

**TRANSPORTATION AUTHORITY OF  
CALHOUN COUNTY (TACC)**



**RIDE  
CALHOUN**

**REQUEST FOR PROPOSAL (RFP) #01-2026:  
INTELLIGENT TRANSPORTATION SYSTEMS (ITS),  
COMPUTER AIDED DISPATCH (CAD), AND AUTOMATIC  
VEHICLE LOCATION (AVL) SERVICES**

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## 1.0 INTRODUCTION

The purpose of this RFP is to solicit proposals from interested firms to establish a contract through competitive negotiation for purchase and implementation of current state-of-the-art Intelligent Transportation System (ITS) technology on all Ride Calhoun vehicles to support paratransit, microtransit, and fixed route services. This technology will assist management in decision-making, scheduling, reporting, and customer service. This technology will address the agency's technology challenges and gaps, allowing TACC to monitor vehicles, operations, and improve data collection.

## 2.0 BACKGROUND

The Transportation Authority of Calhoun County (TACC) was created by the Calhoun County Board of Commissioners in September 2023. In November 2024, voters approved a dedicated public transportation millage to expand and enhance transit services in Calhoun County. The TACC currently serves the cities of Albion, Battle Creek, Marshall, and Springfield. Services were previously provided by the cities of Battle Creek and Marshall separately. The TACC became the designated recipient of State and Federal funding on October 1, 2025 and at that time entered into a support services agreement with the City of Battle Creek. The City of Battle Creek provides support for human resources, finance, IT, and other central services, including purchasing. This RFP is being issued by the City of Battle Creek on behalf of the Transportation Authority of Calhoun County and is funded through Federal Section 5339 grant funds.

The TACC operates fixed route (RC Max), paratransit (RC Move), and demand-responsive services (RC Flex). Fixed route and paratransit services are limited to the cities of Battle Creek and Springfield, while all four cities may access demand responsive services. Only two of the four cities border each other while the other cities (and possible future townships) are spread throughout the County. The current fleet size is 24 vehicles, with expected growth up to 45 vehicles over the next several years.

In March 2021 the City of Battle Creek launched BCGo, an on-demand microtransit pilot (Calhoun County Coordinated Mobility Pilot) that provided on-demand and pre-scheduled service to the entire 718 square mile County. At the time of this RFP the TACC is looking to sunset the BCGo pilot and transition to a single trip booking platform to manage paratransit, on demand, and demand responsive services. The TACC is also seeking proposals for a low-cost, low-maintenance, fixed-route solution that works with the proposed demand response/paratransit solution.

Current service providers include: TripSpark PASS for paratransit services, and Liftango for on-demand services utilizing Galaxy Tab tablets with cellular connections. Other onboard technology includes the REI Armor camera system with cellular connectivity.

## 2.1 VEHICLE FLEET INFORMATION

The vehicle fleet consists of 10 fixed route buses, 4 paratransit vehicles, and 18 on-demand/demand responsive vehicles. The TACC intends to purchase 10 to 15 additional vehicles (fixed route and demand response) over the next two years to expand the fleet.

Vehicle Number	Model Year	Make	Model	VIN
<b>RC FLEX – On-Demand/Demand Response</b>				
164	2022	Chrysler	Voyager	*0173
165	2022	Chrysler	Voyager	*2335
166	2022	Chrysler	Voyager	*2338
301	2020	Dodge	Caravan	*4590
302	2022	Chrysler	Voyager	*1607
303	2022	Chrysler	Voyager	*1608
304	2024	Chrysler	Voyager	*3522
305	2024	Chrysler	Voyager	*3536
306	2024	MobilityTrans	SAFTBUS	*6243
307	TBD	MobilityTrans	SAFTBUS	*In production
308	2025	RAM	Promaster	*5455
309	2025	RAM	Promaster	*6949
DART 3	2023	Ford	E-450 (Cutaway)	*8234
DART 4	2023	Ford	E-450 (Cutaway)	*0203
DART 5	2020	Ford	E-450 (Cutaway)	*2977
DART 6	2020	Ford	E-450 (Cutaway)	*6655
DART 7	2019	Ford	E-450 (Cutaway)	*7184
DART 9	2018	Ford	E-450 (Cutaway)	*2184
<b>RC MOVE – Paratransit</b>				
167	2009	Ford	E-350 (Full-size Van)	*6820
169	2009	Ford	E-350 (Full-size Van)	*6821
170	2025	RAM	Promaster	*6711
171	2025	RAM	Promaster	*6764
<b>RC MAX – Fixed Route</b>				
625	2018	Gillig	Low Floor	*9485
626	2018	Gillig	Low Floor	*9486
632	2020	Gillig	Low Floor	*2926
636	2008	Gillig	Low Floor	*8439
637	2008	Gillig	Low Floor	*8440
641	2009	Gillig	Low Floor	*8448
642	2024	Gillig	BRT Low Floor	*0381
643	2024	Gillig	BRT Low Floor	*0383
644	2024	Gillig	BRT Low Floor	*0382
645	2024	Gillig	BRT Low Floor	*0914

### 3.0 PROJECT GOALS

Proposals should illustrate how the solution will align with each of these project goals and how the proposer has implemented these solutions within other transit systems:

- Provide scheduling for paratransit trips for ADA certified customers
- Provide scheduling for on-demand/demand-response trips
- Manage customer data
- Create schedules and generate General Transit Feed Specification Realtime (GTFS-RT) for fixed route and General Transit Feed Specification Demand Response (GTFS-DR) for demand response services
- Illustrate/Display vehicle location/tracking for dispatch (real time)
- Illustrate/Display vehicle location for passengers (real time)
- Streamline data collection and reporting with the ability to create custom reports
- Provide passenger counting systems that geolocate, time stamp, and allow for passenger classification
- Enhance rider experience through the use of technology across modes
- Maintain administrative control over scheduling, run assignment, manual trip manipulation, and passenger notifications
- Implement electronic fare payment solutions that can be unique to specific passenger classifications, destinations, zones, or vehicle types
- Unify onboard technology to utilize a single data connection
- Act as a centralized hub for dispatch services to third party providers/transportation partners
- Grow partnerships with employers, organizations, schools, and medical centers who may wish to manage, book, or schedule trips for clients/students/program participants
- Prioritize commercially off the shelf (COTS) technology and equipment and minimize proprietary hardware
- Follow Mobility Data interoperability Principles adopted by the Michigan Department of Transportation

## 4.0 PROJECT DATES & TIMELINE

RFP AND PROJECT MILESTONES	ANTICIPATED DATE
Advertise and release RFP	March 23, 2026
Last day to submit questions	April 10, 2026
Response to questions transmitted	April 27, 2026
Proposal due date	May 1, 2026 by 5:00pm EST
Interview and demonstration (required)	May 4 – May 8, 2026
Best and final offer/contract negotiation	By: May 13, 2026
Commission/Board approval	May 19, 2026
Contract execution and notice to proceed	May 20, 2026
Project Completion	October 31, 2026

## 5.0 SCOPE OF WORK

### 5.1 PROJECT MANAGEMENT

The successful delivery of the project requires management of the project’s scope, schedule, and budget. **An assigned and identified project manager in the proposal shall manage the project.** The project manager shall be assigned to the project for the duration of the project and shall be listed in the Key Personnel clause of the Contract. Should a change be required because the project manager has left the employment of the vendor, the vendor shall request a substitution in writing to the TACC. The TACC has the authority to deny or approve the request. The project manager is the primary person responsible for the delivery and success of the deployment of the project. The individual will serve as the primary liaison, coordinator, and communicator to the TACC. Their availability and commitment to the project shall be illustrated in the proposal.

### 5.2 SCHEDULE

The management of the project shall include adherence to the proposer’s submitted and approved project schedule. Tasks, subtasks, vendor assumptions, and required TACC review and approvals shall be noted either in the proposal or on the schedule. Tasks and subtasks shall be further explained in the proposal, including responsibility for schedule adherence. The schedule shall identify the critical path for the schedule, including any variance in the schedule and the duration to order and receive materials.

