default. Termination shall be effected by serving a notice of termination on the Contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by MTS 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, MTS 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.

20. Opportunity to Cure

MTS in its sole discretion may, in the case of a termination for default, allow the Contractor thirty (30) days 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 MTS' satisfaction the default or any other terms covenants, or conditions of this Contract within the thirty (30) days after receipt by the Contractor of written notice from MTS setting forth the nature of said default, MTS shall have the right to terminated the Contract without any further obligation to the Contractor. Any such termination for default shall not in any way operate to preclude MTS from also pursuing all available remedies against the Contractor and its sureties for said default.

21. Employee's Right to Know

It is a direct condition of the terms of this proposal that if there be any toxic substances, materials, or infectious agents, the offeror shall supply copies of material safety data sheets in accordance with Wisconsin Statutes, Chapter 364.

22. Brand Names

In all cases materials must be furnished as specified, but where brand names are used, consider the term "approved equal" to follow. However, if an approved equal is requested the bidder shall request consideration for approved equal status by submitting the appropriate documentation demonstrating equal status a minimum of ten (10) working days prior to the time scheduled for bid opening. Requests submitted without adequate documentation and/or less than 10 working days prior to the time scheduled for bid opening will not be considered.

23. Price and Cost Analysis

In the event a single bid is received, MTS will conduct a price and/or cost analysis of the bid based on data which shall be provided by the bidder. A cost analysis is the process of examining the bid and evaluating the separate cost elements. It should be recognized that a price analysis through comparison to other similar procurement must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar quantity and involving similar specifications. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary for MTS to conduct a cost analysis of the bid price. The price and/or cost analysis shall be made by competent and experienced auditors or price analysts. An engineer's estimate or comparison of the prices involved is insufficient for cost analysis purposes.

24. Written Change Orders

Oral change orders are not permitted. No change in this contract shall be made unless the contracting officer gives his prior written approval therefore. The contractor shall be liable for all costs resulting from and/or for satisfactorily correcting, any specification change not properly ordered by written modification to the contract and signed by the contracting officer.

25. Waiver of Irregularities

MTS may waive informalities and minor irregularities in bids received.

26. PROTESTS AND APPEALS

<u>Protest Policy for Sealed Bids</u>:

Calculation of time in days and hours shall exclude Saturdays, Sundays and major holidays.

A. Prior to sealed bid opening:

1. Protests to form and content of bid documents shall be received by the Director of Materials Management not less than five (5) days prior to the time scheduled for bid opening. Protests shall be in writing and state the reason for it.

2. The Director of Materials Management shall review protests and if modification is necessary, the bid opening date shall be extended and addenda containing the changes shall be sent to each bidder. If the modification is rejected, the protestor shall be notified. The decision of the Director of Materials Management is final.

B. After sealed bid opening:

1. Protests concerning irregularities on sealed bid opening procedures or compliance by bidders with bid documents shall be received by the Director of Materials Management within seventy-two (72) hours after time of bid opening.

2. When a sealed bid is awarded to other than the lowest bidder, all bidders shall be notified in writing by certified mail, return receipt requested, or by fax machine transmission of the proposed award. Protest to the award must be delivered to the Director of Materials Management within seventy-two (72) hours after receipt of notice. A copy of the fax transmission cover sheet, or the department's fax log, shall be conclusive proof of the time and date of receipt by a bidder.

3. A protest under either (B.1.) or (B.2.) above must be in writing and state the reason for it. The Director of Materials Management shall review the protest and notify the protestor of a decision in writing by certified mail return receipt requested, or by fax machine transmission, within five (5) days. No contract shall be awarded while a protest is pending. A protest that is untimely or fails to clearly state the reason for it or shall have been made prior to bid opening is invalid. The decision of the Director of Materials Management disqualifying the protest for these reasons is final and cannot be appealed. A copy of the fax transmission cover sheet, or the department's fax log, shall be conclusive proof of the time and date of receipt by a bidder.

