

ORDINANCE NO. _____

An ordinance approving a contract for technical and engineering services between Fairpointe Planning, LLC and the Metropolitan Government of Nashville and Davidson County.

WHEREAS, pursuant to a Request For Proposal, Fairpointe Planning, LLC was selected by the Metropolitan Government of Nashville and Davidson County ("Metro") to perform technical and engineering services; and,

WHEREAS, Section 4.12.160(A) of the Metropolitan Code limits the term of contracts for services to sixty (60) months, unless otherwise authorized by the Metropolitan Council; and,

WHEREAS, this contract engages Fairpointe Planning, LLC to perform technical and engineering services and is available for every Metro department to utilize; and,

WHEREAS, approval of the contract will benefit the citizens of Nashville and Davidson County.

NOW, THEREFORE, BE IT ENACTED BY THE COUNCIL OF THE METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY:

Section 1. That the contract between Fairpointe Planning, LLC and the Metropolitan Government of Nashville and Davidson County, a copy of which is attached hereto and incorporated herein, is hereby approved.

Section 2. This ordinance shall take effect from and after its passage, the welfare of The Metropolitan Government of Nashville and Davidson County requiring it.

RECOMMENDED BY:

INTRODUCED BY:

Dennis Rowland
Purchasing Agent
Dennis Rowland

APPROVED AS TO AVAILABILITY
OF FUNDS:

Member(s) of Council

Jenneen Reed, Director
Jenneen Reed
Department of Finance

APPROVED AS TO FORM AND
LEGALITY:

Assistant Metropolitan Attorney
Erica Haber

Contract Abstract

Contract Information

Contract & Solicitation Title: Architecture and Engineering (A&E) Services

Contract Summary: CONTRACTOR agrees to provide Architecture and engineering (A&E) services for Metro including Choose How You Move (CHYM).

Contract Number: 6605615 Solicitation Number: 393386 Requisition Number: 4132992

Replaces Expiring or Expired Contract? (Enter "No" or Contract No and Expiration Date): No

Type of Contract/PO: IDIQ Contract **Requires Council Legislation:** Yes

High Risk Contract (Per Finance Department Contract Risk Management Policy): Yes

Sexual Harassment Training Required (per BL2018-1281): Yes

Estimated Start Date: 1/2/2026 Estimated Expiration Date: 1/1/2029 Contract Term: 36 Months

Estimated Contract Life Value: \$44,200,000.00 Fund:* 40025 BU:* 42400025

(*Depending on contract terms, actual expenses may hit across various departmental BUs and Funds at PO Levels)

Payment Terms: Net 15 Selection Method: RFP

Procurement Staff: Daniel Drumwright BAO Staff: Sierra Washington

Procuring Department: NDOT Department(s) Served: Metro Wide

Prime Contractor Information

Prime Contracting Firm: Fairpointe Planning, LLC ISN#: 25855

Address: 73 White Bridge Road STE 103-235 City: Nashville State: TN Zip: 37205

Prime Contractor is a Certified/Approved: SBE ☐ SDV ☐ MBE ☒ WBE ☐ LGBTBE ☐ (select/check if applicable)

Prime Company Contact: Tanisha Hall Email Address: hallt@fairpointeplanning.com Phone #: 615-697-9685

Prime Contractor Signatory: Tanisha Hall **Email Address:** hallt@fairpointeplanning.com

Business Participation for Entire Contract

Small Business and Service Disabled Veteran Business Program: SBE/SDV Participation

Amount: TBD Percent, if applicable: 18%

Equal Business Opportunity (EBO) Program: M/WBE Participation

MBE Amount: TBD MBE Percent, if applicable: 7%

WBE Amount: TBD WBE Percent, if applicable: 5%

Federal Disadvantaged Business Enterprise: No

Amount: ☐ Percent, if applicable: ☐

Note: Amounts and/or percentages are not exclusive.

B2GNow (Contract Compliance Monitoring): Yes

Summary of Offer

Offeror Name	MBE	WBE	SBE	SDV	LGBTBE	Score	Evaluated Cost	Result
	(check as applicable)					(RFP Only)		
<u>AECOM Technical Services</u>	☐	☐	☐	☐	☐	<u>67</u>	<u>N/A</u>	<u>Awarded</u>
<u>Alfred Benesch & Company</u>	☐	☐	☐	☐	☐	<u>78</u>	<u>N/A</u>	<u>Awarded</u>
<u>Alta Planning + Design</u>	☐	☐	☐	☐	☐	<u>81</u>	<u>N/A</u>	<u>Awarded</u>

Contract Abstract

Continuous of Summary of Offer

Offeror Name	MBE	WBE	SBE	SDV	LGBTBE	Score	Evaluated Cost	Result
	(check as applicable)					(RFP Only)		
Arcadis US Inc	☐	☐	☐	☐	☐	83	N/A	Awarded
Barge Design Solutions	☐	☐	☐	☐	☐	82	N/A	Awarded
Borra Consulting	X	☐	X	☐	☐	60	N/A	Awarded
CDM Smith Inc	☐	☐	☐	☐	☐	92	N/A	Awarded
Collier Engineering Co	☐	☐	☐	☐	☐	82	N/A	Awarded
Conсор North America, Inc	☐	☐	☐	☐	☐	87	N/A	Awarded
Crawford, Murphy & Tilly	☐	☐	☐	☐	☐	77	N/A	Awarded
Gresham Smith	☐	☐	☐	☐	☐	79	N/A	Awarded
GRW Engineers	☐	☐	☐	☐	☐	77	N/A	Awarded
H.W. Lochner, Inc	☐	☐	☐	☐	☐	61	N/A	Awarded
HDR Engineering Inc	☐	☐	☐	☐	☐	85	N/A	Awarded
Jacobs Engineering Group	☐	☐	☐	☐	☐	88	N/A	Awarded
Johnson, Mirmiran & Thompson	☐	☐	☐	☐	☐	60	N/A	Awarded
KCI Technologies	☐	☐	☐	☐	☐	90	N/A	Awarded
Kimley-Horn & Associates	☐	☐	☐	☐	☐	90	N/A	Awarded
Lamar, Dunn, & Associates	☐	☐	X	☐	☐	84	N/A	Awarded
Lose & Associates Inc	☐	☐	☐	☐	☐	61	N/A	Awarded
Neel-Schaffer, Inc	☐	☐	☐	☐	☐	73	N/A	Awarded
Nelson Nygaard Consulting	☐	☐	☐	☐	☐	84	N/A	Awarded
Orchard, Hiltz & McClimen	☐	☐	☐	☐	☐	91	N/A	Awarded
Parsons Transportation	☐	☐	☐	☐	☐	68	N/A	Awarded
Ragan-Smith	☐	☐	☐	☐	☐	70	N/A	Awarded
Smith Seckman Reid	☐	☐	☐	☐	☐	72	N/A	Awarded
Stantec Consultants	☐	☐	☐	☐	☐	85	N/A	Awarded
Fairpointe	X	☐	☐	☐	☐	68	N/A	Awarded
Volkert Inc	☐	☐	☐	☐	☐	63	N/A	Awarded
WSP USA	☐	☐	☐	☐	☐	81	N/A	Awarded

Terms and Conditions

1. ARCHITECTURAL AND ENGINEERING CONTRACT

1.1. Heading A&E

This Contract is initiated by and between **The Metropolitan Government of Nashville and Davidson County** ("METRO") and **Fairpointe Planning, LLC** ("CONSULTANT") located at **73 White Bridge Road STE 103-235 Nashville, TN 37205**. This Contract consists of the following documents:

Any properly executed contract amendment (most recent with first priority),

- *This document, including exhibits,*
 - *Exhibit A – (Pricing)*
 - *Exhibit B – (Scope of Services)*
 - *Exhibit C – (Federal Transit Administration Clauses)*
- *The solicitation documentation for RFQ# 393385 and affidavit(s) (all made a part of this contract by reference),*
- *Purchase Orders (and PO Changes),*
- *CONTRACTOR's response to the solicitation,*
- *Equal Business Opportunity (EBO) Program forms (incorporated by reference).*

In the event of conflicting provisions, all documents shall be construed in the order listed above.

Where this Contract references "CONTRACTOR" in **all caps**, it is understood to be the CONSULTANT.

2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

2.1. Duties and Responsibilities

CONTRACTOR agrees to provide architecture and engineering (A&E) services for Metro including Choose How You Move (CHYM), as described in Exhibit B (Scope of Services) and more fully defined in the solicitation. CONTRACTOR agrees to provide requested services, meeting performance standards on a project by project basis as mutually agreed upon with Metro. Performance standards will be designed to ensure acceptable performance related to the tasks identified in any assigned Project Scope of Work and CONTRACTOR'S submitted Proposal related thereto. Performance standards may include but are not limited to consideration of timely completion of work, appropriate communication and progress tracking as required, as well as overall compliance with contract terms.

2.2. METRO's Responsibilities

METRO will:

Use its best efforts to provide CONSULTANT with available information pertinent to a project if that information is necessary, exists, and is available without significant cost to METRO. METRO does not represent, warrant or guarantee the accuracy or completeness of any information provided to CONSULTANT related to the project either in whole, in part, implicitly, or explicitly, or at all, and shall have no liability, therefore.

Provide access to the project site so CONSULTANT can enter upon public and private lands, if possible and necessary to complete the project.

Give thorough consideration to all reports, cost estimates, drawings, specifications, and other documents presented by CONSULTANT and inform CONSULTANT of all decisions within a reasonable time.

Designate, in writing, a single person to act as METRO's project manager for the project.

Obtain required authorizations and approvals excluding the building permit and other permits or fees required of CONSULTANT by this Contract or customarily the responsibility of CONSULTANT. Upon request, CONSULTANT shall assist Metro with filing and preparing documents related to the project and required by

governmental authorities.

Will not provide clerical assistance to CONSULTANT for the project and METRO personnel will not be asked to undertake surveys, analyses, tabulations, summaries, etc. of CONSULTANT produced data or documentation.

2.3. Duties of CONSULTANT

CONSULTANT agrees to provide, and METRO agrees to purchase, professional architectural and/or engineering services completed under the project solicitation. Project shall reference this Contract by number and include the terms and conditions of this Contract.

CONSULTANT must make every effort to maximize the use of sustainable building materials and energy efficient products. Additionally, design and construction methods should be geared toward the completed project being environmentally-friendly from both the construction and continuous operation standpoint.

The parties agree upon a work schedule for this project. CONSULTANT's failure to satisfactorily complete work assigned within the time specified, without prior written approval from METRO, is a material breach of this Contract and METRO may terminate CONSULTANT and seek to recover damages sustained as a result of the breach.

2.4. CONSULTANT Responsibilities

Professional Services. CONSULTANT shall perform all necessary professional services in a satisfactory and proper manner, consistent with METRO's requirements. CONSULTANT shall perform all services using prudent practices in accordance with current professional standards and all laws, codes, regulations, and other applicable standards including, but not limited to, those listed below in the Design Standards Section.

Design (if applicable per Exhibit B). CONSULTANT shall furnish design services, as appropriate, including all planning, surveying, geotechnical investigations, studies, engineering, preparation of legal descriptions necessary for easements, and cost estimating in accordance with a work program for the individual project that shall include the following phases:

- **Planning Phase (if applicable per Exhibit B)**
 - o Preparation of planning phase studies, evaluations, reports, exhibits, programs, and concept designs.
- **Design Phase (if applicable per Exhibit B)**
 - o Preparation of construction documents including all drawings, specifications, and details necessary for construction purposes;
 - o Preparation of detailed construction cost estimates;
 - o Review and recommendations of studies, evaluations, reports, and construction documents for completeness, technical adequacy, and optimum construction feasibility and economy; and,
 - o Assistance with preparation of bidding materials and serving as a resource during evaluation of responses, if needed, for an individual project
- **Construction Phase (if applicable per Exhibit B)**
 - o Review of shop drawings, product data, samples, or other construction contractor submittals for approval, recommendation, or other appropriate action;
 - o Provide construction monitoring in accordance with the individual project's work program, adjustments to construction cost estimates, and inspection services for the duration of the construction; and,
 - o Assemble project closeout documents.

If METRO orders changes or alterations in the work to be performed by CONSULTANT, METRO will hold a scoping conference to outline the CONSULTANT's change in services. Following the scoping conference, CONSULTANT shall, within seven (7) business days, provide a written proposal including a description of the

services, as altered, a proposed time for completion, personnel to be employed on the assignment, and a detailed derivation of the proposed price. The price shall be the product of the agreed number of hours required for performance of the assignment and the accepted hourly rates for the disciplines involved, as set forth in CONSULTANT's fee schedule negotiated for this project.

If applicable per Exhibit B, all original documents, such as plans, tracings, specifications, drawings, maps, and other documents illustrating the scale and relationship of the individual project components that are prepared by CONSULTANT and form a part of CONSULTANT's services (the "Design Documents") shall become the property of METRO and shall be delivered to METRO upon completion of an individual project. CONSULTANT shall be responsible for the protection and/or replacement of any Design Documents in CONSULTANT's possession. METRO shall receive all original Design Documents and CONSULTANT shall retain a reproducible copy when the individual project is complete. Such documents may only be used by METRO as reference materials. Basic design notes and sketches, charts, computations and other data prepared or obtained under this Contract shall be made available, upon request, to METRO without restriction or limitation on their use.

Upon completion of the Design Documents, CONSULTANT shall deliver to METRO the originals of the Design Documents complete and ready for reproduction, along with ten (10) bidding sets. Reproduction of additional bidding sets will be by METRO and at METRO's expense.

CONSULTANT shall provide drawings and specifications for METRO's review and comments upon completion of schematic and design development stages. Construction documents shall be provided to METRO for review and comments at thirty percent (30%), sixty percent (60%), ninety percent (90%), and one hundred percent (100%) of project completion or at other intervals specified by METRO. Five (5) sets of each document shall be provided by CONSULTANT at specified times.

If applicable per Exhibit B, CONSULTANT is responsible for obtaining at least three (3) copies of items such as training and operating manuals, operating instructions, maintenance information and instructions, drawings, bonds, warranties, guarantees, etc. and maintaining them in a central file (electronically and/or in hard copy) until the project is complete.

If applicable per Exhibit B and upon final completion of an individual project, CONSULTANT will turn over, in a format acceptable to METRO, all training manuals, operating manuals, operating instructions, maintenance information, instruction manuals, drawings, bonds, warranties, guarantees, photos or videos made during an individual project, at least three (3) complete sets of hard copy as-built drawings for the completed individual project, at least three (3) electronic copies of as-built drawings, and all other record documents and things customarily or expressly required to be provided by CONSULTANT ("the Closeout Documents"). The Closeout Documents shall be provided to METRO at CONSULTANT's expense. **Metro's receipt of the Closeout Documents is a condition precedent to the closeout of each individual project and to CONSULTANT being entitled to receive final payment.**

2.5. Errors and Deficiencies

CONSULTANT shall, without additional compensation, correct or revise any errors, deficiencies, or incomplete, inaccurate, or defective work in its designs, drawings, specifications, and other services. Defective work includes, but is not limited to, erroneous tabulations, incomplete surveys, maps, or reports, and incorrectly assembled reports, plans, specifications, or similar documents caused by CONSULTANT's error or omission. METRO's acceptance of closeout documents, design documents, required studies, reports, designs, or other similar documentation, shall not relieve CONSULTANT from the obligation to correct any defective work, whether previously or subsequently noted.

METRO's review, approval, acceptance of, or payment for, the services required under this Contract shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract. CONSULTANT shall remain liable to METRO in accordance with applicable law for all damages to METRO caused by CONSULTANT's negligent performance of any of the services furnished under this Contract. The rights and remedies of METRO provided for under this Contract are in addition to any other rights and remedies provided by law. Neither payment to CONSULTANT by METRO, nor any other act or omission by METRO, shall be interpreted or construed as an acceptance of any work of CONSULTANT not strictly in compliance with this Contract.

2.6. Design Standards

Professional Standards

If applicable per Exhibit B, CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished under this Contract. CONSULTANT's services shall be performed with the same skill and care that would be exercised by a qualified professional design consultant performing similar services. All aspects of professional services shall be performed or supervised by a licensed architect and/or engineer who is registered in the State of Tennessee. The seal of that architect and/or engineer shall be affixed to all related documentation that includes, but is not limited to, the following: construction plans, engineering studies, and reports.

Applicable Specifications

In general, designs, as they apply to an individual project, shall conform to the current edition requirements of:

- AASHTO Policy on Geometric Design of Highways and Streets,
- METRO's Subdivision Specifications for Streets and Roads,
- Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction,
- Manual on Uniform Traffic Control Devices,
- METRO Fire Code,
- Tennessee Department of Health and Environment Design Criteria for Water Works,
- Tennessee Department of Health and Environment Design Criteria for Sewerage Work,
- METRO Stormwater Management Regulations,
- International Building Code (IBC),
- METRO Building Codes: Electrical, Mechanical, and Plumbing,
- Americans with Disabilities Act (ADA),
- Occupational Safety and Health Administration (OSHA),
- National Fire Protection Association,
- METRO Department of Water and Sewerage Services Standards,
- Architectural and Transportation Barriers Compliance Board: 36 CFR, Part 119,
- Normally accepted construction practices, and
- Any other applicable codes and design standards.

2.7. Construction Monitoring Services (if applicable per Exhibit B)

CONSULTANT will determine, in general, if the work is proceeding in a manner that is likely to result in the completed work conforming to the design concept and design documents and will keep METRO informed of the progress of the work.

CONSULTANT shall not supervise, direct, control, have authority over, or be responsible for the individual project contractor's acts or omissions, means, methods, techniques, sequences, procedures of construction, safety precautions and programs, or any failure of the contractor to comply with applicable laws and regulations related to the furnishing or performance of the work. Likewise, CONSULTANT will not be responsible for any subcontractors, materialmen, suppliers, or other persons performing or furnishing contractor's work.

CONSULTANT's authority is limited as set forth in this Contract and the same limitations shall apply to any of CONSULTANT's subconsultants, assistants, and subcontractors.

CONSULTANT will review all requests for payment, change orders, maintenance and operating instructions, schedules, guarantees, warranties, active bonds, current certificates of insurance, certificates of inspection, tests, approvals and other documentation required to be delivered by this Contract, to determine general compliance with the design documents' requirements.

CONSULTANT shall provide a review of construction progress in accordance with the work program and as follows:

Site Visit Requirements. CONSULTANT shall visit the project site at intervals prescribed by METRO, but, in any event, at least weekly, to verify the progress and quality of the work and to determine if work is in compliance with design documents, the schedule for construction, and applicable laws, building codes, rules, and regulations of public authorities having jurisdiction over the work. Each on-site inspection shall be conducted by CONSULTANT or an experienced and qualified representative who is knowledgeable about the project and competent in the disciplines having trade activities in progress at the time of the inspection. CONSULTANT shall promptly report to METRO, in writing, the results of each inspection, including defects and deficiencies in the work, and shall recommend appropriate corrective action, if any is necessary. Upon request, if needed for the project, METRO may require on-site detailed inspection of the work.

Clarifications and Interpretations. CONSULTANT shall have seven (7) days to review, certify, approve, reject, or take other appropriate action on all submittals such as shop drawings, product data, and samples and return them to the project contractor. CONSULTANT shall not approve any such submittals unless they conform to the individual project design concept, the design documents, and the project budget. CONSULTANT shall issue, with reasonable promptness, such written clarifications or interpretations of the requirements of CONSULTANT's work product (in the form of drawings or otherwise) as necessary, which shall be consistent with the intent of and reasonably inferred by the CONSULTANT's work product.

Authorized Variations In Work. With METRO's approval, CONSULTANT may authorize minor variations from the requirements of the design documents if the adjustments are compatible with the design concept and do not involve adjustment in the Contract Price or schedule.

Rejecting Defective Work. CONSULTANT shall have the authority and responsibility to reject defective work and work that is not in compliance with the individual project design concept. METRO shall be immediately notified, in writing, when work is rejected.

Determinations for Unit Price. CONSULTANT shall verify actual and appropriate quantities and classifications of the unit price work performed by the individual project contractor. CONSULTANT shall provide written documentation supporting the decision to accept or deny unit pricing and classifications.

Dispute Analysis. CONSULTANT will be the initial interpreter of the requirements of the design documents and determine the acceptability of the work. The individual project contractor may challenge the CONSULTANT's interpretations by notifying both the CONSULTANT and METRO in writing. Written notice of each such challenge shall be delivered within thirty (30) days of the CONSULTANT's determination. METRO will be the final arbitrator of the challenge and will determine the appropriate resolution.

2.8. Withholding of Salaries

If, in the performance of this Contract, there is any underpayment of salaries by CONSULTANT or by any subconsultant, Metro may withhold from payments due CONSULTANT an amount sufficient to pay underpaid employees. This amount shall be established by the difference between the salaries required to be paid and the salaries actually paid such employees for the total number of hours worked. The amount withheld may be disbursed by METRO to the respective employees to whom it is due, for and on account of CONSULTANT or subconsultant.

2.9. Representations of CONTRACTOR

In order to induce METRO to execute this Contract and recognizing that METRO is relying thereon, CONTRACTOR, by executing this Contract, makes the following express representations to METRO:

- CONTRACTOR is fully qualified to perform the work on this project and has, and shall maintain, any and all licenses, permits, or other authorizations necessary to perform the work on this project;
- CONTRACTOR has become familiar with the project site and the local conditions under which the project is to be constructed and operated;
- CONTRACTOR has received, reviewed, and carefully examined all of the documents attached to this Contract and has found them to be generally sufficient to indicate and convey understanding of the terms and conditions for constructing and completing the project;

- CONTRACTOR agrees to notify METRO immediately of all conflicts, errors, ambiguities, or discrepancies that are discovered in the attachments to this Contract, including, but not limited to the Plans and Specifications; and,

- CONTRACTOR had access to the site for examinations, explorations, tests, and studies prior to submitting an offer, and relied exclusively upon CONTRACTOR's own estimates and investigations and other data which was necessary for full and complete information upon which CONTRACTOR's offer was based; in addition to the representations contained in CONTRACTOR's offer.

2.10. Stormwater Management

All activities performed under this Contract shall be conducted in full compliance with Metro Code of Law §§ 15.64 et al (Stormwater Management) including §§ 15.64.205

[National Pollutant Discharge Elimination System | Nashville.gov](http://www.nashville.gov)

This requirement pertains to Unlawful/Prohibited Discharges to the METRO Storm Sewer System/Community Waters. It prohibits the discharge of "wastewater" and "non-stormwater" discharges such as wash water, process wastewater, etc. into the Municipal Storm Sewer System (MS4) or into Community Waters. Any questions relating to these provisions should be routed to the METRO Water Services (MWS) NPDES Office at (615) 880-2420. This requirement shall apply to all METRO construction projects in the service area, including areas outside Davidson County.

CONTRACTOR shall bear responsibility for all of CONTRACTOR's actions that cause MWS to violate project regulatory permits or Federal, State, or local environmental regulations. Such permits and regulations may include, but are not limited to:

- U.S. Army Corps of Engineers 404 Permits
- TDEC Aquatic Resource Alteration Permits
- TDEC Construction General Permits
- Any State or Federal permits/approvals related to Threatened and Endangered Species
- METRO Individual NPDES permits
- METRO Code §15.64.205 - Metro Illicit Discharge Ordinance
- METRO Stormwater Management Manual

CONTRACTOR's responsibility shall include, but not be limited to, payment of all fines, assessments and/or civil penalties incurred due to CONTRACTOR's work, actions, design, or installation and payment for any mitigation measures required due to the violation and cleanup associated with any violation.

3. CONTRACT TERM

3.1. Contract Term

The Contract Term will begin on the date (the "Effective Date") or the date this Contract is approved by all required parties and filed in the Metropolitan Clerk's Office. This Contract Term will end (36) months from the Effective Date.

This Contract may be extended for five (5) one year term by letter to be signed by both parties. The option to extend may be exercised by and at the discretion of the Purchasing Agent. However, in no event shall the term of this Contract exceed ninety-six (96) months from the Effective Date.

4. COMPENSATION

4.1. Contract Value

This Contract has an estimated value of \$44,200,000.00. The pricing details are included in Exhibit A and are made a part of this Contract by reference. CONTRACTOR shall be paid as work is completed and METRO is accordingly, invoiced.

4.2. Other Fees

There will be no other charges or fees for the performance of this Contract. METRO will make reasonable efforts to make payments within 30 days of receipt of invoice but in any event shall make payment within 60 days. METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

4.3. Escalation/De-escalation

This Contract is eligible for annual escalation/de-escalation adjustments. The request for adjustment must be in accordance with Exhibit A and submitted by CONTRACTOR to the Purchasing Agent no less than sixty (60) days prior to the **annual anniversary** of the filing of this Contract with the METRO Clerk's Office. Any such adjustment, if approved by the Purchasing Agent, shall become effective on the anniversary of the filing of this Contract with the METRO Clerk's Office.

4.4. Payment Methodology

Payment in accordance with the terms and conditions of this Contract shall constitute the entire compensation due CONTRACTOR for all goods and/or services provided under this Contract.

METRO will compensate CONTRACTOR in accordance with Exhibit A of this Contract. Subject to these payment terms and conditions, CONTRACTOR shall be paid for delivered/performed products and/or services properly authorized by METRO in accordance with this Contract. Compensation shall be contingent upon the satisfactory provision of the products and/or services as determined by METRO.

4.5. Electronic Payment

All payments shall be effectuated by ACH (Automated Clearing House).

4.6. Invoicing Requirements

CONTRACTOR shall invoice METRO no more frequently than once a month or for the satisfactorily and accurately delivered/performed products and/or services, whichever is less frequent. Invoices shall detail this Contract Number accompanied by any necessary supporting documentation by the department. CONTRACTOR shall submit all invoices no later than ninety (90) days after the products and/or services have been delivered/performed.