The following, at a minimum, shall be identified on the schedule submitted with the proposal package:

**Project Kickoff:**

- Identify and clarify vendor and TACC expectations
- Identify key personnel required for successful implementation and any requirements for vendor coordination
- Provide an Acceptance Testing Plan for review and approval of TACC prior to issuance of full notice to proceed.
- Provide a Buy America and McCain Act Compliance Plan for review and approval of TACC prior to issuance of full notice to proceed.
- Review timeline for implementation including testing, training, and data migration

**Project Implementation:**

- Anticipated timelines for the order, delivery, and installation of hardware
- Anticipated timelines for the order, delivery, and installation of software
- Vendor validation of operability based on hardware and software installation and deployment
- On-site training (train-the-trainer) and support

**The vendor shall provide a checklist for implementation to include TACC signatures for acceptance across each step included in the proposal.**

**6.0 PROJECT REQUIREMENTS**

**6.1 MOBILE DATA TERMINAL (MDT) HARDWARE**

Required	Battery backup for use when vehicle is turned off
	Shock/drop resistant
	Anti-glare screen
	Adjustable brightness/backlight
	Adjustable volume
	Removable/not-permanently affixed
Optional	Off-the-shelf tablet
	Integrated camera for pre/post trip inspections

**6.2 MOBILE DATA TERMINAL (MDT) SOFTWARE**

Required	Prompt driver for login credentials and odometer reading; odometer reading should be able to be corrected at a later time if necessary
	View trip detail, manifest, and other screens with minimal interaction
	Include trip details <b>including but not limited to</b> customer name, pick-up and drop off location, fare to be collected, mobility device(s), time of pick up/drop off, PCA (if indicated), service animal, and children traveling in car seats, etc.

	No show timer (5 minutes) with the limitation that the driver cannot perform a “no show” outside of the permissible time.
	Driver verification that all passengers have boarded
	Driver verification that all fare has been collected
	Customizable load times based on passenger classifications/information
	Ability to message passengers, dispatch, or indicate emergent need
	Notify dispatch of communication issues between the system and MDT
	Update manifests without driver intervention
	Prevent driver from manipulating MDT while vehicle is in motion
	Upon trip completion, remove the trip from the MDT
	Send/receive custom and canned message from the MDT to dispatch such as; driver off vehicle, driver returned to vehicle, arrival, departure, anticipated late arrival/departure, no-show/cancel request, etc.
	Audibly and visually alert the driver when a message has been received or their manifest has been updated
	Calculate dead-head miles and hours
	Provide turn-by-turn directions and recalculation for detours
	Prioritize and navigate via curbside pick up/drop off locations
Optional	Prompt driver to verify their seatbelt is secured
	Driver verification that all passengers have seatbelts on
	Customizable driver pre-trip and post trip
	Saved customizations per driver
	Fixed route bus navigation, passenger counting and fare tracking

**6.3 DISPATCH, PASSENGER AND ADMINISTRATIVE SOFTWARE AND INTERFACE**

Required	Populate drivers’ manifests and schedules with the ability to print manifests and retrieve manifests at least 30 days post-completion
	Send driver manifest and updates to appropriate MDT
	Send/receive messages to/from drivers’ MDT
	Manual override of manifest by dispatch/administration
	Schedule/Auto-schedule recurring trips (including multiple variations of recurring trip)
	Log passenger data (i.e. age, certification, ride history, no-show, cancellation, payment status, etc)
	Maintain frequently booked locations as favorites, preferably by name (i.e. Walmart, Meijer, Bronson Hospital)
	Calculate fares based on multiple factors (i.e. zones, age, distance, promotion, origin/destination, etc) including multiple fare types or classifications within one trip
	Ability to limit access within administrative functions (i.e. user roles)
	Ability to administratively modify, add, or remove zones or service areas
	Ability to administratively modify, add, or remove fare types, discounts, promotions, passes, issue refunds, trips credits, etc.

	Customer-facing, white label application available on Apple and Google branded for Ride Calhoun for booking, paying, and completing trips, including the ability to rate the ride or provide feedback after the trip
	Customer-facing website, or integration into existing ridecalhoun.org, for booking, paying, and completing trips, including the ability to rate the ride or provide feedback after the trip
	Track, record, and report data that meets National Transit Database (NTD) requirements in an exportable format such as Excel. Data must differentiate paratransit from demand-response/on-demand trips.
	Monitor, in real time, GPS position and speed of vehicles on a single map including vehicle number, speed, heading, load, route/service assigned and schedule adherence
	Log all actions with time stamp, username, and action taken (i.e. booked by, canceled by, sent by, etc)
	Allow at least 15 user accounts for dispatch/administration
	Cloud-based with a 99% uptime or greater
	Meets all ADA accessibility requirements
	Available in English and Spanish (Burmese optional)
	Ability to assign trips to third party providers
	Ability for a single organization to manage multiple users (i.e. social workers, case managers, educators, employers)
	Ability to customize/adjust load times based on passenger factors (i.e. wheelchair, car seat, etc)
	Ability to indicate passenger types (child, senior, student, etc)
Required	Passenger notifications (text or IVR) to include trip reminder (day before), vehicle arriving, 5 minute warning, vehicle departing. Passenger should be able to manage their trip from these notifications.
	Ability to record passenger notes NOT visible to the passenger, but visible to dispatch, driver and administration
	Manual assignment of coordinates in the event an address cannot be geocoded based on existing map address range attributes (i.e. apt numbers, large complexes, multiple buildings)
	Dynamic scheduling/Trip optimization in assigning of trips to vehicles using analytics for travel time predictions, ensuring the manifests are continually optimized as trips are added, removed, requested, or changed. System should also optimize or reassign trips as needed if a vehicle is behind schedule, goes out of service, or travel times have been impacted
	Allow trips to be scheduled up to 14 days in advance
	Alternate trip suggestions in the event a requested time is not available
	Adherence to ADA complementary paratransit scheduling requirements
	Ability to modify, add, or remove driver shifts, vehicle runs, and daily schedules including same-day/mid-shift modifications

	Ability to set variable pick up windows (i.e. +/- 15 minutes for RC Move, +/- 5 minutes for RC Flex)
	Ability to add/remove passengers at time of pick up (i.e. driver arrives to 3 passengers instead of 2) or change passenger information (i.e. fare status)
	Secure data retention for at least 7 years
	Ability to generate reports for third-party billing/invoicing
	Ability to generate reports based on service zones, zip codes, or other geographic data
	Agency must own/retain all rights to data
	Customer service to agency must include troubleshooting, “help desk” or similar ticket submission, and response within 24 hours
	Must meet all cybersecurity standards and requirements as outlined by the US Department of Homeland Security
	Ability to add, remove, or modify vehicle types, capacities, and availability without vendor intervention
Optional	Generate GTFS real time data
	Dashboard display of KPIs and other data
	Fixed-route on time performance indicators with alerts to dispatch
	Fixed-route reporting of passenger counts with bus stop information (i.e. passengers boarding and alighting, fare type, etc)
	Ability to provide customer-facing app in multiple languages; Burmese
	HIPAA Compliant
	Integration with maintenance software

**6.4 REPORTING REQUIREMENTS**

Report Type	Variables
<b>Passenger Statistics</b>	System ridership by type (disabled, senior, adult, student, child, etc)
<b>On-Time Performance</b>	Number of trips that were on time/not on time
<b>Ridership by route/service</b>	Ridership and revenue miles by route/service, day, time (identify peak times)
<b>Ridership (general)</b>	Ridership and expected revenue by route and passenger type
<b>Ridership by zone</b>	Ridership and expected revenues by zone origin/destination
<b>Ridership (organization specific)</b>	Ridership to/from specific destination, organization, partner, etc
<b>Fare Reporting</b>	Expected cash revenues, pass types, transfers, fare, fare type

<b>Denials</b>	Denied rides with date, time, origin/destination and reason for denial
<b>Service Summary</b>	General tracking/dashboard of performance statistics, passengers carried, etc.
<b>Service Hours/Miles</b>	Service hours and miles based on service areas, zones, rural/urban (REQUIRED), and type of service (i.e. fixed route, paratransit, demand response)
<b>Route/Service Performance</b>	Route/Service ridership by type, fare (including payment type), total mileage, etc.
<b>Passenger Behavior</b>	Trips booked through call center vs app, electronic fare payment vs cash, etc., technology adoption, unique user accounts, etc
<b>NTD Reporting</b>	All non-financial reports as required by NTD in a single report format for easy reporting/data entry
<b>MDOT PTMS Reporting</b>	All non-financial reports as required by Michigan Department of Transportation (MDOT) in a single report format for easy reporting/data entry

**6.5 ADDITIONAL REQUIREMENTS FOR IMPLEMENTATION**

Required	Vendor must provide onboard data connection/hardware that can support multiple devices including future farebox upgrades, headsights, cameras, infotainment displays, and MDTs; TACC will provide the cellular plan required (Verizon). Equipment must have a minimum five-year useful life.
	Vendor must provide all hardware, including antennas, MDTs, monitors, or other required equipment for implementation
	Vendor must test all software and hardware under “real life” conditions
	Vendor must provide a minimum three year warranty on all equipment/hardware
	Software updates, manuals, and training assistance must be included, including map updates, for the life of the service agreement.
Optional	Installation of all hardware (depending on cost, TACC reserves the right to install all hardware, however, vendor must provide direction on installation and maintain warranty)
	Three years of service included in initial proposal price; vendor must include year 4 and year 5 prices with proposal as well as optional extension(s) of equipment warranty pricing.

