



**GREATER DAYTON REGIONAL TRANSIT AUTHORITY**

**REQUEST FOR PROPOSAL**

**FOR**

**TRANSIT DIGITAL ADVERTISING SERVICES**

**CONTRACT PROPOSAL RFP NO. GD 18-18**

**PREPARED BY**

**GREATER DAYTON REGIONAL TRANSIT AUTHORITY**

**4 SOUTH MAIN STREET  
DAYTON, OHIO 45402**

**DECEMBER 27, 2018**

*Greater Dayton Regional Transit Authority*

4 S. Main Street Dayton, OH 45402 • 937-425-8400 P • 937-425-8416 F • [www.rtdta.org](http://www.rtdta.org)



December 27, 2018

DEAR PROSPECTIVE PROPOSER:

Re: Request for Proposal (RFP)  
TRANSIT DIGITAL ADVERTISING SERVICES  
RFP No. GD 18-18

The Greater Dayton Regional Transit Authority (RTA) is soliciting proposals for TRANSIT DIGITAL ADVERTISING SERVICES. Your firm is invited to submit a proposal.

A pre-proposal conference has been scheduled for **January 10, 2019 at 10:00 a.m.** in the **EIGHTH FLOOR conference room of the RTA, 4 S. Main Street, Dayton, OH 45402.** Please make arrangements to attend. You may email clarification questions to the undersigned prior to the pre-proposal conference.

Please send your completed proposal clearly marked "TRANSIT DIGITAL ADVERTISING SERVICES" to the undersigned by **2:00 P.M.**, Dayton (Eastern) time, **FEBRUARY 4, 2019.** Proposals may be hand delivered, mailed or sent by delivery services addressed to: Manager of Procurement, Greater Dayton Regional Transit Authority, 4 S. Main Street, Dayton, OH 45402. Please allow additional working days for the internal delivery of mailed proposals in addition to the U.S. Postal Service delivery.

**DBE Participation:** It is the policy of the Department of Transportation (DOT) that DBE's, as defined in 49 CFR, Parts 23 and 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement. Although the DBE goal for this procurement is 0%, RTA welcomes DBE participation.

**Affirmative Action Assurance (AAA) Approval:** The RTA requires firms to submit with their proposal the AAA approval email from the City of Dayton Human Relations Council. In order to complete the AAA application process, the vendor must first log onto the City of Dayton's vendor certification portal, CityBOTS ([www.citybots.com](http://www.citybots.com)), and complete the online AAA form. Please find directions on completing the application process in Part IV, Proposal Submission, City of Dayton's AAA Approval Certification. This process may take up to ten (10) business days to complete.

**Please Note:** This proposal and any addenda are available on the Procurement Department page of our website, <http://proc.greaterdaytonrta.org/>. Please continue checking the website for any updates or addenda. If you have received this package via email or regular mail, all addenda will also be sent to you by the same method.

Greater Dayton Regional Transit Authority

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**However, if you accessed this package from our website, we may not have you in our database. In order to ensure that you receive all updates and addenda, please contact JoAnn Turner by phone at 937-425-8313 or e-mail at [jturner@greaterdaytonrta.org](mailto:jturner@greaterdaytonrta.org) to be added to our database.**

The proposals will be evaluated and further discussions may be held before announcement of the firm(s) selected. Should you have any questions or comments concerning the RFP, please feel free to contact the undersigned at (937) 425-8312.

Sincerely,

*Tamea Wiesman*

Tamea Wiesman, CPPB  
Sr. Purchasing Agent

Attachment

**REQUEST FOR PROPOSAL**

**TRANSIT DIGITAL ADVERTISING SERVICES**

**RFP No. GD 18-18**

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REQUEST FOR PROPOSAL  
FOR  
**TRANSIT DIGITAL ADVERTISING SERVICES**

ISSUED BY

GREATER DAYTON REGIONAL TRANSIT AUTHORITY

4 SOUTH MAIN STREET  
DAYTON, OHIO 45402

DECEMBER 27, 2018

LEGAL NOTICE RFP NO. GD 18-18



REQUEST FOR PROPOSAL

**LEGAL NOTICE RFP NO. GD 18-18**

Notice is hereby given that the Greater Dayton Regional Transit Authority (RTA) is requesting proposals for:

**TRANSIT DIGITAL ADVERTISING SERVICES**

Copies of the Request for Proposals are available from the office of the Manager of Procurement, Greater Dayton Regional Transit Authority, 4 S. Main Street, Dayton, Ohio 45402.

A pre-proposal conference has been scheduled for **January 10, 2019 at 10:00 a.m.** in the **8<sup>th</sup> Floor** conference room of the RTA, 4 S. Main Street, Dayton, Ohio 45402. Please make arrangements to attend.

All proposals must be submitted in accordance with requirements set forth in the RFP, and must be received in the office of the Manager of Procurement at or before **2:00 P.M.**, Dayton (Eastern) time, on **February 4, 2019**.

RTA hereby notifies all proposers that, in regard to any contract entered into pursuant to this RFP, advertisement or solicitation, disadvantaged business enterprises will be afforded full opportunity to submit proposals in response and will not be subjected to discrimination on the basis of race, color, sex or national origin in consideration for an award.

Proposals will remain valid for a period of 90 days after the proposal due date and prior to award. RTA reserves the right, in the interest of the Authority, to postpone, accept or reject any and all proposals and to waive any additional informality in the proposals received.

Deborah Howard  
Manager, Procurement

**PART I**  
**TERMS AND CONDITIONS**

## **PART I - TERMS AND CONDITIONS**

### **Section 1: Definitions**

#### *1.0 Definitions*

Unless otherwise specifically stated, the following terms shall have the following definitions.

#### *1.1 RTA*

Greater Dayton Regional Transit Authority.

#### *1.2 RFP*

Announcement of Request for Proposals as issued by RTA on DECEMBER 27, 2018.

#### *1.3 Proposal*

Documents offered by Proposer to RTA pursuant to this Request for Proposal, including narrative, and related material.

#### *1.4 Proposer*

Firm or firms who, at RTA's request, offer a Proposal pursuant to this RFP.

#### *1.5 Contractor or Consultant*

The successful Proposer who will enter into a negotiated contract with RTA at the conclusion of the Proposal selection process.

## **PART I - TERMS AND CONDITIONS**

### **Section 2: RTA Background**

#### *2.0 RTA Background*

#### *2.1 History*

RTA is an independent political subdivision of the State of Ohio organized pursuant to Ohio Revised Code Section 306.30 through 306.71, inclusive, as amended.

The RTA was created on September 6, 1971, pursuant to the Revised Code, by ordinances of the Councils of the City of Dayton and the City of Oakwood. After completing the purchase of the assets of City Transit, the major privately owned public transportation system in the area, the RTA became operational on November 5, 1972. In September 1980, after the approval in the preceding April by the voters of the County of a one-half percent sales and use tax of unlimited duration for all purposes of the RTA, the boundaries of the RTA were extended to be co-extensive with the boundaries of Montgomery County and parts of Greene County.

#### *2.2 Governing Body*

All power and authority of the RTA is vested in and exercised by its nine (9) member Board of Trustees.

## PART I - TERMS AND CONDITIONS

### Section 3: Information

#### 3.0 *Information*

#### 3.1 *Basis for Contract Negotiation*

This RFP and the resulting Proposals shall be used as the basis for contract negotiation.

#### 3.2 *Receipt of Proposals*

Sealed Proposals marked "TRANSIT DIGITAL ADVERTISING SERVICES" will be received at the office of the Manager of Procurement, Greater Dayton Regional Transit Authority, 4 S. Main Street, Dayton, OH 45402, until **2:00 P.M.**, Dayton (Eastern) time, on **February 4, 2019**. Proposals received by RTA after that date and time will not be opened or considered. **An original and two (2) copies** of the Proposal shall be submitted.

#### 3.3 *Proposal Modifications*

Written changes to submitted Proposals will be accepted if received by RTA prior to the Proposal deadline, but only if submitted in a sealed envelope and plainly marked "TRANSIT DIGITAL ADVERTISING SERVICES". All changes received after the Proposal deadline will not be opened or considered.

#### 3.4 *Rejection of Proposals*

RTA reserves the right to reject any or all Proposals. Issuance of this RFP does not bind RTA to award a contract, nor does RTA in any way assume liability for expense incurred by Proposer in preparation of its Proposal.

#### 3.5 *Addenda to RFP*

Any clarifications or further instructions to Proposers, whether as a result of questions raised by Proposers or initiated by RTA itself, will be sent to all Proposers in addendum form.

#### 3.6 *Requests for Clarification*

All requests for clarifications or changes must be submitted in writing in time to be received by the RTA Procurement Department **no later than January 21, 2019**. Proposers should address such requests to RTA, Attention: Tamea Wiesman at [twiesman@greaterdaytonrta.org](mailto:twiesman@greaterdaytonrta.org).

Any information given to a proposer concerning the RFP will be furnished to all prospective proposers as an addendum of the RFP if such information is necessary to proposers in submitting proposals on the RFP or if the lack of such information would be prejudicial to uninformed proposers.

### 3.7 *Non-Collusion Affidavit*

Proposer shall submit, with its Proposal, an affidavit stating that neither Proposer nor its agents, nor any other party on its behalf, has paid or agreed to pay, directly or indirectly, any person, firm, or corporation, any money or valuable consideration for assistance in procuring or attempting to procure the contract that may result from this RFP, and further agrees that no such money or consideration will be hereafter paid. This affidavit must be on the form provided by RTA, which is made a part of this RFP.

### 3.8 *Contract Award*

- A. The RTA reserves the right, as the interests of the Authority may require, to postpone, accept or reject any and all proposals and to waive any informalities in the proposals received, and to award the contract(s) to the best responsive and responsible proposer.
- B. In awarding a contract(s), the RTA reserves the right to consider all elements entering into the determination of the responsibility of the proposer. Any proposal which is incomplete, conditional, obscure, or which contains additions not called for or irregularities of any kind, may be cause for rejection of the proposal.
- C. Contract(s) for the purchase of goods and/or services may be awarded within 90 calendar days from the date upon which proposals were received to the best proposer(s) the RTA deems responsive and responsible.
- D. In the event a single proposal is received, the RTA will conduct a price and/or cost analysis of the proposal. A price analysis is the process of examining and evaluating a price submitted without examining in detail the separate cost elements and the profit included in the cost proposal. It should be recognized that a price analysis through comparison to other similar procurements must be based upon 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 associated thereto. RTA has the right to enter into a negotiated procurement should only a single proposal be received.
- E. Where it is impossible to obtain a valid price analysis, it may be necessary for the RTA to conduct a cost analysis of the proposal price.
- F. Competent and experienced auditors or price analysts shall make the price and/or cost analysis -- an engineer's estimate or comparison of the prices involved is insufficient.
- G. With respect to actions prior to award of a contract, only the RTA's Chief Financial Officer, Manager of Procurement, Purchasing Agents, or Chief Executive Officer have the authority to take action on behalf of the RTA. Only the RTA's Board of Trustees has the authority to award a contract(s) in excess of \$100,000.

3.9 *Sales Taxes*

The RTA is a tax-exempt institution and is free from all state and federal taxes. No such taxes shall be included in the Contractor's charges to the RTA. However, the Contractor may be liable for the payment of sales and use taxes on materials purchased for fulfilling this contract.

3.10 *Personal Property Taxes*

The person making a proposal shall submit to the RTA's Chief Financial Officer, a statement affirmed under oath that the person with whom the contract is to be made was not charged at the time the proposal was submitted with any delinquent personal property taxes on the general list of personal property of any county in which the taxing district has territory or that such person was charged with delinquent personal property taxes on any such tax list, in which case the statement shall also set forth the amount of such due and unpaid delinquent taxes and any due and unpaid penalties and interest thereon. If the statement indicates that the taxpayer was charged with any such taxes, a copy of the statement shall be transmitted by the Chief Financial Officer to the county treasurer within 30 days of the date it is submitted. This affidavit must be on the form provided by RTA, which is made a part of this RFP.

3.11 *Timetable*

Release Request for Proposal	<b>DECEMBER 27, 2018</b>
Pre-proposal Conference	<b>JANUARY 10, 2019 at 10:00 a.m.</b>
Final date for Request for Information and Clarification	<b>JANUARY 21, 2019</b>
Proposal Due Date	<b>FEBRUARY 4, 2019 at 2:00 p.m.</b>
Estimated Award Date	<b>APRIL 4, 2019</b>

3.12 *Project Manager*

The Project Manager for this procurement is Jessica Olson, Greater Dayton Regional Transit Authority (RTA), 4 S. Main St., Dayton, Ohio 45402.

3.13 *Proposers Conference*

**A pre-proposal conference is scheduled for January 10, 2019 at 10:00 a.m. in the EIGHTH FLOOR conference room of the RTA, 4 S. Main Street, Dayton, OH 45402.**

Clarification about the RFP intent and any questions about the RFP may be emailed to **Tamea Wiesman** at [twiesman@greaterdaytonrta.org](mailto:twiesman@greaterdaytonrta.org). Answers that change or substantially clarify the RFP will be affirmed in writing. Copies of the questions and answers will be provided to all prospective proposers in addenda form.

*3.14 Evidence of Qualifications*

Each proposal must contain evidence of the Proposer's qualifications to do business in the State of Ohio or covenant to obtain such qualification prior to award of the contract.

*3.15 Proprietary Information*

If a proposal includes proprietary data or information that the proposer does not want disclosed to the public, such data or information must be specifically identified as such on every page on which it is found. Data or information so identified will be used by RTA solely for the purpose of evaluating proposals and conducting contract negotiations. Disclosure of any proprietary information by RTA shall be in strict accordance with the laws and regulations regarding disclosure in the State of Ohio.

*3.16 Cost of Proposal Preparation*

The cost of preparing a response to this RFP, including site visits, will not be reimbursed by the RTA.



## **PART I - TERMS AND CONDITIONS**

### **Section 4: Federal Transit Administration (FTA) Clauses**

#### *4.0 Required Federal Transit Administration (FTA) Clauses*

The following clauses shall be incorporated into any contract that results from this RFP. These clauses are required by federal, state or local regulations, and are not subject to negotiation.

#### *4.1 No Obligation by Federal Government*

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 of this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

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

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

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S. C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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.

#### 4.3 *Audit and Inspection of Records*

Contractor shall permit the authorized representatives of RTA, its member entities, the Ohio Auditor of State, the U.S. Department of Transportation and the Comptroller General of the United States access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract, for the purpose of making audit, examination, excerpts and transcriptions until the expiration of three (3) years after final payment under this contract.

