

MILWAUKEE TRANSPORT SERVICES
1942 NORTH 17TH STREET
MILWAUKEE, WI 53205
(website: www.ridemcts.com)

Director of Materials Management: Stephanie Baker sbaker@mcts.org

REQUEST FOR PROPOSAL MM-11-20
DIESEL FUEL FUTURES ADVISOR

September 10, 2020

Milwaukee Transport Services (MTS), operator of the Milwaukee County Transit System (MCTS), is a quasi-governmental instrumentality of Milwaukee County. MTS is seeking qualified vendors to provide bids for a Diesel Fuel Futures Fund Advisor to be received by the Materials Management Department at the above address:

October 15, 2020 – 2:00 P.M. CST

Proposal shall be manually signed by an officer of the firm and shall be returned in a sealed envelope, with the return address and "Proposal No. MM-11-20" clearly marked on the outside, and mailed/delivered to:

Milwaukee Transport Services, Inc.
1942 North 17th Street
Milwaukee, WI 53205

Attn: Materials Management Department

The proposal shall include the offer to provide the Diesel Fuel Futures and Fuel Purchasing Advisor Services as specified, based on the vendor's professional experience in the marketplace. The proposal should be based upon specifications as outlined in the RFP to include all services as specified. Proposals will be evaluated by MTS as defined in the RFP specification. Late proposals will not be accepted.

Term of Contract: This is a three (3) year fixed price contract from March 1, 2021 through February 28, 2024 with two (2) year potential one (1) year options. Billing rate for option years four (4) and five (5) will be determined with the Consumer Price Index (CPI) as a cap or ceiling to ensure reasonableness with thirty (30) days written notice. The U.S. Department of Labor, Bureau of Labor Statistics shall be used to determine price reasonableness. The group or category used will be "Chicago All Items, 1982-1984=100-CUURA207SA0", not seasonally adjusted. This may be found on "www.bls.gov" web site.

Milwaukee Transport Services, Inc., reserves the right to make an award based on its own determination, or to reject any or all proposals or portions of same, if in the opinion of MTS, the best interests of Milwaukee Transport Services, Inc., will be serviced thereby. Respondent shall be responsible to obtain all documents pertaining to RFP via the website at <http://www.ridemcts.com>.

No changes will be allowed to the RFP documents unless confirmed in writing by MCTS, Inc. All questions regarding this RFP shall be in writing and may be submitted in writing via email by the close of business on September 25, 2020 to Stephanie at sbaker@mcts.org

Negotiations: This is a negotiated procurement. Negotiation is a procedure that includes the receipt of proposals from offerors, permits bargaining, and usually affords an opportunity to revise offers before award of a contract. Bargaining in the sense of discussion, persuasion, alteration of initial assumption and position and give-and-take may apply to price, schedule, technical requirements, type of contract, or other terms of a proposed contract.

Binding Contract: A proposal received in response to an RFP is an offer that can be accepted by Milwaukee Transport Services, Inc., to create a binding contract without negotiation with any offeror.

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

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

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. Professional Services Agreement (sample is included in the RFP)
2. All documents related to RFP MM-11-20
3. Accepted Proposal of the successful contractor
4. MTS Purchase Order

The order of precedence establishes that any conflict between the accepted offer and the Purchase Order and/or RFP Documents, the Purchase Order and/or RFP Documents take precedence and control.

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 120 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 days' notice. Contractor further agrees to exercise its best efforts and cooperation to affect an orderly and efficient transition to any successor Contractor.

Protests and Appeals Policy for Requests for Proposal: Calculation of time in days and hours shall exclude Saturdays, Sundays and major holidays.

A. Prior to RFP closing -due date:

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 RFP closing. 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, prior to the RFP closing date shall be extended and addenda containing the changes shall be sent to each vendor. If the modification is rejected, the protestor shall be notified. The decision of the Director of Materials Management is final.

B. After RFP closing date:

1. Protests concerning irregularities on RFP procedures or compliance by vendors with bid documents shall be received by the Director of Materials Management within seventy-two (72) hours after time of the RFP close date.
2. When the RFP is awarded, all vendors shall be notified in writing by e mail, 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 sent email transmission shall be conclusive proof of the time and date of receipt by a vendor.
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 via email or via certified mail return receipt requested, 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 sent email shall be conclusive proof of the time and date of receipt by a vendor.

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.

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.

Termination for Convenience

MTS further reserves the right to terminate the Contract at any time for any reason by giving Contractor thirty (30) days written notice of such termination. In the event of said termination, the Contractor shall reduce its activities hereunder as mutually agreed to, upon receipt of said notice, and turn over all work product to MTS. Upon said termination, Contractor shall be paid for all services rendered through the date of termination.

