



Request for Proposal

Food & Beverage Vending Services

GD 22-08

July 05, 2022

July 05, 2022

DEAR PROSPECTIVE PROPOSER:

Re: Request for Proposal (RFP)
FOOD & BEVERAGE VENDING SERVICES
RFP No. GD 22-08

The Greater Dayton Regional Transit Authority (RTA) is soliciting proposals for FOOD & BEVERAGE VENDING SERVICES. Your firm is invited to submit a proposal.

A pre-proposal conference has been scheduled for **July 19, 2022 at 2:00 p.m. (EST)** in the **Multi-Purpose 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 "FOOD & BEVERAGE VENDING SERVICES" to the undersigned by **2:00 p.m. (EST), August 08, 2022**. Proposals may be hand delivered, mailed or sent by delivery services addressed to: Director 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), 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 bid package 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 accessed this bid package from our website, we may not have you in our database. In order to ensure that you receive all updates and addenda, please go to <http://proc.greaterdaytonrta.org> - click on Vendor Registration (left side of page) and Email completed form to e-procurement@greaterdaytonrta.org

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) 425-8315.

Sincerely,

Angela Meade

ANGELA MEADE
PURCHASING AGENT

**REQUEST FOR PROPOSAL
FOOD & BEVERAGE VENDING SERVICES
RFP No. GD 22-08**

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REQUEST FOR PROPOSAL

LEGAL NOTICE RFP NO. 22-08

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

FOOD & BEVERAGE VENDING SERVICES

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

A pre-proposal conference has been scheduled for **July 19, 2022 at 2:00 p.m. (EST)** in the **WSP Multi-Purpose** 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 Director of Procurement at or before **2:00 p.m. (EST)**, on **August 08, 2022**.

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
Director of 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.

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 "FOOD & BEVERAGE VENDING SERVICES" will be received at the office of the Director of Procurement, Greater Dayton Regional Transit Authority, 4 S. Main Street, Dayton, OH 45402, until **2:00 p.m. (EST)**, Dayton (Eastern) time, on **August 08, 2022**. Proposals received by RTA after that date and time will not be opened or considered. **An original and four (4) 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 "FOOD & BEVERAGE VENDING 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 **at least ten (10) calendar days** prior to the date on which the proposals are due. Proposers should address such requests to RTA, Attention: **ANGELA MEADE** at ameade@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*

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.

- a. 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.
- b. 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.
- c. 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.
- d. 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.
- e. 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.
- f. With respect to actions prior to award of a contract, only the RTA's Chief Financial Officer, Director 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	July 05, 2022
Pre-proposal Conference	July 19, 2022 at 2:00 p.m. (EST)
Final date for Request for Information and Clarification	July 25, 2022
Proposal Due Date	August 08, 2022 at 2:00 p.m. (EST)
Estimated Award Date	October 04, 2022

3.12 Project Manager

The Project Manager for this procurement is **CATHY GARNER**, Greater Dayton Regional Transit Authority (RTA), 600 Longworth Street, Dayton, Ohio 45402.

3.13 Proposers Conference

A pre-proposal conference is scheduled for July 19, 2022 at 2:00 p.m. (EST) in the WSP Multi-Purpose 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 **ANGELA MEADE** at ameade@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) Required 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 FTA Master Agreement 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 CFR 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 CFR Part 27;
- c. U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 CFR 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 CFR Part 35;
- e. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 CFR Part 36;
- f. General Services Administration regulations, "Construction and Alteration of Public Buildings," "Accommodations for the Physically Handicapped," 41 CFR Part 101-19;
- g. Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 CFR Part 1630;
- h. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 CFR Part 64, Subpart F; and
- i. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 CFR 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 *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.

4.10 *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, 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:

- 1) 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.
- 2) Whether the contractor/supplier solicited this interest within sufficient time to allow the DBEs to respond to the solicitation.
- 3) Whether the contractor/supplier took appropriate steps to follow up initial solicitations.
- 4) 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).
- 5) 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.
- 6) Whether the contractor/supplier negotiated in good faith with interested DBEs.
 - a) 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.
 - b) 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.

