



**HOOD RIVER COUNTRY TRANSPORTATION DISTRICT (HRCTD)
REQUEST FOR PROPOSALS FOR STRATEGIC MARKETING CONSULTANT
SERVICES**

November 19, 2021

Due Date: Thursday, December 16, 2021

Time: 10:00 A.M. Pacific Standard Time (PST)

Receipt Location:

HRCTD Administrative Offices

ATTN: Amy Schlappi, Contracting Officer

Physical Address: 224 Wasco Loop

Mailing Address: P.O. BOX 1147

Hood River, OR 97031

HRCTD CONTACT INFORMATION

HRCTD Contact	Amy Schlappi, Planning & Development Manager	Phone	(541) 386-4202
Email	Amy.schlappi@catransit.org	Bid Due Date	December 16, 2021

BACKGROUND

The Hood River County Transportation District, commonly known as CAT provides public transportation services within Hood River County. Services are also provided to The Dalles, Mosier, Troutdale and Portland. CAT was formed by the voters of Hood River County on July 1, 1993 and is a transportation district as defined under Oregon Revised Statutes 267. CAT primarily provides fixed route, deviated fixed route, demand response and ADA complementary paratransit services using local property tax, fare revenue, miscellaneous funds, Federal and State funds passed through the Oregon Department of Transportation and Federal Lands Access Program funds from the U.S. Forest Service. CAT has an operating budget of approximately \$2 million and a capital budget of approximately \$800,000 to \$1 million depending on the fiscal year. CAT is overseen by a seven-member Board of Directors, which includes the Chair, Vice Chair and Secretary-Treasurer as officers and a professional staff consisting of an executive director, operations manager, planning and development manager, field supervisors, dispatchers and bus operators. Accounting, marketing and maintenance services are provided under contract to third party vendors. CAT's fiscal year is from July 1 to June 30 for the following year. More information about CAT, including plans, previous Basic Financial Statements and the Budget can be found at www.rideCATBus.org.

SCOPE OF WORK

The selected proposer (strategic marketing consultant) will be expected to provide ongoing marketing strategy and project management assistance on an as needed basis.

This includes:

- Strategic marketing
 - Overall brand marketing

- Local guerilla marketing
- Social media marketing
- Project management of marketing campaigns
- Communications & public relations consulting

SELECTION CRITERIA

A. Evaluation of Proposals. A pre-evaluation review of each proposal will determine if the proposal is responsive to the essential requirements of this RFP. The Selection Committee will evaluate all responsive proposals.

Each responsive Proposer may be invited make an oral presentation to the Selection Committee. If the Selection Committee choses to conduct interviews, the Contracting Officer will promptly notify all Proposers and will provide guidance for oral interviews in the formal notice for the interviews. The Selection Committee will take into consideration oral presentations, if any, and written proposals in each of the evaluation criterion listed below.

The Selection Committee will evaluate and score the proposals based on the technical proposal and appendices provided by the Proposer. Proposals shall be evaluated using only the evaluation criteria stated in this RFP and there must be adherence to the assigned weighting. The Contracting Officer will score the price proposals and add to the Selection Committee's scoring for each Proposer to determine the ranking of the Proposers from most advantageous to least advantageous to CAT. The Selection Committee's decision will be presented to the Executive Director and/or Board of Directors for final award.

B. Evaluation Criteria. Proposals will be evaluated according to the most qualified in the opinion of the Selection Committee. The Selection Committee reserves the right to contact and evaluate the proposer's references; contact any Proposer to clarify any response; contact any current clients of a proposer (regardless if they are listed as a reference or not) and solicit information from any available source deemed pertinent to the evaluation process. The Selection Committee shall not be obligated to accept the

lowest priced proposal but shall make an award in the best interests of CAT and that represents a “Best Value” as defined by the Federal Transit Administration.

The total points given to a proposal by the individual evaluators will be averaged to determine the proposals overall score. All proposals will be evaluated on the following basis:

Evaluation Criteria	Weight
Experience/Qualifications	50
Price	40
Disadvantaged Business Enterprise	10
TOTAL	100

CAT also reserves the right to select a Proposer directly after review of the proposals, or it may determine it advisable to conduct interviews prior to the awarding of the Contract.