## 7.0 PROPOSAL REQUIREMENTS

The proposal shall provide all information necessary for the TACC to evaluate the qualifications, experience, and expertise of the proposing firm to provide the services detailed in the Scope of Work. The proposal should be assembled as a single, searchable, and printable PDF, including all required attachments and forms. Proposals must remain valid for 120 days from the proposal due date, as it may be amended during the solicitation period. The TACC and the City are exempt from Federal Excise and State Sales Taxes, and such taxes shall not be included in proposal pricing.

The Offeror is to make a written proposal which presents an understanding of the work to be performed. The proposal should demonstrate and provide evidence that the Offeror has the capabilities, professional expertise, and experience to provide the necessary services as described in this RFP. The Offeror shall ensure that all information required herein is submitted with the proposal. All information provided should be verifiable by the documentation requested by the TACC. The proposal shall be signed by an authorized representative of the Offeror.

To enhance the evaluation process and provide each firm with an equal opportunity for consideration, adherence to a standardized technical format is required. Responses should be as thorough and detailed as possible so that the TACC may properly evaluate the firm’s capabilities to provide the required services. The format of each proposal must contain the following elements organized into separate sections, as the Offerors may deem appropriate:

### 7.1 PROPOSAL FORMAT

<b>Section One</b>	<b>GENERAL</b>
	Cover Sheet
	Table of Contents (all pages should be numbered)
	Cover Letter/Executive Summary, signed by a person with the authority to enter into any contract which results from the proposal
<b>Section Two</b>	<b>EXPERIENCE AND QUALIFICATIONS</b>
	Company overview and information including names and titles of personnel, including prospective project manager, as well as years of experience, position, and duties to be performed during the duration of the contract. Reference list of similar (in both transit system size and project scope) installations for the past five-year period. For transit agencies, include contact information for transit agency personnel (name, phone number, and email address), dates of implementation, and type of system implemented.
<b>Section Three</b>	<b>CONTRACT MANAGEMENT</b>

	<p>Complete explanation of proposal’s ability to meet all project requirements as stated in Section 6.0. Proposers shall include a compliance matrix detailing all requirements in Section 6.0 and others the proposer believes would be helpful in defining successful completion of the project.</p>
	<p>Explanation of project delivery, including how the approach aligns with project goals, how the proposal meets or exceeds the requirements of the project, and how the approach aligns with the proposed project timeline.</p>
	<p>Explanation of any part of the proposal that does NOT meet project requirements, is not in final development for implementation, or is outside of the scope of work but Offeror feels should be included in the project.</p>
	<p>Proposed project schedule, including any phases of implementation that may be prone to delays from prior experience. The schedule should include manuals and training provisions that will facilitate transition to the new system.</p>
<b>Section Four</b>	<b>REQUIRED FORMS</b>
	Telecommunications Equipment
	Federal Tax Liability and Recent Felony Convictions
	Buy America
	Acknowledgement of Addenda
	Debarment and Suspension (Prime)
	Debarment and Suspension (Sub/Supplier)
	Lobbying Certification
	Offer and Acceptance Form
<b>Section Five</b>	<b>ADDENDA (if any)</b>
<b>Section Six</b>	<b>PRICING</b>
<b>Section Seven</b>	<b>OTHER SERVICES AND OPTIONS</b>
	<p>Offeror may provide information for other services or programs that are available to its clients that may not be specified in this proposal. Additional services should be provided with cost listed as well as details and description of the offering.</p>

**Sections six and seven must be in separate, discrete files and not included or discussed in the technical proposal (section one through five).**

## 7.2 PROPOSAL SUBMITTAL

Proposals must be submitted through the secure online website by registered vendors by the date and time noted in section 4 above, as amended from time to time by addenda issued by the Agency. Late proposals shall be rejected. Proposers are responsible for successful delivery of their proposals and are encouraged to submit proposals early to avoid technology failures. Proposals must be uploaded to <http://www.bidnetdirect.com/cityofbattlecreek>.

## 8.0 PROPOSAL EVALUATION CRITERIA

The TACC requires demonstration of proposed solutions to the selection team after an initial review of the proposals. Up to four vendors who meet the requirements of the RFP and are competitive in their scores will be advanced for demonstration and interview.

The TACC reserves the right to award based on initial proposals without demonstration or interview.

The TACC will consider all responsive proposals received. TACC intends to award the project to the proposal most advantageous to TACC based on qualifications, approach, schedule, and outcomes. The City of Battle Creek, at the TACC's recommendation, will issue a contract and purchase order based on review and recommendation to their City Commission for approval.

The proposal will be evaluated by a committee comprised of staff from the City of Battle Creek, the City of Marshall, and TACC. Selection of the successful proposal will be based upon submission of proposals meeting the selection criteria outlined below.

### 8.1 SELECTION CRITERIA

<b>1</b>	<b>Technological Solution</b>	<b>40%</b>
	Ability to meet project requirements	
	Design, functionality, interface, interoperability	
	Ability to meet or exceed project schedule, including deployment and training	
<b>2</b>	<b>Qualifications and Experience</b>	<b>20%</b>
	Experience in performing similar work within similar sized transit systems	
	Vendor's skills and abilities to perform the work and availability of resources	
	Demonstrated competence for full service of the project needs as supported by documentation and testimony within the proposal	
<b>3</b>	<b>Record of Past Performance</b>	<b>20%</b>
	Proven, experienced record of performance, evidenced with similar projects and client references	
	Key personnel who have the skills to deliver technology based on their experience, knowledge, and education to meet the project goals and objectives	
<b>4</b>	<b>Price</b>	<b>20%</b>
	Price is competitive and reasonable	

## 9.0 TERMS AND CONDITIONS

### 9.1 INSTRUCTIONS TO PROPOSERS

#### 9.1.1 PROPOSALS

Proposals must be submitted as directed in section 7, above. Questions and requests for amendment may be submitted up to the date specified in section 4, above. Responses shall be shared with all prospective proposers. Prospective proposers are reminded that any changes to the RFP shall be by written addenda only.

Questions and requests for amendment must be submitted to [purchasing@battlecreekmi.gov](mailto:purchasing@battlecreekmi.gov).

All correspondence, communication and contact in regard to any aspect of this solicitation or offers shall be only with the Contracting Officer identified above. Unless otherwise instructed by the Contracting Officer, proposers and their representatives shall not make any contact with or communicate with any member of the Agency, or its employees and consultants, other than the designated Contracting Officer, in regard to any aspect of this solicitation or offers. Violation of this limitation may lead to disqualification of the violating company.

#### 9.1.2 ADDENDA TO THE RFP

The Agency reserves the right to amend this RFP at any time. Any amendments to the RFP shall be described in written addenda. Notification of or the addenda shall be distributed to all such prospective Proposers officially known to have received the RFP. Failure of any prospective proposer to receive the notification or addenda shall not relieve the Proposer from any obligation under the RFP therein. All addenda issued shall become part of the RFP. Prospective Proposers shall acknowledge the receipt of each individual addendum in their Proposals on the form Acknowledgement of Addenda. Failure to acknowledge in the Proposal receipt of addenda may at the Agency's sole option disqualify the Proposal.

If the Agency determines that the addenda may require significant changes in the preparation of Proposals, the deadline for submitting the Proposals may be postponed by the number of days that the Agency determines shall allow Proposers sufficient time to revise their Proposals. Any new Due Date shall be included in the addenda.

#### 9.1.3 CONDITIONS, EXCEPTIONS, RESERVATIONS, OR UNDERSTANDINGS

Proposers are cautioned to limit exceptions, conditions and limitations to the provisions of this RFP, as they may be determined to be so fundamental as to cause rejection of the Proposal for not responding to the requirements of the RFP.

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#### 9.1.4 PROTEST PROCEDURES

When TACC has finalized its recommendation to the Battle Creek City Commission, and prior to the Board's action, TACC will send an email notification to the address provided by the proposer. This notice will start the time period for any protest of the proposed award.

Protests must be in writing. This written protest must be received by the City of Battle Creek, located at 10 N. Division, Suite 214, Battle Creek, MI 49014. This written protest must be received by the City no later than ten (10) working days after notification to all offerors of the contract award decision. The City of Battle Creek must issue its written decision no more than ten (10) business days from the day the written protest was received.

If a protestor thinks that the City of Battle Creek and/or TACC have not followed these protest procedures, the protestor has ten (10) business days from the alleged infraction to file a subsequent protest with the City of Battle Creek City Manager or federal granting agency if applicable.