Payment of an invoice by METRO shall not waive METRO's rights of revocation of acceptance due to non-conformity or the difficulty of discovery of the non-conformance. Such revocation of acceptance shall occur within a reasonable time after METRO discovers or should have discovered the non-conforming product and/or service but prior to any substantial change in condition of the products and/or services caused by METRO.

4.7. Subcontractor/Subconsultant Payments

When payment is received from METRO, CONTRACTOR shall within fourteen (14) calendar days pay all subcontractors, subconsultants, laborers, and suppliers the amounts they are due for the work covered by such payment. In the event METRO becomes informed that CONTRACTOR has not paid a subcontractor, subconsultant, laborer, or supplier as provided herein, METRO shall have the right, but not the duty, to issue future checks and payments to CONTRACTOR of amounts otherwise due hereunder naming CONTRACTOR and any such subcontractor, subconsultant, laborer, or supplier as joint payees. Such joint check procedure, if employed by METRO, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit METRO to repeat the procedure in the future. If persistent, this may be determined to be a material breach of this Contract.

5. TERMINATION

5.1. Breach

Should CONTRACTOR fail to fulfill in a timely and proper manner its obligations under this Contract or if it should violate any of the terms of this Contract, METRO shall identify the breach and CONTRACTOR shall cure the performance within thirty (30) days. If CONTRACTOR fails to satisfactorily provide cure, METRO shall have the right to immediately terminate this Contract. Such termination shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of any breach by CONTRACTOR.

5.2. Lack of Funding

Should funding for this Contract be discontinued, METRO shall have the right to terminate this Contract immediately upon written notice to CONTRACTOR.

5.3. Notice

METRO may terminate this Contract at any time upon thirty (30) days written notice to CONTRACTOR. Should METRO terminate this Contract, CONTRACTOR shall immediately cease work and deliver to METRO, within thirty (30) days, all completed or partially completed satisfactory work, and METRO shall determine and pay to CONTRACTOR the amount due for satisfactory work.

6. NONDISCRIMINATION

6.1. METRO's Nondiscrimination Policy

It is the policy of METRO not to discriminate on the basis of race, creed, color, national origin, age, sex, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

6.2. Nondiscrimination Requirement

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of race, creed, color, national origin, age, sex, disability, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORS. CONTRACTOR certifies and warrants that it will comply with this nondiscrimination requirement. Accordingly, all offerors entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

6.3. Equal Business Opportunity (EBO) Program Requirement

The consideration and contact of minority-owned and/or woman-owned business enterprises is required for a responsive offer to most solicitations. The provision of the Equal Business Opportunity (EBO) Program documents shall be part of each applicable solicitation response and incorporated herein by reference. CONTRACTOR agrees to comply with the Equal Business Opportunity (EBO) Program, if applicable, in the execution of this Contract.

6.4. Covenant of Nondiscrimination

CONTRACTOR have committed to the Covenant of Nondiscrimination when registering with METRO to do business. To review this document, go to METRO's website.

6.5. Americans with Disabilities Act (ADA)

CONTRACTOR assures METRO that all services provided shall be completed in full compliance with the Americans with Disabilities Act ("ADA") 2010 ADA Standards for Accessible Design, enacted by law March 15, 2012, as has been adopted by METRO. CONTRACTOR will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

7. INSURANCE

7.1. Proof of Insurance

During the term of this Contract, for any and all awards, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract, including any extension(s), the types and amounts of insurance identified below. Proof of insurance shall be required naming METRO as additional insured on the ACORD document.

7.2. General Liability Insurance

In the amount of one million (\$1,000,000.00) dollars per occurrence and in the amount of two million (\$2,000,000) in the aggregate.

7.3. Professional Liability Insurance

In the amount of one million (\$1,000,000.00) dollars.

7.4. Automobile Liability Insurance

In the amount of one million (\$1,000,000.00) dollars combined single limit.

7.5. Worker's Compensation Insurance (if applicable)

CONTRACTOR shall maintain workers' compensation insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars, as required by the laws of Tennessee.

7.6. Such insurance shall:

Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

For any claims related to this Contract, CONTRACTOR's insurance coverage shall be primary insurance with respects to METRO, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

Automotive Liability insurance shall include vehicles owned, hired, and/or non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.

CONTRACTOR shall maintain Workers' Compensation insurance (if applicable) with statutory limits as required by the State of Tennessee or other applicable laws and Employers' Liability insurance. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's Workers' Compensation insurance coverage.

7.7. Other Insurance Requirements

Prior to commencement of services, CONTRACTOR shall furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

PROCUREMENTCOI@NASHVILLE.GOV

Provide certified copies of endorsements and policies if requested by METRO in lieu of or in addition to certificates of insurance.

Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew

coverage and to provide evidence of renewal may be treated by METRO as a material breach of this Contract.

Said insurance shall be with an insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.

Require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall require subcontractor's to have all necessary insurance and maintain the subcontractor's certificates of insurance.

Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by METRO **prior to the commencement of services.**

If CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

8. GENERAL TERMS AND CONDITIONS

8.1. Taxes

METRO shall not be responsible for any taxes that are imposed on CONTRACTOR. Furthermore, CONTRACTOR understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to METRO.

8.2. Warranty

CONTRACTOR warrants that for a period of one year from date of delivery and/or installation, whichever is later, the goods provided, including software, shall be free of any defects that interfere with or prohibit the use of the goods for the purposes for which they were obtained.

During the warranty period, METRO may, at its option, request that CONTRACTOR repair or replace any defective goods, by written notice to CONTRACTOR. In that event, CONTRACTOR shall repair or replace the defective goods, as required by METRO, at CONTRACTOR's expense, within thirty (30) days of written notice. Alternatively, METRO may return the defective goods, at CONTRACTOR's expense, for a full refund. Exercise of either option shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of CONTRACTOR's breach of warranty.

8.3. Software License

CONTRACTOR warrants and represents that it is the owner of or otherwise has the right to and does hereby grant METRO a license to use any software provided for the purposes for which the software was obtained or proprietary material set forth in METRO's solicitation and/or CONTRACTOR's response to the solicitation.

8.4. Confidentiality

Tennessee Code Annotated §10-7-504(i) specifies that information which would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. "Government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. Such records include: (A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property; (B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and (C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

The foregoing listing is not intended to be comprehensive, and any information which METRO marks or otherwise designates as anything other than "Public Information" will be deemed and treated as sensitive information, which is defined as any information not specifically labeled as "Public Information". Information which qualifies as "sensitive information" may be presented in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as sensitive information.

CONTRACTOR, and its Agents, for METRO, may have access to sensitive information. CONTRACTOR, and its Agents, are required to maintain such information in a manner appropriate to its level of sensitivity. All sensitive information must be secured at all times including, but not limited to, the secured destruction of any written or

electronic information no longer needed. The unauthorized access, modification, deletion, or disclosure of any METRO information may compromise the integrity and security of METRO, violate individual rights of privacy, and/or constitute a criminal act.

Upon the request of METRO, CONTRACTOR shall return all information in whatever form. In the event of any disclosure or threatened disclosure of METRO information, METRO is further authorized and entitled to immediately seek and obtain injunctive or other similar relief against CONTRACTOR, including but not limited to emergency and ex parte relief where available.

8.5. Information Ownership

All METRO information is and shall be the sole property of METRO. CONTRACTOR hereby waives any and all statutory and common law liens it may now or hereafter have with respect to METRO information. Nothing in this Contract or any other agreement between METRO and CONTRACTOR shall operate as an obstacle to such METRO's right to retrieve any and all METRO information from CONTRACTOR or its agents or to retrieve such information or place such information with a third party for provision of services to METRO, including without limitation, any outstanding payments, overdue payments and/or disputes, pending legal action, or arbitration. Upon METRO's request, CONTRACTOR shall supply METRO with an inventory of METRO information that CONTRACTOR stores and/or backs up.

8.6. Information Security Breach Notification

In addition to the notification requirements in any Business Associate Agreement with METRO, when applicable, CONTRACTOR shall notify METRO of any data breach within 24 hours of CONTRACTOR's knowledge or reasonable belief (whichever is earlier) that such breach has occurred ("Breach Notice") by contacting the METRO ITS Help Desk. The Breach Notice should describe the nature of the breach, the scope of the information compromised, the date the breach occurred, and the identities of the individuals affected or potentially affected by the breach as well as specific information about the data compromised so that METRO can properly notify those individuals whose information was compromised. CONTRACTOR shall periodically update the information contained in the Breach Notice to METRO and reasonably cooperate with METRO in connection with METRO's efforts to mitigate the damage or harm of such breach.

8.7. Virus Representation and Warranty

CONTRACTOR represents and warrants that Products and/or Services, or any media upon which the Products and/or Services are stored, do not have, nor shall CONTRACTOR or its Agents otherwise introduce into METRO's systems, network, or infrastructure, any type of software routines or element which is designed to or capable of unauthorized access to or intrusion upon, disabling, deactivating, deleting, or otherwise damaging or interfering with any system, equipment, software, data, or the METRO network. In the event of a breach of this representation and warranty, CONTRACTOR shall compensate METRO for any and all harm, injury, damages, costs, and expenses incurred by METRO resulting from the breach.

For CONTRACTOR managed systems, CONTRACTOR shall install and maintain ICSA Labs certified or AV- Test approved Antivirus Software and, to the extent possible, use real time protection features. CONTRACTOR shall maintain the Anti-virus Software in accordance with the Antivirus Software provider's recommended practices. In addition, CONTRACTOR shall ensure that:

- Anti-virus Software checks for new Anti-virus signatures no less than once per day, and;
- Anti-virus signatures are current and no less recent than two versions/releases behind the most current version/release of the Anti-virus signatures for the Anti-virus Software

8.8. Copyright, Trademark, Service Mark, or Patent Infringement

CONTRACTOR shall, at its own expense, be entitled to and shall have the duty to defend any suit that may be brought against METRO to the extent that it is based on a claim that the products or services furnished infringe a Copyright, Trademark, Service Mark, or Patent. CONTRACTOR shall further indemnify and hold harmless METRO against any award of damages and costs made against METRO by a final judgment of a court of last resort in any such suit. METRO shall provide CONTRACTOR immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable CONTRACTOR to do so. No costs or expenses shall be incurred for

the account of CONTRACTOR without its written consent. METRO reserves the right to participate in the defense of any such action. CONTRACTOR shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon METRO unless approved by the METRO Department of Law Settlement Committee and, where required, the METRO Council.

If the products or services furnished under this Contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing CONTRACTOR's obligation to satisfy the final award, CONTRACTOR may at its option and expense:

- Procure for METRO the right to continue using the products or services
- Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to METRO, so that they become non-infringing
- Remove the products or discontinue the services and cancel any future charges pertaining thereto Provided; however, that CONTRACTOR will not exercise the Remove option above until CONTRACTOR and METRO have determined that the Procure and/or Replace options are impractical. CONTRACTOR shall have no liability to METRO; however, if any such infringement or claim thereof is based upon or arises out of:
- The use of the products or services in combination with apparatus or devices not supplied or else approved by CONTRACTOR;
- The use of the products or services in a manner for which the products or services were neither designated nor contemplated; or,
- The claimed infringement in which METRO has any direct or indirect interest by license or otherwise, separate from that granted herein.

8.9. Maintenance of Records

CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery.

Breach of the provisions of this paragraph is a material breach of this Contract.

All documents and supporting materials related in any manner whatsoever to this Contract or any designated portion thereof, which are in the possession of CONTRACTOR or any subcontractor or subconsultant shall be made available to METRO for inspection and copying upon written request from METRO. Said documents shall also be made available for inspection and/or copying by any state, federal or other regulatory authority, upon request from METRO. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the procurement and/or performance of this Contract. Said records expressly include those documents reflecting the cost, including all subcontractors' records and payroll records of CONTRACTOR and subcontractors.

8.10. Monitoring

CONTRACTOR's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by METRO, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

METRO shall have the option of reviewing and performing a security assessment of the information security management practices of CONTRACTOR. METRO shall have the right, at its expense, during normal business hours and with reasonable advance notice, to evaluate, test, and review at CONTRACTOR's premises the Products and/or Services to ensure compliance with the terms and conditions of this Contract. METRO shall have the right to conduct such audits by use of its own employees and internal audit staff, or by use of outside consultants and auditors.

8.11. METRO Property

Any METRO property, including but not limited to books, records, and equipment that is in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of this Contract. All goods, documents, records, and other work product and property produced during the performance of this Contract are deemed to be METRO property. METRO property includes, but is not limited to, all documents which make up this Contract; all other documents furnished by METRO; all conceptual drawings, design documents, closeout documents, and other submittals by CONTRACTOR; and, all other original works of authorship, whether created by METRO or CONTRACTOR embodied in any tangible medium of expression, including, without limitation, pictorial, graphic, sculptural works, two (2) dimensional works, and three (3) dimensional works.

Except as to Contracts involving sensitive information, CONTRACTOR may keep one (1) copy of the aforementioned documents upon completion of this Contract; provided, however, that in no event shall CONTRACTOR use, or permit to be used, any portion of the documents on other projects without METRO's prior written authorization. CONTRACTOR shall maintain sensitive information securely and if required by METRO, provide secured destruction of said information. Distribution and/or reproduction of METRO sensitive information outside of the intended and approved use are strictly prohibited unless permission in writing is first received from the METRO Chief Information Security Officer. The storage of METRO sensitive information to third-party hosted network storage areas, such as Google Docs, Dropbox, or other cloud storage mechanisms, shall not be allowed without first receiving permission in writing from the METRO Chief Information Security Officer.

8.12. Modification of Contract

This Contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

8.13. Partnership/Joint Venture

This Contract shall not in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among any of the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall become liable for any representation, act, or omission of any other Party contrary to the terms of this Contract.

8.14. Waiver

No waiver of any provision of this Contract shall affect the right of any Party to enforce such provision or to exercise any right or remedy available to it.

8.15. Employment

CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this Contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

8.16. Compliance with Laws

CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations.

8.17. Iran Divestment Act

In accordance with the Iran Divestment Act, Tennessee Code Annotated § 12-12-101 et seq., CONTRACTOR certifies that to the best of its knowledge and belief, neither CONTRACTOR nor any of its subcontractors are on the list created pursuant to Tennessee Code Annotated § 12-12-106. Misrepresentation may result in civil and criminal sanctions, including contract termination, debarment, or suspension from being a contractor or subcontractor under METRO contracts.

8.18. Boycott of Israel

The CONTRACTOR certifies that it is not currently engaged in, and will not for the duration of the contract engage in, a boycott of Israel as defined by Tenn. Code Ann. § 12-4-119. This provision shall not apply to contracts with a total value of less than two hundred fifty thousand dollars (\$250,000) or to contractors with less than ten (10) employees.

8.19. Taxes and Licensure

CONTRACTOR shall have all applicable licenses and be current on its payment of all applicable gross receipt taxes and personal property taxes.

8.20. Ethical Standards

It shall be a breach of the Ethics in Public Contracting standards in the Metropolitan Code of Laws for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of the Ethics in Public Contracting standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical and legal standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

Pursuant to Metropolitan Code of Laws, Section 4.48.020, entities and persons doing business with, or proposing to do business with, the Metropolitan Government of Nashville & Davidson County must adhere to the ethical standards prescribed in Section 4.48 of the Code. By signing this contract, you agree that you have read the standards in Section 4.48 and understand that you are obligated to follow them. Violation of any of those standards is a breach of contract and a breach of legal standards that may result in sanctions, including those set out in Section 4.48.

8.21. Indemnification and Hold Harmless

CONTRACTOR shall indemnify and hold harmless METRO, its officers, agents, and employees from:

- A. Any claims, damages, costs, and attorney fees for injuries or damages to the extent caused by the negligent or intentional wrongful acts or omissions of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, in connection with the performance of the contract.
- B. Any claims, damages, penalties, costs, and attorney fees arising from any failure of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- C. In any and all claims against METRO, its officers, agents, or employees, by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any subcontractor under workers' compensation acts, disability acts, or other employee benefit acts.
- D. METRO will not indemnify, defend, or hold harmless in any fashion CONTRACTOR from any claims arising from any failure, regardless of any language in any attachment or other document that CONTRACTOR may provide.
- E. CONTRACTOR shall pay METRO any expenses incurred as a result of CONTRACTOR's failure to fulfill any obligation in a professional and timely manner under this Contract.

8.22. Attorney Fees

CONTRACTOR agrees that in the event either party takes legal action to enforce any provision of this Contract or to obtain a remedy for any breach of this Contract, and in the event METRO prevails in such action, CONTRACTOR shall pay all expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable

attorney fees for METRO.

8.23. Assignment--Consent Required

The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to CONTRACTOR under this Contract, neither this Contract nor any of the rights and obligations of CONTRACTOR hereunder shall be assigned or transferred in whole or in part without the prior written consent of METRO. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.

NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

PRG@NASHVILLE.GOV (Preferred Method)

OR

METRO'S PURCHASING AGENT

PROCUREMENT DIVISION

DEPARTMENT OF FINANCE

PO BOX 196300

NASHVILLE, TN 37219-6300

Funds Assignment Requests should contain complete contact information (contact person, organization name, address, telephone number, and email) for METRO to use to request any follow up information needed to complete or investigate the requested funds assignment. To the extent permitted by law, METRO has the discretion to approve or deny a Funds Assignment Request.

8.24. Entire Contract

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

8.25. Force Majeure

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

8.26. Governing Law

The validity, construction, and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that CONTRACTOR may provide.

8.27. Venue

Any action between the Parties arising from this Contract shall be filed, maintained, and resolved in the Circuit or Chancery Courts of Davidson County, Tennessee. CONSULTANT explicitly waives its right to remove any actions filed in the courts of Davidson County, Tennessee, to Federal court.

8.28. Severability

Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.

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Contract 6605615

**PROCUREMENT DIVISION
DEPARTMENT OF FINANCE
PO BOX 196300
NASHVILLE, TN 37219-6300
PRG@NASHVILLE.GOV**

(THE FOLLOWING MUST BE COMPLETED BY CONTRACTOR. N/A OR "X" IS NOT ACCEPTABLE)

Notices to CONTRACTOR shall be mailed or hand delivered to:

CONTRACTOR: Fairpointe Planning

Attention: Tanisha Hall

Address: 2115 Yeaman Place, Suite 210 Nashville, TN 37206

Telephone: 615-657-9685

E-mail: hallt@fairpointeplanning.com

CONTRACTOR designates the following as the CONTRACTOR's agent for service of process and will waive any objection to service of process if process is served upon this agent:

(THIS SECTION MUST BE COMPLETED)

Designated Agent: Schulman, LeRoy & Bennett, PC

Attention: Ashley Gold

Address: 3310 West End Avenue, Suite 460 Nashville, TN 37203-7601

E-mail: agold@slblawfirm.com

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Notices & Designations
Department & Project Manager

Contract Number	6605615
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The primary DEPARTMENT/AGENCY responsible for the administration of this contract is:

DEPARTMENT	NDOT
Attention	Kristin Kumrow
Address	750 South Fifth Street Nashville, TN 37206
Telephone	615.862.8707
Email	kristin.kumrow@nashville.gov

The primary DEPARTMENT/AGENCY responsible for the administration of this contract designates the following individual as the PROJECT MANAGER responsible for the duties outlined in APPENDIX – Z CONTRACT ADMINISTRATION:

Project Manager	Kristi Schnell
Title	Engineer 3
Address	700 President Ronald Reagan Way Suite 215 PO Box 196300 Nashville, TN 37219
Telephone	615.330.3704
Email	kristi.schnell@nashville.gov

Appendix Z – Contract Administration

Upon filing with the Metropolitan Clerk, the PROJECT MANAGER designated by the primary DEPARTMENT/AGENCY is responsible for contract administration. Duties related to contract administration include, but are not necessarily limited to, the following:

Vendor Performance Management Plan

For contracts in excess of \$50,000.00, the project manager will develop a vendor performance management plan. This plan is managed by the primary department/agency and will be retained by the department/agency for their records. At contract close out, copies of all vendor performance management documents will be sent to PRG@nashville.gov.

For best practices related to vendor performance management, project managers will consult chapter nine of the PROCUREMENT MANUAL found on the division of purchases internal resources page: <https://metronashville.sharepoint.com/sites/IMFinanceProcurement>.

Amendment

For all contracts, the project manager will notify PRG@nashville.gov if changes to the term, value, scope, conditions, or any other material aspect of the contract are required. The email notification will include a complete CONTRACT AMENDMENT REQUEST FORM found on the division of purchases internal resources page: <https://metronashville.sharepoint.com/sites/IMFinanceProcurement>.

Escalation

For contracts that include an escalation/de-escalation clause, the project manager will notify PRG@nashville.gov when any request for escalation/de-escalation is received. The email notification will include any documentation required by the contract to support the request.

Contract Close Out – Purchasing

For all contracts, the project manager will notify PRG@nashville.gov when the work is complete and has been accepted by the department/agency. The email notification will include the contract number, contract title, date of completion, warranty start date and warranty end date (if applicable), and copies of all vendor performance management documents (if applicable).

Contract Close Out – BAO

For contracts with compliance monitored by the Business Assistance Office (BAO), the project manager will notify the designated contract compliance officer via email when the contract is complete and final payment has been issued. The email notification will include the contract number, contract title, and the date final payment was issued.

Best Practices

Project managers are strongly encouraged to consult chapter nine of the PROCUREMENT MANUAL for best practices related to contract administration. The manual is found on the division of purchases internal resources page:

<https://metronashville.sharepoint.com/sites/IMFinanceProcurement>

Contract Number 6605615

Effective Date

This contract shall not be binding upon the parties until it has been fully electronically approved by the CONTRACTOR, the authorized representatives of the Metropolitan Government, and filed in the office of the Metropolitan Clerk.

**THE METROPOLITAN GOVERNMENT OF
NASHVILLE AND DAVIDSON COUNTY**

APPROVED AS TO PROJECT SCOPE:

Diana Marcon KCK
Dept. / Agency / Comm. Head or Board Chair. Dept. Fin.