- c) 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.
 - d) 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.
 - e) Whether the contractor/supplier made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
 - f) 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.
- g) 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:

- 1) Disadvantaged Business Enterprise means a *small business concern*:
 - a) 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

- b) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- 2) *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).
- 3) *Socially and economically disadvantaged individual* means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is —
 - a) Any individual who a recipient finds to be socially and economically disadvantaged on a case-by-case basis.
 - b) Any individual in the following groups, members of which are reputedly presumed to be socially and economically disadvantaged:
 - 1) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - 2) "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;
 - 3) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - 4) "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 Mariana Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong.
 - 5) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - 6) Women;
 - 7) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.
- 4) *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:

- 1) 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:

- a) A committed DBE was found unable to comply with the contract within the required timeframe.
 - b) A DBE was discovered not to be bona fide.
 - c) The DBE desires to make significant changes in the contract.
- 2) 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.
 - 3) 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.
 - 4) 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.
 - 5) The RTA will not approve additional monies for escalated costs incurred by a Contractor when a substitution is necessary.

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 agrees to comply with 49 U.S.C. 5323(j) and 49 CFR part 661, which provides that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 CFR § 661.11.

The bidder or proposer must submit to RTA the appropriate Buy America certification with its bid or proposal. Bids or Proposals that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

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 CFR § 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.

4.24 *Safe Operation of Motor Vehicle*

- a. **Seat Belt Use.** The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or Greater Lafayette Public Transportation Corporation (GLPTC).
- b. **Distracted Driving.** The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

4.25 *Veterans Preference*

As provided by 49 U.S.C. Section 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients: (1) Will give a hiring preference to veterans , as defined in 5 U.S.C. Section 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

4.26 *Organizational Conflicts of Interest*

The recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) *When It Occurs*. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) *Other*. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) *Disclosure Requirements*. Consistent with FTA policies, the Recipient must disclose to RTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal laws, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) *Failure to Disclose*. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

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 CFR 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*

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:
 - 1) 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;
 - 2) Is expected to exceed one hundred thousand dollars (\$100,000);
or
 - 3) 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).
 - 4) The advance notification required by the above shall include: A description of the supplies or services to be called for by the subcontract;
 - 5) 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;
 - 6) 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
 - 7) 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.

- 8) 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.
- 9) 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.
- 10) 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 **THREE YEARS**. It is anticipated that the RTA will present this procurement to the RTA Board of Trustees for approval on **OCTOBER 04, 2022**. The contract will be awarded to **one (1) firm with an effective date upon execution of the contract**.

5.18 *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.

5.19 *Prosal/Bid Protest Procedures*

RTA will hear and consider a sustainable bid protest regarding its procurement actions in accordance with the below 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. RTA intends to provide a thorough review of all sustainable bid protests. The RTA's primary concern is the timely procurement of needed capital equipment, supplies, or services. Therefore, 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 RTA. The bidder/proposer should contact the Purchasing Agent responsible for the solicitation to resolve any issues.

Prime bidders/proposers may make appointments to discuss the specification/scope of work; however, this does not relieve bidders/proposers from submitting the written documentation required below.

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.

If the actual or prospective bidder/proposal wants to proceed with the protest, the below procedures should be followed:

1. Protests may be filed during the pre-award, award or post-award phases of the procurement, except when protesting the solicitation content, which must be filed prior to the close date of said bid/proposal. Bidders/Proposers may protest a bid/proposal as soon as practical, but no later than five (5) business days following the receipt of proposed recommendations of award or receipt of rejection notification. All protests must be submitted in writing and be addressed to RTA's Chief Executive Officer at 4 S. Main St., Dayton, OH 45402
2. The protest shall:
 - Name the protester;
 - Name the solicitation/contract (e.g., GD 22-XX);
 - State the grounds of the protest; and
 - State the relief sought.
3. The protester shall submit with the protest all documents which he/she believes support the protest. The protester shall state further if they wish an informal conference to discuss the protest with RTA.
4. If any information is omitted or incomplete, RTA will notify the protester in writing. The protester shall be required to provide such information within (3) business days if the protest is to be further considered.

