



## **Request for Proposals Regional STOPS Forecasting Model CIM 19P282**

Metropolitan Council is seeking proposals for the following services: Consultant implement and validate a regional STOPS transit ridership model for the MSP region.

The specific services requested in this RFP are detailed in the *Attachment to the Proposal Instruction: Scope of Work*.

Failure to follow these instructions and requirements may result in the rejection or disrating of your proposal. The Council is not responsible for any costs incurred by prospective proposers (Proposers) in the preparation and presentation of their proposals.

The Metropolitan Council intends to issue a Purchase Order for the services on this project in February 2020.

The Project Time Frame is given below:

<b><u>Project Milestone</u></b>	<b><u>Tentative Completion Date</u></b>
Issue Date	November 8, 2019
Questions Due	November 22, 2019
Proposals Due	December 6, 2019 2PM CDT
Award	February 2020

Proposals will be evaluated by an Evaluation Panel to assess the Proposer's likelihood of successfully accomplishing the prospective project.

<b>Ranking</b>	<b>Evaluation Criteria</b>
1	The quality of the proposal including, without limitation, its completeness in addressing the requirements of this RFP and Scope of Work, the work plan and schedule submitted as a part of the proposal and demonstrated grasp of the work required for this project.
2	The qualifications of the proposer including, without limitation, general qualifications, specialized qualifications and professional competence in areas directly related to this RFP, and successful completion of similar projects.
3	The experience of the Proposer on similar projects including, without limitation, any references provided by the Proposer.
The price of the proposal. Price will be approximately equal in importance to a combination of all other criteria shown above.	



The Evaluation Panel will review, analyze, and evaluate all proposals based on the Evaluation Criteria. A determination will be made as to which proposal, if any, is **most advantageous to the Council**, by considering the evaluations of the proposals, the best value to the Council, and the best interests of the Council.

**Items that must accompany your proposal are given below. If any required item is omitted, the proposal may be found non-responsive and will not receive further consideration.**

- A statement of qualifications and relevant firm experience
- A detailed work plan addressing each of the tasks in the Scope of Work
- A list of key personnel assigned to the project
- A project schedule
- A detailed price proposal by task executed by an officer of the proposing firm
- Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

All written proposals must be addressed to the RFP Administrator given below:

**Sally Amoe  
Metropolitan Council  
Proposal for "Regional STOPS Forecasting Model" enclosed  
390 N. Robert St  
St. Paul, MN 55101**

Proposals must be physically delivered to the offices of the Council, at the above address by the date and time indicated on page 1. Proposals received after the specified time and date may not be considered, at the Council's discretion.

**If proposals are sent by U.S. mail or other delivery service, it is wholly the responsibility of the Proposer to ensure that the proposal package is properly addressed and physically delivered on time.**

The submission of a proposal shall constitute an acknowledgment upon which the Council may rely that the Proposer has thoroughly examined and is familiar with the RFP, the attachments (including the Scope of Work), the addenda (if any), and work sites as applicable, and has reviewed and inspected all applicable statutes, regulations, ordinances and resolutions dealing with or related to the services to be provided. The failure or neglect of a Proposer to do so shall in no way relieve the Proposer from any obligations with respect to the proposal or the contract issued as a result of this RFP. No claim for additional compensation will be allowed which is based upon a lack of knowledge of any aspect of the RFP, attachments (including the Scope of Work), addenda (if any), work sites, statutes, regulations, ordinances or resolutions.



Copyrighted proposals will **not** be accepted. The Minnesota Government Data Practices Act provides that the names of proposers are public once a proposal is selected. With the exception of trade secret information as defined in Minnesota Statutes, section 13.37, all other information submitted by a proposer in response to this RFP becomes public at the times specified in the act and is then available to any person upon request.

The Council reserves the right to cancel this RFP in writing or postpone the date and time for submitting proposals at any time prior to the proposal due date. No proposer shall have a right to make a claim against the Council in the event the Council accepts a proposal or does not accept any or all proposals. The Council by this RFP does not promise to accept the lowest cost or any other proposal and specifically reserves the right to reject any or all proposals, to waive any formal proposal requirements, to investigate the qualifications and experience of any proposer, to reject any provisions in any proposal, to modify RFP contents, to obtain new proposals, to negotiate the requested services and contract terms with any proposer, or to proceed to do the work otherwise.

