



METRO TRANSIT
INVITATION FOR BIDS

Pest Control Services

Project No. NE-90-X101 Grant/Specification No. 02-16

Authorized Contact

Grant Administrator
2222 Cuming Street
Omaha, NE 68102
lcencic@ometro.com
Voice 402.341.0800, ext. 2600
TTY 402.341.0807

TABLE OF CONTENTS

- I. INFORMATION FOR BIDDERS
- II. GENERAL CONDITIONS AND REQUIREMENTS
- III. SCOPE OF WORK
- IV. ATTACHMENTS
 - (A) FEDERAL CLAUSES
 - (B) REQUEST FOR CLARIFICATION
 - (C) LOBBYING CERTIFICATE
 - (D) PRICE SCHEDULE FORM

I. INFORMATION FOR BIDDERS

The Transit Authority of the City of Omaha, d/b/a Metro (“Authority”), requests Bids from responsible, qualified Persons for Pest Control Services for its Administrative/Maintenance Facility, Transit Centers and Transit Fleet. The successful Bidder will be awarded a Contract for the Work, which may be conditioned upon approval by the FTA. The award of a Contract shall not be final and binding upon Metro until all necessary approvals have been obtained and all preliminary conditions of the Contract Documents have been fulfilled. The Contract will be awarded no later than 60 days following the Bid deadline to the Applicant submitting the Bid that conforms in all material respects to this solicitation and that under the totality of the circumstances is considered most advantageous to Metro.

The Contract will be for a period of one (3) year (“Term”), commencing as of (a) April 4, 2016 or the date that the Contract is executed by both parties, as evidenced by the date identified with the respective signatures and terminating as of April 3, 2019. Metro, at its sole option and its sole discretion, may exercise the option to renew the Term for up to two consecutive one year periods (i.e. from April 4 through April 3rd, in the next succeeding calendar year, each being a “Renewal Term”) by written notice to Contractor made not later than thirty (30) days prior to the expiration of the then current Term.

This Invitation For Bid (“IFB”) shall consist of those documents included in this solicitation including all Attachments and Exhibits together with any Addenda that may be issued by Metro prior to the Bid deadline.

A. IFB TIMELINE: Unexpected events may cause the timeline to change. If changes occur, they will be posted on Metro’s website, www.ometro.com/contracting-opportunities

<u>Date</u>	<u>Event</u>
February 26, 2016	IFB Released
March 8, 2016, 11:30 AM CST	Pre-Bid Meeting
March 11, 2016	Deadline For Submittal of Questions, Changes, Clarifications
March 16, 2016, 2:00 PM CST	Bid Deadline and Public Opening
April 4, 2016	Commencement of Contract

Bid Deadline:

All Bids are due by 2:00pm CST, Wednesday, March 16, 2016. Bids should be sent or delivered to Metro Attn: Grant Administrator at 2222 Cuming Street, Omaha NE 68102 and must include executed forms found in Attachments C and D.

B. PRE-BID MEETING

A Pre-Bid Meeting will be held at Metro, 2222 Cuming Street, Omaha, NE, at 11:30 a.m., on Tuesday, March 8, 2016. Attendance is strongly recommended but not required.

NOTE: Prospective responders are independently responsible for visiting Transit Centers. Parking is not available at the Transit Centers, but is available within a short walk. **DO NOT** block transit fleet or passenger access.

Bid Requirements:

All Bids must include:

- (1) Executed Lobbying Certification (Attachment C)
- (2) Price Schedule Forms (Note: All addenda must be acknowledged on this form; Execution of this form also indicates that you will comply with Federal Clauses and all other provisions of this IFB - Attachment D)

II. GENERAL CONDITIONS AND REQUIREMENTS

GENERAL CONDITIONS

1.0 Definitions. Whenever used in this IFB, the following capitalized and other terms shall have the meaning ascribed to them set out below, and as may otherwise be defined in this IFB.

ADDENDUM A written amendment or modification to the IFB, issued by Metro in conformity with the IFB.

APPLICANT Person who submits a Bid. The term "Bidder", "Offeror", or "Respondent" is occasionally used in the Laws or Contract Documents to mean the Applicant or the Contractor. Such term shall therefore be construed to apply to Applicant whenever the context shall require.

AUTHORITY Transit Authority of Metro of Omaha d.b.a. Metro. The term "Metro" is used in the Laws or Contract Documents to mean Metro.

CONTRACT The agreement between the Contractor and Metro to perform the Work for the Project. The Contract shall consist only of the Contract Documents, including: their respective covenants, terms, conditions and other provisions; and any exhibits, schedules, drawings, specifications or other instruments or documents referenced in, by, or otherwise incorporated into, any Contract Documents. To the extent there exists any inconsistency among the Contract Documents that which is deemed by Metro to be most advantageous shall apply. The performance of the Contractor, including that of its Subcontractors, shall conform to, and shall be consistent with, the Contract. The Contract shall continue until the completion of the performance of the Work, unless earlier terminated as provided in Section 1.4.