5. The Chief Executive Officer shall consider all facts and issues involved. RTA's Director of Procurement shall present all relevant facts and issues to the Chief Executive Officer. The Chief Executive Officer may, at his/her 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.
6. 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. In addition, any information to be considered in the protest decision must be submitted in writing within twenty-four (24) hours after the conference.
7. 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 RTA shall address each substantive issue raised in the protest. A decision is final unless a request for reconsideration is filed.
8. If the protester is dissatisfied with the initial decision made by RTA, they may request in writing a reconsideration based on data that 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.
9. FTA will only entertain a protest that alleges RTA has failed to adhere to a protest procedure. A protest to FTA must be filed in accordance with FTA Circular 4220.1F.
10. 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.
11. Potential bidders/proposers will be advised of a pending protest if made before award.

12. Should the protester be dissatisfied with the decision rendered by 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.
13. All protest documents shall be faxed, hand delivered or sent by overnight courier with return receipt requested to RTA Chief Executive Officer or the protestor and shall be deemed received on date delivered by fax, hand delivery or overnight courier.

The FTA will be notified of all protests received. RTA will keep FTA informed of the status of the project.

5.20 Insurance

PROFESSIONAL SERVICE INSURANCE REQUIREMENTS

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.

5.21 *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.

5.22 *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:

- a. RTA is a 24-hour per day operation.
- b. 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.
- c. Operators of all equipment are expected to be certified to operate appropriate equipment.
- d. Restrictive rules apply to running of engines inside all buildings.
- e. Restrictive storm water pollution rules apply.
- f. 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."

- g. Building evacuation procedures.
- h. Fire safety and prevention procedures.
- i. First aid procedures.
- j. Hazardous material safety.

5.23 *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.

5.24 *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.

5.25 *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.

5.26 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.

5.27 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.

5.28 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.

5.29 *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 REP.**

5.30 *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."

5.31 *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

GD 22-08 Food & Beverage Vending Services

Introduction:

The Greater Dayton Regional Transit Authority (RTA) is seeking proposals from qualified firms to provide quality food and beverage vending services at a reasonable cost for six RTA facilities.

Contract Award:

Contract award will be made to the proposer who is determined to be the most capable of meeting the needs and objectives of the RTA for a three (3) years. The determination as to who is the most capable proposer will be made by the RTA Evaluation Committee established for this procurement.

Contractors will be evaluated and scored according to the below criteria:

- Quality of products, service & menu selections
- Commission Structure
- Experience and Reputation
- Management Philosophy
- Quality of Proposal preparation (table of contents and page numbers required)

Proposers are strongly encouraged to submit any innovations they feel will be appealing (i.e. healthy foods vs. junk foods, sports drinks and pastries, etc.) to the RTA.

****ABSOLUTELY NO ENERGY DRINKS ARE PERMITTED IN MACHINES****

Once all proposals have been received, the Evaluation Committee members will individually review each proposal.

Proposers will be requested to provide food samples for the RTA employees to taste and rate during the evaluation process.

A site visit may be made to the proposer's facility. The purpose of the site visit will be to observe daily operations and planning of the proposer. No advance notice will be given for these site visits, if conducted. It is at the RTA's discretion as to whether or not a site visit is conducted and which proposer's facility will be visited.

Additional information may be requested while proposals are under consideration.

The RTA reserves the right to reject any and all proposals received.