The Council will evaluate Proposers for responsibility. The responsibility evaluation will be based on the criteria listed below (a-i). By submitting a proposal, the Proposer agrees to provide additional information, upon request, with respect to the listed criteria. If the proposer refuses to provide the information upon request, it may be disqualified from further consideration:

- (a) Financial resources adequate to perform the contract, or the ability to obtain them;
- (b) Ability to meet the required delivery or performance schedule, taking into consideration all existing commercial and governmental business commitments;
- (c) A satisfactory performance record;
- (d) A satisfactory record of integrity and business ethics;
- (e) The necessary organization, experience, accounting, and operational controls, and technical skills, or the ability to obtain them;
- (f) Compliance with applicable licensing and tax laws and regulations;
- (g) The necessary production, construction, and technical equipment and facilities, or the ability to obtain them;
- (h) Compliance with Affirmative Action and Disadvantaged Business Program requirements; and
- (i) Other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulations.
- (j) Disclosure of all actual, potential, and perceived conflicts of interest and adequate mitigation if applicable.

All questions regarding this RFP are to be directed only to the RFP Administrator. **Proposers may be disqualified if any unsolicited contact related to this RFP is made with an employee or representative of the Council other than the RFP Administrator during the proposal process.**



If any person contemplating submitting a proposal is in doubt as to the true meaning of any part of the Scope of Work, or other RFP documents, or finds discrepancies in or omissions from the specifications, the person may submit to the RFP Administrator a written request for an interpretation or correction by **November 22, 2019. Only written requests will be accepted.**

The person submitting the request will be responsible for its prompt delivery. Legible fax transmissions of written requests and e-mailed questions are acceptable. If the RFP Administrator elects to answer any questions, all RFP recipients will receive a written response.

Any corrections or changes to the RFP will be made by written addendum only and will be distributed to all known recipients of the RFP document at the address provided by the recipient.

Sincerely,

Sally Amoe  
RFP Administrator, Metropolitan Council

## Regional STOPS Model Development- Scope of Work

In 2013, the Federal Transit Administration (FTA) released STOPS- Simplified Trips-on-Project Software for transit forecasting for the FTA's Capital Investment Grants program. FTA has maintained and enhanced this software since its release and it is currently in version 2.5. Over the past few years, transit forecasting, both for FTA and for other purposes has been done using STOPS. Nationwide, FTA reports that more than 80% of CIG forecasts are being done in STOPS. In the MSP region, the Council has encouraged the use of STOPS since 2016 and several transit corridor forecasts, both inside and outside the FTA pipeline have been produced with STOPS. The Council is now seeking proposals for developing a regional-scale STOPS implementation. This will ease coordination among forecasting efforts being done by multiple consultants and agencies, will allow the Council to distribute more reliable input data for new projects, and allow a good base for Council staff to use STOPS more broadly.

### Task 1- Work Plan and Project Management

The Council project manager will be assisted by other forecasting staff as necessary in oversight of each task of the project. It is expected that regular meetings, either by phone, web, or in-person, will be required through the length of the project.

The consultant should propose a schedule by task. The Council anticipates that the entire project should be accomplished in 6-9 months from notice to proceed.

The consultant should propose a quality control plan to ensure accuracy of all deliverables.

### Task 2: Review of Previous STOPS Implementations

The consultant should obtain STOPS model runs from regional STOPS efforts to-date including:

- Gold Line (Metropolitan Council- Gold Line Project Office)

- Rush Line (Ramsey County)

- Orange Line Extension (Dakota County)

- E-Line (Metropolitan Council- Metro Transit)

The consultant should review differences between these models, including model extent, calibration, district definition, and parameters.

The consultant should review regional STOPS model implementations in peer regions, and describe key lessons from those projects.

Deliverables: Technical memorandum

### Task 3: Model implementation

The consultant will implement an incremental STOPS model using the most recent FTA released version for the MSP region. The model will cover the entire regional transit system, including routes operated by Metro Transit, University of Minnesota, Minnesota Valley Transit Authority, Plymouth MetroLink, SouthWest Transit, and Maple Grove Transit. Initial parameters will be developed in consultation with FTA staff. The consultant will propose a district system for validation consistent with past STOPS calibration efforts, as well as regional model calibration

efforts. The Council will provide data from the 2016 On Board Survey to assist in model implementation.