CAT also reserves the right to accept the Proposer’s fees or to enter into competitive negotiations with two or more qualified Proposers. If negotiations are conducted, all affected Proposers or individuals will be notified in writing when to submit their best and final offer.

C. Award. The Selection Committee will present award decision to the Executive Director and/or Board of Directors at the next available Board of Directors meeting for approval, if required. When the Executive Director and/or Board of Directors approves to award a Contract, and negotiations, if any, have been completed, the notice of “ Intent to Award” will be issued to all Proposers along with a notice to the unsuccessful Proposers’ of their right to protest the award under CAT’s Procurement Policies.

D. Negotiations. If necessary, as provided for in CAT Procurement Policies, negotiations will begin promptly following notification to the highest ranked Proposer. CAT reserves the right to negotiate with the next ranked Proposer, as provided for in the Procurement Policies.

E. Best Value. Proposals will be evaluated as “Best Value” per the Federal Transit Administration Best Practices Procurement Manual, defined as follows: *“Best Value” is a selection process in which proposals contain both price and qualitative components, and award is based upon a combination of price and qualitative considerations. Qualitative considerations may include technical design, technical approach, quality of proposed personnel, and/or management plan. The award selection is based upon consideration of a combination of technical and price factors to determine (or derive) the offer deemed most advantageous and of the greatest value to the procuring agency.*”

QUESTIONS

All questions regarding this RFP should be provided in writing to Amy Schlappi, Contracting Officer at amy.schlappi@catransit.org. You will receive a response within one (1) business day. We encourage disadvantaged, women, and small businesses enterprises to apply. Questions will no longer be responded to after Monday, December 13, 2021 at 10:00 a.m. PST. Answers to any questions will be posted by Tuesday, December 14, 2021 at 10:00 a.m. PST.

Anything that any Proposer would like to modify, seek clarifications on, or otherwise deviate from, however modest, MUST be presented during the question-and-answer phase so it can be considered and determined by CAT before the submission date for all proposals, so that all prospective Proposers will have a common and uniform basis upon which to submit their proposals.

PRE-PROPOSAL CONFERENCE

There will be no pre-proposal conference for this solicitation.

PROPOSAL REQUIREMENTS

To qualify, the firm must have extensive experience in strategic marketing with local governments.

Your company's proposal response should assume a three-year Contract term (preference is to begin as soon as possible) with an option to extend for two (2) one (1) year terms exercised at CAT's sole discretion.

The RFP response should include:

1. A formal proposal with a price proposal response.
2. A cover letter that should briefly introduce your firm, indicating whether your firm is local, regional, national, or international. State the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed, and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be employed on a part-time basis.
3. Indicate the name of the person who will be authorized to answer questions and to bind the firm, the person's title, address, email, and telephone number. If the proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium should be separately identified and the firm that is to serve as the principal auditor should be noted, if applicable.
4. Three client or personal references, at least one should be able to speak to your ability to meet the scope outlined above. This would include name, address, telephone number, email address, years of affiliation and services provided.
5. Availability – When you would be able to start.
6. Any suggested or required changes in order to perform the scope of work, if necessary.
7. For any firm, organization, company identified in Proposer's proposal as a DBE vendor, the Proposer must include company's name, location, and type of work to be performed and the vendor's North American Industry Classification System (NAICS) certifications, the vendor has been certified with the Oregon Department of Transportation (ODOT) and the percentage of the work to be performed under the Contract.
8. All proposers shall be registered with System for Awards Management (SAM) by the time a Contract is awarded. The Proposer must have not been debarred or

suspended from participating in Federally funded procurements. A copy of the Proposer's SAM registration must be provided prior to signing a Contract with CAT.

9. Each proposal must include the following required forms:

- Signed and dated "Price Proposal Form" – Appendix A.
- Signed and dated "Non-Collusion Certification". "Lobbying Certification" and "Government-Wide Debarment and Suspension" – Appendix B.
- Signed and dated "Ethics and No Contact Form"—Appendix C.
- Signed and dated "DBE Disclosure Form"—Appendix D.
- Signed and dated "Federal Transit Administration Clauses" – Appendix E.
- Any addendum acknowledgements.

LIABILITY FOR PROPOSAL EXPENSES

The Proposer is solely liable for all proposal expenses. CAT will not be liable for any pre-contractual expenses incurred by Proposer in the preparation of its proposal. Proposer shall not include any such expenses as part of its proposal.