County Rights of Access and Audit The Contractor, Lessee, or other party to the contract, its officers, directors, agents, partners and employees shall allow the County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Contractor, Lessee, or other party to the contract, related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Contractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Contractor, Lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Section 34.09 (Audit) and Section 34.095 (Investigations Concerning Fraud, Waste, and Abuse) of the Milwaukee County Code of General Ordinances.

Mission Critical

MTS has identified this Contract as critical to MTS’s ability to provide essential services. During the duration of the current COVID-19 pandemic, while there are federal, state, and/or local orders relating to or arising from this pandemic, or during any future pandemic or state of emergency declared during the term of this contract by federal, state, or local governments, Contractor will:

- a. Dedicate resources to identify and mitigate situations in the workplace or jobsite which may introduce, expose, or spread COVID-19.
- b. Screen employees following current CDC guidelines to verify they have not: : a) Traveled to a Level 2 or 3 Country in the past 14 days, or visited an area that requires self-quarantine because of COVID-19 infection, b) Had close contact (within 6 feet) with anyone known or suspected to have COVID19, c) Exhibited any symptoms (chest or back pain, cough, difficulty breathing) of COVID-19 or had a fever greater than 100.4 in the past 14 days.
- c. Educate employees on key CDC recommendations including how employees can protect themselves and what employees should do if they feel sick.
- d. Provide MTS services remotely, to the greatest extent possible.
- e. Notify MTS within 24 hours of becoming aware of any employee who has been on site at any MTS building, or in contact with any MTS employee, that has a confirmed or suspected case of COVID-19.
- f. Notify MTS immediately if Contractor believes, or has reason to believe, Contractor will be unable to provide services or goods under this Contract.

Agrees that MTS is not responsible for any costs, and will not be invoiced for any incomplete work, if MTS revokes permission for Contractor’s employees to be on MTS property due to that employee exhibiting symptoms of COVID-19, or any other illness.

Right to Award Without Negotiations:

MTS reserves the right to make an award based on the original proposal, without negotiations with an offeror.

Schedule

RFP Dates	Dates
Issue RFP	September 10, 2020
Deadline for Questions	September 25, 2020 close of business
Proposals Due	October 15, 2020 2:00 PM CST
Interviews/Presentations (if necessary)	As needed

Enclosures:

1. Request for Proposal MM-11-20
2. Milwaukee County Terms and Conditions
3. Professional Services Agreement

Documents and USB drive to be returned with RFP:

Instructions for Proposal Submittal

All Proposers will be required to submit the following items following the instructions outlined in this document (Request for Proposal MM-11-20):

1. Technical Response (One (1) Original plus one copy of the Technical response on a USB drive.
2. Proposal Price Sheet (One (1) Original in a separate sealed envelope and one copy on the USB drive.
3. One signed EEO Certificate and one saved on the USB
4. One signed Signature Sheet and one saved on the USB
5. Copy of Brokerage License and one saved on the USB
6. Independent Contractor Form and one saved on the USB
7. One signed Conflict of Interest Statement and one saved on the USB
8. The signature page only of all released addenda and a copy of same page on USB
9. One signed Exceptions form and one saved on the USB

All proposers are responsible for checking the website for addendums related to this RFP at www.ridemcts.com

Cost Response: The cost figures shall be provided in a separate sealed envelope and will be considered separately from the Technical response evaluation. Receipt of submission, implies proposer has read and accepts all the directions for a Request for Proposal, required contract clauses, requirements.

Proposer will send via mail or return in person, any required certification, confirmations, cost submission sheets and manually signed signature sheet. All responses must be returned in a sealed envelope provided by the respondent with **RFP MM-11-20** clearly marked and received by the due date and time listed above.

The cost figures shall be furnished on the price sheet(s) provided and shall be submitted in a sealed envelope separate from your technical response. Your cost response shall include the price sheets and the signature sheet. One (1) original copy of the price sheet and signature sheet, plus one (1) copy of each document saved separately on a USB drive under the document name. Do not blend all USB documents into one PDF, save them as separate documents.

The price quoted should fully loaded (overhead and margin). No hidden charges will be allowed, therefore a complete, disclosure of charges should be included within the submitted bid. Any charges

not disclosed on the bid would be the sole responsibility of the Contractor proposing the cost. MTS is tax exempt.

Evaluation Committee:

1. The MCTS evaluation committee will consist of three (3) persons who will review and score the Technical responses of all the proposals submitted.
2. MCTS reserves the right to change the makeup of the committee based on personnel changes, availability, or special knowledge needed to help evaluate the Technical responses.
3. Vendors who submit a proposal may be required to make an oral presentation of their proposal to the MCTS evaluation committee. If these presentations are needed, they will be scheduled through the MCTS Materials Management Department and will be at the proposer’s expense. The selected proposers will be given adequate notice of the date and time for preparation of presentation. If presentations are needed, these will be done virtually via the TEAMS application.
4. The evaluation committee will evaluate the Technical responses separate from the evaluation of price proposal.