Deliverables: Base year STOPS model

#### Task 4: Model validation

The consultant will validate the model against current year data. Validation will include checking and ensuring that STOPS accurately represents observed transit travel purposes, flows, access modes, transfers, fixed guideway share, and ridership by mode, route, and station/stop group. The validation will examine model performance in all current and planned fixed guideway corridors.

Deliverables: Regional STOPS model validation report.

#### Task 5: Base forecast

The consultant will develop a current year base forecast STOPS scenario. This will include all transitway improvements in the region's 2040 Transportation Policy Plan. The consultant will develop future year (2040) STOPS forecast from the current year forecast. This forecast will include all transitway improvements in the region's 2040 Transportation Policy Plan.

Deliverables: Regional STOPS model- base and future year forecast scenario model runs

#### Task 6: Analysis Tools

The consultant will develop scripts to post-process STOPS data to extract key tables and statistics for ridership forecasting.

Deliverables: Analysis scripts with documentation

#### Task 7: Documentation and User Guide

The consultant will thoroughly document the implementation of the STOPS model, including all data sources and parameters used, in a technical memorandum. The memorandum will include validation statistics. The consultant will develop a step-by-step user guide, clearly describing how to build a model run consistent with the base forecast from local data.

Deliverables: STOPS Model implementation Technical Memorandum and User Guide

**PURCHASE ORDER TERMS AND CONDITIONS  
PROFESSIONAL/TECHNICAL SERVICES  
(FTA without DBE Goal)**

The following terms and conditions will apply to this procurement:

**1. Definitions.** As used in this purchase order, “Buyer” means the Metropolitan Council or a division, program, or department of the Metropolitan Council. “Vendor” means the individual, company, or organization from whom the services are ordered. “Work” means the provision of the services ordered under this purchase order, including furnishing necessary parts, materials, machinery, tools, and equipment.

**2. Purchase Order Authority; Applicable Terms.** The Vendor's copy of the purchase order, when properly signed, is recognized by the Buyer as authority for commencing performance of the Work, supersedes all previous communications and negotiations except as specifically incorporated, and constitutes the entire agreement between the parties. No terms stated by the Vendor in accepting or acknowledging an order shall be binding on the Buyer unless accepted in writing by the Buyer. In particular, commencement of performance of the Work by the Vendor in the absence of the Buyer's agreement to the Vendor's proposed terms will constitute the Vendor's acceptance of the terms of this purchase order and any terms or documents incorporated in this purchase order by reference. This order is subject to any special specifications, terms or conditions accompanying or incorporated by reference in this order by the Buyer.

**3. Completion of Work; Payment.** The Work must be completed no later than the delivery date or dates specified in this purchase order. Unless the Buyer agrees otherwise, services on the Buyer's property must be provided between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday, excluding holidays.

The Vendor shall submit a monthly invoice containing Vendor's estimate of payment due and owing based on the percentage completion of the Work during the billing period. On verification and acceptance by the Buyer, the Buyer will pay Vendor the invoiced amount. Upon completion of the Work, the Vendor shall submit a final invoice and request for payment of the amounts then owing. The Buyer will pay this final invoice upon the Buyer's approval and acknowledgement of satisfactory completion of the Work.

**4. General Terms.** The Vendor will supervise and be solely responsible for all aspects of the Work. Unless the Buyer agrees otherwise, the Vendor will provide and pay for all labor, materials, parts, equipment, tools, machinery, transportation, and other facilities necessary for completion of the Work. The Vendor shall be responsible for the satisfactory work performance of all its employees or subcontractors in performing the Work. Persons employed by the Vendor to perform the Work shall not be considered employees of the Buyer for any purpose.

The Vendor shall procure and keep current any licenses, permits, or certificates which may be required for the performance of the Work and will obtain and pay for all permits, licenses, and inspections necessary for completion of the Work.

All reports, data, materials, information, and other work products prepared and developed in connection with the provision of services: (a) shall become the property of the Buyer; (b) shall not be the subject of an application for copyright by or on behalf of the Vendor, its subcontractors, their agents or employees; and (c) shall not be made available to any person without the prior written approval of the Buyer.

**5. [Reserved]**

**6. Indemnity; Insurance.** The Vendor agrees to defend, indemnify, and save the Buyer harmless from any expenses, damages, or claims arising from the performance under this purchase order by the Vendor, its agents or employees.