**APPROVED AS TO COMPLIANCE WITH
PROCUREMENT CODE:**

Dennis Rowland DR
Purchasing Agent Purchasing

APPROVED AS TO AVAILABILITY OF FUNDS:

Jennene Reed/MLL ERM
Director of Finance BA

APPROVED AS TO FORM AND LEGALITY:

Erica Haber B
Metropolitan Attorney Insurance

FILED BY THE METROPOLITAN CLERK:

Metropolitan Clerk Date

CONTRACTOR:

Fairpointe Planning LLC
Company Name

[Signature]
Signature of Company's Contracting Officer

Tanisha Hall
Officer's Name

CEO
Officer's Title

Exhibit A - Pricing (if applicable per the Exhibit B)

Applicable to the following Services	Labor Classification	Unit of Measure	Rates
All Services	PRIME Director/Associate	per hour	\$ 350.00
All Services	SUB Director/Associate	per hour	\$ 290.00
Program	PRIME Principal/Program Manager	per hour	\$ 300.00
Program	SUB Principal/Program Manager	per hour	\$ 230.00
All Services	PRIME Technical Advisor	per hour	\$ 275.00
All Services	SUB Technical Advisor	per hour	\$ 250.00
All Services	PRIME Sr Project Manager	per hour	\$ 265.00
All Services	PRIME Project Manager	per hour	\$ 200.00
All Services	SUB Sr Project Manager	per hour	\$ 210.00
All Services	SUB Project Manager	per hour	\$ 185.00
Planning / Design / Traffic / Development	PRIME Sr Engineer II	per hour	\$ 285.00
Planning / Design / Traffic / Development	PRIME Sr Engineer I	per hour	\$ 210.00
Planning / Design / Traffic / Development	SUB Sr Engineer II	per hour	\$ 250.00
Planning / Design / Traffic / Development	SUB Sr Engineer I	per hour	\$ 190.00
Planning / Design / Traffic / Development	PRIME Engineer II/ Planner II	per hour	\$ 225.00
Planning / Design / Traffic / Development	PRIME Engineer I/ Planner I	per hour	\$ 170.00
Planning / Design / Traffic / Development	SUB Engineer II/ Planner II	per hour	\$ 170.00
Planning / Design / Traffic / Development	SUB Engineer I/ Planner I	per hour	\$ 140.00
Planning / Design / Traffic / Development	PRIME EIT I	per hour	\$ 125.00
Planning / Design / Traffic / Development	PRIME EIT II	per hour	\$ 150.00
Planning / Design / Traffic / Development	PRIME Intern	per hour	\$ 80.00
Planning / Design / Traffic / Development	SUB EIT I	per hour	\$ 115.00
Planning / Design / Traffic / Development	SUB EIT II	per hour	\$ 145.00
Planning / Design / Traffic / Development	SUB Intern	per hour	\$ 75.00
Survey/CAD	CAD Technician/ Designer I	per hour	\$ 110.00
Survey/CAD	CAD Technician/ Designer II	per hour	\$ 130.00
Survey/CAD	PRIME Architectural BIM Manager II/ CAD Manager II/ GIS Manager II	per hour	\$ 180.00
Survey/CAD	PRIME Architectural BIM Manager I/ CAD Manager I/ GIS Manager I	per hour	\$ 155.00
Survey/CAD	SUB Architectural BIM Manager II/ CAD Manager II/ GIS Manager II	per hour	\$ 140.00
Survey/CAD	SUB Architectural BIM Manager I/ CAD Manager I/ GIS Manager I	per hour	\$ 130.00
Survey/CAD	PRIME Sr GIS Analyst II/ Sr CAD Designer II	per hour	\$ 170.00
Survey/CAD	PRIME Sr GIS Analyst I/ Sr CAD Designer I	per hour	\$ 135.00
Survey/CAD	SUB Sr GIS Analyst II/ Sr CAD Designer II	per hour	\$ 150.00
Survey/CAD	SUB Sr GIS Analyst I/ Sr CAD Designer I	per hour	\$ 125.00
Survey/CAD	PRIME GIS Analyst II/ CAD Designer II	per hour	\$ 160.00
Survey/CAD	PRIME GIS Analyst I/ CAD Designer I	per hour	\$ 120.00
Survey/CAD	SUB GIS Analyst II/ CAD Designer II	per hour	\$ 145.00
Survey/CAD	SUB GIS Analyst I/ CAD Designer I	per hour	\$ 110.00
Survey/CAD	PRIME Technician II	per hour	\$ 125.00
Survey/CAD	PRIME Technician I	per hour	\$ 100.00
Survey/CAD	SUB Technician II	per hour	\$ 90.00
Survey/CAD	SUB Technician I	per hour	\$ 75.00
Survey/CAD	PRIME Analyst	per hour	\$ 85.00

Exhibit A - Pricing (if applicable per the Exhibit B)

Applicable to the following Services	Labor Classification	Unit of Measure	Rates
Survey/CAD	SUB Analyst	per hour	\$ 60.00
CEI	PRIME Construction Manager I	per hour	\$ 175.00
CEI	PRIME Construction Manager II	per hour	\$ 215.00
CEI	SUB Construction Manager I	per hour	\$ 150.00
CEI	SUB Construction Manager II	per hour	\$ 190.00
CEI	PRIME Construction Inspector / RPR I	per hour	\$ 120.00
CEI	PRIME Construction Inspector / RPR II	per hour	\$ 160.00
CEI	SUB Construction Inspector / RPR I	per hour	\$ 100.00
CEI	SUB Construction Inspector / RPR II	per hour	\$ 130.00
CEI	PRIME Field Technician II	per hour	\$ 110.00
CEI	PRIME Field Technician I	per hour	\$ 98.00
CEI	SUB Field Technician II	per hour	\$ 92.00
CEI	SUB Field Technician I	per hour	\$ 65.00
CEI	Construction Field Specialist I	per hour	\$ 98.00
CEI	Construction Field Specialist II	per hour	\$ 110.00
CEI / Design	Sr Utility Inspector/Coordinator	per hour	\$ 154.00
CEI / Design	Utility Coordinator II	per hour	\$ 115.00
CEI / Design	Utility Coordinator I	per hour	\$ 80.00
CEI / Design	EPSC Inspector	per hour	\$ 130.00
CEI	Bridge/Structural Inspector	per hour	\$ 170.00
CEI	Permit Inspector	per hour	\$ 102.00
CEI	Sr Development Inspector	per hour	\$ 135.00
CEI	Development Inspector	per hour	\$ 110.00
CEI / Design	Special Inspector - Other As Needed	per hour	\$ 160.00
CEI	PRIME Laborer	per hour	\$ 100.00
CEI	SUB Laborer	per hour	\$ 60.00
CEI	Driller	per hour	\$ 160.00
Planning	Landscape Urban Designer I/ Landscape Architect I	per hour	\$ 170.00
Planning	Landscape Urban Designer II/ Landscape Architect II	per hour	\$ 220.00
Traffic Signals / Design	Traffic Engineer I	per hour	\$ 210.00
Traffic Signals / Design	Traffic Engineer II	per hour	\$ 280.00
Traffic Signals	ITS Engineer/Designer	per hour	\$ 265.00
Design	Structural Engineer / Bridge Engineer	per hour	\$ 240.00
Traffic Signals / Design	Electrical Engineer	per hour	\$ 265.00
Planning / Design	Archaeologist I	per hour	\$ 105.00
Planning / Design	Archaeologist II	per hour	\$ 175.00
Planning / Design	Historian I	per hour	\$ 85.00
Planning / Design	Historian II	per hour	\$ 120.00
Planning / Design	Scientist I	per hour	\$ 145.00
Planning / Design	Scientist II	per hour	\$ 220.00
Planning / Design	Lab Director	per hour	\$ 85.00
Planning / Design	Sr Physical Anthropologist	per hour	\$ 105.00
Planning / Design	Physical Anthropologist	per hour	\$ 75.00
Planning / Design	Curation Manager	per hour	\$ 82.00
Planning / Design	Zooarchaeologist	per hour	\$ 115.00
Planning / Design	Estimator II/Cost Specialist II/Project Controls II	per hour	\$ 300.00
Planning / Design	Estimator I/Cost Specialist I/Project Controls I	per hour	\$ 235.00
Planning / Design / Grant/Loan	Project Analyst	per hour	\$ 180.00
Planning / Design / Grant/Loan	Project Finance Associate	per hour	\$ 150.00
Planning / Design / Grant/Loan	Administrator II	per hour	\$ 130.00
Planning / Design / Grant/Loan	Administrator I	per hour	\$ 100.00
Planning / Design / Grant/Loan	Document Control Specialist	per hour	\$ 120.00

Exhibit A - Pricing (if applicable per the Exhibit B)

Applicable to the following Services	Labor Classification	Unit of Measure	Rates
Communication	Strategic Communications	per hour	\$ 210.00
Communication	Public Engagement & Communications II	per hour	\$ 200.00
Communication	Public Engagement & Communications I	per hour	\$ 125.00
Communication	Graphics Specialist/ Graphic Designer	per hour	\$ 160.00
Communication	Multimedia Designer/ Videographer	per hour	\$ 105.00
Communication	Editor	per hour	\$ 90.00
Planning / Design	IT Support/Cyber Security 2	per hour	\$ 170.00
Planning / Design	IT Support/Cyber Security 1	per hour	\$ 130.00
Survey			
Survey/CAD	Sr Land Surveyor/Manager/Licensed Surveyor	per hour	\$ 176.00
Survey/CAD	Land Surveyor/Manager	per hour	\$ 150.00
Survey/CAD	Survey Crew Chief	per hour	\$ 120.00
Survey/CAD	Overtime Survey Crew Chief	per hour	\$ 185.00
Survey/CAD	Survey Crew – 3 Man	per hour	\$ 220.00
Survey/CAD	Overtime Survey Crew – 3 Man	per hour	\$ 320.00
Survey/CAD	Survey Crew – 2 Man	per hour	\$ 230.00
Survey/CAD	Overtime Survey Crew – 2 Man	per hour	\$ 330.00
Survey/CAD	Survey Crew – One Man Robotic or RTK (GPS)	per hour	\$ 160.00
Survey/CAD	Overtime Survey Crew – One Man Robotic or RTK (GPS)	per hour	\$ 185.00
Survey/CAD	sUAS Crew with Certified sUAS Pilot and Photo Capture UAV	per hour	\$ 250.00
Survey/CAD	Overtime sUAS Crew with Certified sUAS Pilot and Photo Capture UAV	per hour	\$ 280.00
Survey/CAD	LiDAR Scanning Crew	per hour	\$ 170.00
Survey/CAD	Overtime LiDAR Scanning Crew	per hour	\$ 280.00
Land Acquisition / Right-of-Way			
Planning / Design	Real Estate/ROW Specialist I/ Appraiser	per hour	\$ 200.00
Planning / Design	Real Estate/ROW Specialist II/ Sr Land Agent	per hour	\$ 310.00
Planning / Design	Closing Agent	per hour	\$ 250.00
Planning / Design	30 Year Title Research & Reports	per tract	\$ 452.00
Planning / Design	Seller Statement (Negotiation Documents)	per tract	\$ 625.00
Planning / Design	Buyer Statement (Closing Services)	per tract	\$ 625.00
Planning / Design	Negotiation, Acquisition & Reporting - Residential	per tract	\$ 3,700.00
Planning / Design	Negotiation, Acquisition & Reporting - Industrial/Commercial/HPR/HOA/LLC/Trusts/ Church	per tract	\$ 5,250.00
Planning / Design	Market Analysis (Per Project)	per project	\$ 4,500.00

Exhibit A - Pricing (if applicable per the Exhibit B)

Applicable to the following Services	Labor Classification	Unit of Measure	Rates
Traffic Analysis Rates			
Survey/CAD	6-hour Turning Movement Count (TMC)	Per Hour	\$ 475.00
Survey/CAD	8-hour Turning Movement Count (TMC)	Per Hour	\$ 615.00
Survey/CAD	12-hour Turning Movement Count (TMC)	Per Hour	\$ 775.00
Survey/CAD	14-hour Turning Movement Count (TMC)	Per Hour	\$ 825.00
Survey/CAD	24-hour Turning Movement Count (TMC)	Per Hour	\$ 1,150.00
Survey/CAD	24-hour Average Daily Traffic (ADT) Volume and Classification Count	Per Hour	\$ 520.00
Survey/CAD	Drone Analysis (from....)	Per Hour	\$ 3,000.00
Survey/CAD	Video Data (per location per day)	Per Hour	\$ 215.00
Geotechnical/Boring Rates			
Planning / Design	Geotechnical Engineer 2	per hour	\$ 198.00
Planning / Design	Geotechnical Engineer 1	per hour	\$ 130.00
Planning / Design	Atterberg Limits (ASTM D 4318-05)	per hour	\$ 87.00
Planning / Design	California Bearing Ratio (3-point Test)	per hour	\$ 450.00
Planning / Design	Consolidation (UD Sample)	per hour	\$ 550.00
Planning / Design	Gradation Aggregates	per hour	\$ 90.00
Planning / Design	Grain-Size Analysis - Materials Passing a 200 Sieve	per hour	\$ 55.00
Planning / Design	Grain-Size Analysis - Washed	per hour	\$ 77.00
Planning / Design	Modified Proctor	per each	\$ 185.00
Planning / Design	Moisture Content (ASTM D 2216-06)	per each	\$ 11.00
Planning / Design	One Point Proctor Verification	per each	\$ 60.00
Planning / Design	Permeability Test (Remolded)	per each	\$ 450.00
Planning / Design	Permeability Test (UD)	per each	\$ 400.00
Planning / Design	pH of Soil (Lab)	per each	\$ 30.00
Planning / Design	Rock Core Compression	per each	\$ 85.00
Planning / Design	Sieve Analysis w/Hydrometer (ASTM D 422-63)	per each	\$ 130.00
Planning / Design	Soil Resistivity (Lab)	per each	\$ 192.00
Planning / Design	Specific Gravity (soils)	per each	\$ 75.00
Planning / Design	Specific Gravity (stone)	per each	\$ 75.00
Planning / Design	Standard Proctor	per each	\$ 155.00
Planning / Design	Triaxial Test - Consolidated-Drained (3-Points)	per each	\$ 1,700.00
Planning / Design	Triaxial Test - Consolidated-Undrained (3-Points)	per each	\$ 1,400.00
Planning / Design	Triaxial Test - Unconsolidated-Undrained (3-Points)	per each	\$ 950.00
Planning / Design	Unconfined Compression (Soil)	per each	\$ 85.00
Planning / Design	Unit Weight/Moisture Content (UD Tube)	per each	\$ 50.00
Planning / Design	Mob/Demob of Heavy Equipment (e.g., drill rig, water truck, dozer, etc.)	per each	\$ 750.00
Planning / Design	Mobilization of Light Equipment (e.g., steam cleaner, portable core drill, etc.)	per each	\$ 400.00
Planning / Design	Water Haul	per day	\$ 345.00
Planning / Design	Steam-cleaner rental	per day	\$ 158.00
Planning / Design	Portable core drill rental	per day	\$ 145.00
Planning / Design	Coring Set-up	per each	\$ 200.00
Planning / Design	Standard Penetration Testing (SPT) and sampling at 2.5-ft intervals for first 10 feet and 5-ft Intervals thereafter (0 - 50 feet)	per foot	\$ 19.00
Planning / Design	Standard Penetration Testing (SPT) and sampling at 2.5-ft intervals for first 10 feet and 5-ft Intervals thereafter (>50 feet)	per foot	\$ 25.00
Planning / Design	Continuous Standard Penetration Testing (SPT) and sampling (0 - 50 feet)	per foot	\$ 35.00
Planning / Design	Continuous Standard Penetration Testing (SPT) and sampling (>50 feet)	per foot	\$ 55.00
Planning / Design	Drill rig and crew requiring use of rig for special purposes (e.g., difficult drilling conditions, field permeability testing, instrumentation, etc.)	per hour	\$ 300.00
Planning / Design	NX Rock Coring (Vertical)	per foot	\$ 55.00
Planning / Design	DOT 55-Gallon Drum	per each	\$ 75.00
Planning / Design	Installation of 2-inch PVC Well or Piezometer	per foot	\$ 45.00
Planning / Design	Grout Borings	per foot	\$ 11.00

Exhibit A - Pricing (if applicable per the Exhibit B)

Applicable to the following Services	Labor Classification	Unit of Measure	Rates
Planning / Design	Bentonite Chips	per bag	\$ 20.00
Planning / Design	Shelby Tube Sample	per each	\$ 98.00
Planning / Design	Minimum Boring Charge	per each	\$ 180.00
Planning / Design	Minimum Drilling Charge	per day	\$ 2,800.00
Planning / Design	Set NW Casing	per each	\$ 9.00
Planning / Design	Pavement Patch	per each	\$ 35.00
Planning / Design	Pavement Core	per each	\$ 50.00
Planning / Design	GPR Scan	per day	\$ 1,800.00
Planning / Design	GPS	per day	\$ 50.00
Planning / Design	Hi-Res GPS/GNSS(S)	per day	\$ 100.00
Planning / Design	Benthic Sampling	per each	\$ 500.00

** Maximum Percentage of Escalation/ De-escalation is 3% and is based on the Consumer Pricing Index (CPI).

** All hourly rates are included of any incidental expenses that would occur, such as labor, travel and any administrative fees of services.

** Hourly rates for personnel include all routine expenses for program management services, including office space and office expenses.

Exhibit B- (Scope of Services)

Contractor shall provide technical and engineering services for Metro and Nashville's Choose How You Move initiative(CHYM).

Background

NDOT is responsible for all right-of-way transportation-related functions for Metro, with the exception of greenways and transit operations that are in cooperation with other groups. NDOT is responsible for road maintenance, traffic signals and lighting, paving, sidewalks, bikeways, bridges, capital roadway improvements, stop signs and pavement markings, parking and permitting, within the Metro right-of-way in Davidson County. Very large projects or programs may be excluded from this contract and under a separate solicitation issued by Metro Purchasing on an individual project basis at Metro's discretion. Services may be assigned to Contractor under contract on a rotating basis or may be assigned to Contractor under contract following a shortened selection process for individual projects or programs.

Contractor shall be knowledgeable of the following agencies, at a minimum, and have coordination and understanding of their processes. Any and all current and future agencies and/or regulations, procedures, and processes shall be adhered to for compliance with NDOT and CHYM projects and programs.

- Environmental Protection Agency (EPA);
- Economic Development Administration (EDA);
- Federal Transit Administration (FTA);
- National Environmental Policy Act (NEPA);
- Federal Highway Administration (FHWA);
- United States Department of Transportation (USDOT);
- Tennessee Department of Transportation (TDOT);
- Department of Energy (DOE);
- Joint Office of Energy and Transportation;
- National Highway Traffic Safety Administration (NHTSA);
- Federal Aviation Administration (FAA);
- Federal Motor Carrier Safety Administration (FMCSA);
- Federal Railroad Administration (FRA);
- WeGo Public Transit;
- Greater Nashville Regional Council (GNRC);
- Office of Secure Transportation (OST);
- US Energy Information Administration (EIA);
- Pipeline and Hazardous Materials Safety Administration (PHMSA);
- Transportation, Energy and Agriculture (TEA);
- And all other applicable current or future agencies and regulations.

Categories and Types of Services

The scope(s) for this contract includes all architectural and engineering services associated with NDOT and CHYM projects/programs. Services include, but are not limited to, the following:

- Multimodal Planning and Emerging Mobility Planning
 - Multimodal System/Network Master Planning
 - including but not limited to, long-term planning for transportation networks supporting mobility needs of the city;
 - planning pedestrian-friendly infrastructure, bicycle lanes, efficient public transportation systems, and smart technologies to reduce congestion and increase mobility in cities; etc.
- Transportation Demand Management (TDM) Planning
 - including but not limited to, promoting telecommuting, congestion pricing, or flexible work hours to alleviate traffic congestion;
 - encouraging alternative modes of transport such as public transit, carpooling, biking, and walking; etc.
- Transit Planning
 - including but not limited to, development and implementation of public transit systems – buses, subways, trams, and rail;
 - route design, scheduling, ridership forecasting, accessibility planning, and strategies for improving transit efficiency and ridership; etc.
- Infrastructure Planning
 - including but not limited to, physical components of transportation systems, including roads, bridges, tunnels, airports, railways, and transit facilities;
 - assessing needs, designing new facilities, maintaining existing ones, and ensuring long-term durability and safety; etc.
- Traffic Flow and Operations Planning
 - including but not limited to, movement of vehicles, pedestrians and goods;
 - study of traffic patterns, intersection design, signal timing, congestion management, and measures to optimize traffic flow and reduce bottlenecks; etc.
- Environmental Impact Analysis and Planning / Environmental / National Environmental Policy Act (NEPA) Services
 - including but not limited to, minimizing the environmental impacts;
 - assessing air quality, noise, wildlife, and ecosystem disruption caused by infrastructure developments and proposing mitigation measures;
 - planning for sustainable and low-carbon options;
 - identification and evaluation of social, economic and environmental effects including all reasonable measures to mitigate adverse impacts; etc.
- Freight and Goods Movement Planning
 - including but not limited to, optimizing the movement of goods and freight;
 - planning for freight corridors, rails, and intermodal facilities;
 - efficient freight planning that ensures timely delivery of goods, reduces congestion, and minimizes environmental impact; etc.
- Safety Planning
 - including but not limited to, strategies and measures to improve the safety of transportation system;
 - reducing accidents and fatalities through better design, education, traffic laws, and enforcement;
 - roadway design, traffic control devices, and safety audits; etc.
- Bicycle and Pedestrian Planning
 - including but not limited to, planning dedicated to create safe and efficient infrastructure for non-motorized transport, such as bicycles and pedestrians;
 - designing bike lanes, sidewalks, pedestrian crossings, and other infrastructure to promote walking and cycling; etc.
- Land Use and Transportation Planning

○ including but not limited to, the interaction between land use and transportation systems; ○ focusing on how land development patterns influence transportation needs and vice versa; ○ effective land use planning that ensures transportation systems are aligned with zoning and growth patterns to promote sustainable development; etc. ● Congestion Management Planning ○ including but not limited to, strategies to reduce congestion and optimize the flow of traffic; ○ measures like dynamic pricing, carpool lanes, expanded public transportation, or new technologies for managing traffic in real-time; etc. ● Public Participation and Community Engagement Planning ○ including but not limited to, engaging the public and stakeholders in the transportation planning process to ensure that the needs, concerns, and desires of communities are incorporated; ○ public hearings, surveys, and consultations to build support and gather input on the transportation projects; etc. ● Resilience and Climate Adaptation Planning and Sustainability ○ including but not limited to, ensuring that transportation systems are resilient to climate change impacts, such as flooding, extreme weather, fire; ○ identifying vulnerable infrastructure and making improvements to withstand futures climate-related events; etc.	
● Transportation/Multimodal Analysis ○ Traffic Study, Modeling, Operations, Data Analysis, Visualization and Aggregation Design ▪ including but not limited to, a systematic examination of traffic conditions, patterns, and behaviors within a specific area; ▪ collection and analyzation of data to gain insights on flow of vehicles, pedestrians, and other modes of transportation; ▪ level of service and level of traffic stress analysis; ▪ intersection control evaluation; ▪ predictive crash analysis; etc. ○ Transit Facility and Operation Analysis ▪ including but not limited to, analysis of transit opportunities and locations; ▪ transit service hours and networks; ▪ transit ridership and demand; ▪ bus stop locations and access; ▪ station access and circulation; ▪ changes in road traffic volumes, levels of service, and circulation patterns; ▪ availability and location of parking; etc.) ○ Traffic Simulation (including but not limited to, software for traffic simulation and analysis; etc.) ○ Conceptual Planning and Alternatives Development ▪ including but not limited to, a range of alternative solutions to address identified problems; ▪ assessing the feasibility, effectiveness, and impacts of each alternative; ▪ gathering information from the public and stakeholders to refine the proposed alternatives and ensure community support; ▪ preliminary cost and benefit analysis; etc. ○ Environmental Review and Impact Assessment ▪ including but not limited to, conducting environmental impact studies to evaluate the impacts of the proposed transportation project, including air quality, noise, water, and wildlife; ▪ holding public meetings, workshops, and hearings to gather community input and address concerns about environmental impacts; ▪ develop strategies to mitigate negative environmental impacts, such as green infrastructure or habitat restoration; etc. ○ Funding, Financial Planning, and Feasibility Analysis (Benefit / Cost Analysis) ▪ including but not limited to, identifying funding sources (federal, state, local grants, bonds, or public-private partnerships); ▪ breakdown of costs and funding mechanisms, including cash flow projections; ▪ documentation and funding approvals from government agencies or stakeholders; etc.	

○ Parking Analysis ▪ including but not limited to, analysis of a community or development's parking needs; ▪ inventory of existing parking, evaluation of current parking conditions, projections of future parking demand, and recommendations for improved parking management; ▪ inform decisions regarding land use, transportation infrastructure, and parking management in documented form; etc. ○ Micromobility (including but not limited to, identification, design, and implementation of small, low-speed, human- or electric-powered transportation devices, including bicycles, scooters, electric-assist bicycles, electric scooters, and other small, lightweight, wheeled conveyances; etc.) ○ Traffic Calming Analysis (including but not limited to, identification, prioritization, and mitigation of undesirable effects of traffic in residential neighborhoods; etc.) ○ Curbside Management ▪ including but not limited to, curb use classification; ▪ management strategies for designated zones, time-restricted zones, pricing and demand-based management, shared curb spaces, and technological integration; ▪ implementation of curb regulations; ▪ monitoring, evaluation and adjustment; ▪ long-term strategy and adaptation; etc. ○ Pilot Programs and Testing ▪ including but not limited to, implementing pilot projects for real-time data collection to help identify unforeseen challenges; ▪ monitoring performance metrics to evaluate the success of the pilot program; ▪ monitoring parking turnover, reduction in congestion, improved delivery times, or increased use of public transit; ▪ refining strategies based on feedback; etc. ● Design (including but not limited to preliminary engineering and design, assessing the right-of-way needs, plans, specifications, details, calculations, schedules, risk assessment, construction methods, cost estimation and bid quantities, permitting and approvals, utility coordination; etc.) ○ Structural (Bridge, retaining wall, parking structure, etc.) ○ Guardrail ○ Utility Relocation and Coordination / Agency Coordination ○ Right-of-Way (ROW) and Easement Acquisition Services ○ Stormwater (Drainage and Green Infrastructure) ○ Sidewalk ○ Bikeway ○ Roadway and Intersections ○ Transit (including route, station, and stop) ○ Complete Streets ○ Preliminary Engineering Reports ○ Quick-Build Projects (including but not limited to, addressing urgent safety and mobility needs while gathering data and community feedback for permanent solutions)	
● Communications (including but not limited to, engaging the community with workshops to solicit feedback to ensure needs and expectations are met; etc.) ○ Public Relations ○ Community Engagement ○ Branding and Design ○ Marketing ● Grant and Loan Services ● Research and Development	
● Policy Coordination ○ including but not limited to, review of local policies and regulations to ensure alignment with management strategies; ○ adjusting zoning laws, parking regulations, or updating municipal codes; etc. ● Survey / CAD ○ CADD Services (AutoCAD and Microstation) ○ GIS Services (Feature extraction and classification from Imagery or LiDAR)	

○ Survey ○ LIDAR Services / Asset Condition Assessment (including but not limited to, GIS integration and record documentation processes; etc.) ○ Traffic Volume and Speed Collection ● Programs ○ Program Management ▪ including but not limited to, management for a specific program and as such forfeits project specific design and construction services; ▪ controls management to assure projects are being designed and constructed cost-effectively and in a timely manner; ▪ overall program schedule coordination, documentation and communication to NDOT team; ▪ individual project schedules coordination, documentation, and communication to NDOT team; ▪ bid schedule quantity development and assistance; ▪ assistance with bidding services for projects (including record keeping of contractors bidding and unit prices per bid tab); ▪ progress and payment management (including coordination with NDOT Finance and NDOT team); ▪ coordination and documentation of all permits; ▪ record keeping of project metrics (including budget cost, schedule, change orders, and actual costs); ▪ historical record keeping of project specifics (including red-line drawings, GIS data, LiDAR data, etc.); ▪ facilitating lessons learned session with NDOT team for every project in closeout phase; ▪ staff augmentation (as required based on the specific program requirements); ▪ manage regulatory compliance; ▪ community engagement and customer complaints coordination and documentation; etc. ○ Strategic Planning (including but not limited to, long-term goals and objectives for transportation systems, policy setting, vision statements, etc.)	

Federal Transit Administration Clauses

● Access to Records and Reports ○ Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records. ○ Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.	
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Contract Purchase Agreement 6605615

- Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required
- Americans with Disabilities Act (ADA)
 - The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

- Civil Rights Laws and Regulations

The following Federal Civil Rights laws and regulations apply to all contracts.

- Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:
 - Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
- Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
- Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals aged 40 and over on the basis of age.
- Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

Contract Purchase Agreement 6605615

Metro is an Equal Opportunity Employer. As such, Metro agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
- **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

Clean Air Act and Federal Water Pollution Control Act

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

- The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal

Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

- The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

- The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA."

- Conformance with ITS National Architecture

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

- Debarment and Suspension
 - Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000
 - This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
 - C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
 - The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The Contractor agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

For further information see the attached Exhibit C (Federal Transit Administration Clauses).

Exhibit C- Federal Transit Administration Clauses

1. Access to Records and Reports

- a) Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b) Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c) Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d) Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

2. Americans with Disabilities Act (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

3. Civil Rights Laws and Regulations

The following Federal Civil Rights laws and regulations apply to all contracts.