C. Appeals to the Purchasing Appeals Committee:

1. Protest from the decision of the Director of Materials Management shall be made to the Purchasing Appeals Committee by delivering a written request for appeal hearing both to the Materials Management Department and the Purchasing Appeals Committee within seventy-two (72) hours after the receipt of the Director of Materials Management's decision.

2. Written appeals to the Purchasing Appeals Committee shall be addressed as follows:
Purchasing Appeals Committee
C/O MTS Materials Management Department
1942 North 17th Street
Milwaukee, WI 53205

3. The request shall state the grounds upon which the protest is based and shall request an appeal hearing. No contract shall be awarded until the final disposition of the protest.

4. The Chairperson of the Purchasing Appeals Committee shall notify all interested persons of the time and place of the hearing.

5. The Purchasing Appeals Committee shall affirm, reverse or modify the decision of the Director of Materials Management and its' decision shall be final. Milwaukee Transport Services (MTS) reserves the right to immediately act on the decision of the Purchasing Appeals Committee regardless of a potential appeal to the FTA.

D. Appeals To FTA

A protest may be filed with FTA following an adverse decision by the Purchasing Appeals Committee. The protest must be filed in accordance with procedures set forth in FTA Circular 4220.lF. Any protest must be filed with FTA in writing not later than five days of notification of an adverse decision by the Purchasing Appeals Committee. Protest should be filed with FTA, Region V, 200 West Adams Street, Suite 320, Chicago, IL 60606 and a concurrent copy sent to Milwaukee Transport Services, Inc. FTA's review of any protests will be limited to:

1. Alleged failure of Milwaukee Transport Services to have a written protest procedure.
2. Alleged failure of Milwaukee Transport Services to follow such procedure or its' failure to review a complaint or protest.
3. Alleged violation of a specific Federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that Federal regulation.

Protests filed with FTA shall:

1. Include name and address of the protestor.

2. Identify the Milwaukee Transport Services' solicitation number.

3. Contain a statement of the grounds for protest and any supporting documentation. This statement shall detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.

4. Include a copy of the local protest filed with Milwaukee Transport Services and a copy of the Purchasing Appeals Committee decision.

E. Contract Continuation Clause:

Contractor recognizes that the services under this contract are vital to MTS and to the public and must be continued without interruption. Contractor agrees that MTS, in its sole discretion, and by written notice to Contractor at least 30 days prior to contract expiration, may extend this Agreement for up to an additional 90 days. If so extended by MTS, Contractor shall continue to provide services under this Agreement, on the same terms as set forth in this Agreement. MTS may terminate any such extension by providing Contractor with 30-day notice. Contractor further agrees to exercise its best efforts and cooperation to affect an orderly and efficient transition to any successor Contract.

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Provision A.1.19

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

(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.

Provision A.1.20

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS
31 U.S.C. 3801 et seq.
49 CFR Part 31 18 U.S.C. 1001
49 U.S.C. 5307

(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. chapter 53 or any other Federal law, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323 (1), or other applicable Federal law 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.

Provision A.1.11

ACCESS TO RECORDS AND REPORTS
49 U.S.C. 5325
49 CFR 18.36(i)
49 CFR 633.17

The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee to the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the U.S. Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. 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.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after final payment is made by the grantee and all other matters are closed.

7. FTA does not require the inclusion of these requirements in subcontracts.

Provision A.1.12

FEDERAL CHANGES
49 CFR Part 18

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 Purchaser and FTA, as they may be amended or promulgated from time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

Provision A.1.24

CIVIL RIGHTS REQUIREMENTS
29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights – The following requirements apply to the underlying contract

(1) Non-discrimination – 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:

(a) 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.

(b) 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.

(c) 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 requirement FTA may issue.

(3) 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.

Provision A.1.30

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1F

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, 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 Milwaukee County requests that would cause Milwaukee County to be in violation of the FTA terms and conditions.

Provision A.1.6

ENERGY CONSERVATION REQUIREMENTS
42 U.S.C. 6321 et seq.
49 CFR Part 18

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.