The Vendor shall procure and maintain insurance sufficient to protect the Buyer against claims for injuries to persons or damage to property which may arise from or in connection with the performance of the Work by the Vendor or its employees, subcontractors, representatives or agents.

**7. [Reserved]**

**8. Applicable Law; Compliance with Law.** The laws of the state of Minnesota shall govern this purchase. In the performance of its obligations pursuant to this contract, the Vendor agrees to comply with all applicable provisions of federal, state, and local laws, regulations, and directives, and agrees that the most recent of such provisions will govern this contract at any particular time.

**9. Non-Discrimination.** The Vendor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to public assistance, membership or activity in a local civil rights commission, disability, or age.

**10. Record-keeping; Audit.** The Vendor agrees to keep and maintain during the performance of this purchase and for a period of six years following, records and files relating to the final financial aspects of this purchase, and further agrees to allow the Buyer or designated federal or state personnel to enter on the Vendor's premises and to inspect, copy and audit the above records, files, and premises.

**11. [Reserved]**

**12. Conflict of Interest.** The Vendor certifies that to the best of its knowledge no officer or employee of the Buyer has any pecuniary interest in the business of the Vendor and that no person associated with the Vendor has any interest that would conflict in any manner or degree with the provision of services under this purchase order.

**13. Workers Compensation; Tax Withholding.** Vendor represents that it is compliance with the workers compensation coverage requirements of Minnesota Statutes, section 176.181, subdivision 2, and that it, and all its subcontractors or material suppliers under this contract, are in compliance with the tax withholding on wages requirements of Minnesota Statutes, section 290.92.

**14. Termination.** The Buyer may terminate this purchase order at any time and for any reason by giving Vendor thirty days written notice of the termination. In such event, all Work completed by Vendor shall become the property of Buyer and Vendor shall be entitled to compensation for all authorized services satisfactorily completed under this purchase order prior to the date of termination.

**15. Data Practices.** Consistent with Minnesota Statutes, section 13.05, subdivision 6, if any data on individuals is made available to the Vendor by the Buyer pursuant to this purchase order, the Vendor will administer and maintain any such data in accordance with Minnesota Statutes, Chapter 13 (the "Minnesota Government Data Practices Act"), and any other statutory provisions applicable to the data. If and to the extent that Minnesota Statutes, section 13.05, subdivision 11, is applicable to this purchase order, then: a) all of the data created, collected, received, stored, used, maintained, or disseminated by the Vendor in performing this purchase order are subject to the requirements of the Minnesota Government Data Practices Act; b) the Vendor must comply with those requirements as if it were a government entity; and c) the remedies in Minnesota Statutes, section 13.08 apply to the Vendor. In the event the Vendor receives a request to release data referred to in this section, the Vendor must immediately notify the Buyer. The Buyer will give the Vendor instructions concerning the release of the data to the requesting party before the data is released.

**16. Assignment.** The Vendor shall perform with its own organization all the work provided for under this purchase order and shall not assign, subcontract, sublet, or transfer any of the work without receiving the express written consent of the Buyer.

**17. Commissioner of Health Licensing, Certifications, and Rules.** All asbestos-related work or asbestos management activity, if any, performed by the Vendor under this purchase order shall be performed: a) by persons or subcontractors licensed or certified (for the types of such work or activity to be carried out) by the Commissioner of Health under the Minnesota Asbestos Abatement Act, Minnesota Statutes, sections 326.70 to 326.81; and b) in accordance with rules prescribed by the Commissioner of Health related to asbestos abatement and asbestos management activity. Prior to commencing any such work, the Vendor shall provide to the Buyer copies of currently valid licenses or certificates (for all the types of asbestos-related work or asbestos management activities to be carried out under this purchase order) issued by the Commissioner of Health under the Minnesota Asbestos Abatement Act.



These clauses are required because this procurement is funded in whole or in part by the United States Department of Transportation (USDOT), Federal Transit Administration. The requirements in these clauses are in addition to and, unless inconsistent and irreconcilable, do not supplant requirements found elsewhere in this purchase order. If any requirements in these clauses are inconsistent with a provision found elsewhere in this purchase order and is irreconcilable with such provision, the requirement in these clauses shall prevail. For the purposes of these clauses, the term "Contractor" shall refer to the Vendor and the term "Council" shall refer to the Buyer.