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#### 9.1.5 PROPRIETARY AND CONFIDENTIAL INFORMATION

Proposers are directed to clearly identify any information it deems to be proprietary or confidential in nature in a separate marked file. If there is no confidential information, then the Proposer should include a statement to that effect. The Proprietary and Confidential Information package shall be submitted in accordance with the terms and conditions governing the submittal of proposer's Proposal to this RFP. Blanket-type identification by designating whole pages or sections as containing proprietary information, trade secrets or confidential commercial and financial information shall not ensure confidentiality. The specific proprietary information, trade secrets or confidential commercial and financial information must be clearly identified as such.

Proposers are advised that the Agency is public and as such may be subject to certain state and/or local Public Records Act provisions regarding the release of information concerning this RFP. If a request is received by the Agency for the release of Proposer's propriety/confidential information, subject request shall be referred to the Proposer for review and consideration. Proposer must respond within ten (10) business days. Failure to respond within the allowed period shall be deemed an approval to release. The Proposer shall defend, indemnify, and hold harmless the Agency, its employees, Board Members, and agents in any proceeding to protect such information; otherwise, the requested information may be released.

The Agency shall employ sound business practices no less diligent than those used for the Agency's own confidential information to protect the confidence of all licensed technology, software, documentation, drawings, schematics, manuals, data and other information and material provided by Proposers and the Contractor pursuant to the Contract that contain

confidential commercial or financial information, trade secrets or proprietary information as defined in or pursuant to the state law against disclosure of such information and material to third parties, except as permitted by the Contract.

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#### **9.1.6 SIGNING OF PROPOSAL FORMS**

Proposals shall include firm name (and, in the event that the Proposer is a joint venture, the names of the individual firms comprising the joint venture); business address; and the name, title and business address of the responsible individual(s) with their telephone, facsimile (fax) numbers and email address who may be contacted during the Proposal evaluation period for scheduling oral presentations and for receiving notices from the Agency. The proposer shall submit with their Proposal a copy of the joint venture agreement.

Proposals shall be signed by those individual(s) authorized to bind the proposer. The proposer shall submit evidence of the official's authority to act for and bind the Proposer in all matters relating to the Proposal. (In the event the Proposer is a joint venture or consortium, a representative of each of the members of the joint venture or consortium shall execute the Proposal. Each joint venture or consortium member is jointly and severally liable for the joint venture or consortium.)

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#### **9.1.7 MODIFICATION OR WITHDRAWAL OF PROPOSALS**

A modification of a Proposal already received shall be accepted by the Agency only if the modification is received prior to the proposal due date, is specifically requested by the Agency, or is made with a requested BAFO. All modifications shall be made in writing and executed and submitted in the same form and manner as the original Proposal.

A Proposer may withdraw a Proposal already received prior to the proposal due date by submitting to the Agency, in the same manner as the original Proposal, a written request for withdrawal executed by the Proposer's authorized representative. After the proposal due date, a Proposal may be withdrawn only if the Agency fails to award the Contract within the Proposal validity period prescribed in section 4, above. The withdrawal of a Proposal does not prejudice the right of a Proposer to submit another Proposal within the time set for receipt of Proposals.

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#### **9.1.8 COST OF PROPOSAL DEVELOPMENT**

This RFP does not commit the Agency to enter into a Contract, to pay any costs incurred in the preparation or presentation of a Proposal, or to procure or contract for the equipment.

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### 9.1.9 PROPOSAL EVALUATION, NEGOTIATION, AND SELECTION

Proposals shall be evaluated, negotiated, selected and any award made in accordance with the criteria and procedures described in the RFP. The approach and procedures are those that are applicable to a competitive negotiated procurement whereby Proposals are evaluated to determine which Proposals are within a Competitive Range. Discussions and negotiations may then be carried out with Proposers within the Competitive Range, after which BAFOs may be requested.

However, the Agency may select a Proposal for award without any discussions or negotiations or request for any BAFOs. Thus, the initial proposal should represent the “best offer.” Moreover, the Agency retains the right to cancel this RFP at any time before or after receipt of proposals.

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### 9.1.10 RESPONSIBILITY OF PROPOSERS

The Agency anticipates awarding a contract to the responsive, responsible proposer offering the best value to the Agency. Award may be made to other than the lowest price proposal if the Agency deems a higher priced proposal more advantageous after evaluation.

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### 9.1.11 AGENCY RIGHTS

The Agency reserves the right to cancel the procurement in whole or in part, at its sole discretion, at any time before the Contract is fully executed and approved on behalf of the Agency.

The Agency reserves the right to reject any or all Proposals, to undertake discussions with one or more Proposers, and to accept that Proposal or modified Proposal which, in its judgment, shall be most advantageous to the Agency, considering price and other evaluation criteria. The Agency reserves the right to determine any specific Proposal that is conditional or not prepared in accordance with the instructions and requirements of this RFP to be nonresponsive. The Agency reserves the right to waive any Defects, or minor informalities or irregularities in any Proposal which do not materially affect the Proposal or prejudice other Proposers.

If there is any evidence indicating that two or more proposers are in collusion to restrict competition or are otherwise engaged in anti-competitive practices, the Proposals of all such Proposers shall be rejected, and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by the Agency.

The Agency may reject a Proposal that includes unacceptable Deviations.

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### 9.1.12 CONFLICTS OF INTEREST AND GRATUITIES

Proposers are prohibited from engaging in any practice that may be considered as a conflict of interests under existing Agency policies and/or state law, and to refrain from participating in any gifts, favors or other forms of compensation that may be viewed as a gratuity in accordance with existing policies and laws.

## 9.2 GENERAL CONDITIONS

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### 9.2.1 DEFINITIONS

Agency: Transportation Authority of Calhoun County (TACC) and/or the City of Battle Creek.

Authorized Signer: The person who is executing this Contract on behalf of the Contractor and who is authorized to bind the Contractor.

Best and Final Offer (BAFO): The last Proposal made by a Proposer. If a BAFO is not specifically requested by the Agency, or if the Proposer does not promptly respond to a request for BAFO, then the most recent, current Proposal is the BAFO.

Competitive Range: The range of proposals that are identified as reasonably able to win the resulting contract.

Contract: The Proposal and its acceptance by the Agency as manifested by the Contract documents.

Contracting Officer: The person who is executing this Contract on behalf of the Agency and who has complete and final authority except as limited herein.

Contractor: The successful Proposer(s) who is awarded a Contract for providing the goods and services described in the Contract documents.

Deliverables: Work required by the Contract to be delivered to the Agency.

Days: Unless otherwise stated, "days" shall mean calendar days.

Defect: Patent or latent malfunction or failure in manufacture, installation or design of any component or subsystem.

Deviation: Variance from a requirement or specification that does not alter the basis of a contract or adversely affects its performance.

Due Date: The date and time by which Proposals must be received by the Agency.

Extended Warranty: A warranty available for purchase above the standard warranty.

Pass-Through Warranty: A warranty provided by the Contractor but administered directly with the component Supplier.

Proposal: An offer, if accepted, to deliver equipment and services according to the underlying solicitation of the Agency documented using the prescribed form in the solicitation, including the provisions of this solicitation and the selected contractor's latest Proposal or BAFO.

Proposer: A legal entity that makes a Proposal.

Solicitation: Agency's request for proposals.

Superior Warranty: A warranty still in effect after all contractually required warranties have expired. The remaining warranty is administered directly between the sub-Supplier and the Agency.

Supplier: Any manufacturer or company providing units, components, or subassemblies for inclusion in the deliverables.

Subcontractor: Any manufacturer or company providing units, components, or subassemblies for inclusion in the deliverables.

Work: Any and all labor, supervision, services, materials, machinery, equipment, tools, supplies and facilities called for by the Contract and necessary to the completion thereof.

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### 9.2.2 MATERIALS AND WORKMANSHIP

The Contractor shall be responsible for all materials and workmanship in the deliverables, whether the same are manufactured by the Contractor or purchased from a Supplier. This provision excludes any equipment leased or supplied by the Agency, except insofar as such equipment is damaged by the failure of a part or component for which the Contractor is responsible, or except insofar as damage to such equipment is caused by the Contractor during the manufacture or installation of the deliverables.

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### 9.2.3 CONFORMANCE WITH SPECIFICATIONS AND DRAWINGS

Materials furnished and Work performed by the Contractor shall conform to the requirements of the Contract documents. Notwithstanding the provision of technical specifications or other data by the Agency, the Contractor shall have the responsibility of supplying all parts and details required to make the deliverables complete and ready for service even though such details may not be specifically mentioned in the specifications. Items that are installed by the Agency shall not be the responsibility of the Contractor unless they are included in this Contract.