Contractor further agrees to include in all its subcontracts hereunder, a provision to the effect that the subcontractor agrees that RTA, its member entities, the Auditor of State, the U.S. Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to books, documents, papers and records of such subcontractor involving transactions related to the subcontractor for the purpose of making audit, examination, excerpts and transcriptions. The term "subcontract" as used in this clause excludes (1) purchase orders not exceeding \$10,000 and (2) subcontracts or purchase orders for public utility services at rates established for uniform applicability to the general public.

The periods of access and examination described above, for records which relate to (1) appeals under the "Disputes" clause of this contract, (2) litigation of the settlement of claims arising out of the performance of this contract, or (3) costs and expense of this contract as to which exception has been taken by the Comptroller General or any of his duly authorized representatives, shall continue until such appeals, litigation, claims or exceptions have been disposed of.

#### 4.4 *Federal Requirement Changes*

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Agreement (Form FTA MA (7) dated October 2000) between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

#### 4.5 *Contract Termination*

##### A. Termination for Default

In the event Contractor defaults in the performance of any of its obligations under this Contract, RTA shall have (in addition to and not in lieu of, all other rights, remedies and damages to which it may be entitled by reason of such default) the right and option to terminate this Contract. In the event RTA exercises such right and option to terminate for default, RTA shall be obligated to pay only for work performed and accepted by RTA prior to the date upon which RTA gives Contractor written notice of termination for default, less 1) the amount of all damages suffered

by RTA by reason of such default and 2) any amount by which the commercially reasonable cost of correcting the default and/or completing the work exceeds the unpaid portion of amount which would have paid hereunder; if the sum of 1) and 2) plus all amounts previously paid exceed the value of the work performed and accepted by RTA prior to the giving of written notice of default, Contractor shall be liable to RTA for such excess.

B. Termination for Convenience

RTA may terminate this Contract at any time at its convenience by giving notice in writing to Contractor, which notice shall state that it is a notice of termination for the convenience of RTA and shall specify the effective date of termination. Contractor shall promptly submit its termination claim, to RTA, and the parties shall negotiate the termination settlement to be paid Contractor. Contractor shall be paid pursuant to the contract for costs and expenses accrued to the date of termination. In such event, amounts previously paid to Contractor shall be credited against any amounts determined to be due to Contractor pursuant to this paragraph. Upon receipt of the notice of termination Contractor shall immediately cancel its outstanding orders for procurement of materials, supplies and other miscellaneous goods.

C. In the event of termination either for default or for the convenience of RTA, Contractor shall account for any property in its possession paid for from funds received from RTA, or property supplied to Contractor by RTA.

4.6 *Title VI, Civil Rights Act of 1964, Compliance*

The Greater Dayton Regional Transit Authority (RTA), in accordance with Title VI of the Civil Rights Act of 1964, as amended, 78 Stat. 252, 42 U.S.C. 2000d et seq. and Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-Assisted Programs of the Department of Transportation issued pursuant to such Act, hereby notifies all proposers that it will affirmatively ensure that, in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposals in response to this invitation and will not be discriminated against on the grounds of race, color, creed, sex, age or national origin in consideration for an award.

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (“hereinafter referred to as the “contractor”) agrees as follows:

A. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, “DOT”) Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

B. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, creed, sex, age or

national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive proposal or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, creed, sex, age or national origin.
- D. Information and Reports: The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the RTA or the Federal Transit Administration (hereinafter "FTA") to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the RTA, or the FTA as appropriate, and shall set forth what efforts it has made to obtain the information.
- E. Sanctions for Noncompliance: In the event of the contractor's noncompliance with nondiscrimination provisions of this contract, the RTA shall impose contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:
- (a) withholding of payments to the contractor under the contract until the contractor complies; and/or
  - (b) cancellation, termination, or suspension of the contract, in whole or in part.
- F. Incorporation of Provisions: The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the RTA or the FTA may direct as a means of enforcing such provisions including sanctions for noncompliance provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the RTA to enter into such litigation to protect the interests of the RTA and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### 4.7 *Americans with Disabilities*

The Contractor agrees to comply with and assure that any subcontractor under this Project complies with all applicable requirements of the Americans with Disabilities Act (ADA) of 1990, as amended, 42 U.S.C. Sections 12101 et seq. and 49 U.S.C. Section 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. Section 1612; and the following regulations and any amendments thereto:

- A. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
- B. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
- C. U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 38; and 36 CFR Part 1192;
- D. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
- E. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- F. General Services Administration regulations, "Construction and Alteration of Public Buildings," "Accommodations for the Physically Handicapped," 41 C.F.R. Part 101-19;
- G. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- H. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
- I. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

#### 4.8 *Nondiscrimination*

During the performance of this contract, Contractor agrees as follows:

Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, creed, sex, sexual orientation, gender identity, disability, age, national origin or retaliation. Contractor will take affirmative action to ensure that applicants are employed, and the employees are treated during the employment without regard to their race, religion, color, creed, disability, sex, sexual orientation, gender identity, age or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training including apprenticeship. Contractor agrees to post in accessible places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause. Contractor will, in all solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, creed, sex, sexual orientation, gender identity, disability, age or national origin.

Contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of Contractor's commitments under this section, and shall post copies of the notice in accessible places available to employees and applicants for employment. Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended and of the rules, regulations and relevant orders of the Secretary of Labor.

Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, as amended and by rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by FTA and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

In the event of Contractor's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be cancelled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further RTA contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended or by rule, regulation or order of the Secretary of Labor, or as otherwise provided by law. Contractor will include the foregoing provisions of this paragraph in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontract or purchase order as RTA may direct as a means of enforcing such provisions, including sanctions for non-compliance, providing, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by

RTA, Contractor may request the United States to enter into such litigation to protect the interest of the United States.

#### 4.9 *Disadvantaged Business Enterprise Participation*

##### A. Policy

It is the policy of the Department of Transportation (DOT) that DBE's, as defined in 49 CFR, Parts 23 and 26, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement. The Disadvantaged Business requirements of these sections apply to this agreement.

##### B. DBE Obligation

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of the RTA to practice nondiscrimination based on race, color, religion, creed, disability, sex, age or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid/proposal specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of 0 percent has been established for this contract. The bidder/proposer shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract.

The bidder/offeror will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written documentation of the bidder/proposer 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 commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.

##### C. Procedure

DBE's are required to be certified prior to submission of bid/proposal under the Federal Unified Certification Program (UCP), by the Ohio Department of Transportation (ODOT) or the City of Dayton's Human Relations Council. Please note that the City of Dayton's other socio-economic programs are not acceptable. The certification application is available upon request from ODOT at [www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/default.aspx](http://www.dot.state.oh.us/Divisions/ODI/SDBE/Pages/default.aspx), or by calling 614/466-7699. The City of Dayton may be reached at 937/333-1403. The application is to be completed by all DBE firms and submitted to ODOT or the City of Dayton, who will review and approve or disapprove the firm as a DBE.

D. Good Faith

To demonstrate that sufficient reasonable efforts were taken to meet the DBE contract goal, the proposer shall document the steps it has taken to obtain DBE participation including but not limited to the following:

- (a) Whether the contractor/supplier solicited through all reasonable and available means (attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified DBEs who have the capacity to perform the work of the contract.
- (b) Whether the contractor/supplier solicited this interest within sufficient time to allow the DBEs to respond to the solicitation.
- (c) Whether the contractor/supplier took appropriate steps to follow up initial solicitations.
- (d) Whether the contractor/supplier selected portions of work to be performed by DBEs to increase the likelihood that DBE goals will be achieved (including, when appropriate, dividing contracts into economically feasible units to facilitate participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces).
- (e) Whether the contractor/supplier provided adequate information about plans, specifications, and/or proposer requirements of the contract in a timely manner to assist them in responding to a solicitation.
- (f) Whether the contractor/supplier negotiated in good faith with interested DBEs.
  - 1. It is the proposer's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
  - 2. A proposer using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE 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 and using DBEs is not in itself sufficient reason for a proposer's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a



contract with its own organization does not relieve the proposer of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

3. Whether the contractor/supplier rejected DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example, union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of proposals in the contractor's efforts to meet the project goal.
4. Whether the contractor/supplier made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
5. Whether the contractor/supplier made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
6. Whether the contractor/supplier effectively used the services of available contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.
7. In determining whether a proposer has made good faith efforts, the RTA may take into account the performance of other proposers in meeting the contract. For example, when the apparent successful proposer fails to meet the contract goal, but others meet it, RTA may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful proposer could have met the goal. If the apparent successful proposer fails to meet the goal, but meets or exceeds the average DBE participation obtained by other proposers, the RTA may view this, in conjunction with other factors, as evidence of the apparent successful proposer having made good faith efforts.

E. *DBE Program Definitions, as used in the contract:*

(a) Disadvantaged Business Enterprise means a *small business concern*:

1. That is, at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (b) *Small business concern* means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 26.65(b).
- (c) *Socially and economically disadvantaged individual* means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is —
1. Any individual who a recipient finds to be socially and economically disadvantaged on a case-by-case basis.
  2. Any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged:
    - i. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
    - ii. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
    - iii. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
    - iv. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong.
    - v. "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
    - vi. Women;
    - vii. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

- (d) *Tribally-owned concern* means any concern at least 51 percent owned by an Indian tribe as defined in this section.

F. *Disadvantaged Business Enterprise Substitutions*

It is strictly prohibited that a Contractor change the DBE(s) identified in a contract. If proposer(s) submit the names and addresses of DBE firms that will participate in a contract; a description of the work that each DBE will perform, the dollar amount of the participation of each DBE firm, etc., changes cannot be made without prior approval of the DBE Officer. Furthermore, the Contractor may not terminate a subcontract agreement, reduce the scope of work nor decrease the proposed price to the DBE without prior approval of the DBE Officer. Should a Contractor determine that it is necessary to request the substitution of a DBE for reasons such as default on the part of the DBE, poor work performance, etc., the Contractor must request in writing authorization to make a change, prior to subcontracting with other certified DBEs.

Should it be determined that a need exists to request a substitution of a DBE or modify a DBE's contract, the following steps are to be taken:

- (a) The Contractor must notify the DBE Officer in writing of the necessity to reduce, modify or terminate a DBE's contract and, when necessary, propose a substitute firm to fulfill the commitment.

This notification should include the rationale for the proposed substitution. Examples of acceptable reasons would be as follows:

1. A committed DBE was found unable to comply with the contract within the required timeframe.
  2. A DBE was discovered not to be bona fide.
  3. The DBE desires to make significant changes in the contract.
- (b) The request should include the name, address and principal official of any proposed substitute, as well as the dollar value and specification/scope of work of the proposed contract or change order.
  - (c) RTA will review and evaluate the submitted documentation and respond to the request as soon as practicable. The RTA retains the right to request additional information or request an interview.
  - (d) A change must not be made until approved by RTA. The Contractor will then provide RTA with an executed copy of the DBE contract or change order with signatures of both parties to the agreement, within five (5) days.
  - (e) The RTA will not approve additional monies for escalated costs incurred by a Contractor when a substitution is necessary.

#### 4.10 *Contract Assurance (Nondiscrimination)*

The contractor, sub-recipient, or subcontractor shall not discriminate on the bases 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.

#### 4.11 *Substitution of Disadvantaged Subcontractors*

- A. In the event of a DBE Subcontractor's inability to perform, Contractor shall notify RTA immediately of the default. The notice to RTA shall also contain an express of intent to exercise good faith to replace the defaulting DBE with another DBE, if it is possible to do so. Contractor shall contact available DBE referral services and individual DBEs in furtherance of its good faith efforts. If a new DBE is obtained, Contractor shall notify RTA with copies of a new or amended contract and a new certification form. Contractor shall obtain RTA approval to ensure use of a certified DBE as a substitute. RTA reserves the right to disqualify the proposed substitute on grounds other than DBE eligibility.
- B. Upon approval of the proposed substitute, RTA shall notify Contractor of such findings.
- C. 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.

#### 4.12 *Incorporation of Federal Transit Administration (FTA) Terms*

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

#### 4.13 *Debarment and Suspension*

The Contractor agrees to comply with U.S. Department of Transportation regulations, "Government Debarment and Suspension (Non-procurement)", 2 CFR Part 1200 and 2 CFR Part 180, and otherwise comply with the requirements of those regulations. This

includes the requirement of the proposer to submit the Certification of Primary Contractor Regarding Debarment, Suspension, and Other Responsibility Matter for all projects when the total aggregate value of the Contract exceeds \$25,000 and to submit a Certification of Lower Tier Participation Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusions for each subcontractor which will have a financial interest in this Project which exceeds \$25,000 or will have a critical influence on or a substantive control over the Project.

During the term of the Contract, the Contractor agrees to immediately notify RTA of 1) any potential subcontractor that is subject to this provision and to submit the appropriate certification prior to award of the subcontract; 2) any information that its certification or certification of its subcontractors was erroneous when submitted; and 3) any information that certifications have become erroneous by reason of changed circumstances.

The Contractor shall submit with each request for payment a list of all subcontractors to this contract which have a financial interest in this Project which exceeds \$25,000 or have had a critical influence on or substantive control over the Project and submit evidence that the appropriate certificate has been submitted and that they remain valid.

RTA will not make payment to the Contractor or subcontractor which 1) does not comply with this contract provision or 2) is not in compliance with the above-cited federal requirements.

#### *4.14 Buy America Act*

The Contractor is to be governed by the latest provisions of the "Buy America" clause of the Surface Transportation Assistance Act of 1982, as amended, terms and conditions established under this act will apply, and execute the "Buy America" Certificate made a part of this document. See Title 23, Section 169, below:

##### *Section 169*

- A. Notwithstanding any other provisions of law, the Secretary of Transportation shall not obligate any funds authorized or appropriated by this Act or by an act amended by this Act or, after the date of enactment of this Act, Title 23, United States Code, the Urban Mass Transportation Act of 1964, or the Surface Transportation Assistance Act of 1978, as amended, terms and conditions established under this act will apply, and administered by the Department of Transportation, unless steel, iron, and manufactured products used in such project are produced in the United States.
- B. The provisions of Subsection "A" of this Section shall not apply where the Secretary finds:
  - (a) That their application would be inconsistent with the public interest.
  - (b) That such materials and products are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality.

- (c) In the case of procurement of bus or other rolling stock (including train control, communication and traction power equipment) under the Urban Mass Transportation Act of 1964, that:
  - 1. The cost of components which are produced in the United States is more than 60 per centum (60%) of the cost of all components of the vehicle or equipment described in this paragraph; and
  - 2. Final assembly of the vehicle or equipment described in this paragraph has taken place in the United States.
- (d) That inclusion of domestic material will increase the cost of the overall project contract by more than ten per centum (10%) in the case of projects for the acquisition of rolling stock, and twenty-five per centum (25%) in the case of all other projects.
- C. For the purposes of this section, in calculating components costs, labor costs involved in final assembly shall not be included in the calculation.
- D. The Secretary of Transportation shall not impose any limitation or condition on assistance provided under this Act, the Urban Mass Transportation Act of 1964 or the Surface Transportation Assistance Act of 1968, as amended, terms and conditions established under this act will apply, or Title 23, United States Code, which restricts any State from imposing more stringent requirements than this Section on the use of articles, materials and supplies mined, produced or manufactured in foreign countries in projects carried out with such assistance or restricts any recipient of such assistance from complying with such state imposed requirements.
- E. Section 401 of the Surface Transportation Assistance Act of 1978 is repealed.