**FTA-1 Fly America Requirements.** The CONTRACTOR agrees to comply with U.S.C. 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

**FTA-2 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 federal Energy Policy and Conservation Act.

**FTA-3 Access to Records and Reports.** The CONTRACTOR agrees to provide the COUNCIL, the FTA Administrator, the Comptroller General of the United States, and any of their authorized representatives access to any books, documents, papers and records of the CONTRACTOR which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions. CONTRACTOR also agrees, pursuant to 49 C.F.R. 633.17, to provide the FTA Administrator or the Administrator's authorized representatives, including any project management oversight (PMO) CONTRACTOR, access to CONTRACTOR's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309, or 5311. The CONTRACTOR agrees to permit any of the foregoing parties to reproduce such documents by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. In addition to any requirements for maintenance of project records and documents in this purchase order, CONTRACTOR agrees to maintain such records and documents until the FTA Administrator, the Comptroller General, or any of their duly authorized representatives have disposed of all litigation, appeals, claims or exceptions arising from the performance of this Contract

**FTA-4 Federal Changes.** The CONTRACTOR shall comply with the required FTA clauses set forth in this contract and with all applicable FTA regulations, policies, procedures and directives including, without limitation, those listed directly or by reference in the agreement between the COUNCIL and FTA. The CONTRACTOR's failure to comply with applicable FTA regulations, policies, procedures, and directives, as they may be amended or promulgated from time to time during the term of this contract, shall constitute a material breach of this contract.

**FTA-5 Recovered Materials.** The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR part 247.

**FTA-6 No Obligation by the Federal Government.** The COUNCIL and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the federal government in or approval of the solicitation or award of this 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 COUNCIL, CONTRACTOR, or any other party (whether or not a party to the Contract) pertaining to any matter resulting from this Contract. The CONTRACTOR agrees to include the language in this section FTA-6 in each subcontract under this Contract, modified only to identify the subcontractor that will be subject to the provisions.

**FTA-7 Program Fraud and False or Fraudulent Statements or Related Acts.** The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. Section 3801 *et seq.*, and USDOT regulations, “*Program Fraud Civil Remedies*,” 49 CFR part 31, apply to its actions pertaining to this contract. Upon execution of this 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 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 U.S.C. Section 5307, the Federal Government reserves the right to impose the penalties of 18 U.S.C. Section 1001 and 49 U.S.C. Section 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate. The CONTRACTOR agrees to include the language in this section FTA-7 in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

**FTA-8 Civil Rights.** The following requirements apply to this Contract:

**1. Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and federal transit law at 49 U.S.C. § 5332, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR agrees to comply with applicable federal implementing regulations and other implementing requirements FTA may issue.

**2. Equal Employment Opportunity.** The following equal employment opportunity requirements apply to this Contract:

**a. Race, Color, Creed, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 200e, 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,” 42 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of this Contract. The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

**b. Age.** In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §§ 623 and Federal transit law at 49 U.S.C. § 532, the CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

**c. Disabilities.** In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR agrees to comply with any implementing requirements FTA may issue.

**3. Inclusion in Subcontracts.** The CONTRACTOR agrees to include the requirements of this Section FTA-8 in each subcontract under this contract, modified only to identify the subcontractor that will be subject to the provisions.

**FTA-9 Disadvantaged Business Enterprise (“DBE”).**

**1. Nondiscrimination.** Pursuant to 49 CFR section 26.13, the CONTRACTOR, sub-recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the COUNCIL deems appropriate. The CONTRACTOR shall include this requirement in all subcontracts pursuant to this contract.

**2. Prompt Payment.** The CONTRACTOR agrees to pay subcontractors within ten (10) calendar days of the CONTRACTOR's receipt of payment from the COUNCIL for undisputed services provided by the subcontractor. The CONTRACTOR agrees to pay subcontractors all undisputed retainage payments within ten (10) calendar days of the CONTRACTOR's receipt of payment of retainage from the COUNCIL. The CONTRACTOR shall not postpone or delay any undisputed payments owed subcontractors without good cause and without prior written consent of the COUNCIL. The CONTRACTOR agrees to include in all subcontracts a provision requiring the use of appropriate alternative dispute resolution mechanisms to resolve payment disputes. The CONTRACTOR will not be reimbursed for work performed by subcontractors unless and until the CONTRACTOR ensures that subcontractors are promptly paid for work they have performed. Failure to comply with the provisions of this section may result in the Council finding CONTRACTOR in noncompliance with the DBE provisions of this contract.