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#### 9.2.4 INSPECTION, TESTING AND ACCEPTANCE

Inspection, testing and acceptance shall be in accordance with the final, approved Acceptance Testing Plan. Agency reserves the right to conditionally approve any Deliverable, requiring additional steps prior to final acceptance.

The Contractor shall retain the risk of loss until such time as the Agency has conditionally or finally approved each Deliverable.

Title to the Deliverables shall transfer upon final acceptance.

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#### 9.2.5 INTELLECTUAL PROPERTY WARRANTY

The Agency shall advise the Contractor of any impending intellectual property claim related to this Contract against the Agency and provide all information available. The Contractor shall defend, indemnify, and hold harmless the Agency, its employees, Board Members, and agents in any suit or proceeding brought against the Agency based on a claim that any equipment or software, or any part thereof, furnished under this Contract constitutes an infringement of any intellectual property, and the Contractor shall pay all damages and costs awarded therein against the Agency. In case said equipment or software, or any part thereof, is in such suit held to constitute infringement and use of said equipment, software, or parts is enjoined, the Contractor shall, at its own expense and at its option, either procure for the Agency the right to continue using said equipment, software or part, or replace same with non-infringing equipment or software, or modify it so it becomes non-infringing.

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#### 9.2.6 DATA RIGHTS

The term “subject data” used in this clause means recorded information, whether or not copyrighted, that is delivered or collected under the Contract. It includes the proprietary rights of the following:

- Shop drawings and working drawings
- Technical data including manuals or instruction materials, computer or microprocessor software
- Patented materials, equipment, devices or processes
- License requirements

The Agency shall take reasonable steps to protect proprietary information provided by the Contractor. The Contractor shall grant a perpetual, royalty-free, non-exclusive license to allow the Agency to utilize such information in order to maintain the Deliverables. In the event that the Contractor no longer provides the information the Agency has the right to reverse engineer patented parts and software.

The Agency reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, the following subject data for its purposes: (1) any subject data required to be developed and first produced in the performance of the Contract and specifically paid for as such under the Contract, whether or not a copyright has been obtained; and (2) any rights of copyright to which the Contractor, Subcontractor or Supplier purchases ownership for the purpose of performance of the Contract and specifically paid for as such under the Contract. The Contractor agrees to include the requirements of this clause, modified as necessary to identify the affected parties, in each subcontract and supply order placed under the Contract.

The Agency shall own all data generated by or through the Deliverables. The Agency grants to the Contractor the right to inspect, examine, download, and otherwise obtain any information or data available from Deliverables provided by the Contractor to the extent necessary to enable Contractor to perform reliability maintenance analysis, corrective action and/or other engineering type Work for the Deliverables. This right expressly excludes access to information or data collected on any equipment not provided and installed by the Contractor.

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## 9.2.7 CHANGES

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### 9.2.7.1 CONTRACTOR CHANGES

Any proposed change in this Contract shall be submitted to the Agency for its prior approval. Oral change orders are not permitted. No change in this Contract shall be made without the prior written approval of the Contracting Officer. The Contractor shall be liable for all costs resulting from, and/or for satisfactorily correcting, any specification change not properly ordered by written modification to the Contract and signed by the Contracting Officer.

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### 9.2.7.2 AGENCY CHANGES

The Agency may obtain changes to the Contract by notifying the Contractor in writing. As soon as reasonably possible but no later than thirty (30) calendar days after receipt of the written change order to modify the Contract, the Contractor shall submit to the Contracting Officer a detailed price and schedule Proposal for the Work to be performed. This Proposal shall be accepted or modified by negotiations between the Contractor and the Contracting Officer. At that time, a detailed modification shall be executed in writing by both parties. The Agency reserves the right to make unilateral changes. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with "Disputes," below. Regardless of any disputes, the Contractor shall proceed with the Work ordered.

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### 9.2.8 INDEMNIFICATION

The Contractor shall, to the extent permitted by law: (1) protect, defend, indemnify and save harmless the Agency and its officers, employees, Board members, and agents, including consultants, harmless from and against any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses and suits or actions or proceedings, including reasonable expenses, costs and attorneys' fees incurred by the Agency and its officers, employees Board members, and agents, including consultants, in the defense, settlement or satisfaction thereof, for any injury, death, loss or damage to persons or property of any kind whatsoever, caused by the intentional misconduct or negligent acts, errors or omissions of the Contractor in the performance of the Contract, including intentional misconduct, negligent acts, errors or omissions of its officers, employees, servants, agents, Subcontractors and Suppliers; and (2) upon receipt of notice and if given authority, shall settle at its own expense or undertake at its own expense the defense of any such suit, action or proceeding, including appeals, against the Agency and its officers, employees, Board members, and agents, including consultants, relating to such injury, death, loss or damage. Each party shall promptly notify the other in writing of the notice or assertion of such claim, demand, lien, encumbrance, judgment, award, suit, action or other proceeding hereunder. The Contractor shall have sole charge and direction of the defense of such suit, action or proceeding. The Agency shall not make any admission that might be materially prejudicial to the Contractor unless the Contractor has failed to take over the conduct of any negotiations or defense within a reasonable time after receipt of the notice and authority provided above. The Agency shall at the request of the Contractor furnish to the Contractor all reasonable assistance that may be necessary for the purpose of defending such suit, action, or proceeding, and shall be reimbursed by the Contractor for all reasonable costs incurred in doing so. The Agency shall have the right to be represented therein by advisory council of its own selection at its own expense.

The obligations of the Contractor under the above paragraph shall not extend to circumstances where the injury, death or damages are caused solely by the negligent acts, errors or omissions of the Agency, its officers, employees, Board members, agents or consultants, including, without limitation, negligence in: (1) the preparation of the Contract documents, or (2) the giving of directions or instructions with respect to the requirements of the Contract by written order.

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## 9.2.9 SUSPENSION OF WORK

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### 9.2.9.1 AGENCY SUSPENSION

The Agency may at any time and for any reason within its sole discretion issue a written order to the Contractor suspending, delaying or interrupting all or any part of the Work for a specified period of time.

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### 9.2.9.2 CONTRACTOR SUSPENSION

The Contractor shall comply immediately with any such written order and take all reasonable steps to minimize costs allocable to the Work covered by the suspension during the period of work stoppage. Contractor shall continue the Work that is not included in the suspension and shall continue such ancillary activities as are not suspended. The Contractor shall resume performance of the suspended Work upon expiration of the notice of suspension, or upon direction from the Agency.

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### 9.2.9.3 PRICE ADJUSTMENT DUE TO SUSPENSION

The Contractor shall be allowed an equitable adjustment in the Contract price (excluding profit) and/or an extension of the Contract time, to the extent that cost or delays are shown by the Contractor to be directly attributable to any suspension. However, no adjustment shall be made under this section for any suspension, delay or interruption due to the fault or negligence of the Contractor, or for which an equitable adjustment is provided for, or excluded under any other term or condition of the Contract. As soon as reasonably possible but no later than forty-five (45) calendar days, or any other period of time agreed to by the parties, after receipt of the written suspension of work notice, the Contractor shall submit to the Contracting Officer a detailed price and schedule Proposal for the suspension, delay or interruption.

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## 9.2.10 EXCUSABLE DELAYS/FORCE MAJEURE

If the Contractor is delayed at any time during the progress of the Work by the neglect or failure of the Agency or by a cause as described below, then the time for completion and/or affected delivery date(s) shall be extended by the Agency subject to the following cumulative conditions:

- a. The cause of the delay arises after the Notice of Award and neither was nor could have been anticipated by the Contractor by reasonable investigation before such award. Such cause may also include force majeure events such as any event or circumstance beyond the reasonable control of the Contractor, including but not limited to acts of God; earthquake, flood and any other natural disaster; civil disturbance, strikes and labor disputes; fires and explosions; war and other

- hostilities; embargo; or failure of third parties, including Suppliers or Subcontractors, to perform their obligations to the Contractor;
- b. The Contractor demonstrates that the completion of the Work and/or any affected deliveries shall be actually and necessarily delayed;
  - c. The Contractor has taken measures to avoid and/or mitigate the delay by the exercise of all reasonable precautions, efforts and measures, whether before or after the occurrence of the cause of delay; and
  - d. The Contractor makes written request and provides other information to the Agency as described below.

To be deemed excusable, the force majeure event must be the actual cause of the delay. No excusable delay shall be granted where the Contractor was not ready, willing, and able to proceed with the Work, but for the force majeure event.

None of the above shall relieve the Contractor of any liability for the payment of any liquidated damages owing from a failure to complete the Work by the time for completion that the Contractor is required to pay pursuant to the Liquidated Damages provisions in this agreement for delays occurring prior to, or subsequent to the occurrence of an excusable delay.