Provision A.1.21

TERMINATION
49 U.S.C. Part 18
FTA Circular 4220.1F

a. Termination for Convenience (General Provision) Milwaukee County may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government'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 Milwaukee County to be paid the Contractor. If the Contractor has any property in its possession belonging to Milwaukee County, the Contractor will account for the same and dispose of it in the manner Milwaukee County directs.

b. Termination for Default [Breach or Cause] (General Provision) 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, Milwaukee County may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by Milwaukee County 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, Milwaukee County, 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.

c. Opportunity to Cure (General Provision) Milwaukee County in its sole discretion may, in the case of a termination for breach or default, allow the Contractor appropriately thirty (30) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to Milwaukee County's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within thirty (30) days after receipt by Contractor of written notice from Milwaukee County setting forth the nature of said breach or default, Milwaukee County 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 Milwaukee County from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that Milwaukee County elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Milwaukee County shall not limit Milwaukee County's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) Milwaukee County by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, Milwaukee County shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, Milwaukee County may terminate this contract for default. Milwaukee County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

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

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, Milwaukee County may terminate this contract for default. Milwaukee County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of Milwaukee County, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and Milwaukee County shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, Milwaukee County may terminate this contract for default. Milwaukee County shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if:

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. The Contractor, within ten ***(10)*** days from the beginning of any delay, notifies Milwaukee County in writing of the causes of delay. If in the judgement of Milwaukee County, the delay is excusable, the time for completing the work shall be extended. The judgement of Milwaukee County shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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

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

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

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

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

If the termination is for the convenience of Milwaukee County, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

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

Provision A.1.22

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT)

49 CFR Part 29
Executive Order 12549
Executive Order 12689
31 USC 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327)

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.

The contractor is required to review the "Excluded Parties Listing System" at http://sam.gov/ before entering into any subagreement, lease, third party contract, or other arrangement in connection with the Project and must include this review requirement in any lower tier covered transaction it enters into.

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

> The certification in this clause is a material representation of fact relied upon by Milwaukee County and Milwaukee County Transit System. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Milwaukee County and Milwaukee County Transit System, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Provision A.1.25

BREACHES AND DISPUTE RESOLUTION
49 CFR Part 18
FTA Circular 4220.1F

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

Performance During Dispute – Unless otherwise directed by Milwaukee County, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

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

Rights and Remedies – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by Milwaukee County, or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Provision A.1.14

CLEAN AIR
42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

Provision A.1.7

CLEAN WATER REQUIREMENTS
33 U.S.C. 1251

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

Provision A.1.4

CARGO PREFERENCE REQUIREMENTS
46 U.S.C. 1241
46 CFR Part 381

Cargo Preference – Use of United States-Flag Vessels - The Contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of lading shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading) ; c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

Provision A.1.1

FLY AMERICA REQUIREMENTS
49 U.S.C. § 40118
41 CFR Part 301-10

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

Provision A.1.17

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

40 U.S.C. 3701, et seq.
29 C.F.R. 5.2 (h)
49 C.F.R. 18.36 (i)(6)

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

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

(3) Withholding for unpaid wages and liquidated damages – Milwaukee County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to by necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts – The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

Provision A.1.28

DISADVANTAGED BUSNIESS ENTERPRISE (DBE)
49 CFR Part 26

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is **10%**. If there is a separate goal established for this procurement, it is listed on the cover of this BID.

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

c. Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following information, **concurrent with and accompanying sealed bid, prior to award**:

1. The names and addresses of DBE firms that will participate in this contract;

2. A description of the work each DBE will perform;

3. The dollar amount of the participation of each DBE firm participating;

4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;

5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and

6. If the contract goal is not met, evidence of good faith efforts to do so.

Bidders must present the information required above **as a matter of responsiveness with initial bid/proposal.** (see 49 CFR 26.53(3)).

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 7 days after the contractor's receipt of payment for that work from MTS. In addition, the contractor is required to return any retainage payments to those subcontractors within 7 days after the subcontractor's work related to this contract is satisfactorily completed.

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

Provision A.1.15

RECYCLED PRODUCTS
42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Provision 16

ASSIGNABILITY

Milwaukee County reserves the right to assign all or a portion of the specified deliverables of this contract under the terms originally advertised, competed, evaluated and awarded. Such assignment shall be limited to another FTA grantee. The assignment, should it occur, will be honored by the contractor and will be in force through the duration of the contract.