**FTA-10 Incorporation of FTA Terms.** Specific provisions in this contract include, in part, certain standard terms and conditions required by USDOT, whether or not expressly set forth in the contract provisions. All contractual provisions required by USDOT, as set forth in 49 CFR section 18.36 and FTA Circular 4220.1D, dated April 15, 1996, are hereby incorporated by reference. Notwithstanding anything to the contrary in this contract, 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 COUNCIL requests which would cause the COUNCIL to be in violation of the FTA terms and conditions.

**FTA-11 Reserved.**

**FTA-12 Reserved.**

**FTA-13 Reserved.**

**FTA-14 Reserved.**

**FTA-15 Seismic Safety Requirements.** The CONSULTANT agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR part 41 and will certify compliance to the extent required by the regulation. The CONSULTANT also agrees to ensure that all Work performed under this agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

**FTA-16 Rights in Data and Patent Rights.** The following requirements apply to each contract involving experimental, developmental, or research work:

1. The term "subject data" used in this contract means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
2. The following restrictions apply to all subject data first produced in the performance of the contract to which this attachment has been added:
  - a. Except for its own internal use, the CONSULTANT may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the CONSULTANT authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
  - b. In accordance with 49 CFR section 18.34 and 49 CFR section 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this paragraph below.

As used in the previous sentence, “for Federal Government purposes,” means use only for the direct purposes of the Federal Government. Without the copyright owner’s consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the CONSULTANT using Federal assistance in whole or in part provided by FTA.

c. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA’s general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the CONSULTANT performing experimental, developmental, or research work required by the underlying contract to which this attachment is added agrees to permit FTA to make available to the public, either FTA’s license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this paragraph and shall be delivered as the Federal Government may direct. This subsection (c) , however, does not apply to adaptations of automatic data processing equipment or programs for the CONSULTANT’s use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

d. Unless prohibited by state law, upon request by the Federal Government, the CONSULTANT agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the CONSULTANT of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The CONSULTANT shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

e. Nothing contained in this paragraph on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

f. Data developed by the CONSULTANT and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this paragraph, provided that the CONSULTANT identifies that data in writing at the time of delivery of the contract work.

g. Unless FTA determines otherwise, the CONSULTANT agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

3. Unless the Federal Government later makes a contrary determination in writing, irrespective of the CONSULTANT’s status (i.e. , a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the CONSULTANT agrees to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” 37 CFR part 401.

4. The CONSULTANT also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

The following requirements apply to each contract involving experimental, developmental, or research work:

1. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the CONSULTANT agrees to take actions necessary to provide immediate notice and a detailed report to the COUNCIL until FTA is ultimately notified.

2. Unless the Federal Government later makes a contrary determination in writing, irrespective of the CONSULTANT’s status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the CONSULTANT agrees to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” 37 CFR part 401.

3. The CONSULTANT also agrees to include the requirements of this paragraph in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA



## DOCUMENT 00457

### CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

Bidder Company Name: \_\_\_\_\_

Project Number: CIM 19P282

#### INSTRUCTIONS FOR CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION:

1. **By signing and submitting this bid, the prospective lower tier participant is providing the signed certification set out below.**
2. The certification referred to in this paragraph is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Council may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to the Council if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered participant," "persons," "lower tier covered transaction," "principal," "bid," and "voluntarily excluded," as used in this paragraph, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549, 49 CFR part 29. You may contact the Council for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this bid that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by the Council.
6. **The prospective lower tier participant further agrees by submitting this bid that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion — Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.**
7. A participant in a covered transaction may rely upon certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principles. Each participant may, but is not required to, check the Nonprocurement List issued by U.S. General Service Administration.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this paragraph. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under subparagraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is



suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, the Council may pursue available remedies including suspension and/or debarment.

### **CERTIFICATION**

1. The prospective lower tier participant certifies, by submission of this bid, that neither it nor its "principals" (as defined at 49 CFR section 29.105(p)) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.
2. When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this certification.

Bidder Name: \_\_\_\_\_

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

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

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

**END OF DOCUMENT**