The Agency reserves the right to rescind or shorten any extension previously granted, if subsequently the Agency determines that any information provided by Contractor in support of a request for an extension of time was erroneous; provided, however, that such information or facts, if known, would have resulted in a denial of the request for an excusable delay. Notwithstanding the above, the Agency shall not rescind or shorten any extension previously granted if the Contractor acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Contractor.

No extension or adjustment of time shall be granted unless: (1) written notice of the delay is filed with the Agency within fourteen (14) calendar days after the commencement of the delay and (2) a written application therefore, stating in reasonable detail the causes, the effect to date and the probable future effect on the performance of the Contractor under the Contract, and the portion or portions of the Work affected, is filed by the Contractor with the Agency within thirty (30) calendar days after the commencement of the delay. No such extension or adjustment shall be deemed a waiver of the rights of either party under this Contract. The Agency shall endeavor to make its determination within thirty (30) calendar days after receipt of the application.

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## 9.2.11 TERMINATION

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### 9.2.11.1 TERMINATION FOR CONVENIENCE

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency's best interest. Upon receipt of such Notice, the Contractor shall 1) deliver to TACC all data, drawings, specifications, reports, estimates, summaries and such other information and material as may have been prepared or developed by the Contractor, or its Subcontractors in performance under this Contract); and 2) take all other actions necessary to effect the termination.

The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs. The Agency shall have the right to audit the termination claim according to the cost principles of FAR Part 31.

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### 9.2.11.2 TERMINATION FOR DEFAULT

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. The Agency shall have the right to audit the termination claim according to the cost principles of FAR Part 31. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency. The Contractor shall be liable for any excess costs of re-procurement experienced by the Agency and the Agency may withhold and set-off against any payments due the Contractor those excess costs.

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## 9.2.12 COMPLIANCE WITH LAWS AND REGULATIONS

Contractor shall at all times comply with all applicable laws, regulations, policies, procedures and directives (together, the "Law"), including without limitation, applicable federal regulations, and FTA policies, procedures and directives, including those noted in the FTA's Master Agreement as it 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.

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### 9.2.13 CHANGES OF LAW

Changes of Law that become effective after the Proposal Due Date may result in price changes. If a price adjustment is indicated, either upward or downward, it shall be negotiated between the Agency and the Contractor, and the final Contract price shall be adjusted upwards or downwards to reflect such changes in Law. Such price adjustment may be audited, where required.

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### 9.2.14 GOVERNING LAW AND CHOICE OF FORUM

This Contract shall be governed by the laws of State of Michigan without regard to conflict of law provisions. The Contractor consents to the exclusive jurisdiction of the State and federal courts exercising jurisdiction over Calhoun County, Michigan. Should the Parties agree to any form of Alternative Dispute Resolution, any such proceeding shall be held in Calhoun County, Michigan.

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### 9.2.15 DISPUTES

Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under or related to this Contract that is not disposed of by agreement shall be decided in accordance with the following steps. However, by mutual agreement the matter may be taken immediately to any higher step in the dispute resolution process, or mutually agreed to alternative dispute resolution process (which may include structured negotiations, mediation or arbitration) or litigation. Pending final resolution of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Contracting Officer's direction.

- a. Notice of dispute. All disputes shall be initiated through a written dispute notice submitted by either party to the other party within 10 (ten) calendar days of the determination of the dispute.
- b. The parties shall attempt in good faith to resolve any dispute arising out of or relating to this Contract promptly by negotiation between the Contracting Officer and the Contractor's executives who have authority to settle the controversy. Any party may give the other party written notice of any dispute not resolved in the normal course of business as provided in (a.) above. Within 14 (fourteen) calendar days after delivery of the dispute notice, the receiving party shall submit to the other party a written response. The dispute notice and written response shall include: (1) a statement of the party's position and a summary of the arguments supporting that position, (2) any evidence supporting the party's position, and (3) the name of the executive who shall represent that party and of any others who shall accompany the executive in negotiations. Within 28 (twenty-eight) calendar

days after delivery of the dispute notice, the designated officials of both parties shall meet at a mutually acceptable time and place, and thereafter as they reasonably deem necessary to attempt to resolve the dispute. All reasonable requests for information by one party to the other shall be honored.

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#### 9.2.16 ACCESS TO RECORDS

- 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 the Agency, FTA and its contractors, the Comptroller General of the United States, the Secretary of the U.S. Department of Transportation, the State of Michigan, or any of their duly authorized representatives 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 the Agency, FTA and its contractors, the Comptroller General of the United States, the Secretary of the U.S. Department of Transportation, the State of Michigan, or any of their duly authorized representatives access to the sites of performance under this contract as reasonably may be required.

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#### 9.2.17 CONFLICTS OF INTEREST, GRATUITIES

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

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#### 9.2.18 WAIVER

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

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#### 9.2.19 REMEDIES NOT EXCLUSIVE

The rights and remedies of the Agency provided herein shall not be exclusive and are in addition to any other rights and remedies provided by law or under the Contract.

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#### 9.2.20 COUNTERPARTS

This Contract may be executed in any number of counterparts. All such counterparts shall be deemed to constitute one and the same instrument, and each of said counterparts shall be deemed an original thereof.

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#### 9.2.21 SEVERABILITY

Whenever possible, each provision of the Contract shall be interpreted in a manner as to be effective and valid under applicable law. However, if any provision, or part of any provision, should be prohibited or invalid under applicable law, such provision, or part of such provision, shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of the Contract.

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#### 9.2.22 THIRD-PARTY BENEFICIARIES

No provisions of the Contract shall in any way inure to the benefit of any third party, including the public at large, so as to constitute such person a third-party beneficiary of the Contract or of any one or more of the terms and conditions of the Contract or otherwise give rise to any cause of action in any person not a party to the Contract, except as expressly provided elsewhere in the Contract.

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#### 9.2.23 ASSIGNMENT OF CONTRACT

Neither party shall assign or subcontract its rights or obligations under this Contract without the prior written consent of the other party, and no such assignment or subcontract shall be effective unless approved in writing by the other party; provided, however, that the City of Battle Creek may assign this Contract, in whole or in part, to the Transportation Authority of Calhoun County upon written notice to the other party, without the need for prior written consent.

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#### 9.2.24 INDEPENDENT PARTIES

The Contractor is an independent contractor with respect to the performance of all Work hereunder, retaining control over the details of its own operations, and the Contractor shall not be considered the agent, employee, partner, fiduciary, or trustee of the Agency.

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#### 9.2.25 SURVIVAL

All provisions related to the following shall survive the nominal expiration or discharge of other Contract obligations, and the Agency may obtain any remedy under law, Contract or equity to enforce the obligations of the Contractor that survive the manufacturing, warranty and final payment periods:

- Intellectual Property Warranty
- Data Rights
- Indemnification
- Governing Law and Choice of Forum
- Disputes
- Confidential Information
- Parts Availability Guarantee
- Access to Records

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#### 9.2.26 AGENCY RIGHTS

TACC may investigate the qualifications of any proposer, require confirmation of information furnished by a proposer, and require additional evidence of qualifications to perform the Services described in this RFP. TACC and/or the City of Battle Creek reserve the right to:

1. Reject any or all of the proposals, at its discretion;
2. Remedy errors in the RFP;
3. Cancel the entire RFP;
4. Issue subsequent RFP;
5. Appoint evaluation committees to review proposals;
6. Seek the assistance of outside technical experts to review proposals;
7. Approve or disapprove the use of particular subcontractors and suppliers;
8. Establish a short list of proposers eligible for discussions after review of written proposals;
9. Solicit best and final offers (BAFO) from all or some of the proposers;
10. Negotiate with any, all or none of the proposers;
11. Award a contract to one or more proposers;
12. Accept other than the lowest priced proposal;
13. Disqualify the proposal(s) upon evidence of collusion with intent to defraud or other illegal practices on the part of the proposer(s);

14. Waive any informalities or irregularities in any proposal, to the extent permitted by law; and
15. Award a Contract without interviews, discussions or negotiations.

## 9.3 SPECIAL PROVISIONS

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### 9.3.1 PRICING

Contractor agrees all the Prices, terms, warranties, and benefits provided in this Contract are comparable to or better than the terms presently being offered by Contractor to any other governmental entity purchasing the same quantity under similar terms. If during the term of this Contract, Contractor shall enter into contracts with any other governmental entity providing greater benefits or more favorable terms than those provided by this Contract, Contractor shall be obligated to provide the same to Purchaser for subsequent purchases.