#### 4.15 *Disputes*

Any dispute arising under this contract which is not disposed by agreement shall be decided by RTA, which shall reduce its decision to writing and furnish a copy of same to Contractor. RTA's obligation to provide a written decision shall be limited to its providing a written statement setting forth its conclusion; it shall not be required to state its reasoning, although it may choose to do so.

Pending any administrative decision or litigation concerning any dispute arising under this Contract, Contractor shall proceed diligently with the performance with this Contract.

#### 4.16 *Lobbying*

During the term of this Contract, the Contractor agrees to comply with the provisions of 31 USC Section 1352, which prohibits the use of federal funds for lobbying by any official or employee of any federal agency, or member or employee of Congress; and requires the Contractor to disclose any lobbying of any official or employee of any federal agency, or member or employee of Congress in connection with federal assistance. The Contractor agrees to comply with U.S. DOT regulations, "New Restrictions on Lobbying," 49 CFR Part 20 and include these requirements in any subcontract which exceeds \$25,000.

The Contractor and all subcontractors in receipt of contracts exceeding \$25,000 shall submit Standard Form LLL quarterly to RTA. The Contractor shall also submit with each request for payment 1) a list of each contractor and subcontractor that is subject to the Lobbying Certifications, 2) certifications or evidence of certification for all subcontractors, 3) information regarding material changes in the previous certifications or disclosures, and 4) Standard Form LLL or evidence that the form was previously submitted to RTA.

#### 4.17 *Environmental Violations*

For all contracts and subcontracts in excess of \$100,000, Contractor agrees to comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act, 42 USC (1857(h); Section 508 of the Clean Water Act, 33 USC 1368; Executive Order 11738 and Environmental Protection Agency regulations (40 CFR, Part 15) which prohibit the use under non-exempt federal contracts, grants, or loans of facilities included on the EPA List of Violating Facilities. Contractor shall report violations to FTA and to the U.S. EPA Assistant Administrator Energy Conservation.

#### 4.18 *Clean Water Act/Clean Air Act*

Contractor must comply with the requirements of Section 508 of the Clean Water Act as amended, 33 U.S.C. Section 1368, and other appl. req. of the CWA as amended, 33 U.S.C. Sect. 1251 - 1377 and Section 306 of the Clean Air Act as amended, 42 U.S.C. Section 7414, and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. Sections 7401 thru 7671q., which prohibits the use of facilities included in the Environment Protection Agency (EPA) "List of Violating Facilities." This provision also requires the reporting of any violations to RTA and the EPA.

#### 4.19 *Cargo Preference - Use of United States Flag Vessels*

The Contractor agrees:

- A. To utilize privately owned United States-flag commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
- B. To furnish within 20 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described in the paragraph above, to the RTA (through the prime Contractor) and the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590, marked with appropriate identification for the project.
- C. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

#### 4.20 *Fly America*

The Recipient understands and agrees that the federal government will not participate in the costs of international air transportation of any persons involved in or property acquired for the project unless that air transportation is provided by U.S.-flag air carriers to the extent service by these carriers is available, in accordance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and with U.S. General Services Administration (U.S. GSA) regulations pertaining to the use of United States flag air carriers, at 41 C.F.R. § 301-10.131 thru 301-10.143.

#### 4.21 *Energy Conservation*

Contractor shall recognize 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, as amended, 42 U.S.C. Sections 6321 et seq.

#### 4.22 *Recycled Products*

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.

#### 4.23 *Intelligent Transportation Systems*

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



## Section 5: Required Clauses

### 5.0 *Required Clauses*

#### 5.1 *Affirmative Action Assurance Plan*

All proposers will be required to comply with all Equal Employment Opportunity laws and regulations and file with RTA's DBE Officer, if requested, an Affirmative Action Assurance (AAA) Plan, consistent with RTA's non-discriminatory policy, subject to RTA approval. All proposers must submit with their proposal, an email from the City of Dayton Human Relations Council, stating that they have an approved Affirmative Action Assurance Plan. **For instructions on obtaining the AAA Certification, see PART IV - PROPOSAL SUBMISSION, CITY OF DAYTON AFFIRMATIVE ACTION ASSURANCE CERTIFICATION.**

Failure to furnish the email from the City of Dayton's Human Relations Council may be cause for rejection of your proposal.

The proposal of any proposer who, in RTA's judgment, has failed to comply with such laws and regulations, even though their proposal may be the lowest in dollar amount, may be considered non-responsive and may be rejected.

#### 5.2 *Changes*

Any proposed change in this contract shall be submitted to RTA for its prior approval and RTA will make the change by a contract modification.

RTA may, at any time, by a written order and without notice to the sureties, make changes within the general scope of this contract. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under contract, whether changed or not changed by any such order, an equitable adjustment shall be made in the contract price or delivery schedule, or both, and the contract shall be modified in writing accordingly. Any claim by Contractor for adjustment under this clause must be asserted within 30 days from the date of receipt by Contractor of the notification of change provided, however, that RTA, if it decides that the facts justify such action, may receive and act upon any such claim asserted at any time prior to final payment under this contract. Failure to agree to any adjustment shall be a dispute within the meaning of the clause of this contract entitled "Disputes." However, nothing in this clause shall excuse Contractor from proceeding with the contract as changed.

#### 5.3 *Interest of Members of or Delegates to Congress*

No member of, or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom.

#### 5.4 *Prohibited Interest*

No member, officer, trustee or employee of RTA or of a local public body during his/her tenure or one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

The proposal of any proposer who, in RTA's judgment, has failed to comply with such laws and regulations, even though their proposal may be the lowest in dollar amount, may be considered non-responsive and may be rejected.

#### 5.5 *Ownership of Documents*

RTA shall be the owner of all plans, scope of work and related documents prepared pursuant to this Contract or provided to contractor by RTA. Any re-use of the plans, scope of work or related documents by RTA for other than the purpose intended by this Contract shall impose no liability on the Contractor.

#### 5.6 *Maintenance of Records*

The Contractor shall, at all times, maintain records of actual overhead costs and actual general and administrative costs in conformity with generally accepted accounting principles, and subject to Title 41 of the C.F.R. The Contractor shall maintain records of direct labor costs and other applicable payroll expenses. Labor and payroll records shall be in sufficient detail to indicate, at a minimum, employees by name, employee's time spent on the project, and itemization of applicable fringe benefit expenses.

#### 5.7 *Payments*

The payment terms of the contract shall be net 30 days. Invoices shall be sent to: Greater Dayton Regional Transit Authority, Attn: Accounts Payable, 4 South Main Street, Dayton, OH 45402. On a monthly basis, RTA will pay the contractor:

- A. The monthly charge covering the contractor's fixed costs. The first invoice covering the first month of the contract shall be sent to RTA no earlier than the 15th of the month. Subsequent monthly invoices shall be sent to RTA no earlier than the 15th of the month in which the monthly charge covers.
- B. No more than two invoices per month shall be sent to RTA.

#### 5.8 *Prompt Payment*

We will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime contractor receives from RTA. The prime contractor agrees further to return retainage payments to each subcontractor within 15 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the RTA. This clause applies to both DBE and non-DBE subcontractors.

When applicable, the RTA may use the following mechanisms to ensure prompt payment.

- A. Language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes.
- B. Language providing that prime contractors will not be reimbursed for work performed by subcontractors until the prime contractor ensures that the subcontractors are paid promptly for work they have performed.
- C. Enforcement of public funds liens law and use of a similar mechanism for nonpublic improvement projects.
- D. Other applicable mechanisms as necessary.

5.9 *Covenant against Contingent Fees*

Contractor warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by Contractor for the purpose of securing business. For breach of violation of this warranty, RTA shall have the right to annul this contract without liability or, at its discretion, to deduct from the contract price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

5.10 *Indemnifications*

Contractor shall indemnify and save harmless RTA, its trustees, officers and employees from and against all loss, costs, liability, damage and expense whether direct, consequential or incidental, for personal injury and for property damage, such loss, costs, liability, damage and expense arising out of, or resulting in whole or in part, directly or indirectly, from work or operations under the contract but not limited to the acts, errors, omissions and negligence of Contractor's employees and agents, except to the extent of liability imposed due to RTA's own negligence.

5.11 *Laws of Ohio*

The rights and duties of the parties hereto shall be determined by the laws of the State of Ohio, and to that end the contract shall be construed and considered as a contract made and to be performed in the County of Montgomery, Ohio.

5.12 *State Industrial Compensation*

Contractor shall comply with the state law known as the Workers' Compensation Act, Chapter 4123, Ohio Revised Code as applicable, and shall pay into the State Insurance Fund the necessary premiums required by that Act to cover all employees furnishing the services purchased under the terms of this contract and under the control of Contractor, and shall relieve RTA from any costs due to accidents or other liabilities mentioned in said Act. If Contractor is a self-insurer under the Ohio Workers' Compensation Act, and duly authorized as such by the Industrial Commission of Ohio, it shall tender to RTA proof of such status. Contractor shall, from time to time upon request, tender to RTA a certificate evidencing its compliance with the Workers' Compensation Act.

### 5.13 *Independent Contractor*

Contractor shall be and remain an independent contractor with respect to all service performed hereunder and agrees to and does hereby accept full and exclusive liability for the payment of any and all contributions or taxes for Social Security, unemployment insurance, or old age retirement benefits, pensions, or annuities now or hereafter imposed under any state or federal law which are measured by the wages, salaries, or other remuneration paid under this contract, and further agrees to indemnify and save harmless RTA from any such contributions or taxes or liability thereof.

### 5.14 *Subcontracts Approval*

- A. RTA shall have the right to approve or disapprove all subcontracts in accordance with the following provisions.
- B. As used in this clause, the term "subcontract" includes subcontractors and major suppliers of material or services to the Contractor.
- C. Contractor shall notify RTA reasonably in advance of entering into any subcontract if Contractor's procurement system has not been approved by RTA and if the subcontract:
  - (a) Is to be a cost-reimbursement, time and materials, or labor-hour contract that is estimated to involve an amount in excess of ten thousand dollars (\$10,000) including any fee;
  - (b) Is expected to exceed one hundred thousand dollars (\$100,000); or
  - (c) Is one of a number of subcontracts, under this contract, with a single subcontractor for the same or related supplies or services which, in the aggregate, are expected to exceed one hundred thousand dollars (\$100,000).
  - (d) The advance notification required by the above shall include: A description of the supplies or services to be called for by the subcontract;
  - (e) Identification of the proposed subcontractor and an explanation of why and how the proposed subcontractor was selected including the competition obtained: The proposed subcontract price, together with Contractor's cost or price analysis thereof;
  - (f) The subcontractor's current, complete and accurate cost or pricing data and Certificate of Current Cost of Pricing Data, when such data and certificates are required by other provisions of this contract to be obtained from the subcontractor; Identification of the type of subcontract to be used; and

- (g) A memorandum of negotiation which sets forth the principle elements of the subcontract price negotiations. A copy of this memorandum shall be retained in Contractor's file for use of RTA's reviewing authorities. The memorandum shall be in sufficient detail to reflect the most significant considerations controlling the establishment of initial or revised prices.
- (h) Contractor shall not enter into any subcontract for which advance notification to RTA is required by this clause, without prior written consent of RTA, provided that RTA, in its discretion, may ratify in writing any subcontract. Such ratification shall constitute the consent of RTA required by this paragraph.
- (i) Neither consent by RTA to any subcontract nor any provisions thereof nor approval of Contractor's procurement system shall be construed to be a determination of the acceptability of any subcontract price or of any amount paid under any subcontract or to relieve Contractor of any responsibility for performing this contract, unless such approval or consent specifically provides otherwise.
- (j) Contractor agrees that no subcontract placed under this contract shall provide for payment on a cost plus a percentage-of-cost basis. Strict compliance with the provisions of this paragraph shall be a condition or any reimbursement by RTA of the costs of subcontracts or material purchased by Contractor. The provisions of this clause in no way limit the provision of the clause entitled "Substitution of DBE Subcontractors".

#### 5.15 *Price Complete*

The price quoted in any proposal submitted shall include all items of labor, materials, tools, equipment and other costs necessary to fully complete the services pursuant to this RFP. Any items omitted from the RFP which are clearly necessary for the services and their intended use shall be considered a portion of such services although not directly specified or called for in this RFP. No advantage shall be taken by the Proposer in the omission of any part or detail that makes the services complete.

#### 5.16 *Limited Liability*

By virtue of the provisions of Section 306.31 of the Ohio Revised Code, RTA is a political subdivision of the State of Ohio, a body corporate with all the powers of a corporation. It is understood and agreed that only the corporate entity, Greater Dayton Regional Transit Authority, shall be liable hereunder.

#### 5.17 *Contract Duration*

The duration or term of this contract shall be for **A THREE (3) YEAR PERIOD WITH TWO (2) ONE-YEAR OPTIONS**. It is anticipated that the RTA will present this

procurement to the RTA Board of Trustees for approval on **April 4, 2019**. The contract will be awarded to **one (1) firm with an effective date upon execution of the contract**.

*5.18 Option to Extend the Term of the Contract*

The Greater Dayton Regional Transit Authority may extend the term of this contract by written notice to the Contractor within 30 days, provided that the RTA shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the RTA to an extension. If the RTA exercises this option, the extended contract shall be considered to include this option provision. The total duration of this contract, including the exercise of any options under this clause, shall not exceed **60 months**.

*5.19 Entire Agreement*

This contract contains the entire agreement between RTA and the Contractor and supersedes all prior negotiations, representations or agreements, either written or oral. Only a written instrument signed by both RTA and the Contractor may amend this contract.

*5.20 Protest Procedures*

A. The RTA will hear and consider a bona fide bid protest regarding its procurement actions in accordance with the following procedures. Due to the significantly limited role of FTA in bid protests, it is anticipated that the majority of all protests will be evaluated and the final decision rendered by RTA. The RTA intends to provide a thorough review of all bona fide bid protests. The RTA's primary concern is the timely procurement of needed capital equipment, supplies or services. It does not intend to allow the filing of bid protests to unnecessarily delay the procurement process.

Parties are encouraged to exhaust all methods described in the bid documents for resolving a procurement issue before filing a formal bid protest with the RTA.