COMMUNITY BUSINESS DEVELOPMENT PARTNERS

MILWAUKEE COUNTY

DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION SPECIFICATIONS

1. The award of this contract is conditioned upon your good faith efforts in achieving this project's Disadvantaged Business Enterprise (DBE) goal of __%, and you must document those efforts.

2. **DBE Goal**: This participation goal is based on the total dollar value of your base bid, initial offer or initial scope of work, less allowance and/or reimbursable items. Participation must be maintained throughout the contract, including additional contract work, e.g., acceptance of alternates, negotiated procurements, change orders, addendums, use of allowances, etc.

BID/PROPOSAL CONSIDERATIONS

3. The County will reject your bid/proposal if it does not include documentation of your good faith efforts in one of the following ways:

   a. When you meet or exceed the goal, include the ***Commitment to Contract with DBE*** (DBE-14) form(s).

   b. When you **do not** meet or exceed the goal, include the ***Certificate of Good Faith Efforts*** (DBE-01) goal.

   EXAMPLE: 20% goal. You have 4% participation in commitment(s). You submit the commitment(s) for the 4%, along with the ***Certificate of Good Faith Efforts*** (DBE-01) documenting the efforts undertaken to achieve the remaining 16%.

4. Your good faith efforts are those that one could reasonably expect to be taken if you were actively and aggressively trying to obtain DBE participation sufficient to meet the goal. Additional guidance is part of the ***Certificate of Good Faith Efforts*** (**DBE-01**) form).

5. If awarded the contract, you will enter into a contractual agreement, directly or through subcontractors, according to the ***Commitment to Contract with DBE*** (**DBE-14**) form(s) submitted with your bid/proposal. Copies of the executed contract(s) or purchase order(s) will be required to be submitted to the County.

6. DBE participation credit, for both DBE and non-DBE primes, is calculated as follows:

   a. All of the identified scope(s) of work must have a commercially useful function in the actual work of the contract and must be performed directly by the DBE. This means that DBEs must perform the contract work with their own employees, as determined by the County.

   b. One hundred percent (100%) for the work performed by a DBE. If a DBE subcontracts a portion of its work to another firm, the value of the subcontracted work will not be counted towards the DBE goals unless the work is performed by another DBE. Material, equipment and supplies provided and installed (put into use) by a DBE also count dollar for dollar to toward the goal.

   c. One hundred percent (100%) for products manufactured by a DBE. DBE manufacturers operate or maintain a facility that produces goods from raw materials, or substantially alters the materials or supplies, on-site.

   d. Sixty percent (60%) for materials or supplies purchased from a certified DBE regular dealer.

   Regular Dealers own, operate, or maintain stores, warehouses, or other establishments where materials or supplies are kept in stock, and regularly sold to the public in the usual course of business. A regular dealer in bulk items such as steel, cement, gravel, stone, and petroleum products don't need to keep stock, if it owns or operates distribution equipment.

e. One hundred percent (100%) for the fees or commissions charged for assistance in the procurement of material and supplies. Fees or transportation charges for the delivery of material or supplies by a DBE to a job site also count dollar for dollar toward the goal. The cost of the materials and/or supplies themselves will not be credited towards its DBE goals.

Brokers, Trade Agents and Manufacturers'/Independent Sales Representatives arrange or expedite transactions without taking title of the goods being sold and receive a commission or fee for their service.

f. One hundred percent (100%) for DBE trucking firms. The DBE must be responsible for the management and supervision of the entire trucking operation for which it has contracted. The DBE must also use trucks it owns, insures, and operates using drivers it employs. The DBE may lease trucks from another firm, or an owner-operator, certified as a DBE. The DBE may also lease trucks from a non-DBE firm, or owner-operator, but credit will only be given for the fee or commission and not the trucking itself. Ready mix operations will not receive credit for deliveries made by non-DBE firms.

g. You are required to notify the County if any DBE contractor(s) working on this contract will sublet any portion of their work.