### 9.3.2 INSPECTION, TESTING, AND ACCEPTANCE

The Contractor shall, upon receipt of Limited Notice to Proceed, prepare and submit for review and approval of TACC, an Acceptance Testing Plan. The Contractor shall make any updates to the draft plan as required by TACC prior to receipt of Notice to Proceed.

The Agency may conduct such inspections as it deems necessary, whether or not listed in the Acceptance Testing Plan. No approval of the Acceptance Testing Plan or the results of any test or inspection shall relieve the Contractor of its obligation to manufacture and install all materials, and to provide all services, in compliance with all specifications.

The Agency may, at its discretion, conditionally accept any materials or services, subject to Contractor completing all tasks necessary to achieve full compliance with the specifications.

### 9.3.3 MANUALS AND TRAINING

The Contractor shall prepare and present manuals and training for comprehensive maintenance and operation of all Deliverables in accordance with its accepted Proposal.

### 9.3.4 TYPE OF CONTRACT AND PAYMENT

The Agency anticipates awarding a firm fixed price contract for all goods and services, Work, and Deliverables required herein. Payment is anticipated to occur upon completion of all requirements, receipt of a proper and complete invoice. The Agency will consider implementing a milestone payment structure proposed by a proposer and accepted by the Agency. Any such milestone payments will be subject to a ten percent retainer, payable upon completion and acceptance of all goods and services, Work, and Deliverables required herein.

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### 9.3.5 INVOICES

Payment shall be made at the end of each project, within 30 days following the submittal of a correct invoice for goods received and/or work performed. Where applicable, expenses shall be billed at cost without markups, and must be supported by actual receipts. Mileage and per diem rates, if applicable, shall not exceed the federal rates.

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### 9.3.6 TAXES

Unless otherwise provided in this Contract, the Contractor shall pay all federal, state and local taxes, and duties applicable to and assessable against any Work, goods, services, processes and operations incidental to or involved in the Contract, including but not limited to retail sales and use, transportation, export, import, business and special taxes. The Contractor is responsible for ascertaining and paying the taxes when due. The total Contract price shall include compensation for all taxes the Contractor is required to pay by laws in effect on the Proposal Due Date.

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### 9.3.7 DELIVERY

The Contractor shall deliver all Deliverables in accordance with the approved schedule.

It is mutually understood and agreed by the Parties that time is of the essence with respect to the completion of the Work and that in case of any failure on the part of the Contractor to deliver the Deliverables within the time specified in the approved schedule (except for any excusable delays) the Agency shall be damaged thereby. The amount of said damages being difficult if not impossible of definite ascertainment and proof, it is hereby agreed that the amount of such damages due to the Agency shall be fixed at \$2,914.30 per business day, up to a maximum of ten percent of the contract price.

The Contractor hereby agrees to pay the aforementioned amounts as fixed, agreed and liquidated damages, and not by way of penalty, to the Agency and further authorizes the Agency to deduct the amount of the damages from money due the Contractor under the Contract, computed as aforesaid. If the money due the Contractor is insufficient or no money is due the Contractor, then the Contractor shall pay the Agency the difference or the entire amount, whichever may be the case, within thirty (30) days after receipt of a written demand by the Contracting Officer.

The payment of aforesaid fixed, agreed and liquidated damages shall be in lieu of any damages for any loss of profit, loss of revenue, loss of use, or for any other direct, indirect, special or consequential losses or damages of any kind whatsoever that may be suffered by the Agency arising at any time from the failure of the Contractor to fulfill the obligations referenced in this clause in a timely manner.

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### 9.3.8 INSURANCE

The Contractor shall at the time of execution of this contract, file with the City the Certificate of Insurance, which shall cover all insurance as required herein, including evidence of payment of premiums thereon, and the policy or policies or insurance covering said City and their officers, agents and employees. Each such policy and certificate shall be satisfactory to the City. Nothing contained in these insurance requirements is to be construed as limiting the extent of the Contractor's responsibility for payment of damages resulting from their operations under this Contract.

The Contractor shall maintain insurance coverages in the forms and limits below throughout the period of performance and the warranty period.

- Worker's Compensation and Employer's Liability Insurance:
  - \$100,000 or statutory limit
- Commercial General Liability Insurance:
  - Bodily Injury: \$1,000,000 per occurrence
  - Property Damage: \$1,000,000 per occurrence
  - OR Combined Single Limit: \$1,000,000 per occurrence
- Comprehensive Automobile Liability Insurance:
  - Bodily Injury: \$300,000 each person
  - Liability: \$500,000 each occurrence
  - Property Damage: \$500,000
  - OR Combined Single Limit: \$500,000

The City of Battle Creek and the Transportation Authority of Calhoun County shall be named as additional insured for all except workers compensation coverage and shall be provided with a Certificate of Insurance that reflects this additional insured status. A 30-day notice of cancellation or material change shall be provided to the City and TACC and so noted on the Certificate of Insurance. Contractor insurance shall be primary and non-contributory, with waiver of subrogation endorsement.

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### 9.3.9 BUY AMERICA

All materials delivered to the Agency must fully comply with the Buy America provisions of 49 CFR 661, as supplemented from time to time by FTA guidance. Failure to comply with Buy America shall be a material breach of the Contract and subject the Contractor to termination for default. All proposers are required to submit the Buy America certification below. Any proposal that does not include a completed Buy America certification shall be deemed non-responsive and not further considered.

## 9.4 OTHER FEDERALLY REQUIRED PROVISIONS

### 9.4.1 NO FEDERAL GOVERNMENT COMMITMENT OR LIABILITY TO THIRD PARTIES

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the Solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

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

### 9.4.2 FALSE OR FRAUDULENT STATEMENTS OR CLAIMS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §§ 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 CFR 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 USC § 5307, the Government reserves the right to impose the penalties of 18 USC § 1001 and 49 USC § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

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

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### 9.4.3 FEDERAL FUNDING, INCORPORATION OF FTA TERMS AND FEDERAL CHANGES

The provisions herein include certain standard terms and conditions required by the Department of Transportation, whether or not expressly set forth in this agreement. All contractual provisions required by DOT, as set forth in 2 CFR Part 200, and/or FTA Circular 4220.1G or its successors 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 Agency requests that would cause the Agency to be in violation of the FTA terms and conditions.

The 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 Agency 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.

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### 9.4.4 CIVIL RIGHTS AND EQUAL OPPORTUNITY

Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

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

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection

for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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#### 9.4.5 PROMPT PAYMENT TO SUBCONTRACTORS

Pursuant to 49 Code of Federal Regulations (CFR) Part 26, the Contractor shall pay each Subcontractor under this Contract for satisfactory performance of its Contract no later than thirty days (30) days after receipt of any related Progress Payment received from Agency. The Contractor shall pay to each Subcontractor all amounts it has retained from payments under the Subcontract within thirty (30) days after the Subcontractor's work is satisfactorily completed. Any delay of payment beyond the thirty (30) day time limit shall be only for good cause, and only upon the prior written approval of Agency.

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#### 9.4.6 SUSPENSION AND DEBARMENT

This Contract is a covered transaction for purposes of 2 CFR Parts 180 and 1200. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 2 CFR 180.995, or affiliates, as defined at 2 CFR 180.905, are excluded or disqualified as defined at 2 CFR 180.940 and 180.945.

The Contractor is required to comply with 2 CFR 180, Subpart C, and must include the requirement to comply with 2 CFR 180, Subpart C, in any lower-tier covered transaction it enters into.

The Contractor must sign and submit the certification at FC5, below, and require its suppliers and subcontractors engaged in covered transactions to submit to the Contractor the

certification at FC6 below. By signing and submitting the forms at FC5 and FC6, the signatories acknowledge:

Each certification is a material representation of fact relied upon by the Agency. If it is later determined that the Proposer knowingly rendered an erroneous certification, in addition to remedies available to the Agency, the federal government may pursue available remedies, including but not limited to suspension and/or debarment. The Bidder or Proposer agrees to comply with the requirements of 2 CFR 180, Subpart C, while this Proposal is valid and throughout the period of any Contract that may arise from this Proposal. The Bidder or Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

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#### 9.4.7 RESOLUTION OF DISPUTES, BREACHES, OR OTHER LITIGATION – NOTIFICATION OF CONTRACTOR AND/OR SUBCONTRACTOR TO AGENCY AND AGENCY NOTIFICATION TO FTA

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of Agency. This decision shall be final and conclusive and binding on the Contractor. In connection with any such appeal, the Contractor shall be afforded an opportunity to offer evidence in support of its position. The decision of the Agency shall be binding upon the Contractor, and the Contractor shall abide by the decision.