- (a) RTA reserves the right to postpone bid openings/proposal due dates for its own convenience and to reject any and all bids/proposals received.
- (b) Changes to the specifications/Scope of Work, will be made by addendum only and sent to all bidders/proposers of record.
- (c) Prime bidders/proposers may make appointments to discuss the specifications/scope of work; however, this does not relieve proposers/bidders from submitting the written documentation required below.
- (d) Protests may be filed during the pre-award, award or post-award phases of the procurement. Bidders/proposers may protest a bid/proposal award as soon as practical, but not later than five (5) business days following the receipt of proposed recommendation of award or receipt of rejection

notification. All protests must be submitted in writing and be addressed to RTA's Chief Executive Officer.

- (e) The protest shall:
  - Name the protester;
  - Name the solicitation/contract (e.g., GD 18-XX);
  - State the grounds of the protest; and
  - State the relief sought.
- (f) The protester shall submit with the protest any and all documents which he/she believes supports the protest. The protester shall state further if it wishes an informal conference in which to discuss the protest with the RTA.
- (g) If any information is omitted or incomplete, the RTA will notify the protester in writing and the protester shall be required to provide such information within (3) business days if the protest is to be further considered.
- (h) The Chief Executive Officer shall give consideration to all facts and issues involved. The RTA's Manager of Procurement shall present all relevant facts and issues to the Chief Executive Officer. The Chief Executive Officer may, at his/her own discretion, form a committee which may include the general counsel and the department or division head who will benefit from the Contract, or any combination thereof.
- (i) If an informal conference is requested, the Chief Executive Officer shall give the protester written notice of the place, location and time of the informal conference, which shall be within three (3) business days of such notice. Any information to be considered in the protest decision must be submitted in writing within twenty-four (24) hours after the conference.
- (j) The Chief Executive Officer will return a written decision to the protester within ten (10) business days of the receipt of the protest including the submission of additional written information submitted to RTA under these rules as part of the protest process. The written response from the RTA shall address each substantive issue raised in the protest. Such decision is final unless a request for reconsideration is filed.
- (k) If the protester is dissatisfied with the initial decision made by RTA, it may request in writing a reconsideration based on data which was not previously known, or because there has been an error of law or regulation. The request shall be delivered to the Chief Executive Officer within three (3) business days of receipt of the initial decision made by the Chief Executive Officer. The request shall state the reason(s) why the decision should be reconsidered and any information to support such a position. The Chief

Executive Officer, in the manner provided above for an initial protest, shall consider and decide the request for reconsideration and shall issue a written decision to the protester within ten (10) business days. The protester will be notified of the decision and all substantive issues will be addressed that were raised in the request for reconsideration. Such a decision is final.

- (l) FTA will only entertain a protest that alleges RTA has failed to have or adhere to a protest procedure. A protest to FTA must be filed in accordance with FTA Circular 4220.1F.
- (m) RTA may only proceed with the procurement, when a protest is pending, when the conditions spelled out in FTA Circular 4220.1F have been met. RTA will not award prior to resolution of a protest, or open bids or proposals prior to resolution of a protest filed before bid opening/proposal due date, except as provided in FTA Circular 4220.1F.
- (n) Potential bidders/proposers will be advised of a pending protest if made before award.
- (o) Should the protester be dissatisfied with the decision rendered by the RTA, and the protest sent to the FTA has not been taken or relief granted thereunder, the protest would have to be taken to the appropriate state or local administrative or judicial authority.
- (p) All protest documents shall be faxed, hand delivered or sent by overnight courier with return receipt requested to the RTA Chief Executive Officer or the protestor and shall be deemed received on date delivered by fax, hand delivery, or overnight courier.
- (q) Potential protesters and other interested parties include all interested bidders/proposers and any subcontractor or supplier with a substantial economic interest in a portion of the IFB/RFP.
- (r) The FTA will be notified of any and all protests received. RTA will keep FTA informed of the status of the project.

## 5.21 Insurance

### **PROFESSIONAL SERVICE INSURANCE REQUIRMENTS**

The Professional (including but not limited to attorneys, accountants, architects, engineers, computer and systems support services, advertising, insurance service providers, and other consultants) shall maintain, at its own expense, throughout the period of the Contract and any extensions thereof the following minimum insurance coverage of the types and in the amounts described below that are applicable to the scope of work being performed:



1. **Workers Compensation.** Professional must carry Workers' Compensation Insurance (including occupational disease) in compliance with Workers' Compensation statutes of any applicable jurisdiction in which the Work is to be performed. For the attainment of Workers Compensation in monopolistic states, including Ohio, coverage must be secured through the state fund. If Professional is a qualified self-insurer in compliance with the laws of the state, this is also acceptable. A certificate of compliance from the appropriate workers' compensation bureau or board must be provided with the certificate of insurance.
2. **Commercial General Liability Insurance.** Professional must carry Commercial General Liability Insurance written on ISO form CG 00 01 10 01 (or its equivalent) with limits of \$1,000,000 per occurrence and in the aggregate.
3. **Commercial Auto Liability Insurance.** Professional shall carry Commercial Automobile Liability Insurance covering all owned, leased and non-owned vehicles used in connection with the work to be performed under this contract, with limits of not less than \$1,000,000 combined single limit per accident for bodily injury and property damage.
4. **Professional Liability Insurance.** Professional shall carry Professional Liability/Errors & Omissions/Malpractice Insurance in an amount of no less than \$1,000,000 per occurrence and in the aggregate.
5. **Fidelity Bond/Crime.** If Professional or its employees will be on the premises of RTA in connection with performance of the Work under this contract, Professional shall carry no less than \$100,000 in Third Party Crime Coverage for the benefit of the RTA in the event of theft or other intentional harm to RTA's property by Professional's employees.
6. **Requirements common to all policies.**
  - a. Professional shall be solely responsible for reimbursing any deductible amount to the insurer. Any deductibles or self-insured retentions in excess of \$5,000 must be disclosed and approved in writing by RTA, other than the Professional Liability policy, which may carry a deductible of up to \$25,000 without written approval of the RTA.
  - b. Professional waives all rights of recovery it may otherwise have against RTA (including its directors, officers, employees and volunteers) to the extent these damages are covered by any of Professional's insurance policies as required in this contract.
  - c. All insurance required hereunder shall be placed with insurers that have a minimum A.M. Best's rating of A-/X and shall be licensed, admitted insurers authorized to do business in the state of Ohio.

- d. A certificate(s) of insurance showing that Professional's insurance coverages are in compliance with the insurance requirements set forth below must be completed by the Professional's insurance agent, broker, or insurance company and accompany the proposal. All certificates (other than Ohio workers' compensation) shall provide for thirty (30) days written notice to RTA prior to cancellation or non-renewal of any insurance referred to therein.
- e. Failure of RTA to receive certificate(s) or other evidence of full compliance with these insurance requirements (or failure of RTA to identify and/or object to a deficiency in the certificate(s) that is/are provided by Professional) shall not be construed as a waiver of Professional's obligations to maintain such insurance. RTA shall have the right, but not the obligation, to prohibit Professional from beginning performance under this contract until such certificates or other evidence that insurance has been placed in complete compliance with the above insurance requirements is received and approved by RTA. Professional shall provide certified copies of all insurance policies required above within ten (10) days of written request from RTA.
- f. By requiring insurance herein, RTA does not represent that coverage and limits will necessarily be adequate to protect Professional, and such coverage limits shall not be deemed as a limitation on Professional's liability under the indemnities granted to RTA.
- g. Any subcontractors engaged by Contractor to perform the Work shall comply with these insurance and indemnification provisions and shall provide primary/noncontributory coverage to RTA as set forth herein.

#### 5.22 *Assignability*

The terms and provisions of the Contract Documents shall be binding upon RTA and the Contractor and their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. The rights and obligations of the Contractor under the Contract may not be transferred, assigned, sublet, mortgaged, pledged or otherwise disposed of or encumbered in any way. The Contractor may subcontract a portion of its obligations to other firms or parties but only after having obtained the written approval by RTA of the subcontractor, which approval shall not be unreasonably withheld. RTA may assign its rights and obligations under the Contract to any successor to the rights and functions of RTA or to any governmental agency to the extent required by applicable laws and governmental regulations or to the extent RTA deems necessary or advisable under the circumstances.

#### 5.23 *Safety*

The Contractor should be aware that RTA is a constantly operating organization, with activity 24 hours a day, seven days a week.

It is the intention of the RTA to protect RTA employees, customers and property from harm due to Contractor activity, and to reduce RTA's liability exposure limits regarding safety and environmental infractions.

In addition, the RTA expects all contractors and sub-contractors to comply with and abide with any and all applicable regulatory standards.

Some special and unique safety and environmental concerns found at RTA and incumbent upon the contractor and sub-contractor include:

1. RTA is a 24-hour per day operation.
2. Multiple sized vehicles move about the interior and exterior of most buildings, 24 hours per day. Please be advised that set traffic patterns have been established and must be followed.
3. Operators of all equipment are expected to be certified to operate appropriate equipment.
4. Restrictive rules apply to running of engines inside all buildings.
5. Restrictive storm water pollution rules apply.
6. Material Safety Data Sheets must be provided for all materials used. Specific notification is required if a product to be used on the job has been classified as an "Extremely Hazardous Material."
7. Building evacuation procedures.
8. Fire safety and prevention procedures.
9. First aid procedures.
10. Hazardous material safety.

#### *5.24 Compliance with RTA Security Measures*

All contractors are required to display an identification badge supplied by RTA while on RTA premises. Badges must be worn where they can be seen at all times. This requirement applies to every employee of all contractors and/or subcontractors. All contractors' employees are also required to wear clothing which identifies the company for which they work (i.e., uniform, hard hat, jacket, etc.). Badges must be obtained from the Project Manager and must be returned upon completion of the project. A fee will be charged for any badges that are lost or not returned, and will be deducted from the final project invoice.

#### *5.25 Trade Secret Notification*

Under Ohio Law, a proposal document may be a public record unless it meets an exception under the Public Records Law. One such exception is for trade secrets. Trade secrets must be treated with confidentiality. However, the proposer must notify the RTA in all of their proposal documents as to which portions of their proposal documents constitute trade secrets and are to be treated as confidential. As proposer, it is your responsibility to mark those parts of the proposal which you wish to have treated as confidential. While this does

not assure that these portions of the document will constitute a trade secret and be exempt from public records requests under Ohio Law, in the absence of notice from you to us that those documents are to be treated as trade secrets and to be held confidential, they will be made available to the public upon a public records request unless another exception applies to exempt them from disclosure.

#### 5.26 *Time for Performance*

Time is of the essence in the performance of this contract. The Contractor shall fully perform all of its obligations, including, without limitation, the satisfactory performance of all work to be done, by no later than the delivery or completion date set forth in the Proposal Document. The Contractor and the RTA recognize it will be difficult to compute the RTA's damage resulting from unexcused delays in the performance of the contract, particularly in view of the fact that the RTA is not a profit-making entity. Accordingly, it is agreed that the RTA will have the right to recover liquidated damages for delay in the completion of this contract beyond the date specified and not subject to the contract excusable delays clause to be computed as follows: \$ 0. Costs caused by delays or defective construction shall be borne by the party responsible thereafter.

Alternatively, if the delivery or performance is so delayed, the RTA may terminate the contract in whole or in part under the Termination for Cause clause in the contract document and in that event, the Contractor shall be liable for fixed, agreed, liquidated damages accruing until the time the RTA may reasonably obtain delivery or performance of similar supplies or services.

The RTA may cancel the unfilled portion of the contract for default; purchase substitute requirements elsewhere; and recover from the Contractor any increased costs thereby incurred, together with all resulting incidental and consequential damages.

#### 5.27 *Changes in the Work/Change Orders*

Oral changes are not permitted. No change in the contract shall be made unless the RTA gives prior written approval therefore. The Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting any change in the work not authorized by the RTA in writing.

The Contractor shall submit to the RTA a detailed pricing and schedule proposal for the work to be performed under the change order. The proposal may be accepted by the RTA or may be modified by negotiations between the Contractor and RTA. A change order amendment shall be executed in writing by both parties. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with the contract "Disputes" clause. Regardless of any disputes, the Contractor shall proceed with the work ordered, provided the Contractor has obtained the prior concurrence of RTA.

#### 5.28 *Late Submissions, Modifications, and Withdrawals of Proposals*

Any proposal received at the office designated in the solicitation after the exact time specified for receipt will not be considered.

The exact time (also referred to as official time) is the date and time the proposal is actually received in the RTA's Procurement Department.

The only acceptable evidence to establish the time of receipt at the RTA office is the time/date stamp of the RTA on the proposal wrapper or other documentary evidence of receipt maintained by the RTA.

Proposals may be withdrawn by written or telegraphic request received from proposers prior to the time set for the receipt of proposals. Proposals may be withdrawn in person by a proposer or an authorized representative, if the representative's identity is made known and the representative signs a receipt for the proposal before award.

#### 5.29 *Confidentiality of Proposals*

During the evaluation, negotiation and selection process, evaluation committee members may not disclose any information in regards to the procurement. Except for the identity and background of the successful proposer and the contract price, all information provided by proposers remains confidential after the conclusion of the process, to the extent permitted by law.

The RTA will exempt from disclosure of proprietary information, trade secrets and confidential commercial and financial information submitted in the proposal. Any such proprietary information, trade secrets or confidential commercial or financial information, which the proposer believes should be exempted from disclosure, shall be specifically identified and marked as such. Blanket type identification by designating whole pages or sections as containing proprietary information, trade secrets or confidential commercial or financial information will not assure confidentiality. The specific proprietary information, trade secrets or confidential commercial and financial information must be clearly identified as such.

#### 5.30 *Duty to Inform*

If at any time during the performance of this contract, the Contractor becomes aware of actual or potential problems, fault defect in the project or any nonconformance with any contract document, Federal, State or local law, rule or regulation, the Contractor shall give immediate notice thereof to the RTA's procurement representative.

#### 5.31 *Drug and Alcohol Rules*

The Greater Dayton Regional Transit Authority (RTA) is required to comply with the Federal Transit Administration's drug and alcohol rule, 49 CFR Part 655. This rule requires RTA to ensure that any entity performing a safety-sensitive function on our behalf implement a drug and alcohol program which complies with the following clause:

“The contractor agrees to establish and implement a drug and alcohol testing program that complies with 40 CFR Part 655, produce any documentation necessary to establish its compliance with Part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State of Ohio, or Greater Dayton Regional Transit Authority to inspect the facilities and records associated

with the implementation of the drug and alcohol testing program as required under 49 CFR Part 655 and review the testing process. The contractor agrees further to certify annually its compliance, with Parts 655.”

5.32 *Parts*

Only standard parts of units that conform in material, design and workmanship to the best procedure known in the industry shall be used. No reconditioned or obsolete parts shall be used. All parts shall be identical and interchangeable in its class.