7. Only DBEs certified by the State of Wisconsin Unified Certification Program (UCP) prior to the bid/proposal submission deadline count towards the satisfaction of the goal. **If you want to use a firm certified in another state or with another agency, the firm must apply for certification with the UCP prior to submission of your offer/bid deadline**. For assistance related to DBE certification of firms, contact the Certification Compliance Administrator at (414) 278-4747.

8. The County reserves the right to request supporting documentation from both you and any listed DBE. If you fail to respond within the time specified, the County will determine you to be non-responsive and remove you from further consideration for contract award.

FOLLOWING CONTRACT AWARD

9. The County reserves the right to conduct compliance reviews and request, both from you and your subs or suppliers, supporting documentation to verify DBE participation, in addition to the information entered monthly into the County's online reporting system. The County will notify you if you are not in compliance with contract specifications. If you fail to take corrective action as directed, the County will take one or more of the following actions:

   a. Terminate or cancel your contract, in whole or in part;

   b. Remove you from the list of qualified contractors/consultants, and refuse to accept future bids/proposals from you for a period not to exceed three (3) years;

   c. Withhold contract payments, or pay subs and/or suppliers directly, to cover shortfall; and/or

   d. Bring suit to recover damages up to the amount of the shortfall, including interest at the rate of 12% annually, plus the County's costs, expenses and actual attorney's fees incurred in the collection action.

10. You must submit copies of the executed subcontract agreement(s) or purchase order(s) for each sub and/or supplier listed on the contract. Include copies with the first monthly request for payment. **REQUESTS FOR PAYMENT WILL NOT BE PROCESSED IF AGREEMENTS ARE NOT SUBMITTED**. In addition, you will document that each DBE is notified at least three (3) working days before start of their subcontract work.

11. You are required to notify the County if any DBE contractor(s) working on this contract will sublet any portion of their work.

12. If the DBE(s) cannot perform, if you have a problem in meeting the goal, or any other issue such issues come up, you must immediately contact CBDP at (414) 278-4747. You must submit written notification of your desire for substitution to the DBE affected, and copy the County. This notice must state the reason for the request. The DBE has five (5) business days to provide written objection/acceptance to you. Approval must be obtained from County prior to making any substitutions. DBE contractors are also required to notify and obtain approval from the County prior to subletting work on this project.

13. **Requests for Payment**: You will enter payments to subs and suppliers directly into the County's online reporting system on a monthly basis. These entries will cover payments made during the preceding month and will include zero dollar ($0) entries where no payment has occurred. You must also indicate on the AIA Document ***G703 - Continuation Sheet***, or equivalent, work being performed by DBEs. Either a) place the word "DBE" behind the work item or b) break out the work done by DBEs at the end of the report. If you don't do these things, the County will deny payments, or enforce other sanctions including those listed in Section 9, above.

14. The County has a revolving loan program for DBEs. If you use a DBE that is using these County funds, you must assist the County repayment of these funds. This may include, but is not limited to, providing written information regarding the sub's contract balance, prior payment (two or three party) agreements, and the issuance of two-party checks payable in the name of Milwaukee County and the DBE indebted to the County under this program.

15. The County reserves the right to waive any of these specifications when it is in our best interest.

COMMUNITY BUSINESS DEVELOPMENT PARTNERS

MILWAUKEE COUNTY

CERTIFICATE OF GOOD FAITH EFFORTS

This document should detail what your firm has done to meet this project's participation goal. Guidance as to what 'good faith efforts' are and are not is found on pages 5 & 6 of this document.

Failure to use good faith efforts to meet the assigned participation goal will result in the rejection of your bid/proposal.

I, _____, do hereby acknowledge that I am the _____ of _____, who has been identified as a bidder/proposer on the following Milwaukee County Project:

Project No.	Project Title	Total Contract Amount	DBE Percentage	
			Goal	Pledged

Provide a brief summary of why your firm is unable to meet the participation goal on this project. (Attach additional pages if necessary)

I hereby certify that our firm has used good faith efforts to solicit, negotiate with, and utilize certified firms to meet the participation goal of this contract, as demonstrated by my responses to the following questions:

A. Identifying Contractible Work Items

You were encouraged to select portions of work to be contracted in a manner that will increase the likelihood of meeting the participation goal. In selecting work to be contracted, you considered, where appropriate, breaking down contracts into economically feasible units to facilitate small business participation.