PROTEST PROCEDURES

Any individual or entity may file a protest with CAT alleging a violation of applicable federal, state law and/or CAT policy or procedure relative to seeking, evaluating and/or intent to award a Contract. In addition, any individual or entity may file a protest with CAT alleging that CAT has failed to follow its Procurement Protest Procedures. Such protest must be filed no later than five (5) calendar days from the notice of intent to award or non-award of the Contract.

A protest, dispute, or claim with respect to the award of a Contract through solicitation of proposals shall be submitted in writing within five (5) days of notification of such award to the Executive Director for a decision. All claims shall clearly identify:

1. The name, address, and telephone number of the protester.
2. The grounds for the protest, any and all documentation to support the protest and the relief sought.

3. Steps that have been taken to date in an attempt to correct the alleged problem or concern.

A written decision by the CAT Executive Director stating the grounds for allowing or denying the protest will be mailed to the protestor prior to execution of the Contract. Such decision shall be final.

A protestor wishing to file a protest with FTA should consult FTA Circular 4220.1F for details on FTA's bid protest procedures. Circular 4220.1F reinforces FTA's policy of limiting involvement in the affairs and activities of recipients. The FTA will only review protests regarding the alleged failure of the recipient to have written protest procedures or alleged failure to follow such procedures. Alleged violations on other grounds are under the jurisdiction of either CAT or the State of Oregon or judicial authorities.

Protests must be filed with the FTA, with a concurrent copy to CAT, within five (5) days after CAT renders a final decision or five (5) days after the protestor knows or has reason to know that CAT failed to render a final decision. After five (5) days, CAT will confirm with the FTA that the FTA has not received a protest on the contract in question.

Circular 4220.1F is available for review at CAT offices. A copy can be obtained from FTA at the following address: Federal Transit Administration, Region 10, 915 Second Ave, Ste. 3142, Seattle, WA. 98174.

CAT shall not be responsible for any protests not filed in a timely manner with the FTA.

APPENDIX A: PRICE PROPOSAL FORM

Contractor shall invoice CAT monthly for services rendered. Contractor's invoice shall be accompanied by a report detailing the services provided for the month. CAT shall pay The Contractor invoices within 30 days of receipt. Invoices shall be based on an annual audit preparation rate.

Please include all related costs in the section below including hourly rates for all individuals who will be working on the proposal (graphic artist, design, proofing, etc; travel costs (if applicable); and other associated costs. This is a three year contract, so please outline the base year rate and any annual increases over the contract term.

Consultant should, at this point, assume that CAT will handle all printing, direct outreach and event staffing but should also assume that pre-event planning, logistics or pre-event outreach would be handled by the consultant.

First Year

Staff	Hourly Rate
Materials	Rate

Notes/Comments:

Each offer shall be made in accordance with the specifications or approved equals as described in the RFP herein.

By signing below, the undersigned verifies and certifies:

- The Contractor can meet all applicable Federal requirements and the owner(s) and company are not suspended or debarred from doing business with the local, State or Federal government.
- The submitted proposal is complete and that the Contractor can carry out the work as detailed in the proposal & scope of work section above.

Company Name & Years in Business	Signature of Owner or Authorized Representative	Date
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APPENDIX B – FEDERAL CERTIFICATIONS

NON-COLLUSION CERTIFICATION

By submission of this proposal, each respondent and each person signing on behalf of any respondent certifies, and in the case of a joint proposal, each party certifies as to its own organization, under the penalty of perjury, that to the best of its knowledge and behalf:

1. The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices with any other Proposer or with any other competitor:
2. Unless otherwise required by law, the prices quoted in this proposal have not been knowingly disclosed by the Proposer, directly or indirectly, to any other Proposer or to any other competitor prior to opening; and
3. No attempt has been made or will be made by the respondent to induce any other person, partnership, or corporation to submit or not submit a proposal for the purpose of restricting competition.

Signature

Date

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Applies to Contracts Valued over \$25,000

49 CFR Part 29

Executive Order 12549

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the Proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by CAT. If it is later determined that the Proposer or proposer knowingly rendered an erroneous certification, in addition to remedies available to CAT, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Proposer or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any Contract that may arise from this offer. The Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Signature

Date

LOBBYING CERTIFICATION

The Proposer certifies, to the best its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification thereof.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to 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 this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, Disclosure Form to Report Lobbying, in accordance with its instruction, as amended by Government wide Guidance for New Restrictions on Lobbying, 61 Fed. Reg. 1413 (1/19/96).
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub- recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

THE PROPOSER, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE. IN ADDITION, THE PROPOSER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET. SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE.