Locations:

- 4 South Main Street
- 600 Longworth Street
- 901 South Ludlow Street
- East Transit Center, 1218 Falke Drive
- Northwest Transit Center, 2075 Shiloh Springs Road
- South Transit Center, 2730 Lyons Road

Location	Machine Type(s)	Frequency Serviced
4 S. Main St. – 1 st floor	(1) Cold Beverage	1 day/week
4 S. Main St.- Maintenance	(1) Cold Beverage	1 day/week
4 S. Main St. – 2 nd floor	(1) Cold Beverage	2 days/week
	(1) Snack	
600 Longworth St. – Maintenance	(1) Cold Beverage	5 days/week
	(1) Coffee machine	
	(1) Fresh Food	
	(1) Frozen Food/Ice Cream	
	(1) Snack	
	(1) Condiment Stand	
	(3) Microwave ovens	
	(2) Credit Card Readers	
600 Longworth St. – Driver Lounge	(1) Cold Beverage	5 days/week
	(1) Coffee Machine	
	(1) Fresh Food	
	(1) Frozen Food/Ice Cream	
	(1) Glass Front Cold Beverage	
	(1) Snack	
	(1) Condiment Stand	
	(2) Microwave Ovens	
	(2) Credit Card Readers	
901 S. Ludlow St.	(1) Snack	1 day/week
	(1) Cold Beverage	
Easttown Transit Center	(1) Cold Beverage	2 days/week
Northwest Transit Center	(1) Snack	2 days/week
	(2) Cold Beverage	
South Transit Center	(1) Cold Beverage	3 days/week
	(1) Snack	

LOCATIONS, ROUTES, TIMES AND QUANTITIES MAY CHANGE DURING THE CONTRACT PERIOD

Vending Machines:

Each proposal submitted is to contain the type, make, model number, and sizes of all machines to be install at each location. **Description and product specification sheets must be included for all machines.**

Condiment stands, microwave ovens, dollar bill/coin changer, and credit card readers are required as specified in the chart above.

There is to be no duplication of machines at the same location other than specified on the chart above.

Proposers are required to provide a design layout for each of the vending areas with their proposal.

Machines must be stocked and maintained in good working order at all times during the term of the contract.

The necessary utilities are available but hookups are the responsibility of the successful Proposer.

General Requirements:

Service must be available when required; RTA facilities operate 24/7, 365 days per year. Emergency and maintenance service calls must be provided on the same basis. The RTA will coordinate a delivery schedule with the successful proposer that is convenient for both parties.

All vending machines are required to be new or refurbished "like new," of modern design, automatic with modular fronts, uniform in appearance, and equipped with the latest coin mechanisms which accept nickels, dimes, and quarters. **All machines must be ADA accessible.**

All vending machines must meet specifications as outlined by the U.S. Public Health Federation and National Sanitation Foundation.

The successful proposer will be responsible for furnishing lids for coffee cups, salt, pepper, napkins, napkin holders, ketchup, mustard, plastic silverware (forks & spoons), small paper plates, straws, etc.

All dollar bill/coin changers, microwave ovens, and condiment stands must be new or refurbished "like new".

All equipment shall be maintained by fully insured and bonded service people.

The successful proposer will be responsible for:

- Obtaining and paying for all fees, licenses, and permits required for this procurement.
- Complying with the requirements of the Vending Machine Food Service Operation Law (as amended)
- Complying with all applicable statutes, laws, regulations and ordinances.

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 FOOD & BEVERAGE VENDING 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:
 - a. The company name, size, owner or contact name, address, telephone and fax numbers, and email addresses.
 - b. A brief description of the services currently being provided by your firm to the customer.
- 1.3 Provide location(s) of your firm's facilities, proximity to RTA, hours of operation, and ability to service account.
- 1.4 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. Training offered by your firm for your employees.
- d. Type of background investigations conducted on all employees.

NOT REQUIRED

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.

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:

- Quality of products, services, and menu selections
- Commission Structure
- Experience and Reputation
- Management Philosophy
- Quality of proposal preparation (table of contents and page numbers required)

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 ANGELA MEADE, 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 four (4) copies of your firm's proposal.