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:
 - a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment

Opportunity,” September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

3. **Nondiscrimination on the Basis of Age.** The “Age Discrimination Act of 1975,” as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, also prohibit employment discrimination against individuals aged 40 and over on the basis of age.

4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

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

2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such

action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.

4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

5. **Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

4. **Clean Air Act and Federal Water Pollution Control Act**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

1. The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
2. The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

3. The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

5. Conformance with ITS National Architecture

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

6. Debarment and Suspension

a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

7. Disadvantaged Business Enterprise (DBE)

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

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

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

8. DHS Seal, Logo, and Flags

The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FTA pre-approval.

9. Energy Conservation

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

10. Equal Employment Opportunity

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, sex, sexual orientation, gender identity, 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, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer 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, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The 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 to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) 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.

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

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such 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 Government 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.

(8) The contractor will include the provisions of paragraphs (1) through (8) 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 may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

11. Federal Changes

49 CFR Part 18 Federal 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 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.

12. Federal Tax Liability and Recent Felony Convictions

- i. The contractor certifies that it:
 - a. Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
 - b. Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

- c. If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval.
- (2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any subagreement.

13. Fly America

- a) Definitions. As used in this clause—
 - 1) "International air transportation" means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States.
 - 2) "United States" means the 50 States, the District of Columbia, and outlying areas.
 - 3) "U.S.-flag air carrier" means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:
Statement of Unavailability of U.S. – Flag Air Carriers
 International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:
- e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

14. Incorporation of Federal Transit Administration (FTA) Terms

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

15. No Government Obligation to Third Parties

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

16. Notification to FTA

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
- (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

17. Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

- a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:
 - 1) Procure or obtain;
 - 2) Extend or renew a contract to procure or obtain; or
 - 3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any

system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- a) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- b) See Public Law 115-232, section 889 for additional information.
- c) See also § 200.471.

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

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

19. Prompt Payment

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

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

20. Restrictions on Lobbying

Conditions on use of funds.

- (a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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.
- (b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.
- (c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
- (d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.
- (e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.

Certification and disclosure.

- (a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

- 1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- 2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- 1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- 2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs or (b) of this section. An event that materially affects the accuracy of the information reported includes:

- 1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- 2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or, A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

- 1) A subcontract exceeding \$100,000 at any tier under a Federal contract;
- 2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
- 3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,
- 4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days. No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

21. Safe Operation of Motor Vehicles

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 Agency.

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 Contract.

22. Simplified Acquisition Threshold

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America’s eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).)

23. Termination

Termination for Convenience (General Provision)

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

Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision)

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

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

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency's interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

24. Trafficking in Persons

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- (a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- (b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- (c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder.

25. Violation and Breach of Contract

Rights and Remedies of the Agency

The Agency shall have the following rights in the event that the Agency deems the Contractor guilty of a breach of any term under the Contract.

- a. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
- b. The right to cancel this Contract as to any or all of the work yet to be performed;
- c. The right to specific performance, an injunction or any other appropriate equitable remedy; and
- d. The right to money damages.

For purposes of this Contract, breach shall include.

Rights and Remedies of Contractor

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the Agency, the Contractor expressly agrees that no default, act or omission of the Agency shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the Agency directs Contractor to do so) or to suspend or abandon performance.

Remedies

Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, the Agency will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Contract by the Contractor before the Agency takes action contemplated herein, the Agency will provide the Contractor with sixty (60) days written notice that the Agency considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by an authorized representative of Agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Agency's authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Agency's authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the Agency's direction or decisions made thereof.

Performance during Dispute

Unless otherwise directed by Agency, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages

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

Remedies

Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Agency and the Contractor arising out of or relating to this Contract or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies

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



CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
10/20/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER NUTMEG INSURANCE AGENCY INC/PHS 02025657 The Hartford Business Service Center 3600 Wiseman Blvd San Antonio, TX 78251	CONTACT NAME: PHONE (866) 467-8730 FAX (A/C, No, Ext): (A/C, No): E-MAIL ADDRESS:																					
INSURED Fairpointe Planning LLC 2115 Yeaman Place, #210 NASHVILLE TN 37206	<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC#</th></tr> </thead> <tbody> <tr> <td>INSURER A :</td><td>Twin City Fire Insurance Company</td><td>29459</td></tr> <tr> <td>INSURER B :</td><td></td><td></td></tr> <tr> <td>INSURER C :</td><td></td><td></td></tr> <tr> <td>INSURER D :</td><td></td><td></td></tr> <tr> <td>INSURER E :</td><td></td><td></td></tr> <tr> <td>INSURER F :</td><td></td><td></td></tr> </tbody> </table>	INSURER(S) AFFORDING COVERAGE		NAIC#	INSURER A :	Twin City Fire Insurance Company	29459	INSURER B :			INSURER C :			INSURER D :			INSURER E :			INSURER F :		
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COVERAGES
CERTIFICATE NUMBER:
REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/Y YYY)	LIMITS
A	☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR ☒ General Liability	X	X	02 SBM AM1479	02/13/2025	02/13/2026	EACH OCCURRENCE \$1,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence) \$1,000,000
							MED EXP (Any one person) \$10,000
							PERSONAL & ADV INJURY \$1,000,000
							GENERAL AGGREGATE \$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC OTHER:						PRODUCTS - COMP/OP AGG \$2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ HIRED AUTOS ☐ SCHEDULED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)
A	☒ UMBRELLA LIAB ☒ EXCESS LIAB			02 SBM AM1479	02/13/2025	02/13/2026	EACH OCCURRENCE \$1,000,000
	☐ DED ☒ RETENTION \$ 10,000						AGGREGATE \$1,000,000
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N/A		02 SBM AM1479	02/13/2025	02/13/2026	☐ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT
A	DATA BREACH - DEFENSE & LIAB COVG						Limit \$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations. Please see Additional Remarks Schedule on Acord Form 101 attached.

CERTIFICATE HOLDER

Metropolitan Government of Nashville
 and Davidson County, ATTN: Purchasing
 Agent, Metro Courthouse
 1 PUBLIC SQ
 NASHVILLE TN 37201-5007

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Susan L. Castaneda

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ADDITIONAL REMARKS SCHEDULE

AGENCY NUTMEG INSURANCE AGENCY INC/PHS		NAMED INSURED FAIRPOINTE PLANNING LLC 2115 YEAMAN PLACE, #210 NASHVILLE TN 37206
POLICY NUMBER SEE ACORD 25		
CARRIER SEE ACORD 25	NAIC CODE	
EFFECTIVE DATE: SEE ACORD 25		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM

FORM NUMBER: ACORD 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

RE: RFQ # 396408 Notice of Cancellation will be provided in accordance with Form SS1223, attached to this policy. Coverage is primary and noncontributory and Waiver of Subrogation applies in favor of the Certificate Holder per the Business Liability Coverage Form SS0008, attached to this policy. Metropolitan Government of Nashville and Davidson County, its officials, officers employees and volunteers are additional insureds per the Business Liability Coverage Form SS0008, attached to this policy.

FLEUDEL-01

BFLY



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/20/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Zander Insurance Agency 6213 Charlotte Pike Nashville, TN 37209	CONTACT NAME: Brina Fly PHONE (A/C, No, Ext): FAX (A/C, No):	
	E-MAIL ADDRESS: bfly@zanderins.com	
INSURED Tanisha Hall dba Fairpointe Planning 704 Wesleywood Drive Nashville, TN 37205	INSURER(S) AFFORDING COVERAGE	
	INSURER A : Progressive Hawaii Ins Corp	
	NAIC #	
	10067	
	INSURER B :	
	INSURER C :	
INSURER D :		
INSURER E :		
INSURER F :		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

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INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
A	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY	X		03005900	12/17/2024	12/17/2025	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N	N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Metropolitan Government of Nashville and Davidson County, its officials, officers, employees, and volunteers are named as additional insureds per endorsement on automobile liability RFQ # is 39338.

CERTIFICATE HOLDER

CANCELLATION

Metropolitan Government of Nashville and Davidson County Purchasing Agent-Metro Courthouse 1 Public Square Nashville, TN 37201	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
11/06/2025

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PRODUCER NUTMEG INS AGENCY INC/PHS 76210775 The Hartford Business Service Center 3600 Wiseman Blvd San Antonio, TX 78251	CONTACT NAME: PHONE (888) 925-3137 FAX (A/C, No, Ext): (A/C, No): E-MAIL ADDRESS:																					
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COVERAGES
CERTIFICATE NUMBER:
REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/Y YYYY)	LIMITS												
	COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:						EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG												
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ ALL OWNED AUTOS ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ☐ NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident)												
	UMBRELLA LIAB EXCESS LIAB ☐ OCCUR ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$						EACH OCCURRENCE AGGREGATE												
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	76 WEG AY3SK6	06/08/2025	06/08/2026	<table border="1"> <tr> <td>X</td><td>PER STATUTE</td><td>OTH-ER</td></tr> <tr> <td>E.L. EACH ACCIDENT</td><td></td><td>\$1,000,000</td></tr> <tr> <td>E.L. DISEASE -EA EMPLOYEE</td><td></td><td>\$1,000,000</td></tr> <tr> <td>E.L. DISEASE - POLICY LIMIT</td><td></td><td>\$1,000,000</td></tr> </table>	X	PER STATUTE	OTH-ER	E.L. EACH ACCIDENT		\$1,000,000	E.L. DISEASE -EA EMPLOYEE		\$1,000,000	E.L. DISEASE - POLICY LIMIT		\$1,000,000
X	PER STATUTE	OTH-ER																	
E.L. EACH ACCIDENT		\$1,000,000																	
E.L. DISEASE -EA EMPLOYEE		\$1,000,000																	
E.L. DISEASE - POLICY LIMIT		\$1,000,000																	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Those usual to the Insured's Operations. Please see Additional Remarks Schedule on Acord Form 101 attached.

CERTIFICATE HOLDER

 Metropolitan Government of Nashville
 and Davidson County, ATTN: Purchasing
 Agent, Metro Courthouse
 1 PUBLIC SQ
 NASHVILLE TN 37201-5007

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Susan L. Castaneda

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**ADDITIONAL REMARKS SCHEDULE**Page 2 of 2

AGENCY NUTMEG INS AGENCY INC/PHS		NAMED INSURED FAIRPOINTE PLANNING LLC 2115 YEAMAN PLACE, #210 NASHVILLE TN 37206
POLICY NUMBER SEE ACORD 25		
CARRIER SEE ACORD 25	NAIC CODE	EFFECTIVE DATE: SEE ACORD 25

ADDITIONAL REMARKS**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM****FORM NUMBER:** ACORD 25 **FORM TITLE:** CERTIFICATE OF LIABILITY INSURANCE

RE: RFQ # 396408 Notice of Cancellation will be provided in accordance with Form SS1223, attached to this policy. Coverage is primary and noncontributory and Waiver of Subrogation applies in favor of the Certificate Holder per the Business Liability Coverage Form SS0008, attached to this policy. Metropolitan Government of Nashville and Davidson County, its officials, officers employees and volunteers are additional insureds per the Business Liability Coverage Form SS0008, attached to this policy.



Notice of Intent to Award

Solicitation Number	393385	Award Date	10/3/2025 12:54 PM CDT
Solicitation Title	IDIQ for A&E Services for NDOT		
Buyer Name	Daniel Drumwright	Buyer Email	daniel.drumwright@nashville.gov
BAO Rep	Sierra Washington	BAO Email	sierra.washington@nashville.gov

Awarded Supplier(s)

In reference to the above solicitation and contingent upon successful contract negotiation, it is the intent of the Metropolitan Government of Nashville and Davidson County to award to the following suppliers:

- AECOM Technical Services, Inc
 - Alfred Benesch & Company
 - Alta Planning + Design, Inc
 - Arcadis US Inc
 - Barge Design Solutions, Inc
 - Borra Consulting
 - CDM Smith Inc
 - Collier Engineering Co. Inc
 - Consor North America, In
 - Crawford, Murphy & Tilly Inc (CMT)
 - Gresham Smith
 - GRW Engineers Inc
 - H.W. Lochner, Inc
 - HDR Engineering Inc
 - Jacobs Engineering Group Inc
- Johnson, Mirmiran & Thompson Inc
 - KCI Technologies, Inc
 - Kimley-Horn and Associates, Inc
 - Lamar Dunn & Associates, Inc. dba LDA Engineering
 - Lose & Associates Inc dba Lose Design
 - Neel-Schaffer, Inc
 - Nelson Nygaard Consulting Associates Inc
 - Orchard, Hiltz & McCliment, Inc. dba OHM Advisors
 - Parsons Transportation Group, Inc
 - Ragan-Smith-Associates LLC
 - Smith Seckman Reid Inc
 - Stantec Consulting Services Inc
 - Tanisha J. Hall dba Fairpointe Planning, LLC
 - Volkert Inc
 - WSP USA Inc

Certificate of Insurance

The awarded supplier(s) must submit a certificate of insurance (COI) indicating all applicable coverage required by the referenced solicitation. The COI should be emailed to the referenced buyer no more than 15 days after the referenced award date.

Equal Business Opportunity Program

Where applicable, the awarded supplier(s) must submit a signed copy of the letter of intent to perform for any and all minority-owned (MBE) or woman-owned (WBE) subcontractors included in the solicitation response. The letter(s) should be emailed to the referenced business assistance office (BAO) rep no more than two business days after the referenced award date.

☒

Yes, the EBO Program is applicable.

☐

No, the EBO Program is not applicable.

Monthly Reporting

Where applicable, the awarded supplier(s) will be required monthly to submit evidence of participation and payment to all small (SBE), minority-owned (MBE), women-owned (WBE), LGBT-owned (LGBTBE), and service-disabled veteran owned (SDV) subcontractors. Sufficient evidence may include, but is not necessarily limited to copies of subcontracts, purchase orders, applications for payment, invoices, and cancelled checks. Questions related to contract compliance may be directed to the referenced BAO rep.

☒

Yes, monthly reporting is applicable.

☐

No, monthly reporting is not applicable.

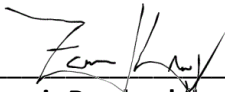
Public Information and Records Retention

Solicitation and award documentation are available upon request. Please email the referenced buyer to arrange. A copy of this notice will be placed in the solicitation file and sent to all offerors.

Right to Protest

Per MCL 4.36.010 – any actual or prospective bidder, offeror, or contractor who is aggrieved in connection with the solicitation or award of a contract may protest to the purchasing agent. The protest shall be submitted in writing within ten (10) days after such aggrieved person knows or should have known of the facts giving rise thereto.

A valid protest must demonstrate that the purchasing agent did not follow the law, the regulations, or the dictates of the solicitation. Protests based upon subjective scoring are not appropriate and may be grounds for placing the actual or prospective bidder, offeror, or contractor on the list of suspended or debarred persons.



Dennis Rowland (by ZAK)

Purchasing Agent & Chief Procurement Officer

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Offeror/Evaluation Criteria	Relevant Project Experience (50 points)	Team Structure and Capacity to Perform (20 Points)	Team Qualifications (20 points)	Management Plan and Approach (10 points)	Totals (100)
AECOM Technical Services, Inc	35	11	14	7	67
Alfred Benesch & Company	42	17	12	7	78
Alta Planning + Design, Inc	40	17	16	8	81
Arcadis US Inc	43	16	15	9	83
Barge Design Solutions, Inc	42	15	16	9	82
Borra Consulting	29	13	12	6	60
CDM Smith Inc	50	16	17	9	92
Collier Engineering Co. Inc.	42	13	18	9	82
Conсор North America, In	43	17	18	9	87
Crawford, Murphy & Tilly Inc (CMT)	42	15	13	7	77
Gresham Smith	41	13	17	8	79
GRW Engineers Inc	37	18	15	7	77
H.W. Lochner, Inc	30	13	12	6	61
HDR Engineering Inc	45	15	17	8	85
Jacobs Engineering Group Inc	46	17	18	7	88
Johnson, Mirmiran & Thompson Inc	29	13	12	6	60
KCI Technologies, Inc	46	19	18	7	90
Kimley-Horn and Associates, Inc	48	16	18	8	90
Lamar Dunn & Associates, Inc. dba LDA Engineering	44	17	17	6	84
Lose & Associates Inc dba Lose Design	30	13	12	6	61
Neel-Schaffer, Inc	38	14	13	8	73
Nelson Nygaard Consulting Associates Inc	45	17	15	7	84
Orchard, Hiltz & McCliment, Inc. dba OHM Advisors	49	18	17	7	91
Parsons Transportation Group, Inc	35	13	12	8	68
Ragan-Smith-Associates LLC	36	15	13	6	70
SMITH SECKMAN REID INC	37	13	16	6	72
Stantec Consulting Services Inc	45	16	16	8	85
Tanisha J. Hall dba Fairpointe Planning, LLC	30	14	18	6	68
Volkert Inc	32	13	12	6	63
WSP USA Inc	42	17	15	7	81

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

AECOM Technical Services, Inc	
Strengths	Weaknesses
LiDAR Services and Utility Relocation projects provided relevant detail and experience. Documented key team members' responsibilities from the scope of services. Documented applicable project type for key team members. Provided requested information for key team members. Provided resumes for identified key team members. Prime and sub expertise was provided. Detailed firm's understanding of scope. Provided a custom management plan to meet Metro's needs. Detailed approach to transportation projects. Detailed how firm would assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed approach to controls management and how firm will manage schedule, budget and ensure a successful project.	Some referenced projects failed to display direct experience. TDM project examples lacked relevance and did not meet expectations. Referenced project information for Structural Design failed to detail qualifications and specialized expertise. No direct project experience on CEI with Construction projects. Referenced projects displayed a lack of program management experience and did not meet expectations. Resumes did not reflect key personnel for Development Services, CAD, GIS, or Survey related projects. Unclear on all services being provided in firm's response to understanding and approach to meeting the scope requirements. Lack of detail provided for multimodal projects. Lack of detail on proposed approach to the 50+ project types identified in scope

Alfred Benesch & Company	
Strengths	Weaknesses
Provided in detail firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details.	Lack of clarity on all services excluded from firm's offering. No direct project experience for CEI related projects. Some referenced project projects convey limited direct project experience.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Provided detailed project example for Community Engagement project of a similar size and scope. Provided an acknowledgement of all services proposed for project. Defined organizational structure in Organizational Chart and highlighted key personnel. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided detailed acknowledgement of qualifications to provide applicable 50+ services identified in the scope. Detailed firm's understanding of the scope and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the project types they submitted on.	Lack of clarity related to the Organizational Chart and the information it presented. Generic acknowledgement and details related to adherence of regulations and knowledge of the processes of the 19 agencies. Resumes for key personnel lacked details related to role in the project. Did not include all 19 agencies in how the firm will maintain processes, regulations, and procedures. Lack of detail on approach to transportation/multimodal projects.
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Alta Planning + Design, Inc	
Strengths	Weaknesses
Provided a list of services firm is proposing. Provided detailed project examples for TDM Planning and Program Support of a similar size and scope.	Didn't provide a Structural Design project. Project example displayed a lack of information for Intelligent Transportation Systems and did not meet expectations.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Provided detailed project examples for Program Management project. Provided in detail firm's experience executing project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided an acknowledgement of most services proposed for project. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided an acknowledgement of qualifications providing. Provided requested information for key team members. Detailed the qualifications the firm provides. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Planning project example of a similar size, scope, and complexity and met expectation. Detailed firm's understanding of the scope requirements.	Referenced projects conveyed a lack of detail related to CEI during construction and did not meet expectations. Lack of clarity related to the Organizational Chart and expertise of some key personnel. Lack of detail on non-planning services providing in referenced projects. Lack of detail on resumes related to service expertise for key personnel. Unclear on all services being provided in firm's response to understanding and approach to meeting the scope requirements. Lack of detail on approach to transportation/multimodal projects. Team members on proposed approach to the 50+ project types not identified in firm's response.
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RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the project types identified and listed their exclusions.	
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Arcadis US Inc	
Strengths	Weaknesses
Provided services firm is proposing as well as exceptions. Provided detailed project examples for TDM projects. Provided in detail firm's experience executing project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Defined organizational structure in Organizational Chart and highlighted key personnel. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided detailed acknowledgement of qualifications for services identified in the scope. Provided requested information for key team members.	Did not provide a Utility Relocation project, LiDAR Project, or Structural project. Lack of detail on project examples. Lack of clarity related to the Organizational Chart and high capacity stated for some key personnel. Lack of detail on planning services for referenced projects. Lack of detail on community engagement. Lack of detail on resumes related to service expertise for key personnel. Agency information lacked details. Unclear on all services being provided in firm's response to understanding and approach to meeting the scope requirements.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed the qualifications for firm to provide services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided some applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the project types providing.	
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Barge Design Solutions, Inc	
Strengths	Weaknesses
Provided table with services firm is proposing. Provided detailed project examples for all referenced projects. Provided firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided an acknowledgement of all services proposed for project.	Some referenced projects displayed a lack of direct involvement. Failed to provide relevant and substantial project example for TDM project. Lack of clarity related to the Organizational Chart and expertise of all key personnel. Concern about long-term capacity of subcontractor.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Defined organizational structure in Organizational Chart and highlighted key personnel. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided acknowledgement of qualifications to provide applicable services identified in the scope. Detailed the qualifications for firm to provide applicable services identified in the scope. Provided resumes for key team members. Detailed the qualifications for firm to provide applicable services identified in the scope. Provided resumes for key team members. Detailed firm's understanding of the scope requirements and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the project types identified in scope.	Lacking details about 19 agencies in firm's response to qualifications knowledge of. Lack of detail on some resumes related to service expertise for key personnel. Approach to multimodal focused on community engagement and lacked details.
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RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Borra Consulting	
Strengths	Weaknesses
Intelligent Transportation Systems (ITS) project was of a similar size, scope, and complexity and was above expectations.	Reference project examples displayed a lack of relevance in relation to scope.
Multimodal Signal] Design project met expectations.	Failed to provide relevant example for Complete Streets project and did not meet expectations.
Public Relations and Community engagement references met expectations.	Lack of information on Operations and Maintenance related projects.
Defined organizational structure in Organizational Chart and highlight key personnel.	Project example conveyed a lack of CEI experience on Construction projects and did not meet expectations.
Detailed the capacity of the proposed team member to meet the identified scope of services.	Lack of detail related to Policies, Strategies and Grants projects and did not meet expectations.
Provided applicable licenses and/or certifications of key personnel.	Lack of detail related to project goals, objectives, and firm's qualifications and specialized expertise.
Provided acknowledgement of intent to perform identified services.	Failed to provide TDM, Program Management, and LiDAR project examples.
Acknowledged firm's understanding of the scope requirements.	Lack of detail related to developing policies and strategies.
Detailed approach to controls management, managing schedules, and budget.	Lack of clarity on the roles of key personnel.
	Organizational Chart revealed lack of capacity due to personnel vacancies.
	Resumes failed to give descriptions of qualification to address the requirements of the scope.
	Qualifications failed to detail knowledge of the processes of the 19 agencies listed in the solicitation.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