In addition to the Technical response, the price proposal will also be considered in determining the best offer/value. When determining the best offer/value, price will have approximately equal value to the Technical response. After technical scores are complete, price will be evaluated alongside technical merit in a tradeoff fashion to choose the proposal that represents the best value to MCTS.

The Company intends to award a Contract to the qualified consultant submitting the best offer. Ranking will be based on a maximum of 100 points, weighted as indicated on the following table. In determining the number of points a Proposal will receive in each category, the Company will consider the Proposal material submitted, oral interviews (if applicable), and any other relevant information about a given Proposer. The following criteria will be used in the evaluation of the Proposals:

Evaluation Criteria	Possible Points
Consultant Qualifications	20
Experience and Past Performance	20
References	20
Presentations	20
Technical Response	20

Technical Response Requirements: Your Technical Response shall include the following information, in this order.

One (1) original copy of the Technical Response, plus one (1) copy of the Technical Response saved separately on the USB drive under the document name. Do not blend all USB documents into one PDF, save them as separate documents.

1. Consultant qualifications –up to 20 points

Provide a general description of service to be provided and resumes of the persons who will be providing the services.
Advisor should describe what qualifies them for doing this work, including but not limited to certifications, education, years in industry, how they stay abreast of current market issues and trends, and what differentiates them from other providers.
2. Experience and past performance – up to 20 points

Describe your experience performing the current requested scope of work for other clients, including any clients in the transit industry, and how you feel this work relates to the engagement with MCTS. Discuss performance history including ability to meet client’s goals especially as it relates to futures, and your ability to achieve not only less volatile energy rates, but lower overall costs to clients.
Describe your measures of success in providing these services
3. References – up to 20 Points

Provide 3 references names, firm addresses, phone numbers and email contacts. References will be contacted by the evaluation team. Names and responses will be provided to evaluators for review.
4. Vendor presentation – up to 20 points

MTS will schedule vendor presentations with vendors whose technical responses score within a competitive range.
5. Proposal – up to 20 points

Respond to the RFP in an organized, complete fashion, addressing all questions and items called for. Provide explanations for items you do not have experience with or cannot address, and comment on how you will achieve the RFP deliverables in all areas despite those short comings.

Fuel Purchasing & Risk Advisor

Scope of work

1. Background

- 1 Milwaukee County Transit System (MCTS) is seeking proposals from qualified firms to provide fuel hedging advisory services as a fiduciary of MCTS with respect to all financial aspects of fuel, and fuel futures purchases. The primary focus of these services will be to advise MCTS on the purchase of diesel fuel futures and risk management strategies related to fuel cost. The selected proposer will assist MCTS in managing its fuel hedging program through strategy development, execution, and ongoing analysis and performance monitoring.
- 2 MCTS has a fleet of 354 buses which all operate on ultra-low sulfur diesel fuel. We currently use approximately 3.6M gallons per year and started a fuel hedging program internally in 2006. Currently, MCTS purchases 84 heating oil contracts (42,000 gal/contract) a year up to 36 months out. As of this RFP, we are fully hedged through December 2022 and partially hedged in 2023. Contracts are sold in the month prior to expiration to coincide with the purchase of fuel at rack rates each month.
- 3 Physical fuel purchases are made through a buying group with daily deliveries to two garage/station locations in Milwaukee. Prior to 2016, MCTS utilized fuel additives in the winter months, and has since moved to a blended fuel strategy in the winter months.
- 4 Decisions on amount and timing of fuel hedges is currently made by MCTS's fuel consultant, though regular communication is maintained with management on these matters. Through this RFP, the hired consultant will continue to initiate those sales and purchases of the fuel hedges, along with professional advice on reducing MCTS's exposure to price volatility, adopting appropriate hedging policies, and related fuel management and purchasing advice.

2. Definitions:

- 1 **Blended Fuel:** Diesel No. 1 (kerosene) blended with Diesel No. 2 fuel.
- 2 **Broker:** A firm or individual who executes orders to buy or sell commodity contracts on behalf of clients and charges them a commission.
- 3 **Fiduciary:** a fiduciary is a person or organization that owes to another the duties of good faith and trust while being bound legally and ethically to act in the best interest of the customer.
- 4 **Fuel Futures:** Heating Oil Contracts

3. Scope:

- 1 **Monthly**, or more frequently when necessary, services will include:
 - i. Reviewing fuel hedging and contracts related to diesel fuel. Recommending any changes or additions to existing practices and policies that would enhance fuel budgeting and hedging programs, including implementation timelines. MCTS

fuel hedging policies and procedures should be reviewed and updated within the first 3 months of the contract term. In consult with MCTS, advisor will implement fuel hedge strategy including purchasing and selling futures as outlined by the adopted policy.

- ii. Providing analysis and recommendations based on changing market conditions.
- iii. Providing program status reports inclusive of month-end transaction/balance reporting. The status reports shall include the ongoing status of realized gains and losses, unrealized gains and losses, current pricing positions, and an analysis of MCTS's current position of risk, and an analysis of expectations.