PART III - PROPOSAL FORMAT

Section 6.0: Miscellaneous

6.0 *Miscellaneous Information*

- 6.1 Organization Overview – Who you are, number of service personnel (dietitian, food preparation personnel, etc.), size of facility, number of vehicles and types, any other information you wish to provide.
- 6.2 A list of five (5) references comparable in size (estimated 500 employees) to the RTA presently being serviced by your firm. Ensure that a point of contact, email, and phone number are provided for each client.
- 6.3 Your firm's ability to service the vending machines. Please include the standard response time to react to a service call. The RTA will require that the successful proposer have a maximum response time of four (4) hours.
- 6.4 An overview of your firm's capabilities to service/supply the vending machines.
- 6.5 A time and frequency schedule as to when the service deliveries can be made. The RTA prefers that deliveries be made between 3:00 a.m. to 5:00 a.m. on a daily basis. The actual delivery schedule will be coordinated with the successful proposer and RTA.
- 6.6 A copy of your quality assurance program and a detailed explanation as to how it is managed.
- 6.7 A commission schedule for all categories.
- 6.8 A copy of all products available to the RTA.
- 6.9 Please inform the RTA if the food is being prepared by your firm or by an outside contractor. If an outside contractor is preparing the food please explain why.
- 6.10 Please provide a current list of prices and the frequency of price increase.
- 6.11 Provide an explanation of your firm's method of record keeping and reports that will be provided to the RTA.
- 6.12 Copies of all license, permits, taxes, and insurance required for this procurement.
- 6.13 Detailed explanation of promotions that your firm will run throughout the course of the year and how the promotion is managed.

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.		
Completed	Required	
<input type="checkbox"/>	<input type="checkbox"/>	Summary of Proposal Requirements
<input type="checkbox"/>	<input type="checkbox"/>	Addenda Acknowledgement
<input type="checkbox"/>	<input type="checkbox"/>	City of Dayton Affirmative Action Assurance (AAA) Certification (If approval email has not been received, enter “Pending”
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Intended Disadvantaged Business Enterprise
<input type="checkbox"/>	<input type="checkbox"/>	Affidavit of Disadvantaged Business Enterprise
<input type="checkbox"/>	<input type="checkbox"/>	DBE Unavailability Certification
<input type="checkbox"/>	<input type="checkbox"/>	Non-Collusion Affidavit
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Personal Property Tax Affidavit
<input type="checkbox"/>	<input type="checkbox"/>	Buy America Certification (applicable if proposal is over \$100,000)
<input type="checkbox"/>	<input type="checkbox"/>	RTA Clean Air Policy Verification
<input type="checkbox"/>	<input type="checkbox"/>	Certification of Restriction on Lobbying
<input type="checkbox"/>	<input type="checkbox"/>	Certificate of Procurement Integrity
<input type="checkbox"/>	<input type="checkbox"/>	Certification of Contractor Regarding Debarment, Suspension and other Ineligibility and Voluntary Exclusion
<input type="checkbox"/>	<input type="checkbox"/>	Certification of Lower Tier Participants (Subcontractors) Regarding Debarment, Suspension and Other Ineligibility and Voluntary Exclusion
<input type="checkbox"/>	<input type="checkbox"/>	Proposal Bond (as required)
<input type="checkbox"/>	<input type="checkbox"/>	Proposer’s Warranty Information (as required)

Signature: Date

Printed Name: Title:

Company

Email:

Office #: Mobile #:

The Greater Dayton Regional Transit Authority

Proposal Requirement

Addenda Acknowledgement Form

Proposer must indicate below the addenda received and the dates addenda were received. (If none received, enter "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:

Telephone Number:

Email Address:

Printed Name:

Authorized Signature:

Title:

The Greater Dayton Regional Transit Authority

Proposal Requirement

City of Dayton Affirmative Action Assurance (AAA) Certification

***Insert Here:
(Refer to Section 4, Paragraph 4.8, 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), and complete the online AAA form. To obtain CityBOTS login credentials, vendor must go to 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 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 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.