	Unclear on all services being provided in firm's response to understanding and approach to meeting the scope requirements. Lack of detail related to managing risks, risk mitigation, and safety compliance. Lack of information related to firm's approach to transportation/multimodal projects and did not meet expectations. Lack of detail related to proposed approach to the project types identified in the scope.
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CDM Smith Inc	
Strengths	Weaknesses
Provided detailed project examples for Traffic Study, Operations, Utility Relocation and Community Engagement, Structural Design project, TDM Planning and Program Support, Developing Strategies were of a similar size and scope. Provide sufficient information related to all 50 services. Provided in detail firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided detailed acknowledgement of qualifications to provide applicable 50+ services identified in the scope. Defined organizational structure in Organizational Chart and highlighted key personnel.	Lack of clarity on the capacity of the proposed team member to meet the identified scope of services. Some resumes not clear on key personnel responsibilities. Lack of detail on approach to transportation/multimodal projects.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed the capacity of the proposed team member to meet the identified scope of services. Clearly defined team members and the project types applicable to their expertise. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members and noted expertise. Detailed firm's understanding of the scope requirements and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the 50+ project types identified in scope.	
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RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Collier Engineering Co. Inc.	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided detailed project examples for Program Management project. Provided in detail firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Defined organizational structure in Organizational Chart and highlight key personnel. Detailed the capacity of the proposed team member to meet the identified scope of services. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope and approach to meeting the scope requirements.	Some referenced projects displayed limited direct involvement. Lack of detail on project examples for provided services. Lack of information related to Conceptual Planning Project. No services identified for key personnel on Organizational Chart. Failed to include acknowledgement of services not provided. Lack of detail on resumes related to service expertise for key personnel. Lack of detail on approach to transportation/multimodal projects.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the 50+ project types identified in scope	
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Conсор North America, Inc	
Strengths	Weaknesses
Provided all A&E services firm is proposing. Provided very detailed project examples for Program Management. Provided very detailed description, understanding, and experience with Transportation System/transportation/multimodal Planning projects. Provided detailed experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the scope. Defined organizational structure in Organizational Chart and highlighted key personnel. Clearly defined team members and the project types applicable to their expertise. Provided requested information for key team members.	Lack of detail on some project examples. Concerns on capacity to perform work based on utilization percentages provided. Failed to provide acknowledgement of qualifications to provide applicable 50+ services identified in the section. Lack of detail on planning services for referenced projects in resumes.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the 50+ project types identified in scope.	
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Crawford, Murphy & Tilly Inc (CMT)	
Strengths	Weaknesses
Provided information regarding services firm is proposing and excluding. Provided firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details.	Referenced project display a lack of direct experience. Lack of detail on all project references. The Intelligent Transportation System (ITS) and Grant and Loan project examples lacked details. Key Personnel were not identified in Organizational Chart.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Defined organizational structure in Organizational Chart and highlighted key personnel. Detailed qualifications to provide some services identified in the scope. Detailed team members and the project types from the scope of services they will complete. Detailed the qualifications for firm to provide some services identified in the scope. Provided resumes for key team members and noted expertise. Provided applicable licenses and/or certifications of key personnel. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risk and risk mitigation. Detailed proposed approach to the project types identified in scope.	Failed to provide information indicating capacity to perform work. Failed to include adherence of regulations and knowledge of the processes of the 19 agencies. Resumes for key personnel conveyed a lack of experience relative to the scope. Unclear on all services being provided in firm's response to understanding and approach to meeting the scope requirements. Lack of detail on approach to transportation/multimodal projects. Failed to include safety compliance in risk mitigation plan.
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Gresham Smith	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Detailed firm's experience executing all project types noted in the solicitation.	Some referenced project failed to display direct experience. Transportation System / transportation/multimodal Master Planning not of a similar size and scope.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Defined organizational structure in Organizational Chart and highlighted key personnel. Defined team members and project types. Listed some qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members and noted expertise. Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risk and risk mitigation. Detailed proposed approach to the 50+ project types identified in scope	Lack of detail related to design and construction stages of projects. Vague and unclear information provided on Organizational Chart. Lack of capacity to perform work based on utilization percentages provided. Failed to provide acknowledgement of qualifications to provide proposed services identified in the scope. Some resumes lacked relevant details. Lack of detail on approach to transportation/multimodal projects. Lack of detail on managing safety compliance.
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GRW Engineers Inc	
Strengths	Weaknesses
Complete Streets and Utility Relocation projects provided was of a similar size, scope, and complexity and was above expectations.	Some referenced projects conveyed limited direct project experience.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Provided services firm is proposing. Provided a detailed project example for all project references. Provided firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies. Provided an acknowledgement of all services proposed for project. Detailed qualifications to provide applicable 50+ services identified in the scope. Defined organizational structure in Organizational Chart and highlighted personnel. Detailed the capacity of the proposed team member to meet the identified scope of services. Clearly defined team members and the project types applicable to their expertise. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Provided resumes for key team members. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Provided resumes for key team members. Detailed firm's understanding of the scope requirements.	Some projects of a smaller scale and not of a similar size as Metro. Lack of detail related to Cost/Benefit analysis on Conceptual Planning Project. Failed to identify key personnel in proposal. Resumes not clear on identifying key personnel and description of qualifications. Failed to include all 19 agencies. Lack of detail on approach to transportation/multimodal projects. Lack of detail related to managing safety compliance. Lack of detail on proposed approach to the proposed project types identified in scope.
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RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Included all 19 agencies in how the firm will maintain processes, regulations, and procedures.	
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H.W. Lochner, Inc	
Strengths	Weaknesses
Conceptual Planning project was of a similar size, scope, and complexity and met expectations. Included project goals, objectives, and firm's qualifications and specialized expertise. Defined organizational structure in Organizational Chart and included personnel. Provided applicable licenses and/or certifications of key personnel. Provided acknowledgement of intent. Detailed firm's understanding of the scope requirements. Detailed plan for managing risks, risk mitigation, and safety compliance.	Reference project examples displayed a lack of relevance in relation to scope. Some referenced project failed to display direct experience. Vague information related to the description of referenced projects' scope. Failed to provide TDM, Program Management, and LiDAR project examples. Lack of detail related to developing policies and strategies. Lack of clarity on the roles and identifying of key personnel. Failed to include acknowledgement of services the firm intends to provide provides. Organizational Chart revealed lack of capacity due to personnel vacancies. Resumes conveyed a lack of experience addressing the requirements of the scope.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

	Failed to include all proposed services in the qualifications of firm related to adherence of regulations and knowledge of processes. Failed to provide firm's approach to transportation/multimodal projects. Failed to provide proposed approach to the firm's proposed services identified in the scope. Approach to controls management and how firm will manage projects was vague.
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HDR Engineering Inc	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided detailed project example for Program Management and Utility Relocation project and was above expectation. Provided firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Defined organizational structure in Organizational Chart and highlighted key personnel. Detailed team members and the project types from the scope of services they will complete. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope.	Lack of detail provided for some project references. Lack of capacity to perform work based on utilization percentages provided. Failed to provide acknowledgement of qualifications to provide applicable 50+ services identified in the scope. Resumes for key personnel lacked details related to role in the project and capacity to provide services. Vague information provided for approach to the 50+ project types identified in scope. Multimodal approach lacked details.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	
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Jacobs Engineering Group Inc	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided in detail firm's experience executing all project types noted in the solicitation. Majority of project examples of a similar size and scope. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided detailed acknowledgement of qualifications to provide applicable 50+ services identified in the scope. Provided requested information for each key team member. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope.	Lack of detail provided for some project examples. Lack of capacity to perform work based on percentages provided. Information on Organizational Chart unclear and difficult to cross-reference. Conveyed a lack of knowledge of the 19 agencies referenced in the scope. Did not include all services being provided in how the firm will maintain processes, regulations, and procedures. Lack of detail on approach to transportation/multimodal projects.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed qualifications of firm related to adherence of regulations for the 19 agencies. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	
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Johnson, Mirmiran & Thompson Inc	
Strengths	Weaknesses
Structural project example was of a similar size, scope, and complexity and was above expectations. Right-of-Way project experience was of a similar size, scope, and complexity and was above expectations. Provided Organizational Chart highlighting personnel. Provided resumes and some applicable licenses and/or certifications of key personnel. Approach to the project types was provided. Acknowledged firm's understanding of the scope requirements.	Some referenced project failed to display direct experience. Failed to indicate services excluded from proposed offerings. Lack of detail on Utility Relocation project examples did not meet expectations. Lack of clarity on scope of work completed on the Complete Street project and did not meet expectations. Lack of clarity on Program Management project example. No direct experience on CEI with Construction.

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Scoring and Justification

Detailed approach to controls management, managing schedules, and budget.	Lack of relevance for the TDM project example and did not expectations. Failed to include capacity of personnel to provide services. Failed to identify which services that firm and personnel would be providing. Lack of detail related to proposed approach to the proposed project types identified in the scope. All services proposed by firm not represented in resumes. Lack of detail related to the qualifications of your firm/team related to adherence of regulations and knowledge of the processes of services being provided. Failed to identify services excluded from firm's offerings. Failed to include approach to transportation/multimodal projects. Failed to include approach to controls management, managing schedules, and budget. Lack of information for how the firm will maintain processes, regulations, and procedures for services being provided
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KCI Technologies, Inc	
Strengths	Weaknesses
Provided most of services and listed exceptions.	Lack of detail on some project examples.
Provided detailed project example for Conceptual Planning project.	

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Scoring and Justification

Provided detailed project example for Community Engagement project and was above expectations. Provided in detail firm's experience executing all project types noted in the solicitation and met expectations. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided an acknowledgement of all services proposed for project. Detailed the qualifications for firm to provide applicable services. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Detailed qualifications to provide applicable services. Detailed the capacity of the proposed team member to meet the identified scope of services. Detailed the qualifications for firm to provide applicable services. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel.	Organizational Chart unclear on number of key personnel and roles. Some resumes lacked relative details related to the key personnel expertise. Lack of detail on managing safety compliance. Failed to list the exceptions to the 50+ project types in this section.
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RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Firm's response addressed everything we requested in the RFP except for the weaknesses noted below.

Kimley-Horn and Associates, Inc	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided in detail firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Defined organizational structure in Organizational Chart and highlight key personnel. Clearly defined team members and the project types applicable to their expertise. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided applicable licenses or certifications. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	Reference project examples displayed some irrelevant details related to each project type. Key Personnel were not identified by expertise in Organizational Chart. Capacity concerns to perform work based on utilization percentages provided. Some resumes lacked relative details related to the project examples. Lack of detail on approach to transportation/multimodal projects.

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Scoring and Justification

Lamar Dunn & Associates, Inc. dba LDA Engineering	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided some detailed project examples for reference. Provided firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Defined organizational structure in Organizational Chart and highlighted key personnel. Clearly defined team members and the project types applicable to their expertise. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members. Provided some applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope and approach to meeting the scope requirements.	Some referenced projects display a lack of detail on direct involvement. Lack of capacity to perform work based on utilization percentages provided. Lack of detail on resumes related to service expertise. Did not confirm the ability to perform applicable services for Traffic Simulation projects. Failed to include approach to transportation/multimodal projects. Did not include the approach to 50+ project types identified in scope.

RFQ 393385 IDIQ for A&E Services for NDOT

Scoring and Justification

Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	
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Lose & Associates Inc dba Lose Design	
Strengths	Weaknesses
Provided some applicable examples of projects. Sufficient information related to project examples for all other project offerings. Transportation Demand Management (TDM) Planning project of a similar size, scope and met expectations. Provided an Organizational Chart detailing company structure. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided resumes for key team members. Detailed approach to controls management, managing schedules, and budget. Detailed approach to controls management, managing schedules, and budget.	Some referenced projects displayed limited direct experience. Lack of detail on Grant related project and did not meet expectations. Project example for Complete Streets displayed a lack of relevance in relation to scope and did not meet expectations. Lack of clarity on key personnel responsibilities and description of qualifications. Lack of information on the qualifications and intent of firm to provide 50+ services identified in the scope of services. Lack of relevance on resumes for qualifications to address the requirements of the scope. Resumes not clear on key personnel responsibilities and description of qualifications. Failed to detail the qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Failed to detail qualifications of firm to provide 50+ services identified in the scope of services.

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Scoring and Justification

	Failed to identify services excluded from firm's offerings. Lack of detail on approach to transportation/multimodal projects. Lack of detail on proposed approach to the firm's proposed services identified in scope. Failed to include approach to safety compliance in risk mitigation plan.
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Neel-Schaffer, Inc	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided an Organizational Chart detailing company structure. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget.	All reference project examples displayed a lack of detail in regard to the scope of project. All referenced projects were of shared services and did not convey level of experience based on Metro's need. Lack of detail on Grant related project. Lack of information related to Cost/Benefit analysis on Conceptual Planning project and did not meet expectations. Lack of clarity and conflicting information on number of key personnel. Failed to include statement of services that the firm provides. Resumes not clear on key personnel responsibilities and description of qualifications. Failed to detail the qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies.

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Scoring and Justification

Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	Lack of detail in the qualifications of firm to provide proposed services identified in the scope of services. Did not include all 19 agencies in how the firm will maintain processes, regulations, and procedures. Lack of detail on the approach to transportation/multimodal projects.
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Nelson Nygaard Consulting Associates Inc	
Strengths	Weaknesses
Provided detailed project examples for Program Management project. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided an Organizational Chart detailing company structure. Detailed team members and the project types from the scope of services they will complete. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided requested information for each key team member. Good national planning experience provided. Provided resumes for key team members.	Project examples for Intelligent Transportation System and Structural lacked detail and did not meet expectations. Lack of clarity on services that firm will provide and exclude. Lack of clarity on Organizational Chart related to legend and color coding. Service expertise not identified for key personnel. Failed to include acknowledgement of services not provided. Lack of detail on qualifications for firm to provide proposed services identified in the scope. Lack of detail for qualifications of firm related to adherence of regulations for the 19 agencies. Resumes did not convey experience with all services firm stated they would provide.

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Scoring and Justification

Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope requirements and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing and mitigating risk.	Did not include all services being provided in how the firm will maintain processes, regulations, and procedures. Failed to include approach to safety compliance in risk mitigation plan. Safety was not addressed.
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Orchard, Hiltz & McCliment, Inc. dba OHM Advisors	
Strengths	Weaknesses
Provided detailed project examples for Complete Streets and CEI project. Provided in detail firm's experience executing all project types noted in their proposal. Provided applicable example projects in compliance with the 19 agencies listed in the Scope Details. Detailed collaboration of prime and subs. Detailed qualifications to provide applicable services identified in the scope. Detailed the capacity of the proposed team member to meet the identified scope of services. Clearly defined team members and the project types applicable to their expertise.	Lack of detail related to some example projects. Lack of clarity of some key personnel expertise in Organizational Chart. Lack of clarity of some key personnel expertise in resumes. Lack of detail on proposed approach to the proposed project types identified in scope. Did not include all services being provided in how the firm will maintain processes, regulations, and procedures. Lack of detail on approach to transportation/multimodal projects.

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Scoring and Justification

Detailed the qualifications for firm to provide applicable services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided applicable licenses or certifications. Detailed firm's understanding of the scope and meeting project requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	
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Parsons Transportation Group, Inc	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Utility Relocation project provided relevant details and experience and was above expectations. Provided detailed project examples for TDM project and was above expectations. Provided an Organizational Chart detailing company structure. Provided applicable licenses and/or certifications of key personnel. Provided resumes for key team members.	Failed to provide details on TDM related project. No direct experience on CEI for Construction project. Referenced project failed to convey direct experience. Details for LiDAR project reference were more relevant to an Asset Management project and did not meet expectations. Failed to provide information on Grant related project. Organizational Chart did not display all services identified by firm.

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Scoring and Justification

Detailed firm's understanding of the scope and approach to meeting the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	All services of expertise for key personnel not identified on Organizational Chart. Lack of capacity to perform work based on utilization percentages provided. Qualifications failed to detail knowledge of the processes of the 19 agencies listed in the solicitation. Lack of detail provided for qualifications of firm to provide applicable 50+ services identified in the scope. Lack of detail on resumes related to services and expertise. Only one key personnel is locally available. Lack of detail on approach to transportation/multimodal projects. Didn't identify all key personnel in the approach to 50+ project types identified in scope.
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Ragan-Smith-Associates LLC	
Strengths	Weaknesses
Provided firm's experience executing all project types noted. Provided examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided organizational chart detailing firm's structure. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided resumes for key team members.	Some project examples lack significance to the scope. Some projects failed to display direct experience. Lack of detail to Cost/Benefit analysis on Conceptual Planning project were not of a similar size and complexity and did not meet expectations. Lack of clarity of Organizational Chart on team members and the project types from the scope of services they will complete.

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Scoring and Justification

applicable licenses and/or certifications of key personnel.	Qualifications failed to detail knowledge of the processes of the 19 agencies listed in the solicitation.
Detailed firm's understanding of the scope requirements and approach to meeting the scope requirements.	Lack of detail provided for qualifications of firm to provide applicable 50+ services identified in the scope.
Detailed approach to controls management, managing schedules, and budget.	Lack of detail on resumes related to services and expertise.
Detailed how firm will assist NDOT in managing and mitigating risk.	Firm's comments are centered around CHYM and fail to reflect other related work.
	Lack of detail on approach to transportation/multimodal projects.

SMITH SECKMAN REID INC	
Strengths	Weaknesses
Provided referenced projects that indicate prior experience working with Metro. TDM Planning and Program Support projects were of a similar size and scope and were above expectations. Detailed capacity of the proposed team member to meet the identified scope of services. Provided requested information for key team members. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies.	Some referenced project failed to display direct experience. Vague information related to the description of referenced projects' scope. Failed to provide statement of services firm will provide. Lack of information related to Cost/Benefit analysis on Conceptual Planning Project and did not meet expectations. Program Management project displayed a lack of relevance related to scope and did not meet expectations. All services of expertise for key personnel not identified on Organizational Chart. Firm did not list any project exclusion and did not include all project types that they were asked to identify.

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Scoring and Justification

Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Detailed firm's understanding of the scope requirements. Detailed how firm will assist NDOT in managing and mitigating risk.	Failed to provide statement of qualifications to provide proposed services identified in the scope. Resumes for key personnel lacked details related to role in the project. Failed to include details on managing safety compliance. Lack of detail on approach to transportation/transportation/multimodal projects. Failed to provide approach to firm's proposed project types identified in scope.
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Stantec Consulting Services Inc	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided in detail firm's experience executing all project types noted in the solicitation. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Detailed team members and the project types from the scope of services they will complete. Provided detailed statement of qualifications to provide applicable 50+ services identified in the scope. Included statement identifying all services firm will provide. Provided applicable licenses and/or certifications of key personnel.	Lack of detail on some project examples. Lack of capacity to perform work based on utilization percentages provided. Unclear information provided on Organizational Chart. Resumes for key personnel lacked details related to role in the project. Lack of detail on approach to transportation/multimodal projects. Conflicting information on whether there are services excluded from firm's offerings.

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Scoring and Justification

Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Detailed firm's understanding of the scope requirements. Detailed approach to controls management, managing schedules, and budget. Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance. Detailed proposed approach to the 50+ project types identified in scope.	
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Tanisha J. Hall dba Fairpointe Planning, LLC	
Strengths	Weaknesses
Provided all A&E Services firm is proposing. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided a TDM project of similar size, scope, and complexity and was above expectations. Defined organizational structure in Organizational Chart and highlighted team personnel. Detailed the capacity of the proposed team member to meet the identified scope of services.	Referenced project failed to display direct experience. Some projects displayed a lack of detail related to project goals, objectives, and firm's qualifications. Failed to provide LiDAR project example. Failed to provide Construction project example. Failed to provide Utility Relocation project example. Failed to provide Intelligent Transportation System project example.

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Scoring and Justification

Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Provided resumes for key team members and details related to the key personnel expertise. Provided exclusions to the 50+ services listed.	Failed to include acknowledgement of services the firm provides. All services of expertise for key personnel not identified. Failed to provide applicable licenses and/or certifications of key personnel. Failed to identify services that firm would and would not provide. Lack of detail on approach to transportation/multimodal projects. Lack of clarity on how the firm will maintain processes, regulations, and procedures for all 19 agencies. Lack of details related to proposed approach to the firm's proposed services. Firm's comments are centered around CHYM and fail to reflect other NDOT related work types identified in scope of this solicitation.
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Volkert Inc	
Strengths	Weaknesses
Listed A&E Services in the scope details that firm proposes. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Detailed project information for Community Engagement project example. Detailed project information for Complete Streets project example.	Failed to adhere to formatting requirements. Vague information related to the description of some referenced projects' scope. Lack of detail related to project goals, objectives, and firm's qualifications and specialized expertise. Failed to provide transportation/multimodal project example.

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Scoring and Justification

Provided an organizational chart and highlighted team personnel. Detailed the capacity of the proposed team member to meet the identified scope of services. Detailed the qualifications for firm to provide applicable 50+ services identified in the scope. Provided resumes for key team members. Provided applicable licenses and/or certifications of key personnel. Provided services that firm would provide and exclude.	Failed to provide a TDM project example. Failed to provide Conceptual Planning project. Failed to provide Intelligent Transportation System project example project example. Failed to provide LiDAR project example. Lack of detail related to developing policies and strategies. Failed to adhere to formatting requirements. Organizational Chart did not display all services identified by firm Did not include all proposed services in approach to how the firm will maintain processes, regulations, and procedures. Resumes lacked relevance to services being offered. Lacked details for the approach to controls management, managing schedules, and budget. Lack of detail in approach to safety compliance in risk mitigation plan. Failed to include approach to transportation/multimodal projects. Failed to adhere to formatting requirements.
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WSP USA Inc	
Strengths	Weaknesses
Provided all A&E Services firm is proposing.	Lack of clarity on the project types of the shared projects noted in proposal.

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Scoring and Justification

Provided in detail firm's experience executing all project types noted in the solicitation. Detailed project examples of a similar size and scope. Provided applicable examples of projects in compliance with the 19 agencies listed in the Scope Details. Provided an organizational chart and highlighted key personnel. Detailed the capacity of the proposed team member to meet the identified scope of services. Detailed team members and the project types from the scope of services they will complete. Detailed capacity of the proposed team member to meet the identified scope of services. Detailed qualifications of firm related to adherence of regulations and knowledge of the processes of the 19 agencies. Detailed the capacity of the proposed team member to meet the identified scope of services. Provided resumes for key team members and noted expertise. Detailed firm's qualifications to provide applicable 50+ services identified in the scope. Detailed firm's understanding of the scope requirements. Detailed approach to controls management, managing schedules, and budget.	Lack of detail on some referenced project examples. Displayed a lack of collaboration with subcontractors. Failed to include statement of services the firm provides. Organizational Chart unclear on role of key personnel on some projects. Failed to provide applicable licenses and/or certifications of key personnel. Resumes are unclear whether all proposed services are covered. Failed to include approach to transportation/multimodal projects. Lack of clarity on how the firm will maintain processes, regulations, and procedures for all 19 agencies.
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RFQ 393385 IDIQ for A&E Services for NDOT
Scoring and Justification

Detailed how firm will assist NDOT in managing risks, risk mitigation, and safety compliance.	
Detailed firm’s approach to transportation/transportation/multimodal projects.	



Certificate Of Completion

Envelope Id: 33271C8A-543B-4535-A5F3-EB0304324D1A		Status: Completed
Subject: Here is your signed document: RFQ 393385 - Intent to Award.pdf		
Source Envelope:		
Document Pages: 38	Signatures: 1	Envelope Originator:
Certificate Pages: 2	Initials: 0	Zak Kelley
AutoNav: Disabled		730 2nd Ave. South 1st Floor
Envelopeld Stamping: Disabled		Nashville, TN 37219
Time Zone: (UTC-06:00) Central Time (US & Canada)		Zak.Kelley@Nashville.gov
		IP Address: 170.190.198.185

Record Tracking

Status: Original	Holder: Zak Kelley	Location: DocuSign
10/3/2025 12:52:27 PM	Zak.Kelley@Nashville.gov	
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Metropolitan Government of Nashville and Davidson County	Location: Docusign

Signer Events	Signature	Timestamp
Zak Kelley		Sent: 10/3/2025 12:53:14 PM
Zak.Kelley@Nashville.gov		Viewed: 10/3/2025 12:53:29 PM
Finance Manager		Signed: 10/3/2025 12:54:27 PM
Metro Nashville Government		Freeform Signing
Security Level: Email, Account Authentication (None)	Signature Adoption: Uploaded Signature Image	
	Using IP Address: 170.190.198.185	

Electronic Record and Signature Disclosure:
Not Offered via Docusign

In Person Signer Events	Signature	Timestamp
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Editor Delivery Events	Status	Timestamp
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Agent Delivery Events	Status	Timestamp
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Intermediary Delivery Events	Status	Timestamp
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Certified Delivery Events	Status	Timestamp
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Carbon Copy Events	Status	Timestamp
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Zak Kelley	COPIED	Sent: 10/3/2025 12:54:28 PM
zak.kelley@nashville.gov		Resent: 10/3/2025 12:54:29 PM
Finance Manager		Viewed: 10/3/2025 12:54:48 PM

Metro Nashville Government		
Security Level: Email, Account Authentication (None)		

Electronic Record and Signature Disclosure:
Not Offered via Docusign

Witness Events	Signature	Timestamp
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Notary Events	Signature	Timestamp
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Envelope Summary Events	Status	Timestamps
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Envelope Sent	Hashed/Encrypted	10/3/2025 12:53:14 PM
Certified Delivered	Security Checked	10/3/2025 12:53:29 PM

Envelope Summary Events	Status	Timestamps
Signing Complete	Security Checked	10/3/2025 12:54:27 PM
Completed	Security Checked	10/3/2025 12:54:28 PM
Payment Events	Status	Timestamps

Contract Purchase Agreement 6605615#

Terms and Conditions

1. ARCHITECTURAL AND ENGINEERING CONTRACT

1.1. Heading A&E

This Contract is initiated by and between **The Metropolitan Government of Nashville and Davidson County** ("METRO") and **Fairpointe Planning, LLC** ("CONSULTANT") located at **73 White Bridge Road STE 103-235 Nashville, TN 37205**. ~~Enter Legal Name ("CONSULTANT") located at Address, City, St Zip.~~ This Contract consists of the following documents:

Any properly executed contract amendment (most recent with first priority),

- *This document, including exhibits,*
 - *Exhibit A – (Pricing) ~~Hourly Rates~~*
 - *Exhibit B – (Scope of Services) ~~Task Details~~*
 - *Exhibit C – (Federal Transit Administration Clauses) ~~ISA Terms and Conditions~~*
- *The solicitation documentation for RFQ# ~~f~~Enter Number 393385J and affidavit(s) (all made a part of this contract by reference),*
- *Purchase Orders (and PO Changes),*
- *CONTRACTOR's response to the solicitation,*
- *Equal Business Opportunity (EBO) Program forms (incorporated by reference).*

In the event of conflicting provisions, all documents shall be construed in the order listed above.

Where this Contract references "CONTRACTOR" in all caps, it is understood to be the CONSULTANT.

2. THE PARTIES HEREBY AGREE TO THE FOLLOWING TERMS AND CONDITIONS:

2.1. Duties and Responsibilities

~~CONTRACTOR~~ ~~CONTRACTOR~~ agrees to provide architecture and engineering (A&E) services for Metro including Choose How You Move (CHYM), as described in Exhibit B (Scope of Services) and more fully defined in the solicitation. ~~agrees to provide the goods and/or services as briefly described below and more fully defined in the solicitation.~~ CONTRACTOR agrees to provide requested services, meeting performance standards on a project by project basis as mutually agreed upon with Metro. Performance standards will be designed to ensure acceptable performance related to the tasks identified in any assigned Project Scope of Work and CONTRACTOR'S submitted Proposal related thereto. Performance standards may include but are not limited to consideration of timely completion of work, appropriate communication and progress tracking as required, as well as overall compliance with contract terms.

2.2. METRO's Responsibilities

METRO will:

Use its best efforts to provide CONSULTANT with available information pertinent to a project if that information is necessary, exists, and is available without significant cost to METRO. METRO does not represent, warrant or guarantee the accuracy or completeness of any information provided to CONSULTANT related to the project either in whole, in part, implicitly, or explicitly, or at all, and shall have no liability, therefore.

Provide access to the project site so CONSULTANT can enter upon public and private lands, if possible and necessary to complete the project.