If a current or prospective legal matter that may affect the Federal Government emerges, the Agency is required to promptly notify the FTA Chief Counsel and FTA Regional Counsel. As such, the Contractor must promptly notify the Contracting Officer of any current or prospective legal matter that may affect the Federal Government or this Contract and require the same of its lower tier subcontractors and suppliers involved in any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

Additionally, the Agency must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel, if the Agency has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies

if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Agency and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Agency. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions. As such, the Contractor must promptly notify the Contracting Officer of any knowledge of potential fraud, waste, or abuse and require the same of its lower tier subcontractors and suppliers involved in any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.

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#### 9.4.8 FEDERAL ENERGY CONSERVATION REQUIREMENTS

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

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#### 9.4.9 SAFE OPERATION OF MOTOR VEHICLES

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##### 9.4.9.1 SEAT BELT USE

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or Agency.

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##### 9.4.9.2 DISTRACTED DRIVING

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

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#### 9.4.10 TELECOMMUNICATIONS EQUIPMENT

The Contractor is required to sign and submit the certification below, signifying compliance.

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#### 9.4.11 FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

The Contractor is required to sign and submit the certification below, signifying compliance.

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#### 9.4.12 ADA ACCESS

The Contractor and any of its subcontractors or suppliers under this Contract agree to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 USC §§ 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and the following regulations and any amendments thereto:

- DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37;
- DOT regulations, “Americans With Disabilities Act (ADA) Accessibility Specifications for Transportation Vehicles,” 49 CFR Part 38;
- DOT regulations, “Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 CFR Part 27;
- U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) regulations, “American With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192;
- Department of Justice (DOJ) regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 CFR Part 35;
- DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 CFR Part 36;
- General Services Administration regulations, “Accommodations for the Physically Handicapped,” 41 CFR Subpart 101-19;
- Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630;
- Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 CFR Part 64, Subpart F;
- FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 CFR Part 609;
- U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 CFR Part 1194; and
- Any implementing requirements FTA may issue.

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#### 9.4.13 DISADVANTAGED BUSINESS ENTERPRISES

The resulting contract shall be subject to the requirements of 49 CFR Part 26, as amended or interpreted from time to time by the US Department of Transportation or the Federal Transit Administration. No DBE goal has been established for this project.

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#### 9.4.14 RESTRICTIONS ON LOBBYING

##### 1. Certification Requirements

Contractors, at any tier, who apply for a contract 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 any agency, a member 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 shall also disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the Agency.

##### 2. Disclosure Requirements

Any proposer who has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered federal action), which would be prohibited under 49 CFR part 20 if paid for with appropriated funds shall submit with its proposal a disclosure form, Standard Form - LLL, "Disclosure of Lobbying Activities."

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#### 9.4.15 CLEAN AIR AND CLEAN WATER

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, and its regulations. The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed under this Contract.

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Water Act. The Contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed under this Contract.

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#### 9.4.16 NATIONAL INTELLIGENT TRANSPORTATION SYSTEM ARCHITECTURE AND STANDARDS (ITS)

The Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

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#### 9.4.17 U.S. DEPARTMENT OF TRANSPORTATION NONDISCRIMINATION REQUIREMENTS

During the performance of the Contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. Compliance with Regulations. The Contractor shall comply with the Regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of the Contract.
2. Nondiscrimination. The Contractor, regarding the work performed by it during the Contract, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontractors, Including Procurement of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under the Contract and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age, or national origin.
4. Information and Reports. The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by The Agency or the FTA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the

Agency, or the FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.

5. Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of the Contract, the Agency shall impose such contract sanctions as it or the FTA may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
- b. Cancellation, termination, or suspension of the Contract, in whole or in part.

## 10.0 CERTIFICATIONS

### 10.1 TELECOMMUNICATIONS EQUIPMENT

The Contractor hereby acknowledges that the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115232, § 889 (Aug. 13, 2018) (the Act) prohibits the Agency from procuring certain “covered telecommunications equipment or services,” as defined in the Act, in federally assisted procurements and that the instant procurement is a federally assisted procurement subject to that prohibition. VENDOR represents and warrants that it has performed a due diligence review of its supply chain and that no such “covered telecommunications equipment or services” shall be provided to the Agency that would cause the Agency to be in violation of the prohibition contained in the Act.

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Signature, date, and title

## 10.2 FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

The undersigned hereby certifies that the offeror, \_\_\_\_\_  
(company name)

(A) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

(B) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

Additionally, the Contractor acknowledges that if it cannot so certify, the Agency must refer the matter to FTA and not to enter into any agreement with the Contractor without FTA's written approval.

Moreover, the Contractor acknowledges that it may not enter into any sub agreement related to this Contract without first obtaining a like certification from its subcontractor or supplier and will require its subcontractors and suppliers at every level to obtain like certifications in lower level transactions

\_\_\_\_\_  
Signature, date, and title

### 10.3 BUY AMERICA

**NOTE: Complete only one of the below, indicating the product will comply or will not comply. Signing both or failing to sign completely will render your proposal non-responsive per 49 CFR 661.13.**

#### Certificate of Compliance with Buy America Requirements (Manufactured Products)

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

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

#### Certificate of Non-Compliance with Buy America Requirements (Manufactured Products)

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

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

## 10.4 ACKNOWLEDGEMENT OF ADDENDA

Failure to acknowledge receipt of all addenda may cause the Proposal to be considered nonresponsive to the Solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Proposal.

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No.:           – Dated:

Addendum No.:           – Dated:

Addendum No.:           – Dated:

Addendum No.:           – Dated:

Proposer:

Name:

Title:

Phone:

Street address:

City, state, ZIP:

\_\_\_\_\_  
Authorized signature

\_\_\_\_\_  
Date

## 10.5 DEBARMENT AND SUSPENSION – PRIME CONTRACTOR

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

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or Board;

(b) Have not within a three-year period preceding this proposal 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 of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) 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 (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Signature, date, and title

## 10.6 DEBARMENT AND SUSPENSION – SUBCONTRACTORS AND SUPPLIERS

(1) The Prospective Subcontractor or Supplier certifies to the best of its knowledge and belief, that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or Board;

(b) Have not within a three-year period preceding this proposal 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 of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) 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 (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

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Signature, date, and title

## 10.7 LOBBYING CERTIFICATION

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

1. No federal appropriated funds have been paid or shall 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 shall 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, USC § 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, IF ANY. IN ADDITION, THE PROPOSER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 USC §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

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Signature, name, and title

## 11.0 OFFER FORM

We propose to furnish all services, labor, materials, equipment, tools, or transportation required to complete the work in accordance with the specifications and conditions contained herein in consideration of the sum or sums stated in this contract, and agree that this document will constitute the contract if accepted by the City.

We hereby offer and agree to furnish the material or service in compliance with all terms, conditions, specifications, and amendments in the Request for Proposals and any written exceptions in the offer. We understand that the items in this Request for Proposals, including, but not limited to, all required certificates are fully incorporated herein as a material and necessary part of the contract. Warranty, where applicable: Contractor shall remove and replace at no additional cost to the City any defects in workmanship or materials that may be apparent or may develop within a period of one (1) year from the date of final acceptance. We agree to complete the contract within the times specified in this Request for Proposals.

I certify, under penalty of perjury, that I have the legal authorization to bind the firm hereunder, and that our firm is not debarred from doing business under the Federal Excluded Parties List System (epls.gov).

I, the Contractor or Contractor's legally authorized signer, further certify compliance with the City of Battle Creek Ordinance Chapter 214, Discrimination Prohibited. I further acknowledge and agree that the Contractor's violation of Chapter 214 shall be a material breach of this contract. In addition, Contractor acknowledges and agrees that it shall be liable for any costs or expenses incurred by the City in obtaining from other sources, the work and services to be rendered or performed or the goods or properties to be furnished or delivered to the City under the contract as a result of a material breach in the Contract for violations of Chapter 214.

**For clarification of this offer, contact:**

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
Office Phone

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

\_\_\_\_\_  
Mobile

\_\_\_\_\_  
Authorized signer

\_\_\_\_\_  
Email

\_\_\_\_\_  
Printed name and title

\_\_\_\_\_  
Fax

## 12.0 ACCEPTANCE OF OFFER

The Offer is hereby accepted.

The Contractor is now bound to sell the materials or services listed by the attached contract and based upon the Request for Proposal, including all terms, conditions, specification, amendments, etc. and the Contractor's Offer as accepted by the City.

This contract shall henceforth be referred to as Contract No. \_\_\_\_\_. The Contractor has been cautioned not to commence any billable work or to provide any material or service under this contract until Contractor receives purchase order and/or a notice to proceed from the City of Battle Creek Purchasing Agent.

**COUNTERSIGNED AND EXECUTED:**

**APPROVED AS TO FORM BY:**

\_\_\_\_\_  
City Manager

\_\_\_\_\_  
Date

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date