1. Which portion(s) or section(s) of the project work was/were selected to be contracted to certified firms (or broken down into economically feasible units to facilitate participation)?

B. Notifying Certified Firms of Contracting Opportunities

2. Did you contact Milwaukee County's Community Business Development Partners Department (CBDP) to assist in identifying certified firms for this project? **Contacting CBDP is essential in demonstrating good faith efforts to meet and/or exceed the participation goal assigned to this project.**

   Yes _____ No _____

   Contact was made by: _____ Telephone _____ Email _____ Other

   Date contacted: _____ Person Contacted: _____

3. List the certified firms that received written notification of work items to be subcontracted. In the appropriate space, also indicate when firms received subsequent telephone, or email (with deliver, read receipts and certified firm's response) solicitations. Include copies of the written notice(s) sent to certified firms. (Attach additional pages if necessary)

Certified Firm Contacted	Date of Written Notification	DBE (Yes/No)	Date of Follow-up Telephone Call/or Email

4. Identify publications in which announcements or notifications were placed and published, if any. Include a copy of each announcement or notification.

Published Announcement/Publication (please describe)	Date

5. Identify minority and/or women's associations or organizations that received written notifications, including dates of notifications. Provide person's name contacted during, and the date of, the follow-up call. If no follow-up calls were made, explain why not. Include copies of notice(s) sent.

Association/Organization	Date of Notification	Contact Person	Date of Follow-Up Call

C. Providing Certified Firms with Assistance

6. Explain any efforts to provide certified firms with timely, accurate and complete information about the project, scope(s) of work and/or requirements of the project.

7. Describe any other efforts to provide special assistance to certified firms interested in participating in the project.

D. Soliciting Proposal/Quotes from Interested Certified Firms

You must solicit quotes in good faith from certified firms. Quotes, proposals and/or bids, from certified firms shall not be rejected without sound justification.

8. List certified firm(s) that submitted quote(s) for the project, and **include copies of all quotes received**. If any quotes from certified firms were rejected provide an explanation as to why. (Attach additional pages if necessary)

Name, Phone & Address of Contact Person at Certified Firm	Work Quoted / Explanation for Rejecting Quote

9. Please include all other comments you want Milwaukee County to consider. (Attach additional pages if necessary)

NOTE: The information requested above is the minimum information required.

AFFIDAVIT OF CERTIFICATION

The undersigned, being duly sworn, deposes that he/she has examined and carefully prepared this Certificate of Good Faith Efforts and has verified that the information given in this certificate is true and correct to the best of his/her knowledge and belief.

Signed: _____

Authorized Representative

Subscribed and sworn to before me:

This _____ day of _____, 20 ____.

_____

Notary Public

My commission expires _____, 20 ____.

GUIDANCE CONCERNING GOOD FAITH EFFORTS

When Milwaukee County assigns a participation goal, you will make good faith efforts to meet this goal prior to submitting a bid or proposal in order to be responsive. You can meet this requirement in one of two ways. First, you can meet or exceed the goal with commitments for participation of certified firms. Second, even if you don't meet the goal, you can document adequate good faith efforts toward that end. This means that you must show that you took all necessary and reasonable steps to achieve the participation goal.

The County will make a fair and reasonable judgment as to whether you made adequate good faith efforts according to the following guidelines. It is important to consider the quality, quantity, and intensity of the different kinds of efforts that were made. These efforts should be those that one could reasonably expect you to take if you were actively and aggressively trying to obtain participation sufficient to meet the participation goal. Going through the motions by making a phone call or two to a firm that you think should qualify is not good faith efforts to meet the project requirements. The County's determination concerning the sufficiency of your good faith efforts is a judgment call and meeting quantitative formulas is not required.