**PART II**  
**SCOPE OF WORK**

## **PART II - SCOPE OF WORK**

### **SCOPE OF WORK RTA TRANSIT DIGITAL ADVERTISING SERVICES**

The Greater Dayton Regional Transit Authority, (hereinafter referred to as “RTA”) is soliciting proposals from qualified firms or Independent Contractor(s)s (hereinafter called “Contractor(s)”) for the privilege to place approved digital advertising onboard the RTA revenue bus fleet. Digital Advertising is defined as audio and billboard. The major objectives that RTA wishes to achieve in the TRANSIT DIGITAL ADVERTISING SERVICES sales program are as follows:

- To maximize the advertising revenues paid to RTA. RTA seeks a sustainable Contractor(s) to grow the TRANSIT DIGITAL ADVERTISING SERVICES program.
- To assist RTA with advertising and promoting its programs and services. RTA will frequently use the digital advertising media to market various aspects of its service and to provide information to passengers.
- To assist non-profit and community organizations and institutions with public service advertising when unsold space is available.

RTA desires to enter into an agreement for services for a Contractor(s) to maximize revenue to RTA while fairly compensating the Contractor(s) for their services. Contractor(s) can bid on one or all parts of the TRANSIT DIGITAL ADVERTISING SERVICES.

#### **1. Introduction**

The Contractor(s) shall grow the digital revenue for the Authority by sharing revenue generated from the sale of audio advertising on the Authority’s approximately 186 fixed-route buses. Contractor(s) shall manage audio advertising on behalf of the Authority including selling advertising spots, creating and approving audio copy, producing audio spots, uploading, implementing and tracking audio spots through proprietary technology, and managing accounting and billing of advertisers.

#### **2. Proposed Timelines**

(a) The Contractor(s) shall have rights to sell Authority approved audio advertising on the Authority’s 186 fixed-route fleet subject to the terms and conditions set forth in this contract. While Audio can be programmed to run during certain timeframes, uploads to the system cannot exceed once a month under current technology limitations.

(b) The Contractor(s) shall develop the Authority as an advertising franchise that returns an increasing amount of revenue based upon the value that advertisers receive. The Contractor(s) shall achieve this in part through aggressive sale of the space and programs made available to the Contractor(s), and by selling that space at market rates that significantly add to the revenue returned to both the Contractor(s) and the Authority.

#### **3. Advertising Guidelines**

(a) All advertising shall conform to the Advertising Policy as set forth in the Authority’s Board Policy Manual and any updates that may occur to the Policy from time to time. All advertisement shall be presented to the Authority for its review. The Authority shall be the sole judge of whether an advertisement (not limited to graphic, word, phrase, name, offer) will be posted, displayed, or announced.

(b) Any advertisements that are determined not to be in compliance with the Authority’s standards shall be removed by the Contractor(s) at the direction of and at no cost to the Authority and within seventy-two (72) hours of the date/time of the Authority’s written notice to the Contractor(s).



#### **4. Business Plan**

(a) Within 30 days of Notice of Award, the Contractor(s) shall submit a Business Plan for the Authority's review and approval. The Business Plan shall address the handling of all or any combination of the advertising. The plan shall detail proposed medium, as well as, specific plans and expectations for the Dayton/Montgomery County market. The primary goal of the plan shall be to sell the space available at the highest possible rates.

(b) Throughout the implementation of the plan, the Contractor(s) shall preserve the Authority brand image for its services in over forty years of operations. The Contractor(s) shall take every reasonable measure to maintain a high graphic, and audio standard for all materials that will be announced on the Authority's fleet. These standards shall be reasonable and customary in the industry. All materials must be pre-approved by the Authority prior to use.

#### **5. Sales Plan**

(a) Within 30 days of Notice of Award, the Contractor(s) shall submit a detailed Sales Plan for the Authority's review and approval. Sales Plan must describe the business/sales strategies of its organization. The Sales Plan shall be focused to maximize revenues from the Contractor(s)'s advertising franchises through achievement of a reasonable mix of national, regional and local sales that is customary and usual for the Industry. International based sales may also be considered. The plan shall include sales strategies that the Contractor(s) will employ to sell advertising with the goal of achieving the maximum utilization of all space available for sale.

(b) The Sales Plan shall respond to the different demographic, psychographic, and socioeconomic profiles of markets within the Authority's Dayton/Montgomery County Geographic Market footprint, and the special opportunities that these markets present. The Sales Plan shall detail efforts the Contractor(s) will make to win national, regional and local advertising buys.

(c) The Sales Plan shall discuss the potential for opportunities such as cross promotions or merchandising with advertisers. The Sales Plan shall include information regarding how national sales will be handled. In particular, the Sales Plan shall provide information on who will bear primary responsibility for national sales. The Sales Plan shall identify staff responsible for national, regional, and local sales and the offices where these individuals will be located.

(d) At no time will the Authority allow for its advertising space to be subdivided or resold by any parties other than the Contractor(s) and its designated sales agents without the express written consent of the Authority.

(e) Throughout the duration of this contract, the Contractor(s) shall recognize the importance the Authority places on national, regional and local sales activities for building a more robust Authority advertising franchise. The Contractor(s) must address the unique features of the Dayton/Montgomery County market and take actions to ensure that sales will be maximized throughout the Authority's service area. The Contractor(s) shall utilize creative sales strategies, but not at the expense of revenue. The Contractor(s)'s Sales Plan shall demonstrate that it employs the best strategies to maximize revenues.

(f) The Sales Plan shall explain the types of marketing/sales materials that will be developed to support the sales activity and any advertising or other forms of marketing, current internal research, primary, secondary or third party research, trade publications, and other vehicles employed to maximize revenue that will be used to influence media buyers, or other persons of decision-making capacity, to consider the Authority advertising franchises. The Contractor(s)'s Sales Plan shall also include sales staff inside sales quotas, outside sales quotas, cold call solicitation quotas, revenue quotas, on both an individual and collective sales basis, as well as rationalization as to the quotas imposed and timing of review of said goals (i.e., weekly, monthly, quarterly).

(g) To maintain robust sales activities of the Contractor(s), the Contractor(s) shall provide a quarterly sales activity report, broken out by month, that provides all potential advertising clients contacted, (both solicited and unsolicited and coded as such) which will include, but not be limited to, names of organizations, contact name, method of contact, brief description of requested information, total for the month, whether it contracted in same month, and if it resulted in a contract (unit type, length of contract and anticipated gross & net revenue earned). If requested, the Contractor(s) shall provide the report within thirty (30) days of the Authority's request.

(h) The Sales Plan shall list all current proprietary, primary, secondary, or related third party research it currently subscribes and how it will be used to procure Authority advertising business. Any primary, secondary, or third party research, or otherwise that is to be obtained by the Contractor(s) should be listed separately.

(i) The Contractor(s) shall disclose the cost of any current or procurement of any additional research it deems necessary only if it is being included in any Authority advertising rate plans.

#### **6. Establishing Sales Rates and Rate Card Review**

(a) The Contractor(s) shall be allowed to establish all rates and charges for the sale of all existing transit-related digital advertising space subject to the review and prior approval of the Authority. Any change in proposed rate card rates shall be presented to the Authority for review and approval 90 days prior to a requested change. Rates below rate card will be considered only if advertising type consistently falls below 70% and subject to the Authority's approval prior to advertiser proposal. Volume discounts and new advertiser rate discounts will also be considered on a case by case basis at the approval of the Authority's designated representative. The Contractor(s) must provide a solid plan, in each case, of how going below rate card will still maximize revenue and not negatively affect future sales of same media vehicle, or advertising type. Rationale and proposals above rate card in high occupancy spaces are also to be considered in order to maximize revenue to the Authority and the Contractor(s). The Contractor(s) must provide a solid plan, in each of these cases, of how going above rate card will still maximize revenue and not negatively affect future sales of same media vehicle, or advertising type. The Rates established should address maximizing all advertising space and rates. Proposers should submit pricing in the format that best suits their proposal.

(b) The rates charged by the Contractor(s) are subject to audit by the Authority.

#### **7. Public Service Advertising and Public Service Fees**

(a) The Contractor(s) shall establish a Public Service advertising rate that will be charged to Not-for-Profit organizations and shall provide space for public service advertisers on a pre-emptive basis. The Contractor(s) may charge a reasonable rate for the labor required to post such advertising, which shall cover only the Contractor(s)'s costs and an administrative fee.

(b) The fees received for posting of public service advertising shall be identified in the monthly statement submitted to the Authority. That statement will include a listing of all the public service advertising posted by contracted advertising space, or otherwise, during the 30-day reporting period, due on the 15th of the following calendar month.

#### **8. Annual Audits**

(a) The Authority may execute periodic, unscheduled and unannounced physical and financial audits of all the advertising elements included in this contract. Audits will be reconciled with the Contractor(s)'s sales for the same period of time. Audits may serve as an assessment of the Contractor(s)'s performance in compliance with the terms and conditions of the contract.

(b) The physical audit may include visible, or audible audits of all, or samples, of the advertising posted, or announced on the Authority's fixed route fleet, or other Authority advertising vehicles and any advertising mediums, or advertising vehicles and programs implemented and approved by the Authority.

(c) Financial audits will constitute a detailed review of the Contractor(s)'s sales and will collect records for the purpose of determining that sales were executed at the established rate card rates, discounts offered (if any), premiums (if any) and that the number of advertising spaces allocated to the advertiser were the amount sold and that the amounts collected were in accordance with the rates approved by the Authority. The Authority's financial audit may include gross sales, net revenue earned or full disclosure of any rates from which the Authority receives revenue.

(d) In order to assist the Authority in its efforts to perform both physical as well as financial reviews, the Contractor(s) shall provide a listing of all advertising elements sold (and unsold) and posted each month on or before the 15th day of each month. This report shall be sent to an Authority designated representative by the 28th day of each month that the Contractor(s)'s contract shall remain in effect.

(e) The results of both reviews shall be compared with the Contractor(s) billings and any deficiencies or irregularities shall be corrected in the Contractor(s) billing statements within ten (10) working days of notification by the Authority. Any net underpayment to the Authority disclosed by audit shall be due and payable upon demand by the Authority.

#### **9. Contract and Billing Reports**

The Contractor(s) shall provide monthly reports detailing all contracts and billing collection activity, as well as monthly (and total) net revenue earned by the Authority by advertising vehicle, and medium, during that monthly reporting period, as well as the number of months contracted and number of months left on the contract. This will include a report breakdown by different Authority fixed route bus sizes, paratransit buses and facilities and by proposed and implemented established rate card categories and future opportunities. The report shall include a copy of all fully executed space advertising sales contracts. The contracts should detail the amount of advertising purchases including the size and duration of the buy. Report data relating to sales and billings shall be provided in both electronic and written form. Electronic copies shall be presented in a storable spreadsheet file format.

#### **10. Agency Commissions**

(a) The Authority will allow the payment of commissions by advertisers or the Contractor(s) to recognized advertising agencies and recognized media buying/placement organizations and staff. The commission allowable should be customary and usual for the Industry. Commissions will only be paid to recognized agencies by the Contractor(s).

(b) The Authority will not be charged nor will pay any commissions.

#### **11. Reserved (5%) and Unsold Space**

(a) Each contract year, five percent (5%) of all space, or announcements, shall be reserved for the Authority's own messages or co-promotional messages, at the sole discretion of the Authority, and is not preemptible by the Contractor(s). The Authority may review the reserved amount of reserved space at any time of the contract and increase/decrease said amount depending upon marketplace conditions. Every attempt will be made to maximize revenue for the Authority and the Contractor(s).

(b) Every reasonable effort shall be made by the Authority and the Contractor(s) to apportion the use of this space so as to not interfere with the Contractor(s)'s potential sale of the space. The Authority shall coordinate with the Contractor(s) for the intended use of the space no later than thirty (30) days prior to the intended use of the space. The Authority will coordinate to ensure that the use of any unsold space or announcements does not limit the Contractor(s)'s ability to sell future advertising. For this purpose the Contractor(s) will provide copies of the Monthly Contract and Billing Reports to the Authority.

(c) The Authority shall maintain the right to place its own promotional materials in unsold spaces, or in announcements, in addition to the 5% of all space that is reserved for the use of the Authority. The Authority also reserves the right to enter into cooperative promotions that will utilize unsold spaces to promote the use of Authority services.

(d) Authority self-promotion materials may be provided to the Contractor(s) to fill unsold space. The Authority may produce these materials and provide them to the Contractor(s) that shall post these materials at no cost to the Authority.

(e) The Authority may also permit the use of unsold space, or in announcements for the purpose of promoting the advertising franchise of the Authority. The Authority will not grant the Contractor(s) any other use of unsold space without compensation to the Authority without the express written permission of the Authority's Financial Officer.

(f) The Contractor(s) will provide an available monthly space report to the Authority's designated representative to ensure the Authority's reserved 5% space is maximized.

(g) However, the Authority would prefer that no advertising space or announcements be left empty for long durations of time. The Authority may provide the Contractor(s) with self-promotion materials that shall be used to fill unsold space.

#### **12. Barter Agreements**

The Authority will not allow barter agreements for goods or services. The Authority will consider barter agreements for media time, space, new and emerging technologies, or other appropriate marketing or marketing related vehicle(s), on an individual basis, which can be used exclusively for the benefit of the Authority. Barter rates will either be market rates or rate card rates, whichever is higher at the time of contracting for service.

#### **13. Cooperative Promotions and Retained Rights**

(a) The Authority may enter into cooperative promotions with advertisers that would benefit both existing and potential users of the Authority's services.

(b) The Authority reserves the right to develop cooperative promotions on its own and to enter into direct trade and other compensatory relationships with advertisers in support of those cooperative promotions.

(c) The Authority reserves the right to use unsold space to publicize these promotions without compensation to the Contractor(s). The Authority may provide the Contractor(s) with co-promotional advertising materials to be installed by the Contractor(s)'s personnel at no cost to the Authority.

(d) The Authority reserves the right to use advertised images, or announcements on all Authority advertising inventory for promotional and marketing purposes.

#### **14. Labor, Training and Cost of Service**

(a) The Contractor(s) shall utilize its own labor, at its own expense, except as provided in paragraph (b) below, to perform all work associated with the design, development, sales, installation and maintenance of all advertising elements. Each Contractor(s) employee working on and around the Authority's property must be safety-trained by Authority Safety and Security personnel in accordance with Authority certification and re-certification procedures prior to working on Authority property. It will be necessary for the Contractor(s) to compensate the Authority for certain services it provides to allow for the development, installation or maintenance of advertising on Authority rolling stock.

(b) The Contractor(s) shall pay the Authority for any staff time required to implement ongoing ads. The Authority and the Contractor(s) shall agree upon rates and number of hours to be dedicated by staff. Reimbursement to the Authority for staff time shall be made as agreed upon by revenue disbursement.