Give thorough consideration to all reports, cost estimates, drawings, specifications, and other documents presented by CONSULTANT and inform CONSULTANT of all decisions within a reasonable time.

Designate, in writing, a single person to act as METRO's project manager for the project.

~~Acquire property rights, including, but not limited to, easements, in METRO's name, as necessary, and provide~~

~~services related to the property acquisition:~~

Obtain required authorizations and approvals excluding the building permit and other permits or fees required of CONSULTANT by this Contract or customarily the responsibility of CONSULTANT. Upon request, CONSULTANT shall assist Metro with filing and preparing documents related to the project and required by governmental authorities.

Will not provide clerical assistance to CONSULTANT for the project and METRO personnel will not be asked to undertake surveys, analyses, tabulations, summaries, etc. of CONSULTANT produced data or documentation.

2.3. Duties of CONSULTANT

CONSULTANT agrees to provide, and METRO agrees to purchase, professional architectural and/or engineering services completed under the project solicitation. Project shall reference this Contract by number and include the terms and conditions of this Contract.

CONSULTANT must make every effort to maximize the use of sustainable building materials and energy efficient products. Additionally, design and construction methods should be geared toward the completed project being environmentally-friendly from both the construction and continuous operation standpoint.

The parties agree upon a work schedule for this project. CONSULTANT's failure to satisfactorily complete work assigned within the time specified, without prior written approval from METRO, is a material breach of this Contract and METRO may terminate CONSULTANT and seek to recover damages sustained as a result of the breach.

2.4. CONSULTANT Responsibilities

Professional Services. CONSULTANT shall perform all necessary professional services in a satisfactory and proper manner, consistent with METRO's requirements. CONSULTANT shall perform all services using prudent practices in accordance with current professional standards and all laws, codes, regulations, and other applicable standards including, but not limited to, those listed below in the Design Standards Section.

~~Pre-Design Study.~~ CONSULTANT shall conduct studies, as appropriate, that serve as pre-design information for decision-making and determining the design approach and scope. ~~This responsibility includes, but is not limited to, the following:~~

- ~~• Development of the study approach and methodology;~~
- ~~• Securing METRO approval of the approach and methodology;~~
- ~~• Conducting the study; and,~~
- ~~• Preparation and presentation of the study and reports.~~

Design ~~(if applicable per Exhibit B).~~ CONSULTANT shall furnish design services, as appropriate, including all planning, surveying, geotechnical investigations, studies, engineering, preparation of legal descriptions necessary for easements, and cost estimating in accordance with a work program for the individual project that shall include the following phases:

- **Planning Phase** ~~(if applicable per Exhibit B)~~
 - o Preparation of planning phase studies, evaluations, reports, exhibits, programs, and concept designs.
- **Design Phase** ~~(if applicable per Exhibit B)~~
 - o Preparation of construction documents including all drawings, specifications, and details necessary for construction purposes;
 - o Preparation of detailed construction cost estimates;
 - o Review and recommendations of studies, evaluations, reports, and construction documents for completeness, technical adequacy, and optimum construction feasibility and economy; and,
 - o Assistance with preparation of bidding materials and serving as a resource during evaluation of responses, if needed, for an individual project

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Contract Purchase Agreement 6605615#

- **Construction Phase** *(if applicable per Exhibit B)*

- o Review of shop drawings, product data, samples, or other construction contractor submittals for approval, recommendation, or other appropriate action;
- o Provide construction monitoring in accordance with the individual project's work program, adjustments to construction cost estimates, and inspection services for the duration of the construction; and,
- o Assemble project closeout documents.

If METRO orders changes or alterations in the work to be performed by CONSULTANT, METRO will hold a scoping conference to outline the CONSULTANT's change in services. Following the scoping conference, CONSULTANT shall, within seven (7) business days, provide a written proposal including a description of the services, as altered, a proposed time for completion, personnel to be employed on the assignment, and a detailed derivation of the proposed price. The price shall be the product of the agreed number of hours required for performance of the assignment and the accepted hourly rates for the disciplines involved, as set forth in CONSULTANT's fee schedule negotiated for this project.

If applicable per Exhibit BA, all original documents, such as plans, tracings, specifications, drawings, maps, and other documents illustrating the scale and relationship of the individual project components that are prepared by CONSULTANT and form a part of CONSULTANT's services (the "Design Documents") shall become the property of METRO and shall be delivered to METRO upon completion of an individual project. CONSULTANT shall be responsible for the protection and/or replacement of any Design Documents in CONSULTANT's possession. METRO shall receive all original Design Documents and CONSULTANT shall retain a reproducible copy when the individual project is complete. Such documents may only be used by METRO as reference materials. Basic design notes and sketches, charts, computations and other data prepared or obtained under this Contract shall be made available, upon request, to METRO without restriction or limitation on their use.

Upon completion of the Design Documents, CONSULTANT shall deliver to METRO the originals of the Design Documents complete and ready for reproduction, along with ten (10) bidding sets. Reproduction of additional bidding sets will be by METRO and at METRO's expense.

CONSULTANT shall provide drawings and specifications for METRO's review and comments upon completion of schematic and design development stages. Construction documents shall be provided to METRO for review and comments at thirty percent (30%), sixty percent (60%), ninety percent (90%), and one hundred percent (100%) of project completion or at other intervals specified by METRO. Five (5) sets of each document shall be provided by CONSULTANT at specified times.

If applicable per Exhibit B, CONSULTANT is responsible for obtaining at least three (3) copies of items such as training and operating manuals, operating instructions, maintenance information and instructions, drawings, bonds, warranties, guarantees, etc. and maintaining them in a central file (electronically and/or in hard copy) until the project is complete.

If applicable per Exhibit B and C, upon final completion of an individual project, CONSULTANT will turn over, in a format acceptable to METRO, all training manuals, operating manuals, operating instructions, maintenance information, instruction manuals, drawings, bonds, warranties, guarantees, photos or videos made during an individual project, at least three (3) complete sets of hard copy as-built drawings for the completed individual project, at least three (3) electronic copies of as-built drawings, and all other record documents and things customarily or expressly required to be provided by CONSULTANT ("the Closeout Documents"). The Closeout Documents shall be provided to METRO at CONSULTANT's expense. **Metro's receipt of the Closeout Documents is a condition precedent to the closeout of each individual project and to CONSULTANT being entitled to receive final payment.**

2.5. Errors and Deficiencies

CONSULTANT shall, without additional compensation, correct or revise any errors, deficiencies, or incomplete, inaccurate, or defective work in its designs, drawings, specifications, and other services. Defective work includes, but is not limited to, erroneous tabulations, incomplete surveys, maps, or reports, and incorrectly assembled reports, plans, specifications, or similar documents caused by CONSULTANT's error or omission. METRO's acceptance of

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closeout documents, design documents, required studies, reports, designs, or other similar documentation, shall not relieve CONSULTANT from the obligation to correct any defective work, whether previously or subsequently noted.

METRO's review, approval, acceptance of, or payment for, the services required under this Contract shall not be construed to operate as a waiver of any rights under this Contract or of any cause of action arising out of the performance of this Contract. CONSULTANT shall remain liable to METRO in accordance with applicable law for all damages to METRO caused by CONSULTANT's negligent performance of any of the services furnished under this Contract. The rights and remedies of METRO provided for under this Contract are in addition to any other rights and remedies provided by law. Neither payment to CONSULTANT by METRO, nor any other act or omission by METRO, shall be interpreted or construed as an acceptance of any work of CONSULTANT not strictly in compliance with this Contract.

2.6. Design Standards

Professional Standards

If applicable per Exhibit B, CONSULTANT shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications, and other services furnished under this Contract. CONSULTANT's services shall be performed with the same skill and care that would be exercised by a qualified professional design consultant performing similar services. All aspects of professional services shall be performed or supervised by a licensed architect and/or engineer who is registered in the State of Tennessee. The seal of that architect and/or engineer shall be affixed to all related documentation that includes, but is not limited to, the following: construction plans, engineering studies, and reports. ~~All aspects of required surveying services shall be performed or supervised by a land surveyor who is registered in the State of Tennessee. The seal of that land surveyor shall be affixed to all related documentation including, but not limited to, the following: boundary surveys; right of way surveys; legal descriptions; topographical surveys; and, surveys related to construction.~~

Applicable Specifications

In general, designs, as they apply to an individual project, shall conform to the current edition requirements of:

- AASHTO Policy on Geometric Design of Highways and Streets,
- METRO's Subdivision Specifications for Streets and Roads,
- Tennessee Department of Transportation Standard Specifications for Road and Bridge Construction,
- Manual on Uniform Traffic Control Devices,
- METRO Fire Code,
- Tennessee Department of Health and Environment Design Criteria for Water Works,
- Tennessee Department of Health and Environment Design Criteria for Sewerage Work,
- METRO Stormwater Management Regulations,
- International Building Code (IBC),
- METRO Building Codes: Electrical, Mechanical, and Plumbing,
- Americans with Disabilities Act (ADA),
- Occupational Safety and Health Administration (OSHA),
- National Fire Protection Association,
- METRO Department of Water and Sewerage Services Standards,
- Architectural and Transportation Barriers Compliance Board: 36 CFR, Part 119,
- Normally accepted construction practices, and
- Any other applicable codes and design standards.

2.7. Construction Monitoring Services (if applicable per Exhibit B)

CONSULTANT will determine, in general, if the work is proceeding in a manner that is likely to result in the

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completed work conforming to the design concept and design documents and will keep METRO informed of the progress of the work.

CONSULTANT shall not supervise, direct, control, have authority over, or be responsible for the individual project contractor's acts or omissions, means, methods, techniques, sequences, procedures of construction, safety precautions and programs, or any failure of the contractor to comply with applicable laws and regulations related to the furnishing or performance of the work. Likewise, CONSULTANT will not be responsible for any subcontractors, materialmen, suppliers, or other persons performing or furnishing contractor's work.

CONSULTANT's authority is limited as set forth in this Contract and the same limitations shall apply to any of CONSULTANT's subconsultants, assistants, and subcontractors.

CONSULTANT will review all requests for payment, change orders, maintenance and operating instructions, schedules, guarantees, warranties, active bonds, current certificates of insurance, certificates of inspection, tests, approvals and other documentation required to be delivered by this Contract, to determine general compliance with the design documents' requirements.

CONSULTANT shall provide a review of construction progress in accordance with the work program and as follows:

Site Visit Requirements. CONSULTANT shall visit the project site at intervals prescribed by METRO, but, in any event, at least weekly, to verify the progress and quality of the work and to determine if work is in compliance with design documents, the schedule for construction, and applicable laws, building codes, rules, and regulations of public authorities having jurisdiction over the work. Each on-site inspection shall be conducted by CONSULTANT or an experienced and qualified representative who is knowledgeable about the project and competent in the disciplines having trade activities in progress at the time of the inspection. CONSULTANT shall promptly report to METRO, in writing, the results of each inspection, including defects and deficiencies in the work, and shall recommend appropriate corrective action, if any is necessary. Upon request, if needed for the project, METRO may require on-site detailed inspection of the work.

Clarifications and Interpretations. CONSULTANT shall have seven (7) days to review, certify, approve, reject, or take other appropriate action on all submittals such as shop drawings, product data, and samples and return them to the project contractor. CONSULTANT shall not approve any such submittals unless they conform to the individual project design concept, the design documents, and the project budget. CONSULTANT shall issue, with reasonable promptness, such written clarifications or interpretations of the requirements of CONSULTANT's work product (in the form of drawings or otherwise) as necessary, which shall be consistent with the intent of and reasonably inferred by the CONSULTANT's work product.

Authorized Variations In Work. With METRO's approval, CONSULTANT may authorize minor variations from the requirements of the design documents if the adjustments are compatible with the design concept and do not involve adjustment in the Contract Price or schedule.

Rejecting Defective Work. CONSULTANT shall have the authority and responsibility to reject defective work and work that is not in compliance with the individual project design concept. METRO shall be immediately notified, in writing, when work is rejected.

Determinations for Unit Price. CONSULTANT shall verify actual and appropriate quantities and classifications of the unit price work performed by the individual project contractor. CONSULTANT shall provide written documentation supporting the decision to accept or deny unit pricing and classifications.

Dispute Analysis. CONSULTANT will be the initial interpreter of the requirements of the design documents and determine the acceptability of the work. The individual project contractor may challenge the CONSULTANT's interpretations by notifying both the CONSULTANT and METRO in writing. Written notice of each such challenge shall be delivered within thirty (30) days of the CONSULTANT's determination. METRO will be the final arbitrator of the challenge and will determine the appropriate resolution.

2.8. Withholding of Salaries

If, in the performance of this Contract, there is any underpayment of salaries by CONSULTANT or by any subconsultant, Metro may withhold from payments due CONSULTANT an amount sufficient to pay underpaid employees. This amount shall be established by the difference between the salaries required to be paid and the salaries actually paid such employees for the total number of hours worked. The amount withheld may be disbursed by

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METRO to the respective employees to whom it is due, for and on account of CONSULTANT or subconsultant.

2.9. Representations of CONTRACTOR

In order to induce METRO to execute this Contract and recognizing that METRO is relying thereon, CONTRACTOR, by executing this Contract, makes the following express representations to METRO:

- CONTRACTOR is fully qualified to perform the work on this project and has, and shall maintain, any and all licenses, permits, or other authorizations necessary to perform the work on this project;
 - CONTRACTOR has become familiar with the project site and the local conditions under which the project is to be constructed and operated;
 - CONTRACTOR has received, reviewed, and carefully examined all of the documents attached to this Contract and has found them to be generally sufficient to indicate and convey understanding of the terms and conditions for constructing and completing the project;
 - CONTRACTOR agrees to notify METRO immediately of all conflicts, errors, ambiguities, or discrepancies that are discovered in the attachments to this Contract, including, but not limited to the Plans and Specifications;
- and,
- CONTRACTOR had access to the site for examinations, explorations, tests, and studies prior to submitting an offer, and relied exclusively upon CONTRACTOR's own estimates and investigations and other data which was necessary for full and complete information upon which CONTRACTOR's offer was based; in addition to the representations contained in CONTRACTOR's offer.

2.10. Stormwater Management

All activities performed under this Contract shall be conducted in full compliance with Metro Code of Law §§ 15.64 et al (Stormwater Management) including §§ 15.64.205

[National Pollutant Discharge Elimination System | Nashville.gov](#)

This requirement pertains to Unlawful/Prohibited Discharges to the METRO Storm Sewer System/Community Waters. It prohibits the discharge of "wastewater" and "non-stormwater" discharges such as wash water, process wastewater, etc. into the Municipal Storm Sewer System (MS4) or into Community Waters. Any questions relating to these provisions should be routed to the METRO Water Services (MWS) NPDES Office at (615) 880-2420. This requirement shall apply to all METRO construction projects in the service area, including areas outside Davidson County.

CONTRACTOR shall bear responsibility for all of CONTRACTOR's actions that cause MWS to violate project regulatory permits or Federal, State, or local environmental regulations. Such permits and regulations may include, but are not limited to:

- U.S. Army Corps of Engineers 404 Permits
- TDEC Aquatic Resource Alteration Permits
- TDEC Construction General Permits
- Any State or Federal permits/approvals related to Threatened and Endangered Species
- METRO Individual NPDES permits
- METRO Code §15.64.205 - Metro Illicit Discharge Ordinance
- METRO Stormwater Management Manual

CONTRACTOR's responsibility shall include, but not be limited to, payment of all fines, assessments and/or civil penalties incurred due to CONTRACTOR's work, actions, design, or installation and payment for any mitigation measures required due to the violation and cleanup associated with any violation.

3. CONTRACT TERM

3.1. Contract Term

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The Contract Term will begin on the date (the "Effective Date") ~~of [insert date here]~~, or the date this Contract is approved by all required parties and filed in the Metropolitan Clerk's Office, ~~whichever date last occurs~~. This Contract Term will end (~~6369~~) months from the Effective Date.

~~This Contract may be extended for five (5) one year term by letter to be signed by both parties. This Contract may be extended by Contract Amendment.~~ The option to extend may be exercised by and at the discretion of the Purchasing Agent. However, in no event shall the term of this Contract exceed ~~ninety-sixty (9669)~~ months from the Effective Date.

4. COMPENSATION

4.1. Contract Value

This Contract has an estimated value of \$~~[Agreement Amount]~~~~44,200,000.00~~. The pricing details are included in Exhibit A and are made a part of this Contract by reference. CONTRACTOR shall be paid as work is completed and METRO is accordingly, invoiced.

4.2. Other Fees

There will be no other charges or fees for the performance of this Contract. METRO will make reasonable efforts to make payments within 30 days of receipt of invoice but in any event shall make payment within 60 days. METRO will make reasonable efforts to make payments to Small Businesses within 15 days of receipt of invoice but in any event shall make payment within 60 days.

4.3. Escalation/De-escalation

This Contract is eligible for annual escalation/de-escalation adjustments. The request for adjustment must be in accordance with Exhibit A and submitted by CONTRACTOR to the Purchasing Agent no less than sixty (60) days prior to the ~~annual anniversary~~ of the filing of this Contract with the METRO Clerk's Office. Any such adjustment, if approved by the Purchasing Agent, shall become effective on the anniversary of the filing of this Contract with the METRO Clerk's Office.

4.4. Payment Methodology

Payment in accordance with the terms and conditions of this Contract shall constitute the entire compensation due CONTRACTOR for all goods and/or services provided under this Contract.

METRO will compensate CONTRACTOR in accordance with Exhibit A of this Contract. Subject to these payment terms and conditions, CONTRACTOR shall be paid for delivered/performed products and/or services properly authorized by METRO in accordance with this Contract. Compensation shall be contingent upon the satisfactory provision of the products and/or services as determined by METRO.

4.5. Electronic Payment

All payments shall be effectuated by ACH (Automated Clearing House).

4.6. Invoicing Requirements

CONTRACTOR shall invoice METRO no more frequently than once a month or for the satisfactorily and accurately delivered/performed products and/or services, whichever is less frequent. Invoices shall detail this Contract Number accompanied by any necessary supporting documentation ~~by the department~~. CONTRACTOR shall submit all invoices no later than ninety (90) days after the products and/or services have been delivered/performed.

Payment of an invoice by METRO shall not waive METRO's rights of revocation of acceptance due to non-conformity or the difficulty of discovery of the non-conformance. Such revocation of acceptance shall occur within a reasonable time after METRO discovers or should have discovered the non-conforming product and/or service but prior to any substantial change in condition of the products and/or services caused by METRO.

4.7. Subcontractor/Subconsultant Payments

When payment is received from METRO, CONTRACTOR shall within fourteen (14) calendar days pay all subcontractors, subconsultants, laborers, and suppliers the amounts they are due for the work covered by such

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payment. In the event METRO becomes informed that CONTRACTOR has not paid a subcontractor, subconsultant, laborer, or supplier as provided herein, METRO shall have the right, but not the duty, to issue future checks and payments to CONTRACTOR of amounts otherwise due hereunder naming CONTRACTOR and any such subcontractor, subconsultant, laborer, or supplier as joint payees. Such joint check procedure, if employed by METRO, shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit METRO to repeat the procedure in the future. If persistent, this may be determined to be a material breach of this Contract.

5. TERMINATION

5.1. Breach

Should CONTRACTOR fail to fulfill in a timely and proper manner its obligations under this Contract or if it should violate any of the terms of this Contract, METRO shall identify the breach and CONTRACTOR shall cure the performance within thirty (30) days. If CONTRACTOR fails to satisfactorily provide cure, METRO shall have the right to immediately terminate this Contract. Such termination shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of any breach by CONTRACTOR.

5.2. Lack of Funding

Should funding for this Contract be discontinued, METRO shall have the right to terminate this Contract immediately upon written notice to CONTRACTOR.

5.3. Notice

METRO may terminate this Contract at any time upon thirty (30) days written notice to CONTRACTOR. Should METRO terminate this Contract, CONTRACTOR shall immediately cease work and deliver to METRO, within thirty (30) days, all completed or partially completed satisfactory work, and METRO shall determine and pay to CONTRACTOR the amount due for satisfactory work.

6. NONDISCRIMINATION

6.1. METRO's Nondiscrimination Policy

It is the policy of METRO not to discriminate on the basis of race, creed, color, national origin, age, sex, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities.

6.2. Nondiscrimination Requirement

No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in METRO's contracted programs or activities, on the grounds of race, creed, color, national origin, age, sex, disability, or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with METRO or in the employment practices of METRO's CONTRACTORS. CONTRACTOR certifies and warrants that it will comply with this nondiscrimination requirement. Accordingly, all offerors entering into contracts with METRO shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

6.3. Equal Business Opportunity (EBO) Program Requirement

The consideration and contact of minority-owned and/or woman-owned business enterprises is required for a responsive offer to most solicitations. The provision of the Equal Business Opportunity (EBO) Program documents shall be part of each applicable solicitation response and incorporated herein by reference. CONTRACTOR agrees to comply with the Equal Business Opportunity (EBO) Program, if applicable, in the execution of this Contract.

6.4. Covenant of Nondiscrimination

CONTRACTOR have committed to the Covenant of Nondiscrimination when registering with METRO to do business. To review this document, go to METRO's website.

6.5. Americans with Disabilities Act (ADA)

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CONTRACTOR assures METRO that all services provided shall be completed in full compliance with the Americans with Disabilities Act ("ADA") 2010 ADA Standards for Accessible Design, enacted by law March 15, 2012, as has been adopted by METRO. CONTRACTOR will ensure that participants with disabilities will have communication access that is equally effective as that provided to people without disabilities. Information shall be made available in accessible formats, and auxiliary aids and services shall be provided upon the reasonable request of a qualified person with a disability.

7. INSURANCE

7.1. Proof of Insurance

During the term of this Contract, for any and all awards, CONTRACTOR shall, at its sole expense, obtain and maintain in full force and effect for the duration of this Contract, including any extension(s), the types and amounts of insurance identified below. Proof of insurance shall be required naming METRO as additional insured on the ACORD document.

7.2. General Liability Insurance

In the amount of one million (\$1,000,000.00) dollars per occurrence and in the amount of two million (\$2,000,000) in the aggregate.

7.3. Professional Liability Insurance

In the amount of one million (\$1,000,000.00) dollars per occurrence and in the amount of two million (\$2,000,000) in the aggregate.

7.4. Automobile Liability Insurance

In the amount of one million (\$1,000,000.00) dollars combined single limit.

7.5. Worker's Compensation Insurance (if applicable)

~~7.6. CONTRACTOR shall maintain workers' compensation insurance with statutory limits required by the State of Tennessee or other applicable laws and Employer's Liability Insurance with limits of no less than one hundred thousand (\$100,000.00) dollars, as required by the laws of Tennessee.~~

~~7.7.7.6.~~ Such insurance shall:

Contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of work or operations performed by or on behalf of CONTRACTOR including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed insureds.

For any claims related to this Contract, CONTRACTOR's insurance coverage shall be primary insurance with respects to METRO, its officers, officials, employees, and volunteers. Any insurance or self-insurance programs covering METRO, its officials, officers, employees, and volunteers shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

Automotive Liability insurance shall include vehicles owned, hired, and/or non-owned. Said insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes METRO, its officials, officers, employees, and volunteers as additional insureds with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of CONTRACTOR.

CONTRACTOR shall maintain Workers' Compensation insurance (if applicable) with statutory limits as required by the State of Tennessee or other applicable laws and Employers' Liability insurance. CONTRACTOR shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by CONTRACTOR's Workers' Compensation insurance coverage.

~~7.8.7.7.~~ Other Insurance Requirements

Prior to commencement of services, CONTRACTOR shall furnish METRO with original certificates and amendatory endorsements effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to:

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Provide certified copies of endorsements and policies if requested by METRO in lieu of or in addition to certificates of insurance.

Replace certificates, policies, and/or endorsements for any such insurance expiring prior to completion of services.

Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage and to provide evidence of renewal may be treated by METRO as a material breach of this Contract.

Said insurance shall be with an insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the METRO Director of Risk Management Services.

Require all subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Business Automobile Liability insurance, and Worker's Compensation/ Employers Liability insurance (unless subcontractor's employees are covered by CONTRACTOR's insurance) in the same manner as specified for CONTRACTOR. CONTRACTOR shall require subcontractor's to have all necessary insurance and maintain the subcontractor's certificates of insurance.

Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to and approved by METRO **prior to the commencement of services.**

If CONTRACTOR has or obtains primary and excess policy(ies), there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

8. GENERAL TERMS AND CONDITIONS**8.1. Taxes**

METRO shall not be responsible for any taxes that are imposed on CONTRACTOR. Furthermore, CONTRACTOR understands that it cannot claim exemption from taxes by virtue of any exemption that is provided to METRO.

8.2. Warranty

CONTRACTOR warrants that for a period of one year from date of delivery and/or installation, whichever is later, the goods provided, including software, shall be free of any defects that interfere with or prohibit the use of the goods for the purposes for which they were obtained.

During the warranty period, METRO may, at its option, request that CONTRACTOR repair or replace any defective goods, by written notice to CONTRACTOR. In that event, CONTRACTOR shall repair or replace the defective goods, as required by METRO, at CONTRACTOR's expense, within thirty (30) days of written notice. Alternatively, METRO may return the defective goods, at CONTRACTOR's expense, for a full refund. Exercise of either option shall not relieve CONTRACTOR of any liability to METRO for damages sustained by virtue of CONTRACTOR's breach of warranty.

8.3. Software License

CONTRACTOR warrants and represents that it is the owner of or otherwise has the right to and does hereby grant METRO a license to use any software provided for the purposes for which the software was obtained or proprietary material set forth in METRO's solicitation and/or CONTRACTOR's response to the solicitation.