Proposer's Authorized Official's Signature

Name and Title of the Proposer's Authorized Official

Date

APPENDIX C – ETHICS AND NO CONTACT POLICY

ACKNOWLEDGEMENT

After issuance of this RFP, Proposers, or anyone acting directly or indirectly on behalf of an (Proposer) or a subcontractor (Subcontractor) shall not discuss or submit inquiries about this RFP in any way with any of CAT's employees, agents, or elected or non-elected officials that are participating in CAT or a member of the Board of Directors, other than the Contracting Officer, Amy Schlappi, amy.schlappi@catransit.org. Any communication with the Contracting Officer must be in writing and submitted as required in this RFP. The foregoing restriction continues after a Contract has been executed. Violation of this restriction may result in disqualification of the Proposer for the award of the Contract, suspension or debarment. The prohibition contained herein does not apply to interviews with the Selection Committee, where such interviews are initiated by the Contracting Officer with a Proposer as provided in this RFP.

Signature

Date

APPENDIX D – DISADVANTAGED BUSINESS ENTERPRISE (DBE)

PARTICIPATION

THIS FORM IS TO BE COMPLETED BY ANY PROPOSER WISHING TO BE IDENTIFIED AS A DBE OR BY ANY PROPOSER WISHING TO IDENTIFY DBE PARTICIPATION IN ITS PROPOSAL.

If a Proposer is a DBE or if a proposer intends to utilize DBE Proposers in the development, manufacture, or delivery of goods or services or as a joint venture under this proposal, the following schedule must be completed:

The _____ will utilize the following:
(Name of Proposer)

DBE Proposer(s) in the development, manufacture, or delivery of goods or services or as a joint venture under this proposal:

<u>Item # and Description</u>	<u>Name of DBE Proposer</u>	<u>Type of Work or Parts to be Used/Performed</u>	<u>% of Proposal Attributable to DBE</u>
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- 1.
- 2.
- 3.
- 4.
- 5.

Total % of Proposal Price Attributable to DBE: _____

Signature of Proposer: _____

Date: _____

APPENDIX E – FEDERAL TRANSIT ADMINISTRATION

CERTIFICATIONS AND ASSURANCES

NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient (CAT) 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 Recipient, 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.

FALSE STATEMENTS OR CLAIMS CIVIL AND CRIMINAL FRAUD

31 U.S.C. 3801 et seq.

49 CFR Part 31 18 U.S.C. 1001

49 U.S.C. 5307

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. § 5311, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5311 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 of this clause.

ACCESS TO THIRD PARTY CONTRACT RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

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-agreements, leases, subcontracts, arrangements, other third party agreements 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.

CHANGES TO FEDERAL REQUIREMENTS

49 CFR Part 18

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 CAT 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

TERMINATION
49 U.S.C. Part 18
FTA Circular 4220.1F

Termination for Convenience

CAT may terminate this Contract, in whole or in part, at any time by written notice to the Contractor when it is in CAT'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 CAT to be paid the Contractor. If the Contractor has any property in its possession belonging to CAT, the Contractor will account for the same, and dispose of it in the manner CAT directs.

Termination for Default - Breach or Cause

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, CAT may terminate this Contract for default. Termination shall be affected 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 CAT 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, CAT, 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

CAT, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 10 days 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 CAT'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 CAT setting forth the nature of said breach or default, CAT 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 CAT 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 CAT elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by CAT shall not limit CAT's remedies for any succeeding breach of that or of any other covenant, term, or condition of this Contract.

CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

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.

Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Contract:

Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal Transit Act 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. 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 the Project. 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.

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. § 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 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.