(c) Production of materials may be charged at market rates. Installation and production charges shall not be included in the calculation of net revenues earned by the Authority.

#### **15. Assignment of Future Contracts for Advertising Space**

At the end of the contract, the Contractor(s) shall immediately transfer all existing advertising contracts to the Authority or its designee. The Contractor(s) will be entitled to the payment of a twenty percent (20%) commission of the gross amount collected from such contracts for a period of six months. For this purpose the Contractor(s) shall not enter into any contract with advertisers, which extends for more than a 12-month period without the express written permission of the Authority. No payment shall be made to the Contractor(s) if the Contract is terminated early for default.

#### **16. Ownership of Existing Advertising Materials**

At the end of the contract, the Contractor(s) will give to the Authority any remaining advertising devices or materials that it has applied to Authority buses, other Authority vehicles and facilities, or programs implemented and approved by the Authority within contract term.

#### **17. Required Advertising Materials**

(a) All materials to be used in the placement of advertising shall be of the highest industry standards, including audio quality. Audio quality includes announcements within the same acceptable audio ranges for broadcast. Ads should be geo-coded, where applicable, so as to play when needed on any bus that comes within that geo-coded area.

(b) All maintenance shall be performed using industry standard practices. All work in and on the Authority's facilities shall be approved in advance by the Authority and will be scheduled by the Authority as requested by the Contractor(s). At no time will the Contractor(s) schedule or perform maintenance that will impede or interfere with Authority operations.

(c) Due to the nature of bus operations and the safety measures required, the Contractor(s) is obligated to contact the Authority prior to the installation of advertising materials and or equipment. At all times, the employees of the Contractor(s) will be allowed the right of reasonable entry and egress to all facilities subject to the rules and regulations of the Authority. All of the Contractor(s)'s employee shall wear Authority-issued Contractor Identification Cards at all times when on Authority property.

(d) The Contractor(s) shall assume all costs attributable to damage to the fleet and facilities which result from such activities or from any other actions performed by the Contractor(s), its employees, agents or representatives.

(e) When posting and re-posting advertising and announcements, the Contractor(s) shall remove and properly dispose of materials at the time of removal. In the event that materials left by the Contractor(s) are discovered on Authority property, the Authority may, without prior notice, remove and dispose of the materials to the account of the Contractor(s).

#### **18. Approval of Advertising Materials, Devices and Locations**

The Authority reserves the right to approve all materials, devices and locations of advertising, and announcements to be placed under this contract.

#### **19. Rate Changes**

(a) The Authority reserves the right to review rates charged for all its advertising vehicles and facilities, and inventory. The Contractor(s) shall establish a rate card with rates for all advertising space, and

announcements to be sold on Authority buses, and other Authority inventory related to this contract. This rate card will be published and furnished to the Authority for review at least once each year during the term of the contract.

(b) The rates for production and advertising space shall be separate. The Authority will not allow the Contractor(s) to co-mingle the charges for production and space. Production costs are separate and apart from the agreement between the Authority and the Contractor(s). The guarantee to be paid to the Authority will be based solely on the value of the advertising space sold and not production costs.

## **20. General Requirements**

(a) A single Contractor(s) representative shall be designated as the point of contact to answer any inquiries, troubleshoot any problems, resolve any issues and be the general liaison for any business between the Authority and the Contractor(s). Said person must be accessible during regular business hours, Saturdays and Sundays and must provide to the Authority two reliable (telephone/pager or fax) numbers for contact.

(b) The Contractor(s) shall comply with generally accepted industry standards with respect to good taste and applicable laws, regulations, and other applicable governmental requirements, including but not limited to, truth in advertising, copy rights and trademarks. The Contractor(s) will be responsible for any production for bus, vehicle, facility or transit advertising announcements and transit related advertising space and will oversee or prepare bus advertising or announcements for consistency, quality, and audibility on the assigned fleet. This/These person(s) must be approved by the Authority.

## **21. Monthly Remittance and Reports**

(a) The Contractor(s) shall submit an annual reconciliation with financial statements, in a form satisfactory to the Authority within 90 days of the end of each contract year with respect to the prior year and upward adjustments at the Contractor(s)'s participation made immediately, at that time.

(b) The Contractor(s) shall report the annual income at the end of each contract year. In the event that the Authority's contractual share of this revenue exceeds the minimum annual guarantee for the contract year, the extra income shall be paid to the Authority within 30 days of the contract year.

(c) The Contractor(s) is required to remit the minimum guaranteed payment each month within 20 calendar days after the end of the month in which they were earned. The revenue must be accompanied by a report that includes details of:

- (i) All contracts in effect
- (ii) All advertising elements sold and unsold in the month
- (iii) Gross Billings for the month
- (iv) Gross Revenues Earned for the Month
- (v) Net Revenue Earned for the Month
- (vi) Collections for the month for advertising space and announcements
- (vii) Past due amounts
- (viii) Total remaining balances on accounts
- (ix) Contract expiration dates
- (x) Total % and Number of Advertising Space sold vs. total inventory by Advertising space, space type, positioning on the Authority's enunciator systems, or what is applicable to that particular advertising medium
- (xi) Space allocated for public service advertising
- (xii) A rolling total of Net Revenue Earned compared to the a rolling total of guaranteed monthly minimum revenue

(d) The Contractor(s) shall also supply the quarterly sales activity report referenced in Paragraph 5 of this Statement of Work.

(e) The Contractor(s) shall furnish the Authority with copies of all signed contracts and correspondence (including changes in process, lengths of contracts and cancellation notices) within a month of their execution.

(f) The Contractor(s) shall maintain all required records for three (3) years after the final payment by the Contractor(s) to the Authority. However, if any audit, claim, or litigation is started before the expiration of the three (3) year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved.

(g) The Contractor(s) will permit the Authority to inspect/audit all records and financial data involved in the operation of the concession during regular business hours maintained by the Contractor(s), and at such other times upon ten (10) day's written notice.

## **22. Specific Requirements**

(a) The Authority shall provide the Contractor(s) bus and other applicable vehicle route assignment schedule information which identifies by unit number what the bus, or vehicle assignments are in addition to facility locations. This data shall include buses or other vehicles available for the program, and buses or other vehicles under current contract with advertisers. Sole discretion of bus, vehicle assignments or facilities shall remain with the Authority.

(b) The Contractor(s) shall not self-promote on any Authority vehicle without express written consent from the Authority.

(c) Potential trade agreements for space and announcements initiated by the Contractor(s) must be presented to the Authority in writing by the Contractor(s) for Authority review and approval on a case by case basis.

(d) The Contractor(s) guarantees that any trade time negotiated will not be pre-empted by paid advertising contracts by said media. Certified logs are required to verify the placements made of advertisements. The Authority may cancel the provisions of this paragraph at any time, except for previously approved contracts.

(e) Authority initiated trades shall be placed against Authority allotted space.

(f) No barter or trade for anything other than media time, or media space to be used by the Authority will be allowed.

(g) All installations including announcement uploads, unless otherwise arranged, must be scheduled through the Authority.

(h) The Contractor(s)'s designated representative shall be responsible for submitting all proposed advertising for review, approval or disapproval internal to the Authority.

(i) This review and subsequent feedback shall take place within 10 business days after receipt unless extenuating circumstances prevail.

## **23. Approval of Advertising Material**

The Authority shall approve all advertising, announcements, or any other communications on its fleet, or Authority owned, leased or managed property. No defamatory, libelous, slanderous, obscene, religious or political advertising is permitted. Any communication that fails to meet Authority standards as set forth in Board Advertising Policy, will not be accepted by the Contractor(s) for use on the Authority fleet, or Authority property.

**PART III**  
**PROPOSAL FORMAT**



## **PART III - PROPOSAL FORMAT**

### **Section 1.0: Background and Experience**

#### *1.0 Background and Experience*

*1.1* Provide a description of the firm's background and experience as it pertains to the type of TRANSIT DIGITAL ADVERTISING SERVICES contained in the scope of work.

*1.2* Provide a list of five (5) current accounts. For each of the accounts, please submit the following:

- The company name, size, owner or contact name, address, telephone and fax numbers, and email addresses.
- A brief description of the services currently being provided by your firm to the customer.

*1.3* Considering your firm's current and projected workload, indicate your capacity to perform the work, if awarded the contract

## **PART III - PROPOSAL FORMAT**

### **Section 2.0: Personnel**

#### *2.0 Personnel*

#### *2.1 Provide a description of the following:*

- A. The number of qualified account representatives now employed (both full and part-time). “Qualified” means the account representatives meet the minimum training requirements of the firm.
- B. Experience of account representatives and support staff that will be assigned to RTA’s account, if awarded this contract.
- C. Experience of account representatives and support staff relating to geo-coding and what training they’ve received to program on-board audio ads with geo-coding.

## **PART III - PROPOSAL FORMAT**

### **Section 3.0: DBE Participation**

#### *3.0 DBE Participation*

3.1 Proposers shall provide the potential for participation with Disadvantaged Business Enterprises (DBEs) in the performance of this contract. In addition, each Proposer shall address in their proposal the following information:

- A. Proposer's policies regarding hiring of DBEs, as well as support of various programs which are targeted to assist DBEs.
- B. If Proposer plans to subcontract a portion of the project to a DBE, identify the areas to be subcontracted, the hours involved, and the dollar amount to be subcontracted.
- C. If Proposer proposes a joint venture with a DBE jointly responsible for the project, indicate the breakdown of hours between the two and how the fee would be split.
- D. DBE participation is welcomed, but not a requirement of this procurement. If you have no DBE participation, the forms do not need to be completed. If your firm is a DBE, please complete the form found on page 65, AFFIDAVIT OF DISADVANTAGED BUSINESS ENTERPRISE. If you will utilize a DBE subcontractor to perform a part of this contract, the forms on page 64 and 65 should be completed.

#### 3.2 Other Arrangements:

The RTA will consider any other arrangements involving the use of DBEs in the performance of this contract.

## PART III - PROPOSAL FORMAT

### Section 4.0: Proposal Evaluation and Selection Process

#### 4.0 *Proposal Evaluation and Selection Process*

4.1 Although all material submitted will be considered by the RTA in the proposal evaluation and selection process, the primary basis of evaluation and selection shall be the documents specified in the Request for Proposal (RFP).

4.2 Significant criteria for evaluation and selection include, but are not limited to the following, in descending order according to importance:

- A complete and realistic Sales Plan to maximize transit revenue billed over the term of the contract (Timelines for producing revenues)
- A complete Revenue Development Plan including cost estimates to maximize the percentage of revenue paid to RTA over the contract term
- References, credentials, documentation of revenue generated, etc.
- The ability of the contractor to represent RTA through developing and implementing a market plan that will attract advertisers to RTA's "Provider for Transit Advertising Services".
- Quality of proposal preparation

#### 4.3 Method of Award:

- A. The proposals will be evaluated by a Selection Committee established by the RTA. Proposals will be evaluated on the criteria noted above. The total evaluation points, as separately determined by each Selection Committee member, will be added and each proposer will be ranked in numerical sequence, from the highest to the lowest score.
- B. RTA reserves the right to reject any or all proposals, to accept other than the lowest price proposal, to negotiate separately with any source whatsoever, and to accept the proposal considered to be most advantageous to the RTA.
- C. The RTA reserves the right to select the contractor on the basis of proposals received without seeking further information or clarification from proposers.
- D. Upon review of the proposals, the RTA staff will designate the most qualified proposers as finalists. These finalists may be invited to make an oral/visual presentation and participate in a question and answer session to clarify their proposal with the RTA Selection Committee members.
- E. If interviews or presentations are held, the Selection Committee may re-evaluate the proposals of those firms.
- F. If negotiations are held, they will be held with all proposed finalists in the competitive range.
- G. The RTA staff would then negotiate with the most highly qualified firms, as evidenced by the ranking given a proposer by the Selection Committee.

- H. Following the negotiations, each of the proposers in the competitive range will be afforded the opportunity to amend their proposal and submit their best and final offer. The best and final offers will then be evaluated using the same criteria as for the initial proposals, and the rankings adjusted. If there is one (1) proposal that is the most advantageous offer for the RTA, then an award may be made to that proposer. If not, the RTA reserves the right to request another best and final offer.
- I. If the RTA staff is unable to negotiate a satisfactory contract with the first-ranked proposer at a fair and reasonable price, negotiations will be formally terminated.
- J. Negotiations would be undertaken with the second-ranked proposer, and so on, until a satisfactory contract could be negotiated.
- K. The negotiated contract recommendations would then be presented to the RTA Board of Trustees for approval.
- L. Any matters concerning this procurement will be addressed directly to TAMEA WIESMAN, Greater Dayton Regional Transit Authority (RTA), 4 SOUTH MAIN STREET, Dayton, Ohio 45402, in writing. The Selection Committee members are not to be contacted by any of the proposers regarding this Request for Proposal (RFP).
- M. If additional information or clarification is required from a proposer, they will be contacted directly. Each proposer will be advised in writing of any award recommendations.

## **PART III - PROPOSAL FORMAT**

### **Section 5.0: Proposal Format**

#### *5.0 Proposal Format*

The proposal submitted by your firm shall be organized in conformance with the following format:

#### *5.1 Cover Letter*

#### *5.2 Executive Summary:*

The purpose of the Executive Summary is to provide a brief description of the proposal to the Selection Committee members.

#### *5.3 Background and Experience:*

This section should include a brief description of the company's background, experience and prior work in the related field.

#### *5.4 Personnel:*

This section will address the training requirements, certifications, educational requirements and the prior work experience of the personnel that will be assigned to RTA's account if you are awarded the contract.

#### *5.5 DBE Participation:*

This section should provide a description of all DBE participation as it relates directly to this procurement, should it be awarded to your firm.

#### *5.6 References:*

Provide the names, addresses, telephone numbers, facsimile numbers and email addresses, and a point of contact for five (5) firms for which you are currently providing services of a similar nature as required by the RTA.

#### *5.7 Cost and Pricing:*

This section shall contain cost and pricing information as further described in Section 6.0

#### *5.8 Submittals:*

This section shall contain the documents named below and found in Part IV of the RFP Package.

- Summary of Proposal Requirements
- Affidavit of Intended Disadvantaged Business Enterprise
- Affidavit of Disadvantaged Business Enterprise
- Non-Collusion Affidavit

- Personal Property Tax Affidavit
- Buy America Certification, if applicable
- RTA Clean Air Policy Verification
- Certification of Restriction on Lobbying
- Certification of Procurement Integrity
- Certification of Contractor Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusions
- Certification of Lower Tier Participants (subcontractors) regarding Debarment, Suspension and other ineligibility and voluntary exclusion
- Bidder's Warranty Information (as required)
- Certificate(s) of training and experience for company and/or individual(s) (as required)
- Acknowledgement of Addenda
- Letter of AAAP Approval from the City of Dayton Human Relations Council

#### 5.9 Proposal Submission:

When submitting your proposal, it is imperative that the RTA receives one (1) original and two (2) copies of your firm's proposal.