8.4. Confidentiality

Tennessee Code Annotated §10-7-504(i) specifies that information which would allow a person to obtain unauthorized access to confidential information or to government property shall be maintained as confidential. "Government property" includes electronic information processing systems, telecommunication systems, or other communications systems of a governmental entity subject to this chapter. Such records include: (A) Plans, security codes, passwords, combinations, or computer programs used to protect electronic information and government property; (B) Information that would identify those areas of structural or operational vulnerability that would permit unlawful disruption to, or interference with, the services provided by a governmental entity; and (C) Information that could be used to disrupt, interfere with, or gain unauthorized access to electronic information or government property.

The foregoing listing is not intended to be comprehensive, and any information which METRO marks or otherwise

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designates as anything other than "Public Information" will be deemed and treated as sensitive information, which is defined as any information not specifically labeled as "Public Information". Information which qualifies as "sensitive information" may be presented in oral, written, graphic, and/or machine-readable formats. Regardless of presentation format, such information will be deemed and treated as sensitive information.

CONTRACTOR, and its Agents, for METRO, may have access to sensitive information. CONTRACTOR, and its Agents, are required to maintain such information in a manner appropriate to its level of sensitivity. All sensitive information must be secured at all times including, but not limited to, the secured destruction of any written or electronic information no longer needed. The unauthorized access, modification, deletion, or disclosure of any METRO information may compromise the integrity and security of METRO, violate individual rights of privacy, and/or constitute a criminal act.

Upon the request of METRO, CONTRACTOR shall return all information in whatever form. In the event of any disclosure or threatened disclosure of METRO information, METRO is further authorized and entitled to immediately seek and obtain injunctive or other similar relief against CONTRACTOR, including but not limited to emergency and ex parte relief where available.

8.5. Information Ownership

All METRO information is and shall be the sole property of METRO. CONTRACTOR hereby waives any and all statutory and common law liens it may now or hereafter have with respect to METRO information. Nothing in this Contract or any other agreement between METRO and CONTRACTOR shall operate as an obstacle to such METRO's right to retrieve any and all METRO information from CONTRACTOR or its agents or to retrieve such information or place such information with a third party for provision of services to METRO, including without limitation, any outstanding payments, overdue payments and/or disputes, pending legal action, or arbitration. Upon METRO's request, CONTRACTOR shall supply METRO with an inventory of METRO information that CONTRACTOR stores and/or backs up.

8.6. Information Security Breach Notification

In addition to the notification requirements in any Business Associate Agreement with METRO, when applicable, CONTRACTOR shall notify METRO of any data breach within 24 hours of CONTRACTOR's knowledge or reasonable belief (whichever is earlier) that such breach has occurred ("Breach Notice") by contacting the METRO ITS Help Desk. The Breach Notice should describe the nature of the breach, the scope of the information compromised, the date the breach occurred, and the identities of the individuals affected or potentially affected by the breach as well as specific information about the data compromised so that METRO can properly notify those individuals whose information was compromised. CONTRACTOR shall periodically update the information contained in the Breach Notice to METRO and reasonably cooperate with METRO in connection with METRO's efforts to mitigate the damage or harm of such breach.

8.7. Virus Representation and Warranty

CONTRACTOR represents and warrants that Products and/or Services, or any media upon which the Products and/or Services are stored, do not have, nor shall CONTRACTOR or its Agents otherwise introduce into METRO's systems, network, or infrastructure, any type of software routines or element which is designed to or capable of unauthorized access to or intrusion upon, disabling, deactivating, deleting, or otherwise damaging or interfering with any system, equipment, software, data, or the METRO network. In the event of a breach of this representation and warranty, CONTRACTOR shall compensate METRO for any and all harm, injury, damages, costs, and expenses incurred by METRO resulting from the breach.

For CONTRACTOR managed systems, CONTRACTOR shall install and maintain ICSA Labs certified or AV- Test approved Antivirus Software and, to the extent possible, use real time protection features. CONTRACTOR shall maintain the Anti-virus Software in accordance with the Antivirus Software provider's recommended practices. In addition, CONTRACTOR shall ensure that:

- Anti-virus Software checks for new Anti-virus signatures no less than once per day, and;
- Anti-virus signatures are current and no less recent than two versions/releases behind the most current version/release of the Anti-virus signatures for the Anti-virus Software

8.8. Copyright, Trademark, Service Mark, or Patent Infringement

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CONTRACTOR shall, at its own expense, be entitled to and shall have the duty to defend any suit that may be brought against METRO to the extent that it is based on a claim that the products or services furnished infringe a Copyright, Trademark, Service Mark, or Patent. CONTRACTOR shall further indemnify and hold harmless METRO against any award of damages and costs made against METRO by a final judgment of a court of last resort in any such suit. METRO shall provide CONTRACTOR immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable CONTRACTOR to do so. No costs or expenses shall be incurred for the account of CONTRACTOR without its written consent. METRO reserves the right to participate in the defense of any such action. CONTRACTOR shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon METRO unless approved by the METRO Department of Law Settlement Committee and, where required, the METRO Council.

If the products or services furnished under this Contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing CONTRACTOR's obligation to satisfy the final award, CONTRACTOR may at its option and expense:

- Procure for METRO the right to continue using the products or services
- Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to METRO, so that they become non-infringing
- Remove the products or discontinue the services and cancel any future charges pertaining thereto Provided; however, that CONTRACTOR will not exercise the Remove option above until CONTRACTOR and METRO have determined that the Procure and/or Replace options are impractical. CONTRACTOR shall have no liability to METRO; however, if any such infringement or claim thereof is based upon or arises out of:
- The use of the products or services in combination with apparatus or devices not supplied or else approved by CONTRACTOR;
- The use of the products or services in a manner for which the products or services were neither designated nor contemplated; or,
- The claimed infringement in which METRO has any direct or indirect interest by license or otherwise, separate from that granted herein.

8.9. Maintenance of Records

CONTRACTOR shall maintain documentation for all charges against METRO. The books, records, and documents of CONTRACTOR, insofar as they relate to work performed or money received under this Contract, shall be maintained for a period of three (3) full years from the date of final payment and will be subject to audit, at any reasonable time and upon reasonable notice by METRO or its duly appointed representatives. The records shall be maintained in accordance with generally accepted accounting principles. In the event of litigation, working papers and other documents shall be produced in accordance with applicable laws and/or rules of discovery.

Breach of the provisions of this paragraph is a material breach of this Contract.

All documents and supporting materials related in any manner whatsoever to this Contract or any designated portion thereof, which are in the possession of CONTRACTOR or any subcontractor or subconsultant shall be made available to METRO for inspection and copying upon written request from METRO. Said documents shall also be made available for inspection and/or copying by any state, federal or other regulatory authority, upon request from METRO. Said records include, but are not limited to, all drawings, plans, specifications, submittals, correspondence, minutes, memoranda, tape recordings, videos, or other writings or things which document the procurement and/or performance of this Contract. Said records expressly include those documents reflecting the cost, including all subcontractors' records and payroll records of CONTRACTOR and subcontractors.

8.10. Monitoring

CONTRACTOR's activities conducted and records maintained pursuant to this Contract shall be subject to monitoring and evaluation by METRO, the Department of Finance, the Division of Internal Audit, or their duly appointed representatives.

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METRO shall have the option of reviewing and performing a security assessment of the information security management practices of CONTRACTOR. METRO shall have the right, at its expense, during normal business hours and with reasonable advance notice, to evaluate, test, and review at CONTRACTOR's premises the Products and/or Services to ensure compliance with the terms and conditions of this Contract. METRO shall have the right to conduct such audits by use of its own employees and internal audit staff, or by use of outside consultants and auditors.

8.11. METRO Property

Any METRO property, including but not limited to books, records, and equipment that is in CONTRACTOR's possession shall be maintained by CONTRACTOR in good condition and repair, and shall be returned to METRO by CONTRACTOR upon termination of this Contract. All goods, documents, records, and other work product and property produced during the performance of this Contract are deemed to be METRO property. METRO property includes, but is not limited to, all documents which make up this Contract; all other documents furnished by METRO; all conceptual drawings, design documents, closeout documents, and other submittals by CONTRACTOR; and, all other original works of authorship, whether created by METRO or CONTRACTOR embodied in any tangible medium of expression, including, without limitation, pictorial, graphic, sculptural works, two (2) dimensional works, and three (3) dimensional works.

Except as to Contracts involving sensitive information, CONTRACTOR may keep one (1) copy of the aforementioned documents upon completion of this Contract; provided, however, that in no event shall CONTRACTOR use, or permit to be used, any portion of the documents on other projects without METRO's prior written authorization. CONTRACTOR shall maintain sensitive information securely and if required by METRO, provide secured destruction of said information. Distribution and/or reproduction of METRO sensitive information outside of the intended and approved use are strictly prohibited unless permission in writing is first received from the METRO Chief Information Security Officer. The storage of METRO sensitive information to third-party hosted network storage areas, such as Google Docs, Dropbox, or other cloud storage mechanisms, shall not be allowed without first receiving permission in writing from the METRO Chief Information Security Officer.

8.12. Modification of Contract

This Contract may be modified only by written amendment executed by all parties and their signatories hereto. All change orders, where required, shall be executed in conformance with section 4.24.020 of the Metropolitan Code of Laws.

8.13. Partnership/Joint Venture

This Contract shall not in any way be construed or intended to create a partnership or joint venture between the Parties or to create the relationship of principal and agent between or among any of the Parties. None of the Parties hereto shall hold itself out in a manner contrary to the terms of this paragraph. No Party shall become liable for any representation, act, or omission of any other Party contrary to the terms of this Contract.

8.14. Waiver

No waiver of any provision of this Contract shall affect the right of any Party to enforce such provision or to exercise any right or remedy available to it.

8.15. Employment

CONTRACTOR shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to race, creed, color, national origin, age, sex, or which is in violation of applicable laws concerning the employment of individuals with disabilities.

CONTRACTOR shall not knowingly employ, permit, dispatch, subcontract, or instruct any person who is an undocumented and/or unlawful worker to perform work in whole or part under the terms of this Contract.

Violation of either of these contract provisions may result in suspension or debarment if not resolved in a timely manner, not to exceed ninety (90) days, to the satisfaction of METRO.

8.16. Compliance with Laws

CONTRACTOR agrees to comply with all applicable federal, state and local laws and regulations.

8.17. Iran Divestment Act

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In accordance with the Iran Divestment Act, Tennessee Code Annotated § 12-12-101 et seq., CONTRACTOR certifies that to the best of its knowledge and belief, neither CONTRACTOR nor any of its subcontractors are on the list created pursuant to Tennessee Code Annotated § 12-12-106. Misrepresentation may result in civil and criminal sanctions, including contract termination, debarment, or suspension from being a contractor or subcontractor under METRO contracts.

8.18. Boycott of Israel

The CONTRACTOR certifies that it is not currently engaged in, and will not for the duration of the contract engage in, a boycott of Israel as defined by Tenn. Code Ann. § 12-4-119. This provision shall not apply to contracts with a total value of less than two hundred fifty thousand dollars (\$250,000) or to contractors with less than ten (10) employees.

8.19. Taxes and Licensure

CONTRACTOR shall have all applicable licenses and be current on its payment of all applicable gross receipt taxes and personal property taxes.

8.20. Ethical Standards

It shall be a breach of the Ethics in Public Contracting standards in the Metropolitan Code of Laws for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of the Ethics in Public Contracting standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical and legal standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under METRO contracts.

Pursuant to Metropolitan Code of Laws, Section 4.48.020, entities and persons doing business with, or proposing to do business with, the Metropolitan Government of Nashville & Davidson County must adhere to the ethical standards prescribed in Section 4.48 of the Code. By signing this contract, you agree that you have read the standards in Section 4.48 and understand that you are obligated to follow them. Violation of any of those standards is a breach of contract and a breach of legal standards that may result in sanctions, including those set out in Section 4.48.

8.21. Indemnification and Hold Harmless

CONTRACTOR shall indemnify and hold harmless METRO, its officers, agents, and employees from:

- A. Any claims, damages, costs, and attorney fees for injuries or damages to the extent caused by the negligent or intentional wrongful acts or omissions of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, in connection with the performance of the contract.
- B. Any claims, damages, penalties, costs, and attorney fees arising from any failure of CONTRACTOR, its officers, employees, and/or agents, including its sub or independent contractors, to observe applicable laws, including, but not limited to, labor laws and minimum wage laws.
- C. In any and all claims against METRO, its officers, agents, or employees, by any employee of CONTRACTOR, any subcontractor, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any subcontractor under workers' compensation acts, disability acts, or other employee benefit acts.
- D. METRO will not indemnify, defend, or hold harmless in any fashion CONTRACTOR from any claims arising from any failure, regardless of any language in any attachment or other document that CONTRACTOR may provide.

Contract Purchase Agreement **6605615#**

E. CONTRACTOR shall pay METRO any expenses incurred as a result of CONTRACTOR's failure to fulfill any obligation in a professional and timely manner under this Contract.

8.22. Attorney Fees

CONTRACTOR agrees that in the event either party takes legal action to enforce any provision of this Contract or to obtain a remedy for any breach of this Contract, and in the event METRO prevails in such action, CONTRACTOR shall pay all expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable attorney fees for METRO.

8.23. Assignment--Consent Required

The provisions of this Contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties hereto. Except for the rights of money due to CONTRACTOR under this Contract, neither this Contract nor any of the rights and obligations of CONTRACTOR hereunder shall be assigned or transferred in whole or in part without the prior written consent of METRO. Any such assignment or transfer shall not release CONTRACTOR from its obligations hereunder.

NOTICE OF ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF:

PRG@NASHVILLE.GOV (Preferred Method)

OR

**METRO'S PURCHASING AGENT
PROCUREMENT DIVISION
DEPARTMENT OF FINANCE
PO BOX 196300
NASHVILLE, TN 37219-6300**

Funds Assignment Requests should contain complete contact information (contact person, organization name, address, telephone number, and email) for METRO to use to request any follow up information needed to complete or investigate the requested funds assignment. To the extent permitted by law, METRO has the discretion to approve or deny a Funds Assignment Request.

8.24. Entire Contract

This Contract sets forth the entire agreement between the parties with respect to the subject matter hereof and shall govern the respective duties and obligations of the parties.

8.25. Force Majeure

No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by *force majeure*, meaning any act of God, storm, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

8.26. Governing Law

The validity, construction, and effect of this Contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that CONTRACTOR may provide.

8.27. Venue

Any action between the Parties arising from this Contract shall be filed, maintained, and resolved in the Circuit or Chancery Courts of Davidson County, Tennessee. CONSULTANT explicitly waives its right to remove any actions filed in the courts of Davidson County, Tennessee, to Federal court.

8.28. Severability

Should any provision of this Contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this Contract.

[BALANCE OF PAGE IS INTENTIONALLY LEFT BLANK]



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

12/18/2025

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Insight Risk - Nashville 2699 Fessey Ct Suite 100 Nashville TN 37204	CONTACT NAME: Lindsey Gordon PHONE (A/C, No, Ext): FAX (A/C, No): E-MAIL ADDRESS: lgordon@irmllc.com INSURER(S) AFFORDING COVERAGE INSURER A: Allmerica Financial Benefit INSURER B: CFC Underwriting Limited INSURER C: INSURER D: INSURER E: INSURER F:
INSURED Fairpointe Planning, LLC 2115 Yeaman Place, Ste. 210 Nashville TN 37206	NAIC # 41840

COVERAGES**CERTIFICATE NUMBER:** CL25121179851**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:	Y	Y	Z25M23113300	12/17/2025	12/17/2026	EACH OCCURRENCE \$ 1,000,000
	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000						
	MED EXP (Any one person) \$ 5,000						
	PERSONAL & ADV INJURY \$ 1,000,000						
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			AW5M23112400	12/17/2025	12/17/2026	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
	BODILY INJURY (Per person) \$						
	BODILY INJURY (Per accident) \$						
	PROPERTY DAMAGE (Per accident) \$						
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☒ RETENTION \$ 10,000			Z25M23113300	12/17/2025	12/17/2026	EACH OCCURRENCE \$ 1,000,000
	AGGREGATE \$ 1,000,000						
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N N	N / A	W25M23111700	12/17/2025	12/17/2026	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Professional Liability			PSO0040610252	12/17/2025	12/17/2026	Professional Liability \$2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

NDOT IDIQ project

Certificates are issued based on the insurance coverage included in the insurance program at the time this certificate was issued. Please review the certificate and contract to be certain the coverage provided meets the contractual obligations. To request any changes to the policy, the named insured must contact our agency.

Those usual to the Insured's Operations. Please see Additional Remarks Schedule on Acord Form 101 attached. RFQ# 396408

CERTIFICATE HOLDER**CANCELLATION**

Metro Government of Nashville & Davidson County ATTN: Purchasing ATTN: Purchasing Agent, Metro Courthouse 1 Public SQ NASHVILLE TN 37201-5007	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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AGENCY CUSTOMER ID: 00505540

LOC #:



ADDITIONAL REMARKS SCHEDULE

Page of

AGENCY Insight Risk - Nashville		NAMED INSURED Fairpointe Planning, LLC
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance: Notes

NDOT IDIQ
Metropolitan Government of Nashville and Davidson County, ATTN: Purchasing
Agent, Metro Courthouse
1 PUBLIC SQ NASHVILLE TN 37201-5007
Nashville, TN RFQ #396408
Notice of Cancellation will be provided in accordance with Form SS1223, attached to this policy. Coverage is primary and noncontributory and Waiver of Subrogation applies in favor of the Certificate Holder per the Business Liability Coverage Form SS0008, attached to this policy. Metropolitan Government of Nashville and Davidson County, its officials, officers employees and volunteers are additional insureds per the Business Liability Coverage Form SS0008, attached to this policy

Data Breach Coverage included in the Package Policy

Certificate Of Completion

Envelope Id: E20E7A7E-CE97-4019-BDFB-0BEB9544D13C
 Subject: URGENT!!! Metro Contract 6605615 with Fairpointe Planning, LLC (NDOT)
 Source Envelope:
 Document Pages: 113
 Certificate Pages: 17
 AutoNav: Enabled
 Envelopeld Stamping: Enabled
 Time Zone: (UTC-06:00) Central Time (US & Canada)

Status: Sent

Envelope Originator:
 Procurement Resource Group
 730 2nd Ave. South 1st Floor
 Nashville, TN 37219
 prg@nashville.gov
 IP Address: 170.190.198.190

Record Tracking

Status: Original 11/24/2025 9:45:56 AM	Holder: Procurement Resource Group prg@nashville.gov	Location: DocuSign
Security Appliance Status: Connected	Pool: StateLocal	
Storage Appliance Status: Connected	Pool: Metropolitan Government of Nashville and Davidson County	Location: Docusign

Signer Events

Signer Events	Signature	Timestamp
Zak Kelley Zak.Kelley@Nashville.gov Finance Manager Metro Nashville Government Security Level: Email, Account Authentication (None)	 Signature Adoption: Uploaded Signature Image Using IP Address: 104.189.125.42 Signed using mobile	Sent: 12/16/2025 4:19:18 PM Viewed: 12/16/2025 9:49:48 PM Signed: 12/16/2025 9:49:59 PM

Electronic Record and Signature Disclosure:
 Not Offered via Docusign

Kristin Kumrow Kristin.Kumrow@nashville.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.240	Sent: 12/16/2025 9:50:02 PM Viewed: 12/17/2025 7:16:58 AM Signed: 12/17/2025 7:17:13 AM
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Electronic Record and Signature Disclosure:
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Greg McClarin greg.mcclarin@nashville.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185	Sent: 12/17/2025 7:17:17 AM Viewed: 12/17/2025 8:44:40 AM Signed: 12/17/2025 8:45:00 AM
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Electronic Record and Signature Disclosure:
 Accepted: 12/17/2025 8:44:40 AM
 ID: a85a2461-41fa-4fff-aaaf-b4ea3842ca91

Tanisha Hall hallt@fairpointeplanning.com CEO Fairpointe Planning LLC Security Level: Email, Account Authentication (None)	 Signature Adoption: Uploaded Signature Image Using IP Address: 136.41.160.245	Sent: 12/17/2025 8:45:04 AM Viewed: 12/17/2025 3:55:24 PM Signed: 12/17/2025 3:57:47 PM
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Electronic Record and Signature Disclosure:

Signer Events	Signature	Timestamp
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Dennis Rowland dennis.rowland@nashville.gov Purchasing Agent & Chief Procurement Officer Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185	Sent: 12/17/2025 3:57:53 PM Viewed: 12/17/2025 4:26:26 PM Signed: 12/17/2025 4:26:36 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Diana Alarcon diana.alarcon@nashville.gov Director Metro Nashville Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.181 Signed using mobile	Sent: 12/17/2025 4:26:40 PM Viewed: 12/17/2025 4:40:07 PM Signed: 12/17/2025 4:40:16 PM
Electronic Record and Signature Disclosure: Accepted: 12/17/2025 4:40:07 PM ID: 7fca1c04-9dbc-4f6c-b8e0-40a085338823		
Jenneen Reed/MAL michelle.Lane@nashville.gov Deputy Director of Finance Metro Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.185	Sent: 12/17/2025 4:40:20 PM Viewed: 12/22/2025 4:53:04 PM Signed: 12/22/2025 4:53:19 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Jenneen Reed/mjw MaryJo.Wiggins@nashville.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 170.190.198.100	Sent: 12/22/2025 4:53:27 PM Viewed: 12/22/2025 5:59:48 PM Signed: 12/22/2025 6:01:21 PM
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Sally Palmer sally.palmer@nashville.gov Security Level: Email, Account Authentication (None)	Completed Using IP Address: 170.190.198.185	Sent: 12/22/2025 6:01:26 PM Viewed: 12/26/2025 7:23:32 AM Signed: 12/26/2025 7:29:38 AM
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Balogun Cobb balogun.cobb@nashville.gov Insurance Division Manager Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 2600:387:15:4d13::2 Signed using mobile	Sent: 12/26/2025 7:29:46 AM Viewed: 12/26/2025 10:01:58 AM Signed: 12/26/2025 10:02:08 AM
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Signer Events	Signature	Timestamp
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Erica Haber erica.haber@nashville.gov Security Level: Email, Account Authentication (None)	 Signature Adoption: Pre-selected Style Using IP Address: 2600:387:15:2410::b Signed using mobile	Sent: 12/26/2025 10:02:13 AM Viewed: 12/26/2025 12:33:00 PM Signed: 12/26/2025 12:34:31 PM
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In Person Signer Events	Signature	Timestamp
Editor Delivery Events	Status	Timestamp
Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Daniel Drumwright Daniel.drumwright2@nashville.gov Security Level: Email, Account Authentication (None)	COPIED	Sent: 12/16/2025 4:19:17 PM
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Sierra Washington sierra.Washington@nashville.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 12/4/2025 10:42:37 AM ID: d8b6da20-d785-45c2-a0b7-10de7b8cab03		
Kristi Schnell kristi.schnell@nashville.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 12/9/2025 7:25:50 AM ID: ccb480b7-8223-4d08-a0b7-116784e5426a		
Amber Gardner Amber.Gardner@nashville.gov Security Level: Email, Account Authentication (None)		

Carbon Copy Events	Status	Timestamp
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Austin Kyle publicrecords@nashville.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Accepted: 12/22/2025 1:12:57 PM ID: 6c5ef524-2ef3-48ba-9170-764593e125d3		
Terri Ray terri.ray@nashville.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Gary Clay gary.clay@nashville.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Alla Cross alla.cross@nashville.gov Security Level: Email, Account Authentication (None)		
Electronic Record and Signature Disclosure: Not Offered via DocuSign		
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
Envelope Summary Events	Status	Timestamps
Envelope Sent	Hashed/Encrypted	12/16/2025 4:19:17 PM
Envelope Updated	Security Checked	12/16/2025 4:23:21 PM
Envelope Updated	Security Checked	12/19/2025 1:50:46 PM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

1. ACCEPTANCE OF TERMS AND CONDITIONS These Terms and Conditions govern your ("Subscriber" or "you") use of DocuSign's on-demand electronic signature service (the "Subscription Service"), as accessed either directly through DocuSign.com, DocuSign.net, or through a DocuSign affiliate's web page offering a Service Plan (collectively, the "Site"). By depositing any document into the System (as defined below), you accept these Terms and Conditions (including your corresponding Service Plan, the DocuSign.com Terms of Use, and all policies and guidelines referenced and hereby incorporated into these Terms and Conditions) and any modifications that may be made to the Terms and Conditions from time to time. If you do not agree to these Terms and Conditions, you should not use the Subscription Service or visit or browse the Site. These Terms and Conditions constitute a binding legal agreement between you and DocuSign, Inc. ("DocuSign," "we," "us," and "our"). Please read them carefully and print a copy for your future reference.

2. MODIFICATION OF TERMS AND CONDITIONS We reserve the right to modify these Terms and Conditions at any time and in any manner at our sole discretion by: (a) posting a revision on the Site; or (b) sending information regarding the amendment to the email address you provide to us. **YOU ARE RESPONSIBLE FOR REGULARLY REVIEWING THE SITE TO OBTAIN TIMELY NOTICE OF ANY AMENDMENTS. YOU SHALL BE DEEMED TO HAVE ACCEPTED SUCH AMENDMENTS BY CONTINUING TO USE THE SUBSCRIPTION SERVICE FOR MORE THAN 20 DAYS AFTER SUCH AMENDMENTS HAVE BEEN POSTED OR INFORMATION REGARDING SUCH AMENDMENTS HAS BEEN SENT TO YOU.** You agree that we shall not be liable to you or to any third party for any modification of the Terms and Conditions.