2 **Quarterly**, or more frequently when necessary;

- i. Review fuel budgeting, procurement practices and contracts related to diesel fuel management and operations. Recommend any changes or additions to existing practices and policies that would enhance fuel management and purchasing, including implementation timelines.
- ii. Fuel purchasing strategies will also be evaluated as existing contracts or buying groups change.

3 **Annually**:

- i. Review fuel budgeting: provide analysis and disclosures to meet GASB 53 requirements

4 **Intermittently**:

- i. Be available for various internal meetings by phone or in person if requested by MCTS or Milwaukee County.
- ii. Provide general consulting advice, relative to purchasing fuel and price risk management on an as-needed basis.
- iii. Assist with management of cash on deposit and short-term investments within brokerage account

5 **Start Date**: 3/1/2021 is the contract start date

4. **Qualifications / Requirements**

- 1 The consultant must be registered as a Commodity Trading Advisor with the National Futures Association and the Commodity Futures Trading Commission, under the Commodity Exchange Act.
- 2 Proposal respondents (including their employees), who have been convicted of trading improprieties may have their proposals rejected by MCTS or may have their contract terminated at any time.

5. **Proposal Content**

- 1 Each proposal is required to include a written technical response for review by the evaluation panel that is separate and apart from the pricing proposal. The written response shall include:
 - i. A general description of the services proposed to be provided;
 - ii. Resumes of key participants in providing the advisory services;
 - iii. A demonstration of experience in advising clients on matters of fuel

management, operations, and futures purchases.

- iv. Demonstration of measures of success in providing like services;
- v. An explanation of how they go about deciding when to purchase futures on behalf of their clients, and how that communicate that information to their clients.
- vi. What makes their firm uniquely qualified to serve MCTS.
- vii. List of three references with similar fuel futures and fuel purchasing needs as those of MCTS.

INDEPENDENT CONTRACTOR INFORMATION
(For Professional Services Contract Only)

As per 1995 Wisconsin Act 118, amending Wisconsin Statute 108.02(12)b; comprehensive revisions to the Wisconsin Unemployment Compensation Act includes a new definition for "independent contractor", which became effective on January 4, 1996.

1. Are you a Corporation? YES NO

If yes, in what state: _____

If no:

2. Federal Employer Identification Number: _____

If no number issued, date of application _____, or Social Security Number:

3. Year of last business or self-employment tax return: _____

Firm Name

Signature of Authorized Owner/Agent

Printed name and title of Authorized Owner/Agent

Date

Conflict of Interest Statement

_____ hereby certifies that our Firm's officers and personnel assigned to the _____ project or their immediate family members do not have a conflict of interest performing the duties outlined in this contract with Milwaukee County Transit System (MCTS) or Milwaukee Transport Services (MTS). To the best of our knowledge no officer or personnel assigned or the immediate family members has a material financial interest in any commercial entity which may provide products or services as part of the _____ project. If any officers and personnel that are assigned to the _____ project become aware of a conflict of interest they will notify MTS immediately and take necessary action to address the conflict.

Conflict of Interest: A situation in which a person or organization is involved in multiple interests (financial, emotional, or otherwise) one of which could corrupt the motivation of the person or organization.

Company Name: _____

Authorized Name _____ Title: _____

Name of Consultant Assigned: _____

Consultant Signature: _____

Date: _____

EXCEPTIONS

If the Proposer takes exception or requires clarification on any points of the RFP before signing an agreement with MTS, please list the items on a blank page attached to this Attachment. All exceptions are subject to the discretion and approval of MTS. Should the Proposer and MTS be unable to resolve any exceptions to the mutual satisfaction of both parties, the County reserves the right to reject the Proposer's proposal from further consideration.

If no exceptions are listed, the undersigned agrees to all terms and conditions contained in the RFP, including all appendices. If exceptions are listed, the undersigned agrees to all terms and conditions contained in the RFP, with these noted exceptions.

Exceptions attached? Yes

No

Company Name: _____

Signature: _____

Print Name: _____ Date: _____

Email: _____

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 have 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 bid, the bidder 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 BID/RFP and all of its documents. If the bidder's performance, in the event he/she is successful is contingent upon the act of another party, the bidder 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: _____

PROPOSAL PRICE SHEET

MM-11-20 Diesel Fuel Futures Advisor

The undersigned respondent proposes to furnish the materials and services herein described at and for the prices hereinafter named, per specification, and, if successful, hereby agree to enter an agreement with Milwaukee Transport Services, Inc.