The following is a list of types of actions the County considers as part of your good faith efforts. This isn't a mandatory checklist, nor is it all-inclusive. Other factors or types of efforts may be relevant in appropriate cases:

1. Solicit, through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices), all certified firms who have the capability to perform work on the project. Get the solicitation(s) out with enough time for them to review and respond. Be sure to record who you sent information to, and how/when they verified their interest in the project.

2. Select portions of the work to be performed by certified firms in order to increase the likelihood that the participation goal will be achieved. This includes, where appropriate, breaking out contract work items into smaller pieces, even when you might otherwise prefer to self-perform the work.

3. Provide certified firms with timely, accurate and complete plans, specifications, and requirements of the project to assist them in bidding/quoting.

4. Negotiate in good faith with certified firms.

    a. It is your responsibility to make a portion of the work available to certified firms and to select that work based on the available certified firms. Evidence of such negotiation includes the names, addresses, email, and telephone numbers of certified firms that were considered; a description of the information provided regarding the plans and specifications for the work selected for contracting; and evidence as to why agreements could not be reached for certified firms to perform the work.

    b. A bidder/proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including certified subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, **the fact that there may be some additional costs involved in finding certified firms is not sufficient reason for your failure to meet the participation goal**. Also, self-performing work does not relieve you of the responsibility to make good faith efforts. You are not required to accept higher quotes from certified firms if the price difference is excessive or unreasonable.

5. Do not reject certified firms as being unqualified without sound reasons based on a thorough investigation of their capabilities. Your standing within the industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in your efforts to meet the project goal.

6. Effectively use the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations to provide assistance in the recruitment and placement of certified firms.

In determining whether you have made good faith efforts, the County may take into account the performance of other bidders/proposers in meeting the contract goal. For example, when you fail to meet the contract goal, but others meet it, the County may raise the question of whether, with additional reasonable efforts, you could have met the goal. If you fail to meet the goal, but you meet or exceed the average participation obtained by other bidder/proposers, the County may view this, in conjunction with other factors, as evidence of you having made good faith efforts.

FIRM:_____ Project No: _____

SUBCONTRACTOR/SUBCONSULTANT/SUPPLIER INFORMATION SHEET

Milwaukee County requires the following collection of information on all subcontractors, sub-consultants and/or suppliers submitting quotes on Milwaukee County projects. This information is to be submitted with bid/proposal.

PROVIDE THE FOLLOWING INFORMATION ON EACH BID/QUOTE

(✓)*	Name	DBE Yes/No	Address	Date Firm Established	Annual Gross Receipts (**)	Work or Service to be Performed

(*) Check if this firm's quote has been used in your bid/proposal.
(**) Annual Gross Receipts: A: Less than $250,000 B: $250,000 to $500,000 C: $500,000 to 1 million D: $1 million to $5 million E: $5 million to $15 million F: More than $15 million

Note: Information gathered on the background and financial status of firms is protected from disclosure by Federal Regulation.

COMMUNITY BUSINESS DEVELOPMENT PARTNERS

MILWAUKEE COUNTY

COMMITMENT TO CONTRACT WITH *DBE*

PROJECT No. _____ PROJECT TITLE _____

TOTAL CONTRACT AMOUNT (less allowances) $ _____ DBE Goal: _____

Name & Address of DBE(*)	Scope of Work Detailed Description	DBE Contract Amount	% of Total Contract

(* Separate commitment form must be completed for each DBE firm)

Bidder/Proposer Commitment (To be completed by firm committing work to DBE)

I certify that the DBE firm quoted the identified service(s) and cost(s). I further acknowledge our firm having negotiated with, and having received confirmation, on partnering, pricing and delivery from DBE firm listed herein.
Our firm_____Phone No._____, or one of our subcontractors, will enter into contract with the DBE firm listed, for the service(s) and amount(s) specified when awarded this contract. A copy of the contract between our firm and that of the named DBE will be submitted directly to CBDP within seven (7) days from receipt of Notice-to-Proceed on this contract. The information on this form is true and accurate to the best of my knowledge. I further understand that falsification, fraudulent statement, or misrepresentation will result in appropriate sanctions under applicable law.