3. DEFINITIONS "Account" means a unique account established by Subscriber to enable its Authorized Users to access and use the Subscription Service. "Authorized User" means any employee or agent of Subscriber, identified by a unique email address and user name, who is registered under the Account, provided that no two persons may register, access or use the Subscription Service as the same Authorized User. "Contract" refers to a contract, notice, disclosure, or other record or document deposited into the System by Subscriber for processing using the Subscription Service. "Envelope" means an electronic record containing one or more eContracts consisting of a single page or a group of pages of data uploaded to the System. "Seat" means an active Authorized User listed in the membership of an Account at any one time. No two individuals may log onto or use the Subscription Service as the same Authorized User, but Subscriber may unregister or deactivate Authorized Users and replace them with other Authorized Users without penalty, so long as the number of active Authorized Users registered at any one time is equal to or less than the number of Seats purchased. "Service Plan" means the right to access and use the Subscription Service for a specified period in exchange for a periodic fee, subject to the Service Plan restrictions and requirements that are used to describe the selected Service Plan on the Site. Restrictions and requirements may include any or all of the following: (a) number of Seats and/or Envelopes that a Subscriber may use in a month or year for a fee; (b) fee for sent Envelopes in excess of the number of Envelopes allocated to Subscriber under the Service Plan; (c) per-seat or per-user restrictions; (d) the license to use DocuSign software products such as DocuSign Connect Express in connection with the Subscription Service; and (e) per use fees. "Specifications" means the technical specifications set forth in the "Subscription Service Specifications" available at <http://docuSign.com/company/specifications>. "Subscription Service" means DocuSign's on-demand electronic signature service, as updated from time

to time, which provides on-line display, certified delivery, acknowledgement, electronic signature, and storage services for eContracts via the Internet. "System" refers to the software systems and programs, communication and network facilities, and hardware and equipment used by DocuSign or its agents to provide the Subscription Service. "Term" means the period of effectiveness of these Terms and Conditions, as specified in Section 12 below. "Transaction Data" means the metadata associated with an Envelope (such as transaction history, image hash value, method and time of Envelope deletion, sender and recipient names, email addresses and signature IDs) and maintained by DocuSign in order to establish the digital audit trail required by the Subscription Service.

4. SUBSCRIPTION SERVICE

During the term of the Service Plan and subject to these Terms and Conditions, Subscriber will have the right to obtain an Account and register its Authorized Users, who may access and use the Subscription Service, and DocuSign will provide the Subscription Service in material conformance with the Specifications. You must be 18 years of age or older to register for an Account and use the Subscription Service. Subscriber's right to use the Subscription Service is limited to its Authorized Users, and Subscriber agrees not to resell or otherwise provide or assist with the provision of the Subscription Service to any third party. In addition, DocuSign's provision of the Subscription Service is conditioned on Subscriber's acknowledgement and agreement to the following:

- (a) The Subscription Service facilitates the execution of eContracts between the parties to those eContracts. Nothing in these Terms and Conditions may be construed to make DocuSign a party to any eContract processed through the Subscription Service, and DocuSign makes no representation or warranty regarding the transactions sought to be effected by any eContract;
- (b) Between DocuSign and Subscriber, Subscriber has exclusive control over and responsibility for the content, quality, and format of any eContract. All eContracts stored by DocuSign are maintained in an encrypted form, and DocuSign has no control of or access to their contents;
- (c) If Subscriber elects to use one or more of the optional features designed to verify the identity of the intended recipient of an eContract that DocuSign makes available to its subscribers ("Authentication Measures"), DocuSign will apply only those Authentication Measures selected by the Subscriber, but makes no representations or warranties about the appropriateness of any Authentication Measure. Further, DocuSign assumes no liability for: (A) the inability or failure by the intended recipient or other party to satisfy the Authentication Measure; or (B) the circumvention by any person (other than DocuSign) of any Authentication Measure;
- (d) Certain types of agreements and documents may be excepted from electronic signature laws (e.g. wills and agreements pertaining to family law), or may be subject to specific regulations promulgated by various government agencies regarding electronic signatures and electronic records. DocuSign is not responsible or liable to determine whether any particular eContract is subject to an exception to applicable electronic signature laws, or whether it is subject to any particular agency promulgations, or whether it can be legally formed by electronic signatures;
- (e) DocuSign is not responsible for determining how long any d to be retained or stored under any applicable laws, regulations, or legal or administrative agency processes. Further, DocuSign is not responsible for or liable to produce any of Subscriber's eContracts or other documents to any third parties;
- (f) Certain consumer protection or similar laws or regulations may impose special requirements with respect to electronic transactions involving one or more "consumers," such as (among others) requirements that the consumer consent to the method of contracting and/or that the consumer be provided with a copy, or access to a copy, of a paper or other non-electronic, written record of the transaction. DocuSign does not and is not responsible to: (A) determine whether any

particular transaction involves a “consumer”? (B) furnish or obtain any such consents or determine if any such consents have been withdrawn; (C) provide any information or disclosures in connection with any attempt to obtain any such consents; (D) provide legal review of, or update or correct any information or disclosures currently or previously given; (E) provide any such copies or access, except as expressly provided in the Specifications for all transactions, consumer or otherwise; or (F) otherwise to comply with any such special requirements; and (g) Subscriber undertakes to determine whether any “consumer” is involved in any eContract presented by Subscriber or its Authorized Users for processing, and, if so, to comply with all requirements imposed by law on such eContracts or their formation. (h) If the domain of the primary email address associated with the Account is owned by an organization and was assigned to Subscriber as an employee, contractor or member of such organization, and that organization wishes to establish a commercial relationship with DocuSign and add the Account to such relationship, then, if Subscriber does not change the email address associated with the Account, the Account may become subject to the commercial relationship between DocuSign and such organization and controlled by such organization.

5. RESPONSIBILITY FOR CONTENT OF COMMUNICATIONS As between Subscriber and DocuSign, Subscriber is solely responsible for the nature and content of all materials, works, data, statements, and other visual, graphical, video, and written or audible communications submitted by any Authorized User or otherwise processed through its Account, the Subscription Service, or under any Service Plan. Accordingly: (a) Subscriber will not use or permit the use of the Subscription Service to send unsolicited mass mailings outside its organization. The term “unsolicited mass mailings” includes all statutory or common definitions or understanding of those terms in the applicable jurisdiction, such as those set forth for “Commercial Electronic Mail Messages” under the U.S. CAN-SPAM Act, as an example only; and (b) Subscriber will not use or permit the use of the Subscription Service: (i) to communicate any message or material that is defamatory, harassing, libelous, threatening, or obscene; (ii) in a way that violates or infringes upon the intellectual property rights or the privacy or publicity rights of any person or entity or that may otherwise be unlawful or give rise to civil or criminal liability (other than contractual liability of the parties under eContracts processed through the Subscription Service); (iii) in any manner that is likely to damage, disable, overburden, or impair the System or the Subscription Service or interfere with the use or enjoyment of the Subscription Service by others; or (iv) in any way that constitutes or encourages conduct that could constitute a criminal offense. DocuSign does not monitor the content processed through the Subscription Service, but in accordance with DMCA (Digital Millennium Copyright Act) safe harbors, it may suspend any use of the Subscription Service, or remove or disable any content that DocuSign reasonably and in good faith believes violates this Agreement or applicable laws or regulations. DocuSign will use commercially reasonable efforts to notify Subscriber prior to any such suspension or disablement, unless DocuSign reasonably believes that: (A) it is prohibited from doing so under applicable law or under legal process, such as court or government administrative agency processes, orders, mandates, and the like; or (B) it is necessary to delay notice in order to prevent imminent harm to the System, Subscription Service, or a third party. Under circumstances where notice is delayed, DocuSign will provide the notice if and when the related restrictions in the previous sentence no longer apply.

6. PRICING AND PER USE PURCHASES The prices, features, and options of the Subscription Service available for an Account depend on the Service Plan selected by Subscriber. Subscriber may also purchase optional services on a periodic or per-use basis. DocuSign may add or change the prices, features or options available with a

Service Plan without notice. Subscriber's usage under a Service Plan is measured based on the actual number of Seats as described in the Service Plan on the Site. Once a per-Seat Service Plan is established, the right of the named Authorized User to access and use the Subscription Service is not transferable; any additional or differently named Authorized Users must purchase per-Seat Service Plans to send Envelopes. Extra seats, users and/or per use fees will be charged as set forth in Subscriber's Service Plan if allowed by such Service Plan. If a Services Plan defines a monthly Envelope Allowance (i.e. # Envelopes per month allowed to be sent), all Envelopes sent in excess of the Envelope Allowance will incur a per-Envelope charge. Any unused Envelope Allowances will expire and not carry over from one billing period to another under a Service Plan. Subscriber's Account will be deemed to have consumed an Envelope at the time the Envelope is sent by Subscriber, regardless of whether Envelopes were received by recipients, or whether recipients have performed any actions upon any eContract in the Envelope. Powerforms are considered Envelopes within an Envelope Allowance Service Plan, and will be deemed consumed at the time they are "clicked" by any end user regardless of whether or not any actions are subsequently performed upon such Envelope. For Service Plans that specify the Envelope Allowance is "Unlimited," Subscriber is allowed to send a reasonable number of Envelopes from the number of Seats purchased. If DocuSign suspects that the number of Envelopes sent from a particular Seat or a group of Seats is abusive and/or unduly burdensome, DocuSign will promptly notify Subscriber, discuss the use-case scenario with Subscriber and any continued monitoring, additional discussions and/or information required to make a final determination on the course of action based on such information. In the event Subscriber exceeds, in DocuSign's sole discretion, reasonable use restrictions under a Service Plan, DocuSign reserves the right to transfer Subscriber into a higher-tier Service Plan without notice. If you misrepresent your eligibility for any Service Plan, you agree to pay us the additional amount you would have been charged under the most favorable pricing structure for which you are eligible. DocuSign may discontinue a Service Plan at any time, and with prior notice to you, may migrate your Account to a similar Service Plan that may carry a different fee. You agree to allow us to charge your credit card for the fees associated with a substitute Service Plan, even if those fees are higher than those you agreed to when you registered your Account. Optional services, are measured at the time of use, and such charges are specific to the number of units of the service(s) used during the billing period. Optional services subject to periodic charges, such as additional secure storage, are charged on the same periodic basis as the Service Plan fees for the Subscription Service.

7. SUBSCRIBER SUPPORT DocuSign will provide Subscriber support to Subscriber as specified in the Service Plan selected by Subscriber, and that is further detailed on DocuSign's website.

8. STORAGE DocuSign will store eContracts per the terms of the Service Plan selected by Subscriber. For Service Plans that specify the Envelope storage amount is "Unlimited," DocuSign will store an amount of Envelopes that is not abusive and/or unduly burdensome, in DocuSign's sole discretion. Subscriber may retrieve and store copies of eContracts for storage outside of the System at any time during the Term of the Service Plan when Subscriber is in good financial standing under these Terms and Conditions, and may delete or purge eContracts from the System at its own discretion. DocuSign may, at its sole discretion, delete an uncompleted eContract from the System immediately and without notice upon earlier of: (i) expiration of the Envelope (where Subscriber has established an expiration for such Envelope, not to exceed 365 days); or (ii) expiration of the Term. DocuSign assumes no liability or responsibility for a party's failure or inability to electronically sign any eContract within such a period of time. DocuSign may retain Transaction Data for as long as it has a

business purpose to do so. 9. BUSINESS AGREEMENT BENEFITS You may receive or be eligible for certain pricing structures, discounts, features, promotions, and other benefits (collectively, "Benefits") through a business or government Subscriber's agreement with us (a "Business Agreement"). Any and all such Benefits are provided to you solely as a result of the corresponding Business Agreement and such Benefits may be modified or terminated without notice. If you use the Subscription Service where a business or government entity pays your charges or is otherwise liable for the charges, you authorize us to share your account information with that entity and/or its authorized agents. If you are enrolled in a Service Plan or receive certain Benefits tied to a Business Agreement with us, but you are liable for your own charges, then you authorize us to share enough account information with that entity and its authorized agents to verify your continuing eligibility for those Benefits and the Service Plan. 10. FEES AND PAYMENT TERMS The Service Plan rates, charges, and other conditions for use are set forth in the Site. Subscriber will pay DocuSign the applicable charges for the Services Plan as set forth on the Site. If you add more Authorized Users than the number of Seats you purchased, we will add those Authorized Users to your Account and impose additional charges for such additional Seats on an ongoing basis. Charges for pre-paid Service Plans will be billed to Subscriber in advance. Charges for per use purchases and standard Service Plan charges will be billed in arrears. When you register for an Account, you will be required to provide DocuSign with accurate, complete, and current credit card information for a valid credit card that you are authorized to use. You must promptly notify us of any change in your invoicing address or changes related to the credit card used for payment. By completing your registration for the Services Plan, you authorize DocuSign or its agent to bill your credit card the applicable Service Plan charges, any and all applicable taxes, and any other charges you may incur in connection with your use of the Subscription Service, all of which will be charged to your credit card. Each time you use the Subscription Service, or allow or cause the Subscription Service to be used, you reaffirm that we are authorized to charge your credit card. You may terminate your Account and revoke your credit card authorization as set forth in the Term and Termination section of these Terms and Conditions. We will provide you with one invoice in a format we choose, which may change from time to time, for all Subscription Service associated with each Account and any charges of a third party on whose behalf we bill. Payment of all charges is due and will be charged to your credit card upon your receipt of an invoice. Billing cycle end dates may change from time to time. When a billing cycle covers less than or more than a full month, we may make reasonable adjustments and/or prorations. If your Account is a qualified business account and is approved by us in writing for corporate billing, charges will be accumulated, identified by Account identification number, and invoiced on a monthly basis. You agree that we may (at our option) accumulate charges incurred during your monthly billing cycle and submit them as one or more aggregate charges during or at the end of each cycle, and that we may delay obtaining authorization from your credit card issuer until submission of the accumulated charge(s). This means that accumulated charges may appear on the statement you receive from your credit card issuer. If DocuSign does not receive payment from your credit card provider, you agree to pay all amounts due upon demand. DocuSign reserves the right to correct any errors or mistakes that it makes even if it has already requested or received payment. Your credit card issuer's agreement governs your use of your credit card in connection with the Subscription Service, and you must refer to such agreement (not these Terms and Conditions) with respect to your rights and liabilities as a cardholder. You are solely responsible for any and all fees charged to your credit card by the issuer, bank, or financial institution including, but not limited to, membership,

overdraft, insufficient funds, and over the credit limit fees. You agree to notify us about any billing problems or discrepancies within 20 days after they first appear on your invoice. If you do not bring them to our attention within 20 days, you agree that you waive your right to dispute such problems or discrepancies. We may modify the price, content, or nature of the Subscription Service and/or your Service Plan at any time. If we modify any of the foregoing terms, you may cancel your use of the Subscription Service. We may provide notice of any such changes by e-mail, notice to you upon log-in, or by publishing them on the Site. Your payment obligations survive any termination of your use of the Subscription Service before the end of the billing cycle. Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Subscriber will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by DocuSign to collect any amount that is not paid when due. DocuSign may accept any check or payment in any amount without prejudice to DocuSign's right to recover the balance of the amount due or to pursue any other right or remedy. Amounts due to DocuSign under these Terms and Conditions may not be withheld or offset by Subscriber for any reason against amounts due or asserted to be due to Subscriber from DocuSign. Unless otherwise noted and Conditions are denominated in United States dollars, and Subscriber will pay all such amounts in United States dollars. Other than federal and state net income taxes imposed on DocuSign by the United States, Subscriber will bear all taxes, duties, VAT and other governmental charges (collectively, "taxes") resulting from these Terms and Conditions or transactions conducted in relation to these Terms and Conditions. Subscriber will pay any additional taxes as are necessary to ensure that the net amounts received and retained by DocuSign after all such taxes are paid are equal to the amounts that DocuSign would have been entitled to in accordance with these Terms and Conditions as if the taxes did not exist. 11.

DEPOSITS, SERVICE LIMITS, CREDIT REPORTS, AND RETURN OF BALANCES You authorize us to ask consumer reporting agencies or trade references to furnish us with employment and credit information, and you consent to our rechecking and reporting personal and/or business payment and credit history if, in our sole discretion, we so choose. If you believe that we have reported inaccurate information about your account to a consumer reporting agency, you may send a written notice describing the specific inaccuracy to the address provided in the Notices section below. For you to use the Subscription Service, we may require a deposit or set a service limit. The deposit will be held as a partial guarantee of payment. It cannot be used by you to pay your invoice or delayed payment. Unless otherwise required by law, deposits may be mixed with other funds and will not earn interest. We reserve the right to increase your deposit if we deem appropriate. You may request that we reevaluate your deposit on an annual basis, which may result in a partial or total refund of the deposit to you or credit to your account. If you default or these Terms and Conditions are terminated, we may, without notice to you, apply any deposit towards payment of any amounts you owe to us. After approximately 90 days following termination of these Terms and Conditions, any remaining deposit or other credit balance in excess of amounts owed will be returned without interest, unless otherwise required by law, to you at your last known address. You agree that any amounts under \$15 will not be refunded to cover our costs of closing your account. If the deposit balance is undeliverable and returned to us, we will hold it for you for one year from the date of return and, during that period, we may charge a service fee against the deposit balance. You hereby grant us a security interest in any deposit we require to secure the performance of your obligations under these Terms and

Conditions. 12. TERM AND TERMINATION The term of these Terms and Conditions for each Account begins on the date you register for an Account and continues for the term specified by the Service Plan you purchase (the "Term"). You may terminate your Account at any time upon 10 days advance written notice to DocuSign following the Notice procedures set forth in these Terms and Conditions. Unless you terminate your Account or you set your Account to not auto renew, your Service Plan will automatically renew at the end of its Term (each a "Renewal Term"), and you authorize us (without notice) to collect the then-applicable fee and any taxes for the renewed Service Plan, using any credit card we have on record for you. Service Plan fees and features may change over time. Your Service Plan for a Renewal Term will be the one we choose as being closest to your Service Plan from the prior Term. For any termination (including when you switch your Account), you will be responsible for payment of all fees and charges through the end of the billing cycle in which termination occurs. If you terminate your annual Service Plan Account within the first 30 days of the Term, you may submit written request to DocuSign following the Notice procedures set forth in these Terms and Conditions, for a full refund of the prepaid fees paid by you to DocuSign. You will be limited to one refund. You agree that termination of an annual Service Plan after the first 30 days will not entitle you to any refund of prepaid fees. You will be in default of these Terms and Conditions if you: (a) fail to pay any amount owed to us or an affiliate of ours or any amount appearing on your invoice; (b) have amounts still owing to us or an affiliate of ours from a prior account; (c) breach any provision of these Terms and Conditions; (d) violate any policy applicable to the Subscription Service; (e) are subject to any proceeding under the Bankruptcy Code or similar laws; or (f) if, in our sole discretion, we believe that your continued use of the Subscription Service presents a threat to the security of other users of the Subscription Service. If you are in default, we may, without notice to you, suspend your Account and use of the Subscription Service, withhold refunds and terminate your Account, in addition to all other remedies available to us. We may require reactivation charges to reactivate your Account after termination or suspension. The following provisions will survive the termination of these Terms and Conditions and your Account: Sections 3, 9-11, and 15-23. 13. SUBSCRIBER WARRANTIES You hereby represent and warrant to DocuSign that: (a) you have all requisite rights and authority to use the Subscription Service under these Terms and Conditions and to grant all applicable rights herein; (b) the performance of your obligations under these Terms and Conditions will not violate, conflict with, or result in a default under any other agreement, including confidentiality agreements between you and third parties; (c) you will use the Subscription Service for lawful purposes only and subject to these Terms and Conditions; (d) you are responsible for all use of the Subscription Service in your Account; (e) you are solely responsible for maintaining the confidentiality of your Account names and password(s); (f) you agree to immediately notify us of any unauthorized use of your Account of which you become aware; (g) you agree that DocuSign will not be liable for any losses incurred as a result of a third party's use of your Account, regardless of whether such use is with or without your knowledge and consent; (h) you will not use the Subscription Service in any manner that could damage, disable, overburden or impair the System, or interfere with another's use of the Subscription Service by others; (i) any information submitted to DocuSign by you is true, accurate, and correct; and (j) you will not attempt to gain unauthorized access to the System or the Subscription Service, other accounts, computer systems, or networks under the control or responsibility of DocuSign through hacking, cracking, password mining, or any other unauthorized means. 14. DOCUSIGN WARRANTIES DocuSign represents and warrants that: (a) the Subscription Service as delivered to Subscriber

and used in accordance with the Specifications will not infringe on any United States patent, copyright or trade secret; (b) the Subscription Service will be performed in accordance with the Specifications in their then-current form at the time of the provision of such Subscription Service; (c) any DocuSign Products that are software shall be free of harmful or illicit code, trapdoors, viruses, or other harmful features; (d) the proper use of the Subscription Service by Subscriber in accordance with the Specifications and applicable law in the formation of an eContract not involving any consumer will be sufficient under the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Â§Â§ 7001 et seq. (the "ESIGN Act") to E-SIGN Act; (e) the proper use of the Subscription Service by Subscriber in accordance with the Specifications and applicable law in the formation of an eContract involving a consumer will be sufficient under the E-SIGN Act to support the validity of such formation, to the extent provided in the E-SIGN Act, so long as and provided that Subscriber complies with all special requirements for consumer eContracts, including and subject to those referenced in Section 4.(f) and (g) above; and (f) DocuSign has implemented information security policies and safeguards to preserve the security, integrity, and confidentiality of eContracts and to protect against unauthorized access and anticipated threats or hazards thereto, that meet the objectives of the Interagency Guidelines Establishing Standards for Safeguarding Subscriber Information as set forth in Section 501 (b) of the Gramm-Leach-Bliley Act.

15. DISCLAIMER OF WARRANTIES EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES EXPRESSLY PROVIDED IN SECTION 14 OF THESE TERMS AND CONDITIONS, THE SUBSCRIPTION SERVICE AND THE SITE ARE PROVIDED "AS IS," AND DOCUSIGN: (a) MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER; (b) EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, AND TITLE; AND (c) DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICE OR SITE ARE OR WILL BE ERROR-FREE, WILL MEET SUBSCRIBER'S REQUIREMENTS, OR BE TIMELY OR SECURE. SUBSCRIBER WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE RESULTING FROM THE USE OF THE SUBSCRIPTION SERVICE OR SITE. SUBSCRIBER WILL NOT HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF DOCUSIGN TO ANY THIRD PARTY. USE OF THE SUBSCRIPTION SERVICE AND SITE ARE AT YOUR SOLE RISK. Because some states and jurisdictions do not allow limitations on implied warranties, the above limitation may not apply to you. In that event, such warranties are limited to the minimum warranty period allowed by the applicable law.

16. SUBSCRIBER INDEMNIFICATION OBLIGATIONS You will defend, indemnify, and hold us, our affiliates, officers, directors, employees, suppliers, consultants, and agents harmless from any and all third party claims, liability, damages, and costs (including, but not limited to, attorneys' fees) arising from or related to: (a) your use of the Subscription Service; (b) your violation of these Terms and Conditions; (c) your infringement, or infringement by any other user of your Account, of any intellectual property or other right of any person or entity; or (d) the nature and content of all materials, works, data, statements, and other visual, graphical, written, or audible communications of any nature submitted by any Authorized User of your Account or otherwise processed through your Account.

17. LIMITATIONS OF LIABILITY NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THESE TERMS AND CONDITIONS, DOCUSIGN WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO SUBSCRIBER

FOR ANY CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTIONS CONTEMPLATED UNDER THESE TERMS AND CONDITIONS, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. UNDER NO CIRCUMSTANCES WILL DOCUSIGN'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THESE TERMS AND CONDITIONS OR SUBSCRIBER'S USE OF THE SUBSCRIPTION SERVICE (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO DOCUSIGN UNDER THESE TERMS AND CONDITIONS DURING THE 3 MONTHS PRECEDING THE DATE OF THE ACTION OR CLAIM. EACH PROVISION OF THESE TERMS AND CONDITIONS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES REPRESENTS AN AGREED ALLOCATION OF THE RISKS OF THESE TERMS AND CONDITIONS BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY DOCUSIGN TO SUBSCRIBER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THESE TERMS AND CONDITIONS, AND EACH OF THESE PROVISIONS WILL APPLY EVEN IF THE WARRANTIES IN THESE TERMS AND CONDITIONS HAVE FAILED OF THEIR ESSENTIAL PURPOSE. Because some states and jurisdictions do not allow limitation of liability in certain instances, portions of the above limitation may not apply to you.

18. CONFIDENTIALITY – "Confidential Information" means any trade secrets or other information of DocuSign, whether of a technical, business, or other nature (including, without limitation, DocuSign software and related information), that is disclosed to or made available to Subscriber. Confidential Information does not include any information that: (a) was known to Subscriber prior to receiving it from DocuSign; (b) is independently developed by Subscriber without use of or reference to any Confidential Information; (c) is acquired by Subscriber from another source without restriction as to use or disclosure; or (d) is or becomes part of the public domain through no fault or action of Subscriber. During and after the Term of these Terms and Conditions, Subscriber will: (i) use the Confidential Information solely for the purpose for which it is provided; (ii) not disclose such Confidential Information to a third party; and (iii) protect such Confidential Information from unauthorized use and disclosure to the same extent (but using no less than a reasonable degree of care) that it protects its own Confidential Information of a similar nature. If Subscriber is required by law to disclose the Confidential Information or the terms of these Terms and Conditions, Subscriber must give prompt written notice of such requirement before such disclosure and assist the DocuSign in obtaining an order protecting the Confidential Information from public disclosure. Subscriber acknowledges that, as between the parties, all Confidential Information it receives from DocuSign, including all copies thereof in Subscriber's possession or control, in any media, is proprietary to and exclusively owned by DocuSign. Nothing in these Terms and Conditions grants Subscriber any right, title, or interest in or to any of the Confidential Information. Subscriber's incorporation of the Confidential Information into any of its own materials shall not render Confidential Information non-confidential. Subscriber acknowledges that any actual or threatened violation of this confidentiality provision may cause

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