Vendor Name: _____

Email Contact: _____

ITEM 1

Year 1 FIXED PRICE PER MONTH (TO BE INVOICED AND PAID QUARTERLY)

March 1, 2021 – February 28, 2022

Fee (in numbers): \$ _____ Per MONTH

Fee per (in words): _____ Per MONTH

ITEM 2

Year 2 FIXED PRICE PER MONTH (TO BE INVOICED AND PAID QUARTERLY)

March 1, 2022 – February 28, 2023

Fee (in numbers): \$ _____ Per MONTH

Fee per (in words): _____ Per MONTH

ITEM 3

Year 3 FIXED PRICE PER MONTH (TO BE INVOICED AND PAID QUARTERLY)

March 1, 2023 – February 28, 2024

Fee (in numbers): \$ _____ Per MONTH

Fee per (in words): _____ Per MONTH

If monthly fee does not include brokerage fees for buying and selling of futures or any other items related to this contract work please stipulate on separate sheet labeled "other pricing"

Year three (3) pricing will be the starting point for years for option years four (4) and five (5). MTS will use the Consumer Price Index (CPI) as a cap or ceiling to ensure reasonableness with thirty (30) days written notice. The U.S. Department of Labor, Bureau of Labor Statistics shall be used to determine price reasonableness. The group or category used will be "Chicago All Items, 1982-1984=100-CUURA207SA0", not seasonally adjusted. This may be found on "www.bls.gov" web site.

Duns Number: _____

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
(No. of Employees)

Metropolitan Statistical 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)

(Please Print Name Here)

SAMPLE - PROFESSIONAL SERVICE CONTRACT

This Contract between Milwaukee Transport Services, Inc., a quasi-governmental instrumentality of Milwaukee County and operator of Milwaukee County Transit System located at 1942 North 17th Street, Milwaukee, Wisconsin 53205 (hereinafter called the "MTS"), and _____ located at _____ (hereafter called "Contractor"), is entered into as of _____, 2020.

1. SCOPE OF SERVICES.

The Contract consists of the following _____ documents listed below, all of which are incorporated herein by reference, in the following order of precedence that will be govern any inconsistencies between the terms of this Contract and the terms of any Exhibits, Schedules, or Attachments thereto:

- a. This Professional Service Contract
- b. MTS RFP MM-11-20 and all of its documents
- c. Contractor's Entire Proposal
- d. Contractor's Best and Final Offer
- e. MTS Purchase Order

2. STAFFING

Contractor's employees listed below are assigned to MTS and are the main points of contact for this Contract.

<u>Name</u>	<u>Position</u>
_____	_____
_____	_____

Contractor shall not replace the employees listed above without the prior approval of the MTS. If the successor to any of those employees cannot be mutually agreed upon, MTS shall have the right to terminate this Contract upon thirty (30) days' notice. Any replacement of listed personnel shall be by persons of equal qualifications, which shall be attested to by Contractor. The employees listed above shall be required to give this contractual obligation top priority.

Contractor represents that its employees and subcontractors possess the necessary skill, expertise, and capability, including sufficient personnel with the necessary qualifications, to perform the

services required by this Contract. Contractor shall provide, at its own expense, all personnel required in performing the services under this Contract. Such personnel shall not be the employees of, or have any other contractual relationship with, MTS.

3. DATES OF PERFORMANCE

The initial term of this Contract shall be from _____ through _____ or until such time as either party notifies the other of its termination, as provided herein.

4. COMPENSATION.

Contractor shall be compensated for work as listed in Contractor's Best and Final Offer, attached and incorporated into this Contract. This compensation shall include any and all out-of-pocket expenses incurred by Contractor or its employees State Prompt Pay Law, Section 66.285, does not apply to this Contract. As a matter of practice, MTS attempts to pay all invoices in 30 days.

Contractor shall provide MTS with monthly billings, listing actual costs, which shall include, but not be limited to, the following:

- A. Name and address of contractor Invoice date and number
- B. Remittance name and address
- C. Name, title, and phone number of person to notify in event of defective invoice

Invoices should be sent to: accountspayable@mcts.org

MTS reserves the right to use a purchasing card to pay invoices.

5. MISSION CRITICAL CONTRACT

MTS has identified this Contract as critical to MTS's ability to provide essential services. During the duration of the current COVID-19 pandemic, while there are federal, state, and/or local orders relating to or arising from this pandemic, or during any future pandemic or state of emergency declared during the term of this contract by federal, state, or local governments, Contractor will:

- g. Dedicate resources to identify and mitigate situations in the workplace or jobsite which may introduce, expose, or spread COVID-19.
- h. Screen employees following current CDC guidelines to verify they have not: : a) Traveled to a Level 2 or 3 Country in the past 14 days, or visited an area that requires self-quarantine because of COVID-19 infection, b) Had close contact (within 6 feet) with anyone known or

suspected to have COVID19, c) Exhibited any symptoms (chest or back pain, cough, difficulty breathing) of COVID-19 or had a fever greater than 100.4 in the past 14 days.