## **PART III - PROPOSAL FORMAT**

### **Section 6.0: Cost and Pricing**

#### *6.0 Cost and Pricing*

#### *6.1 Contract Type:*

The contract that may result from this Request for Proposal shall be a firm fixed price type contract.

#### *6.2 Pricing Form:*

Each proposer shall submit in sufficient detail the cost to provide TRANSIT DIGITAL ADVERTISING SERVICES for a three year period with two one-year options. Proposers should submit pricing in the format that best suits their proposal.



**PART IV**  
**PROPOSAL SUBMISSION**

**PART IV - PROPOSAL SUBMISSION**  
**The Greater Dayton Regional Transit Authority**  
**SUMMARY OF PROPOSAL REQUIREMENTS**

*Failure to Submit Any of the Following Documents May Render Your Proposal  
Non-Responsive*

Proposal Submission:

Complete the following checklist indicating that the documents required for this proposal are enclosed.

- \_\_\_\_\_ Summary of Proposal Requirements
- \_\_\_\_\_ Addenda Acknowledgment
- \_\_\_\_\_ City of Dayton Affirmative Action Assurance (AAA) Certification (**If approval email has not been received, enter “Pending”**)
- \_\_\_\_\_ Affidavit of Intended Disadvantaged Business Enterprise
- \_\_\_\_\_ Affidavit of Disadvantaged Business Enterprise
- N/A \_\_\_\_\_ Affidavit of Demonstration of Good Faith Efforts
- N/A \_\_\_\_\_ DBE Unavailability Certification
- \_\_\_\_\_ Non-Collusion Affidavit
- \_\_\_\_\_ Personal Property Tax Affidavit
- N/A \_\_\_\_\_ Buy America Certification (applicable if proposal is over \$100,000)
- \_\_\_\_\_ RTA Clean Air Policy Verification
- \_\_\_\_\_ Certification of Restrictions on Lobbying
- \_\_\_\_\_ Certificate of Procurement Integrity
- \_\_\_\_\_ Certification of Contractor Regarding Debarment, Suspension and other Ineligibility and Voluntary Exclusion
- \_\_\_\_\_ Certification of Lower Tier Participants (Subcontractors) Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion
- N/A \_\_\_\_\_ Proposal Bond (as required)
- \_\_\_\_\_ Proposer's Warranty Information (as required)

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Authorized Signature Title

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Signature Name Printed Title Printed

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Company Printed Date

The Greater Dayton Regional Transit Authority

Proposal Requirement

ADDENDA ACKNOWLEDGMENT FORM

**Proposers must indicate below the addenda received and the dates addenda were received. (If none received, write "none received".)**

Addendum No. \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Received: \_\_\_\_\_

Addendum No. \_\_\_\_\_ Date Received: \_\_\_\_\_

Name of individual, partner or corporation:

\_\_\_\_\_

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

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

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

E-Mail Address: \_\_\_\_\_

Name Printed: \_\_\_\_\_

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

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

## PROPOSER'S REQUIREMENT

### CITY OF DAYTON AFFIRMATIVE ACTION ASSURANCE (AAA) CERTIFICATION

*Insert Here:*

*(Refer to Section 4, Paragraph 4.7, Nondiscrimination Clause)*

**Note: All proposers must submit with their proposal a copy of the email from the City of Dayton's Human Relations Council (HRC), stating that their application for Affirmative Action Assurance (AAA) certification has been approved. Failure to furnish a copy of the AAA approval email from the City of Dayton's HRC may be cause for rejection of the proposal.**

In order to receive the AAA approval email, vendor must first log onto the City of Dayton's vendor certification portal, CityBOTS ([www.citybots.com](http://www.citybots.com)), and complete the online AAA form. To obtain CityBOTS login credentials, vendor must go to [www.citybots.com](http://www.citybots.com), click the "Request Login" button, and follow the instructions. (If vendor's Tax ID number does not exist in the City of Dayton's CityBOTS database, they will need to contact the HRC's Business & Technical Assistance team at [bta@daytonohio.gov](mailto:bta@daytonohio.gov) or (937) 333-1403 to set up a CityBOTS account.)

Once the online AAA form is submitted for approval, the HRC will process it **within 5 business days**. Vendor will then receive an email explaining the status of their AAA certification.

**If an approval email is not received by the proposal due date, vendor is to write "Application Pending" on the this page and on the applicable line in PART IV – PROPOSAL SUBMISSION, SUMMARY OF PROPOSAL REQUIREMENTS. A copy of the approval email must be received within five (5) business days after the proposal due date.**

The proposal of any firm, who in RTA's judgment has failed to comply with such laws and regulations, may be considered non-responsive, and may be rejected.

## **Disadvantaged Business Enterprise (DBE) Information**

*Refer to Section 4, Paragraph 4.6*

**NOTE: All proposers must complete and submit with their proposal one (1) or more of the DBE forms on the following pages. Failure to complete these forms may cause your proposal to be considered non-responsive and, therefore, rejected.**

The Greater Dayton Regional Transit Authority

AFFIDAVIT OF INTENDED DISADVANTAGED BUSINESS ENTERPRISE

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

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

Comes now \_\_\_\_\_ of lawful age, and being duly sworn  
(Name of Individual)

upon his/her oath states as follows:

This affidavit is made for the purpose of complying with that part of the specifications of the Greater Dayton Regional Transit Authority's Affirmative Action Assurance Plan, which requires that

\_\_\_\_\_  
(Name of Proposer)

as a Contractor/vendor proposing on the project, sets forth the names of certified disadvantaged Contractors, subcontractors, and suppliers with whom it will contract if awarded a contract for this project, the area(s), scope of work, and corresponding NAICS code of each listed Contractor, subcontractor and supplier and the approximate dollar amount of each listed item.

That the following list is true and accurate to the best of my knowledge:

<u>Contractor</u>	<u>Area/Scope of Work</u>	<u>Corresponding NAICS Code</u>	<u>Dollar Amount</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

I certify that \_\_\_\_\_ is \_\_\_\_\_ is not a disadvantaged owned business as defined in  
(Firm Submitting Proposal)

Executive Order 11625.

That I am authorized to make this affidavit in my capacity as \_\_\_\_\_  
of this bidder. (Title)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_ .

\_\_\_\_\_  
(Name of Company)

By: \_\_\_\_\_  
(Affiant) (Title)

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

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

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_ (SEAL)

**The Greater Dayton Regional Transit Authority**

**AFFIDAVIT OF DISADVANTAGED BUSINESS ENTERPRISE**

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

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

I hereby declare and affirm that I am the \_\_\_\_\_  
*(Title)*

and duly authorized representative of \_\_\_\_\_  
*(Name of Company)*

whose address is \_\_\_\_\_

I hereby declare and affirm that I am a disadvantaged business enterprise as defined by The Greater Dayton Regional Transit Authority in the instructions to Bidders/Proposers for Contract No. GD 18-18 and that I will provide information requested by the Greater Dayton Regional Transit Authority to document this fact.

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

By: \_\_\_\_\_  
*(Affiant)* *(Date)*

On this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_, before me,

\_\_\_\_\_, known to me to be the person described in the foregoing affidavit, acknowledged that he/she executed the same in the capacity therein stated and for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

\_\_\_\_\_  
*(Notary Public)*

My Commission Expires: \_\_\_\_\_ (SEAL)

**The Greater Dayton Regional Transit Authority**

**DBE UNAVAILABILITY CERTIFICATION**

*(See Good Faith - Section II, Paragraph 29, C.)*

\_\_\_\_\_ (Affiant) \_\_\_\_\_ (Date)  
of \_\_\_\_\_ certify that prior to

\_\_\_\_\_ (Prime or General Bidder)

the bid opening date, I contacted the following DBE contractors to obtain a bid/proposal for services/supplies necessary to be performed on the Greater Dayton Regional Transit Authority Legal Notice No. GD 18-18.

**Disadvantaged Service/Supplies**

Date	Contractor <i>(Must be DBE)</i>	Item(s) Sought <i>(i.e., Unit Price, Material &amp; Labor, Labor Only, etc.)</i>

Attach a detailed narrative of efforts made to involve disadvantaged contractors, subcontractors, & suppliers which should answer, but not be limited to, the specific affirmative action steps as detailed in Section II Paragraph 29, C.

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

To the best of my knowledge and belief, said disadvantaged contractor(s) was unavailable (exclusive of unavailability due to lack of agreement on price) for work on this project, or unable to prepare a bid/proposal for the following reasons:

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

Signature: \_\_\_\_\_  
*(Prime or General Contractor)*

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

\_\_\_\_\_ was offered an opportunity  
*(DBE firm)s*

participate on the above identified Legal Notice on \_\_\_\_\_ by \_\_\_\_\_  
*(date)* *(Source)*



The Greater Dayton Regional Transit Authority

Proposal Requirement

NON-COLLUSION AFFIDAVIT

NOTE: Each proposer shall furnish this affidavit, properly executed and containing all required information, with their proposal.

IF YOU FAIL TO COMPLY, YOUR PROPOSAL WILL NOT BE CONSIDERED.

STATE OF \_\_\_\_\_ }
COUNTY \_\_\_\_\_ } SS: NON-COLLUSION AFFIDAVIT

\_\_\_\_\_ being first duly sworn deposes and says:

Individual only: That he is an individual doing business under the name of \_\_\_\_\_ at \_\_\_\_\_ in the City \_\_\_\_\_ of \_\_\_\_\_ State of \_\_\_\_\_ .

Partnership only: That he is the duly authorized representative of a partnership doing business under the name of \_\_\_\_\_ at \_\_\_\_\_ in the City \_\_\_\_\_ of \_\_\_\_\_ State of \_\_\_\_\_ .

Corporation only: That he is the duly authorized, qualified and acting of \_\_\_\_\_, a corporation organized and existing under the laws of the State of \_\_\_\_\_, and that he, said partnership or said corporation, is filing herewith a proposal to the Greater Dayton Regional Transit Authority in conformity with the foregoing specifications.

Individual only: Affiant further says that the following is a complete and accurate list of the names and addresses of all persons interested in said proposed contract:
\_\_\_\_\_
\_\_\_\_\_
\_\_\_\_\_

Affiant further says that he is represented by the following attorney(s):
\_\_\_\_\_

and is also represented by the following resident agents in the City of Dayton:
\_\_\_\_\_

(This form is continued)

Partnership only: Affiant further says that the following is a complete and accurate list of the names and addresses of the members of said partnership: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Affiant further says that said partnership is represented by the following attorney(s):

\_\_\_\_\_  
\_\_\_\_\_ and is also represented by the following resident agents in the City of Dayton:  
\_\_\_\_\_  
\_\_\_\_\_

Corporation only: Affiant further says that the following is a complete and accurate list of the officers, directors and attorney(s) of said corporation:

President: \_\_\_\_\_

Directors: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Vice President: \_\_\_\_\_

Secretary: \_\_\_\_\_

Treasurer: \_\_\_\_\_

Local Manager of Statutory Agent: \_\_\_\_\_

Attorney(s): \_\_\_\_\_

And that the following officers are authorized to execute contracts on behalf of said corporation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Affiant further says that the proposal filed herewith is not made in the interest of or on behalf of any undisclosed person, partnership, company, association, organization or corporation; that such proposal is genuine and not collusion or sham; that said proposer has not, directly or indirectly, induced or solicited any other proposer to put in a false or sham proposing, and has not directly or indirectly, colluded, conspired, connived or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from proposing, that said proposer has not in any manner, directly or indirectly, sought by agreement, communication or conference with anyone to fix the proposal price of said proposer or of any other proposer or to fix any overhead, profit, or cost element of such proposal price or that of any other proposer, or to secure any advantage against the Greater Dayton Regional Transit Authority, or anyone interested in the proposed contract; that all statements contained in such proposal are true; that said proposer has not directly, or indirectly, submitted his price or any breakdown thereof or the contents thereof, or divulged information or data relative thereto, or paid or agreed to pay, directly or indirectly,

*(This form is continued)*

any money or other valuable consideration for assistance or aid rendered or to be rendered in procuring or attempting to procure the contract above referred to, to any corporation, partnership, company, association, organization, or to any member or agent thereof, or to any other individual, except such persons as herein above disclosed to have a partnership or other financial interest with said proposer will not pay or agree to pay, directly or indirectly, any money or other valuable consideration to any corporation, partnership, company, association, organization or to any member or agent thereof, or to any other individual, for aid or assistance in securing contract above referred to in the event the same is awarded to

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

Further Affiant saith not.

(Sign here) \_\_\_\_\_

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

\_\_\_\_\_  
(Notary Public)

My Commission Expires: \_\_\_\_\_ (SEAL)

**The Greater Dayton Regional Transit Authority**

**PERSONAL PROPERTY TAX AFFIDAVIT  
(O.R.C. 5719.042)**

The person making a proposal shall submit to the RTA Chief Financial Officer a statement affirmed under oath that the person with whom the contract is to be made was not charged at the time the proposal was submitted with any delinquent personal property taxes on the general tax list of personal property of any county in which the taxing district has territory or that such person was charged with delinquent personal property taxes on any such tax list, in which case the statement shall also set forth the amount of such due and unpaid delinquent taxes and any due and unpaid penalties and interest thereon. If the statement indicates that the taxpayer was charged with any such taxes, a copy of the statement shall be transmitted by the Chief Financial Officer to the county treasurer within thirty (30) days of the date it is submitted.

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

The undersigned being first duly sworn states that he/she is (check one):

the proposer                    **OR**                     the duly-authorized representative of the proposer

to whom a contract pursuant to Request for Proposal No. **GD 18-18** for **TRANSIT DIGITAL ADVERTISING SERVICES** was awarded; and further states that, at the time the proposers' proposal was submitted (check and complete as required):

proposer was not charged with any delinquent personal property taxes on the general tax list of personal property of \_\_\_\_\_  
*(County, State)*

proposer was charged with delinquent personal property taxes on the general tax list of personal property of \_\_\_\_\_ as follows:  
*(County, State)*

\$ \_\_\_\_\_ in due and unpaid delinquent taxes  
\$ \_\_\_\_\_ in due and unpaid penalties and interest thereon

Name of Proposer: \_\_\_\_\_  
Authorized Signature: \_\_\_\_\_  
Title: \_\_\_\_\_  
Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, State, Zip: \_\_\_\_\_

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

\_\_\_\_\_  
*(Notary Public's Signature)*

My Commission Expires: \_\_\_\_\_ (SEAL)

**NOT APPLICABLE**

The Greater Dayton Regional Transit Authority

**BUY AMERICA PROVISION**

**Complete applicable section below (not both).**

**CERTIFICATE OF COMPLIANCE WITH 49 U.S.C. 5323(j)(1)**

The proposer 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 49 U.S.C. 5323(j)**

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

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

**The Greater Dayton Regional Transit Authority**  
**Proposal Requirement**  
**RTA CLEAN AIR POLICY**

As the region's public transportation provider, the Greater Dayton Regional Transit Authority (RTA) recognizes its role in improving the environment, specifically air quality. Therefore, RTA is committed to environmentally sound solutions that adhere to its primary mission of affordable, flexible, reliable and convenient public transportation that meets the needs of an ever-changing regional community.