_____ _____ _____
Signature of Authorized Representative Name & Title of Authorized Representative Date

Subscribed and sworn to before me this _____ day of_____, 20 ____

_____ [SEAL]
Signature of Notary Public

State of _____ My Commission expires _____

* Only firms certified as DBEs (within qualifying NAICS codes) by the Wisconsin UCP ***prior to bid/proposal opening*** will be credited on this contract

DBE Affirmation (To be completed by DBE Owner/Authorized Representative)

- I affirm that the Wisconsin UCP has certified our company as a DBE, and that our company is currently listed in the Wisconsin UCP Directory.
- I acknowledge and accept this commitment to contract with my firm for the service(s) and dollar amount(s) specified herein, as put forth by _____.
- I understand and accept that this commitment is for service(s) to be rendered in completion of the Milwaukee County project specified herein to be completed with my own forces, unless otherwise approved by CBDP.
- I affirm that approval from CBDP will be obtained prior to subletting any portion of this work awarded to my firm on this project.

_____ _____
Signature of Authorized DBE Representative Name & Title of Authorized DBE Representative Phone Number Date

FOR CBDP USE ONLY

Commitment number ____ **of** ____ **Project Total:** (A)_____ (V) _____ Total % _____

Verified with: _____ _____ _____
Authorized Signature Date

COMMUNITY BUSINESS DEVELOPMENT PARTNERS

MILWAUKEE COUNTY

COMMITMENT TO CONTRACT WITH *DBE*

ADDITIONAL INFORMATION & REQUIREMENTS:

1. The Directory of Certified DBE firms eligible for credit toward the satisfaction of this project's DBE goal will be found at the following link, and can be searched by Name and/or NAICS code.

http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/certified-firms.aspx

2. **CONTRACT ADJUSTMENTS**: The successful Bidder/Proposer will maintain the approved DBE participation level during the term of the contract with the County, including any additional work on the contract, e.g., change orders, addendums, scope changes, etc. Contract adjustments shall include proportional DBE participation.

3. **WRITTEN CONTRACTS WITH DBEs**: The County requires that the successful Bidder/Proposer enter into contract, directly or through subcontractors, as stated in this form. Agreements must be submitted to the County within 7 days of receipt of the Notice-To-Proceed. By executing this commitment, you are certifying that you have had contact with the named DBE firm and that they will be hired if you are awarded the contract by the County.

VIOLATION OF THE TERMS OF THIS COMMITMENT MAY RESULT IN TERMINATION OF YOUR CONTRACT.

4. **SUBSTITUTIONS, DBE SUBCONTRACTING WORK, TRUCKING FIRMS**: The successful Bidder/Proposer must submit written notification of desire for substitution to the DBE affected, and send a copy to the County, stating the reason(s) for the request. The DBE will have five (5) business days to provide written objection/acceptance of the substitution. The "right to correct" must be afforded any DBE objecting to substitution/termination for less than good cause as determined by the County. Approval must be obtained from the County prior to making any substitutions. DBEs are also required to notify and obtain approval from the County prior to seeking to subcontract out work on this project. In the case of DBE trucking firms, credit will be given for trucks leased from other DBE firms; however, if the DBE leases trucks from non-DBE firms, the commission or fee will be counted for DBE crediting.

5. **REQUESTS FOR PAYMENT**: The successful Bidder/Proposer must indicate on the Continuation Sheet (AIA form G703, or equivalent) the work being performed by DBE by either a) placing the word "DBE" behind the work item or b) breaking out the work done by DBEs at the end of the report. The successful Bidder/Proposer shall notify DBE firms of the date on which they must submit their invoices for payment.

6. **DBE UTILIZATION REPORTS**: The successful Bidder/Proposer will enter payments to subs and suppliers directly into the County's online reporting system on a monthly basis. These entries will cover payments made during the preceding month and will include zero dollar ($0) entries where no payment has occurred.

If you have any questions related to Milwaukee County's DBE Program, please contact:

414.278.4747 **or** cbdpcompliance@milwaukeecountywi.gov