- i. Educate employees on key CDC recommendations including how employees can protect themselves and what employees should do if they feel sick.
- j. Provide MTS services remotely, to the greatest extent possible.
- k. Notify MTS within 24 hours of becoming aware of any employee who has been on site at any MTS building, or in contact with any MTS employee, that has a confirmed or suspected case of COVID-19.
- l. Notify MTS immediately if Contractor believes, or has reason to believe, Contractor will be unable to provide services or goods under this Contract.
- m. Agrees that MTS is not responsible for any costs, and will not be invoiced for any incomplete work, if MTS revokes permission for Contractor's employees to be on MTS property due to that employee exhibiting symptoms of COVID-19, or any other illness.

6. OWNERSHIP OF DATA.

Upon completion of the work or upon termination of the Contract, it is understood that all completed or partially completed data, drawings, records, computations, survey information, and all other material that Contractor has collected or prepared in carrying out this Contract shall be provided to and become the exclusive property of MTS Therefore, any reports, information and data, given to or prepared or assembled by Contractor under this Contract shall not be made available to any individual or organization by Contractor without the prior written approval of MTS.

No reports or documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor.

7. RIGHTS OF ACCESS AND AUDIT.

The Contractor, Lessee, or other party to the contract, its officers, directors, agents, partners and employees shall allow MTS and Milwaukee County Audit Services Division and department contract administrators (collectively referred to as Designated Personnel) and any other party the Designated Personnel may name, with or without notice, to audit, examine and make copies of any and all records of the Contractor, Lessee, or other party to the contract, related to the terms and performance of the Contract for a period of up to three years following the date of last payment, the end date of this contract, or activity under this contract, whichever is later. Any

subcontractors or other parties performing work on this Contract will be bound by the same terms and responsibilities as the Contractor. All subcontracts or other agreements for work performed on this Contract will include written notice that the subcontractors or other parties understand and will comply with the terms and responsibilities. The Contractor, Lessee, or other party to the contract, and any subcontractors understand and will abide by the requirements of Chapter Section 34.09 (Audit) and Section 34.095 (Investigations concerning fraud, waste, and abuse) of the Milwaukee County Code of General Ordinances.

8. AFFIRMATIVE ACTION.

The Contractor assures that it will undertake an affirmative action program as required by Milwaukee County Code of General Ordinances (MCCGO) 56.17(1d), to insure that no person shall, on the grounds of race, creed, color, national origin, or sex be excluded from participating in any employment activities covered in MCCGO 56.17(1d). The Contractor assures that no person shall be excluded, on these grounds, from participating in or receiving the services or benefits of any program or activity covered by this subpart. The Contractor assures that it will require that its covered organizations provide assurances to the Contractor that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by MCCGO 56.17(1d), to the same effect.

9. TARGETED BUSINESS ENTERPRISES.

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10. NON-DISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION PROGRAMS.

In the performance of work or execution of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, national origin or ancestry, age, sex, sexual orientation, gender identity and gender expression, disability, marital status, family status, lawful source of income, or status as a victim of domestic abuse, sexual assault or stalking, which 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 apprenticeships. A violation of this provision shall be sufficient cause for MTSto 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.

The Contractor agrees that it will strive to implement the principles of equal employment opportunities through an effective affirmative action program, and will so certify prior to the award of the Contract, which program shall have as its objective to increase the utilization of women, minorities and handicapped persons, and other protected groups, at all levels of employment in all divisions of the contractor's workforce, where these groups may have been previously under-utilized and under-represented. The Contractor also agrees that in the event of

any dispute as to compliance with the aforesaid requirements, it shall be his/her responsibility to show that he/she has met all such requirements.

The Contractor agrees that it will strive to implement the principles of active and aggressive efforts to assist MTS in meeting or exceeding its overall annual goal of participation of target enterprise firms.

When a violation of the non-discrimination, equal opportunity or Affirmative Action provisions of this section has been determined by MTS. Contractor shall immediately be informed of the violation and directed to take all action necessary to halt the violation, as well as such action as may be necessary to correct, if possible, any injustice to any person adversely affected by the violation, and immediately take steps to prevent further violations.

If, after notice of a violation to Contractor, further violations of the section are committed during the term of the Contract, MTS may terminate the Contract without liability for the uncompleted portion or any materials or services purchased or paid for by the Contractor for use in completing the Contract, or it may permit Contractor to complete the Contract, but, in either event, Contractor shall be ineligible to bid on any future contracts let by County.

11. INDEMNITY.

Contractor agrees to the fullest extent permitted by law, to indemnify, defend and hold harmless, MTS and its agents, officers and employees, from and against all loss or expense including costs and attorney's fees by reason of statutory benefits under Workers' Compensation Laws, or liability for damages including suits at law or in equity, caused by any wrongful, intentional, or negligent act or omission of Contractor, or its (their) agents which may arise out of or are connected with the activities covered by this Contract.