In order to meet this clean air commitment, RTA shall:

- Encourage use of the RTA system in an effort to offset the growing use of single-occupant vehicles, the greatest source of ozone pollution.
- Adjust and expand service, when feasible, in response to population shifts and regional needs in an effort to increase use of the system.
- Assure that RTA vehicles, either through adaptation or purchase, meet or exceed the emission standards of the Environmental Protection Agency (EPA). RTA will continue to investigate technologies developed to aid public transportation in its mission to improve air quality.
- Contract only with vendors and suppliers who comply with EPA Clean Air standards.
- Invite area employers to participate in RTA's corporate pass purchase program to increase ridership among their employees.
- Lobby for development of municipal land use ordinances and policies that encourage accessibility to mass transit.
- Maintain open communication with riders, taxpayers, public interest groups, private organizations, and government agencies to encourage free exchange of information regarding environmental issues and improvements.

*PLEASE EXECUTE:*

**RTA CLEAN AIR POLICY VERIFICATION**

There is no action pending against

---

*(Name of Proposer)*

for violating the Environmental Protection Agency clean air standards.

Company: \_\_\_\_\_

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

*(Duly Authorized Company Representative)*

**The Greater Dayton Regional Transit Authority  
Proposal Requirement**

**CERTIFICATION OF RESTRICTIONS ON LOBBYING**

The undersigned hereby certifies on behalf of

that:

\_\_\_\_\_

*(Name of Proposer)*

- (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 any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding 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 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that all language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 49 CFR Part 20, modified as necessary by 31 U.S.C Section 1352. 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.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

Name of Proposer: \_\_\_\_\_

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

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

Signature and  
Title of Official: \_\_\_\_\_

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

**The Greater Dayton Regional Transit Authority**

**Proposer's Requirement**

**CERTIFICATION OF CONTRACTOR REGARDING DEBARMENT, SUSPENSION,  
AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION**

The undersigned, an authorized official of the Proposer stated below, certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(If the undersigned is unable to certify to any of the statements in this certification, such official shall attach an explanation to this proposal).

THE UNDERSIGNED CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 2 CFR Part 1200 and 2 CFR Part 180 of 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Name of Propser: \_\_\_\_\_

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

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

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

Title of Official: \_\_\_\_\_

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



**The Greater Dayton Regional Transit Authority**  
**Proposal Requirement**

**CERTIFICATION OF LOWER TIER PARTICIPANTS (SUBCONTRACTORS)  
REGARDING DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND  
VOLUNTARY EXCLUSION**

**(THIS AFFIDAVIT TO BE COMPLETED BY THE SUCCESSFUL CONTRACTOR'S  
SUB-CONTRACTORS AFTER NOTIFICATION OF AWARD HAS BEEN RECEIVED)**

The Lower Tier Participant [Subcontractor to the Primary Contractor(s)], \_\_\_\_\_, certifies by submission of this bid, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

If the above named Lower Tier Participant (Subcontractor) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this certification.

The Lower-Tier Participant (Subcontractor), \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31. U.S.C. Section 3801 et seq. is applicable thereto.

\_\_\_\_\_  
Signature and Title of Authorized Official

\_\_\_\_\_  
Date

**NOTICE TO PROPOSER: THIS CERTIFICATION SHALL BE COMPLETED BY ALL SUBCONTRACTORS WHICH WILL HAVE A FINANCIAL INTEREST IN THIS PROJECT WHICH EXCEEDS \$25,000 OR SUBCONTRACTORS WHICH WILL HAVE A CRITICAL INFLUENCE ON OR A SUBSTANTIVE CONTROL OVER THE PROJECT.**

**The Greater Dayton Regional Transit Authority**  
**Proposal Requirement**  
**CERTIFICATE OF PROCUREMENT INTEGRITY**

I, \_\_\_\_\_ am the officer or employee responsible for  
*(Name of Certifier)*

the preparation of this offer or proposal and hereby certify that, to the best of my knowledge and belief, with the exception of any information described in this certificate, I have no information concerning a violation or possible violation of Subsection 27(a), (b),(c), or (e) of the Office of Federal Procurement Policy Act\* (41 U.S.C. 423) (hereinafter referred to as "the Act"), as implemented in the FAR, occurring during the conduct of this procurement (Solicitation No. GD 17-29). As required by Subsection 27(d)(1)(B) of the Act, I further certify that each officer, employee, agent, representative, and consultant of:

\_\_\_\_\_ who has participated personally and  
*(Name of Offeror)*

substantially in the preparation or submission of this offer has certified that he or she is familiar with, and will comply with, the requirements of Subsection 27(a) of the Act, as implemented in the FAR, and will report immediately to me any information concerning any violation or possible violation of the Act, as implemented in the FAR, pertaining to this procurement.

Violations or possible violations: (Continue on plain bond paper if necessary and label it 'Certificate of Procurement Integrity (Continuation Sheet)'. **ENTER 'NONE' IF NONE EXISTS.**

---

---

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\_\_\_\_\_  
*(Signature of the Officer or Employee  
Responsible for the Offer)*

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

\_\_\_\_\_  
*(Typed Name of the Officer or Employee  
Responsible for the Offer)*

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

\*Section 27 became effective on July 16, 1989.

THIS CERTIFICATION CONCERNS A MATTER WITHIN THE JURISDICTION OF AN AGENCY OF THE UNITED STATES AND THE MAKING OF A FALSE, FICTITIOUS, OR FRAUDULENT CERTIFICATION MAY RENDER THE MAKER SUBJECT TO PROSECUTION UNDER TITLE 18, UNITED STATES CODE SECTION 1001.

**PART V**  
**CONTRACT (Example)**

**PART V – CONTRACT (EXAMPLE**

**GREATER DAYTON REGIONAL TRANSIT AUTHORITY**

**CONTRACT**

Agreement made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between the Greater Dayton Regional Transit Authority, Dayton, Ohio, a political subdivision organized and existing under and by virtue of the laws of the State of Ohio, hereinafter called "RTA," and \_\_\_\_\_ hereinafter called "Contractor."

The parties hereto, intending to be legally bound, hereby agree as follows:

***ARTICLE I - SCOPE***

The Contractor shall sell, and the RTA shall purchase, the following described goods and/or services:

**TRANSIT DIGITAL ADVERTISING SERVICES**

all as more fully described in Legal Notice RFP No. **GD 18-18**.

All goods and/or services to be sold pursuant to this contract shall satisfy completely each and every specification appearing in the specifications and all other requirements which may appear in the Contract Documents.

The Contractor shall furnish all supervision, technical personnel, labor, materials, machinery, tools, equipment and services which may be necessary to perform completely all services, and to deliver and install, if necessary, all goods to be sold pursuant to this Contract, all in strict accordance with the Contract Documents.

***ARTICLE II - CONTRACT***

Contract Documents shall consist of the following:

- A) This Contract
- B) Request for Proposal (Terms and Conditions, Scope of Work and Proposal Requirements)
- C) Signed Copy of Proposal
- D) Addenda Issued

The Contract Documents form the entire contract between the parties hereto, any oral understandings or agreements to the contrary notwithstanding.

***ARTICLE III - TIME FOR PERFORMANCE***

Time is of the essence in the performance of this contract. The Contractor shall fully perform all of his obligations, including without limitation the satisfactory delivery and installation of all goods

to be sold, and the satisfactory performance of all work to be done, but not later than \_\_\_\_\_  
\_\_\_\_\_. This article applies even in the event of a union or employee  
strike, as this is a foreseeable circumstance that can be prevented, mitigated, and expected by the  
Contractor.

**ARTICLE IV - METHOD OF PAYMENT AND MAXIMUM COMPENSATION**

The maximum aggregate compensation payable by RTA to Contractor shall not exceed \_\_  
\_\_\_\_\_.

The Contractor shall, for the payment of all sums due under this contract, look solely to the monies provided the RTA from tax revenues resulting from duly authorized taxes which shall now or hereafter be levied by the RTA, and from grant contract funds, if any, which may actually be received by the RTA from the federal government under the Urban Mass Transportation Act of 1964, as amended, for the purpose of underwriting, in whole or in part, the RTA's costs pursuant to this contract.

It is expressly understood that the RTA shall be under no obligations whatsoever for any excess costs arising from changes, modifications or extra work orders not specifically approved by the RTA in one or more writings in which the excess cost or costs is specifically set forth.

The RTA will make payment to the Contractor within thirty (30) days after its acceptance of all of the goods and/or services to be sold pursuant to this contract.

**ARTICLE V - TERMINATION OF CONTRACT FOR DEFAULT**

If, through any cause, the Contractor shall fail to perform fully, timely and in proper manner its obligations under this contract, or if the Contractor shall breach any of the covenants, conditions or agreements contained in the contract, the RTA shall thereafter have the right to terminate this contract by giving notice in writing which shall specify the effective date thereof, to the Contractor of such termination. In such event, any goods delivered and/or installed by the Contractor under this contract shall, at the option of the RTA, become the RTA's property and the Contractor shall be entitled to receive just and equitable compensation therefor, not to exceed the amount payable therefor under Article IV hereof. In the event of a termination pursuant to this Article, the RTA may elect instead to remove any goods delivered and/or installed and redeliver the same to the Contractor, all at the Contractor's sole expense, including reasonable charges for any time and/or labor expended by the RTA's employees.

Notwithstanding the above, the Contractor shall not be relieved of any liability to the RTA for damages sustained by the RTA by virtue of any breach of contract or warrants, or of both, by the Contractor for the purpose of setoff and/or recoupment until such time as the exact amount of damages due the RTA from the Contractor is determined.

**ARTICLE VI - TERMINATION FOR CONVENIENCE OF THE RTA**

The RTA may terminate this contract any time by a notice in writing that shall specify the effective date thereof, from the RTA to the Contractor, at least thirty (30) days before the effective date of such termination. In that event, any goods accepted by the RTA prior to the effective date of

the termination shall become the RTA's property and the Contractor shall be entitled to receive just and equitable compensation therefor and for any services accepted by the RTA prior to the effective date; provided, nevertheless, that the amount of such compensation shall not, in any event, exceed the amount of the total contract price, as set forth in Article IV, above, properly attributable to the goods and/or services so accepted.

Neither the acceptance, by the RTA, of any goods and/or services; the payment, by the RTA, for any goods and/or services; nor both acceptance and payment, shall be deemed to waive, to compromise, or to affect in any manner the liability of the Contractor for any breach of contract, of warranty, or both of contract and of warranty.

#### ***ARTICLE VII - CONTRACT CHANGES***

Any proposed change in this contract shall be submitted to the RTA for its prior approval, and shall not become effective unless it is contained in a writing signed by the Chief Executive Officer of the RTA.

#### ***ARTICLE VIII - INTEREST OF MEMBERS OF OR DELEGATES TO CONGRESS***

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this contract or to any benefit arising therefrom.

#### ***ARTICLE IX - PROHIBITED INTEREST***

No member, officer or employee of the RTA or of a local public body during his/her tenure or one year thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.

#### ***ARTICLE X - EQUAL EMPLOYMENT OPPORTUNITY***

In connection with the execution of this contract, the Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, sexual orientation, gender identity, disability, age or national origin. The Contractor shall take Affirmative Action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, color, religion, creed, sex, sexual orientation, gender identity, disability, age or national origin. Such actions 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.

#### ***ARTICLE XI - DISADVANTAGED BUSINESS ENTERPRISE***

In connection with the performance of this contract, the Contractor will cooperate with the RTA in meeting its commitments and goals with regard to the maximum utilization of disadvantaged business enterprises and will use its best efforts to ensure that minority, women or other disadvantaged business enterprises shall have the maximum practicable opportunity to compete for subcontract work, if any, and for the supply of materials or services, if any, which may be necessary or desirable for the performance of this contract.

## ***ARTICLE XII - ASSIGNABILITY***

The terms and provisions of the Contract Documents shall be binding upon RTA and the Contractor and their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. The rights and obligations of the Contractor under the Contract may not be transferred, assigned, sublet, mortgaged, pledged or otherwise disposed of or encumbered in any way. The Contractor may subcontract a portion of its obligations to other firms or parties but only after having obtained the written approval by RTA of the subcontractor, which approval shall not be unreasonably withheld. RTA may assign its rights and obligations under the Contract to any successor to the rights and functions of RTA or to any governmental agency to the extent required by applicable laws and governmental regulations or to the extent RTA deems necessary or advisable under the circumstances.

## ***ARTICLE XIII - NONDISCRIMINATION***

During the performance of this contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, sexual orientation, gender identity, disability, age 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 race, religion, color, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, creed, sex, sexual orientation, gender identity, disability, age or national origin.

(3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the non-discrimination clauses of this contract or with any of the said rules, regulations or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further grantee contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order, of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for non-compliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**ARTICLE XIV - AUDIT AND INSPECTION OF RECORDS**

In the event a single proposal is received, the following will be considered part of the contract.

In the case of all negotiated contracts, and contracts for construction, reconstruction, or improvement of facilities and equipment, which entered into under other than competitive proposal procedures, contractor agrees that the grantee, the Comptroller General of the United States, or any of their duly authorized representatives, shall, for the purpose of audit and examination shall be permitted to inspect all work, materials, payrolls, and other data and records with regard to the project, and to audit the books, records, and accounts with regard to the project.

Further, Contractor agrees to maintain all required records for at least three years after grantees make final payments and all other pending matters are closed.

IN WITNESS WHEREOF, the parties to this contract have set their hands to triplicate copies on the day and year hereinabove written with each copy to be considered an original.

GREATER DAYTON REGIONAL  
TRANSIT AUTHORITY

\_\_\_\_\_  
*RTA*

By: \_\_\_\_\_  
Mark Donaghy  
Chief Executive Officer

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

Attest:

\_\_\_\_\_  
*Contractor*

By: \_\_\_\_\_

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

Attest:



By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

***CERTIFICATE OF FUNDS***

I hereby certify that the funds estimated to be required to meet the payment called for in the Contract between the Greater Dayton Regional Transit Authority and \_\_\_\_\_ dated \_\_\_\_\_, 20\_\_\_\_, have been lawfully appropriated for that purpose and are in the treasury or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances.

\_\_\_\_\_  
Mary K. Stanforth  
Chief Financial Officer

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