The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary, to identify the affected parties.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS
49 CFR Part 26

This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. **A no contract goal has been established for this Contract.**

The Contractor 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 this DOT-assisted Contract. 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 CAT deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

Since DBE participation is encouraged, if Proposer submit DBE participants, Proposers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good

faith efforts to do so, as provided for in 49 CFR 26.53. Award of this Contract is conditioned on submission of the following concurrent with and accompanying an initial Qualifications Statement:

- The names and addresses of DBE Proposers that will participate in this Contract;
- A description of the work each DBE will perform;
- The dollar amount of the participation of each DBE Proposer participating;
- Written documentation of the Proposer's commitment to use a DBE subcontractor whose participation it submits to meet the Contract goal;
- Written confirmation from the DBE that it is participating in the Contract as provided in the prime Contractor's commitment; and
- If the Contract goal is not met, evidence of good faith efforts to do so.

Proposers must present the information required above as a matter of responsiveness with initial Qualifications Statement. (see 49 CFR 26.53(3)). The successful Proposer will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. 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 from CAT. In addition, the Contractor may not hold retainage from its subcontractors.

The Contractor must promptly notify CAT, 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 CAT.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1F

The incorporation of FTA terms has unlimited flow down. Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by DOT, as set forth in the most 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 Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any CAT requests which would cause CAT to be in violation of the FTA terms and conditions.

Debarment and Suspension Certification for Prospective Contractor

Primary covered transactions must be completed by Proposer for Contract value over \$25,000.

Choose one alternative:

The Proposer, _____, certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency;
2. Have not within a three-year period preceding this Qualifications Statement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or Contract under a public transaction; violation of federal or state antitrust statutes or commission or embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Have not within a three-year period preceding this Qualifications Statement had one or more public transactions (Federal, state or local) terminated for cause or default.

OR

The Proposer is unable to certify to all of the statements in this certification and attaches its explanation to this certification. (In explanation, certify to those statements that can be certified to and explain those that cannot.)

The Proposer certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of Title 31 USC § Sections 3801 are applicable thereto.

Executed in _____ (City & State)

Authorized signature

Date

Debarment and Suspension Certification (Lower-Tier Covered Transaction)

This form is to be submitted by each Subcontractor receiving an amount exceeding \$25,000.

The prospective lower-tier participant (Proposer) certifies, by submission of this Qualifications Statement, that neither it nor its "principals" as defined at 49 CFR § 29.105(p) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

If the prospective Proposer is unable to certify to the statement above, it shall attach an explanation, and indicate that it has done so by placing an "X" in the following space:

THE PROPOSER, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE PROPOSER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 USC §§ 3801 *ET SEQ.* APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.

Name and title of the Proposer's authorized official: _____

Authorized signature

Date

BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

FTA Circular 4220.1F

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of CAT's Executive Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Executive Director. 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 Executive Director shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by CAT, 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 his employees, agents or others for whose acts he 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 CAT and the Contractor arising out of or relating to this agreement 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 CAT 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 CAT 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.

LOBBYING

31 U.S.C. 1352

49 CFR Part 19

49 CFR Part 20

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7. Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 which is codified at 2 U.S.C. § 1601, et seq.

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of a Federal agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Contract, grant or any other award covered by 31 U.S.C. 1352. Each tier

certifies to the tier above that it will not and has not taken any action involving the Project or the Underlying Agreement for the Project, including any award, extension, or modification. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal Contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier.

CLEAN AIR

42 U.S.C. 7401 et seq

40 CFR 15.61

49 CFR Part 18

(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. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

(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 – The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

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 & Conservation Act.

DBE PROMPT PAYMENT

49 CFR 26.29

i. Not later than ten (10) days after receipt of each progress payment from CAT, the successful Proposer shall pay to any sub-Contractor performing any work, the respective amounts allowed to the successful Proposer for work performed by the sub-Contractor, to the extent of each subcontractor's interest therein, unless otherwise agreed to in writing. In addition, for projects that invoice only at the completion of the project, within seven (7) days of the successful Proposers receipt of released retention from CAT upon completion of the project and the successful Proposer shall pay each of its sub-Contractors from whom

retention has been withheld, each sub-Contractors share of the retention received. For projects that issue progress payment invoices, upon incremental acceptance of any portion of the work by CAT, the successful Proposer shall pay each of its subcontractors from whom retention has been withheld, each subcontractors share of the retention received. This clause applies to both DBE and non-DBE sub-Contractors.

ii. Failure to comply with these provisions or delay in payment without prior written approval from CAT will constitute noncompliance, which will result in appropriate administrative sanctions, including, but not limited to a penalty of 2% of the amount due per month for every month that payment is not made.

Signature

Date