Contractor shall indemnify and save MTS harmless from any award of damages and costs against MTS for any action based on U.S. patent or copyright infringement regarding computers programs involved in the performance of the tasks and services covered by this Agreement.

12. INSURANCE

Contractor agrees to maintain policies of insurance and proof of financial responsibility to cover costs as may arise from claims for damages to property of and/or claims which may arise out of or result from Contractors activities, by whomever performed, in such coverage and amounts as required and approved by MTS. Acceptable proof of such coverage shall be furnished to MTS prior to commencement of activities under this agreement. A Certificate of Insurance including declarations page, shall be submitted for review for each successive period of coverage for the duration of this agreement, unless otherwise specified by MTS, in the minimum amounts specified below.

Contractor shall provide evidence of the following coverages and minimum amounts:

<u>Type of Coverage</u>	<u>Minimum Limits</u>
Wisconsin Workers' Compensation and Employer's Liability & Disease	Statutory/Waiver of Subrogation \$100,000/\$500,000/\$100,000
General Liability Bodily Injury and Property Damage to include: Personal Injury, Fire, Products and Completed Operations	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
Automobile Liability Bodily Injury and Property Damage All Autos	\$1,000,000 Per Accident
Professional Liability Refer to Additional Provision A.1.	\$1,000,000 Per Occurrence \$3,000,000 Aggregate
Umbrella Liability Policy will follow form to underlying Employer's, General, and Automobile Liability policies	\$5,000,000 Per Occurrence \$5,000,000 Aggregate

Milwaukee Transport Services, Inc (MTS) and Milwaukee County shall be named as an Additional Insured on the General and Automobile Liability policies as respects the services provided in this agreement. A Waiver of Subrogation shall be afforded to MTS on the Workers' Compensation policy. A thirty (30) day written notice of cancellation or non-renewal shall be afforded to Milwaukee County.

The insurance specified above shall be placed with a Carrier approved to do business in the State of Wisconsin. All carriers must be A rated or better per AM Best's Rating Guide. Any requests for deviations from or waivers of required coverages or minimums shall be submitted in writing and approved by MTS's Risk Manager as a condition of this agreement.

A.1. Professional Liability – Additional Provision.

Contractor agrees to provide additional information on its professional liability coverage as respects policy type, i.e. errors and omissions for consultants, architects, and/or engineers, etc.; applicable retention levels; coverage form, i.e. claims made, occurrence; discover clause conditions, and effective retroactive and expiration dates, to MTS's Procurement Department as may be requested to obtain approval of coverage as respects this section.

It is understood and agreed that coverage which applies to the services inherent in this agreement will be extended for two (2) years after completion of all work contemplated on this project if coverage is written on a claims-made basis.

13. PERMITS, TAXES, LICENSES.

Contractor is responsible for procuring, maintaining and paying for all necessary federal, state, and local permits, licenses, fees and taxes required to carry out the provisions of this Contract.

14. TERMINATION BY CONTRACTOR.

Contractor may, at its option, terminate this Contract upon the failure of MTS to pay any amount that may become due hereunder for a period of sixty (60) days following submission of appropriate billing and supporting documentation. Upon said termination, Contractor shall be paid the compensation due for all services rendered through the date of termination including any retainage.

15. TERMINATION BY MTS FOR VIOLATIONS BY CONTRACTOR.

If the Contractor fails to fulfill its obligations under this Contract in a timely or proper manner, or violates any of its provisions, MTS shall there upon have the right to terminate it by giving thirty (30) days written notice of termination of contract, specifying the alleged violations, and effective date of termination. It shall not be terminated if, upon receipt of the notice, Contractor promptly cures the alleged violation prior to the end of the thirty (30) day period. In the event of termination, MTS will only be liable for services rendered through the date of termination and not for the uncompleted portion, or for any materials or services purchased or paid for by Contractor for use in completing the Contract.

16. UNRESTRICTED RIGHT OF TERMINATION BY MTS.

MTS further reserves the right to terminate the Contract at any time for any reason by giving Contractor thirty (30) days written notice of such termination. In the event of said termination, the Contractor shall reduce its activities hereunder as mutually agreed to, upon receipt of said notice, and turn over all work product to MTS. Upon said termination, Contractor shall be paid for all services rendered through the date of termination.

17. CONTINUITY OF SERVICE.

Contractor recognizes that the services under this contract are vital to MTS and must be continued without interruption and that, upon contract expiration or termination, a successor, either MTS or another contractor, may continue them. Contractor agrees to:

- a. Furnish phase-in, phase-out services for up to 30 days after this contract expires or terminates for any reason; and (ii) negotiate in good faith a plan with a successor to determine the nature and extent of phase-in, phase-out services required. The plan shall specify a training program and a date for transferring responsibilities for each division of work described in the plan, and shall be subject to MTS approval. Contractor shall provide sufficient experienced personnel during the phase-in, phase-out period to ensure that the

services called for by this contract are maintained at the required level of proficiency.