Proposal Requirement

Disadvantaged Business Enterprise (DBE) Information

Refer to Section 4, Paragraph 4.9

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

Proposal Requirement

AFFADAVIT OF INTENDED DISADVANTAGED BUSINESS ENTERPRISE

State of []

County of []

Comes now [] of lawful age, and being duly sworn upon his/her oath states as follows:
(Name of Individual)

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 is 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:

Table with 4 columns: Contractor, Area/Scope of Work, Corresponding NAICS Code, Dollar Amount

I certify that [] is/is not a disadvantaged owned business as defined in Executive Order 11625.
(Firm Submitting Proposal)

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
Proposal Requirement**

AFFADAVIT 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 22-08 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 WHEREOFF, I hereunto set my hand and official seal.

(Notary Public)

My Commission Expires: (SEAL)

The Greater Dayton Regional Transit Authority

Proposal Requirement

DBE UNAVAILABILITY CERTIFICATION

(See Good Faith – Section IV, Paragraph 4.9, D.)

[Empty box for Affiant name]

(Affiant)

[Empty box for Date]

(Date)

of [Empty box] 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 22-08.

Disadvantaged Service/Supplies

Table with 3 columns: Date, Contractor (Must be DBE), Item(s) Sought (i.e., Unit Price, Material & Labor, Labor Only, etc.)

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 IV Paragraph 4.9, D.

[Empty lines for narrative]

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:

[Empty lines for reasons]

Signature: [Empty box] (Prime or General Contractor)

Date: [Empty box]

[Empty box] was offered an opportunity to

participate on the above identified Legal Notice on [Empty box] (date) by [Empty box] (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 [] }

SS: NON-COLLUSION AFFIDAVIT

[] COUNTY }

[] being first duly sworn deposes and says:

Individual only:

That he/she is an individual doing business under the name of []

at []

in the City of [], State of []

Partnership only:

That he/she is duly authorized representative of a partnership doing business under the name of

[] at []

in the City of [], State of []

Corporation only:

That he/she is duly authorized, qualified and acting of [],

a corporation organized and existing under the laws of the State of [], and that he/she, 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

(This form is continued)

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, 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

Proposal Requirement

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 on):

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

to whom a contract pursuant to Request for Proposal No. GD 22-08 for FOOD & BEVERAGE VENDING 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)

\$ [] 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)

The Greater Dayton Regional Transit Authority

Proposal Requirement

(Required for Proposals over \$150,000)

BUY AMERICA CERTIFICATION STEEL, IRON, OR MANUFACTURED PRODUCTS

Instructions:

Bidder or Proposer must complete the Buy America Certification listed below. Bidder or Proposer shall certify EITHER COMPLIANCE OR NON-COMPLIANCE (not both). This Certification MUST BE submitted with the Bidder's or Proposer's bid response.

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

Certificate of Compliance with Buy America Requirements

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

Date:

Signature:

Company:

Name:

Title:

Email:

Certificate of Non-Compliance with Buy America Requirements

The bidder or 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 40 CFR § 661.7.

Date:

Signature:

Company:

Name:

Title:

Email:

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:

(Duly Authorized Company Representative)

Date:

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 sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients 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/Title of Official:

Email:

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 Proposer:	<input type="text"/>
Address:	<input type="text"/>
City, State, Zip:	<input type="text"/>
Signature of Authorized Official:	<input type="text"/>
Title of Official:	<input type="text"/>
Email:	<input type="text"/>
Telephone:	<input type="text"/>
	Date: <input type="text"/>

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 the preparation of this offer or
(Name of Certifier)

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 Officer 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. 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 substantially in the
(Name of Offeror)

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.

[]
(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:

FOOD & BEVERAGE VENDING SERVICES

all as more fully described in Legal Notice RFP No. **GD 22-08**.

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 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.

(1) 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:

By: _____

Date: _____

Contractor

By: _____

Date: _____

Attest:

By: _____

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: _____