- b. Contractor shall allow as many personnel as practicable to remain on the job to help the successor maintain the continuity and consistency of the services required by this contract. Contractor also shall disclose necessary personnel records and allow the successor to conduct on-site interviews with these employees. If selected employees are agreeable to the change, Contractor shall release them at a mutually agreeable date and negotiate transfer of their earned fringe benefits to the successor.

18. INDEPENDENT CONTRACTOR.

Nothing contained in this Contract shall constitute or be construed to create a partnership or joint venture between MTS or its successors or assigns and Contractor or its successors or assigns. In entering into this Contract, 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. Nothing contained in this Contract shall give Contractor any authority to supervise, manage, and/or direct MTS employees.

19. SUBCONTRACTS.

Assignment of any portion of the work by subcontract must have the prior written approval of County.

20. ASSIGNMENT LIMITATION.

This Contract shall be binding upon and inure to the benefit of the parties and their successors and assigns; provided, however, that neither party shall assign its obligations hereunder without the prior written consent of the other.

21. PROHIBITED PRACTICES.

The following practices are prohibited during the term of this contract:

- a. Contractor during the period of this contract shall not hire, retain or utilize for compensation any member, officer, or employee of MTS or any person who, to the knowledge of Contractor, has a conflict of interest.
- b. Contractor hereby attests that it is familiar with Milwaukee County's Code of Ethics, which applies to MTS employees, and which states, in part, "No person may offer to give to any County officer or employee or his immediate family, and no County officer or employee or his immediate family, may solicit or receive anything of value pursuant to an understanding that such officer's or employee's vote, official actions or judgment would be influenced thereby" and will not offer or give anything of value to any MTS employee.

22. PUBLIC RECORDS.

Both parties understand that MTS is bound by the public records law, and as such, all of the terms of this agreement are subject to and conditioned on the provisions of Wis. Stat. § 19.21, *et seq.* Contractor hereby agrees that it shall be obligated to assist MTS in retaining and timely producing records that are subject to the Wisconsin Public Records Law upon any statutory request having been made, and that any failure to do so shall constitute a material breach of this agreement, whereupon the contractor shall then and in such event be obligated to indemnify, defend and hold MTS harmless from liability under the Wisconsin Public Records Law occasioned by such breach. Except as otherwise authorized by MTS in writing, records that are subject to the Wisconsin Public Records Law shall be maintained for a period of three years after receipt of final payment under this agreement.

23. TAXES.

MTS is exempt from Federal Excise Taxes and Wisconsin State Sales Taxes. Any billing submitted by Contractor must be without such taxes. Including taxes on invoices will delay payment.

24. NON-CONVICTION FOR BRIBERY.

Contractor hereby declares and affirms that, to the best of its knowledge, none of its officers, directors, or partners or employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.

25. CONFIDENTIALITY.

Contractor agrees that all work product and oral reporting shall be provided only to or as directed by the individual who is signing this Contract on behalf of MTS, below, and not any other person or entity, including any other MTS employee or official. Contractor further agrees that, aside from obligations under the public records law as more fully described in Sec. 23 of this Contract and as determined in cooperation with MTS Contractor shall maintain all materials and communications developed under or relating to this Contract as confidential and shall disclose them only to or as directed by the individual who is signing this Contract on behalf of MTS. Contractor understands that breach of confidentiality, especially regarding information that is not subject to public records law disclosure, may harm or create liability for MTS and may require Contractor to indemnify MTS as provided in Sec. 12 of this Contract.

26. NOTICES.

All notices with respect to this Contract shall be in writing. Except as otherwise expressly provided in this Agreement, a notice shall be deemed duly given and received upon delivery, if delivered by hand, or three days after posting via US Mail, to the party addressed as follows:

To Contractor:

To MTS: TIM HOSCH

Attn.:

Attn.: Materials Management

Address:

Address: 1942 N. 17th St

Milwaukee, WI 53205

Either party may designate a new address for purposes of this Contract by written notice to the other party.

27. MISCELLANEOUS.

This Contract shall be interpreted and enforced under the laws and jurisdiction of the State of Wisconsin.

This Contract constitutes the entire understanding between the parties and is not subject to amendment unless agreed upon in writing by both parties.

28. LIQUIDATED DAMAGES

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29. FEDERAL LAWS, REGULATIONS, AND REQUIREMENTS.

Contractor acknowledges and agrees that it will perform its obligations hereunder in compliance with all applicable state, local or federal law, rules and regulations and orders.

30. COUNTERPARTS.

This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail, or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

31. AUTHORIZATION.

IN WITNESS WHEREOF, this contract is effective on the date of the last acquired signature. Signer for Contractor warrants they are authorized to sign on behalf of Contractor.

CONTRACTOR

By: _____ Date: _____

Signed

Name Printed

Title

Milwaukee Transport Services, Inc

By: _____ Date: _____

Signed

Name Printed

Title