CONTRACT DOCUMENTS The Contract Documents shall mean and include: the IFB; the Bid, including any permitted or negotiated modifications/ amendments thereto; the executed Pricing

Schedule; any executed Acknowledgement of Addenda; any Request for Clarification and Approved Equal; any executed Certification required by the IFB (see, Attachments); the Contract award; all bonds and policies or evidence of insurance; any separate written agreements between Metro and the Contractor related to the Project or the Work, including, if required, a duly executed and completed contract; any other material or document designated by Metro as a Contract Document.

CONTRACTOR

The Applicant receiving the award of a Contract. Unless otherwise required by this Contract, references to the Contractor shall include Contractor and Subcontractors, including its and their employees, agents, successors and assigns. The term "Bidder" or "Offeror" is occasionally used in the Laws or Contract Documents to mean the Applicant or the Contractor. Such term shall therefore be construed to apply to Contractor whenever the context shall require. Similarly, the term "installer", "third party contractor", "lower tier participant" shall therefore be construed to apply to Contractor whenever the context shall require.

DAYS

Days shall mean business days unless otherwise expressly provided.

D.O.T.

Department of Transportation.

F.T.A.

Federal Transit Administration.

INCLUDING

The term "including" shall mean "including without limitation", whether or not expressly so provided.

LAW

"Law" or "Laws" means and refers to all existing and future applicable federal, State and local laws, requirements, provisions, conditions, policies, directives, procedures, orders, rules or regulations (including those of any federal, State or local agency or department having jurisdiction over any such matters) that may pertain to or otherwise relate to the Services or to the resultant Contract, as any such Law may be from time to time amended, supplemented or supplanted. Laws include but are not limited to those federal requirements included, identified or referenced in

Attachment "A" of this IFB, all applicable FTA regulations, and all Environmental Regulations. An "Environmental Regulation" is any federal, state, or local statute, law, ordinance, rule, regulation, or policy governing the use, storage, treatment, transportation, manufacture, refinement, handling, production, discharge, emission, or disposal of any Hazardous Substance or otherwise relating to the protection of the environment or to otherwise implement or comply with any Environmental Regulation; and "Hazardous Substance" shall have the meaning given to such phrase in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (42 U.S.C. § 9601, et seq.) and any other Environmental Regulation, any flammable explosives, radioactive materials, hazardous materials, hazardous wastes, hazardous or toxic substances, or any related materials or any materials that are regulated by any other Environmental Regulation.

MASTER AGREEMENT	Agreement between the F.T.A. and Metro.
PARTY(IES)	Metro or the Contractor individually (or collectively).
PERSON	"Person" shall mean any individual or entity, including any corporation, partnership, sole proprietor or LLC.
PROJECT NO.	Authority Project No. <u>NE-90-X101</u> . All written correspondence from a Party in connection with the Contract Documents, the Contract or the Work shall reference the Specification No. and the Project No.
PROJECT COMPLETION DATE	The date designated in the Contract Documents for completion of the Work, as extended in conformity with the Contract Documents.
BID	A timely written response to this IFB that complies in all material respects to this IFB and includes a proposed price for the Work. The Bid shall include any forms, Certifications or other materials required by the IFB. The term "Bid" or "Offer" is occasionally used in the Laws or Contract Documents to mean the Bid and shall be so construed whenever the context shall require.

IFB	This Invitation for Bids for Project No. <u>NE-90-X101</u> : Specification No. 02-16, issued <u>February 26, 2016</u> , together with any Addenda.
RECIPIENT	Metro.
SPECIFICATION NO.	Authority Specification No. <u>02-16</u> . All correspondence from a Party in connection with the Contract Documents, the Contract or the Work shall reference the Specification No. and the Project No.
SPECIFICATIONS	The Project/Scope of Work Specifications included in this IFB in Section 3.
SUBCONTRACTOR	Any Person with whom the Contractor subcontracts any Work, including any Person from whom Contractor may purchase any equipment, materials or services. All agreements between Contractor and Subcontractors shall be in writing, conform to the Laws and shall be assignable, without penalty or modification, to Metro upon request in the event of termination of the Contract.
SUB-RECIPIENT	A Person to whom the recipient distributes federal funds.
WORK	The work and performance required by the Contract, including all tangible and intangible property (including, unless otherwise expressly provided in Section III or the Specifications, all designs, drawings, photographs, data, specifications, computer records and software, lists, manuals, reports, research, source codes, all related information, intellectual/proprietary property rights therein and thereto), all licenses, purchases, construction, installation, labor, materials, equipment and services contemplated, made, prepared, developed, provided or to be made, prepared, developed, provided by the Contractor, including its Subcontractors. Unless otherwise provided in Section III or the Specifications, all Work, including partially completed Work, shall be the property of Metro, subject to the rights of the United States therein and thereto.

1.1 Responses to IFB.

1.1.1 Responsive Bids.

- (a) Metro will evaluate only those Bids which are fully responsive to this IFB and which are received by Metro on or before **March 16, 2016** at two o'clock p.m., or as extended by Addendum. Each Applicant shall submit its Bid to Metro, addressed as follows:

Grant Administrator
Metro
2222 Cuming Street
Omaha, Nebraska 68102-4392
Project No. NE-90-X101 Specification No. 02-16

All Bids become the property of Metro.

- (b) Metro Reserves the Right To:

Reject any or all Bids or a portion of a Bid, to waive any informalities or irregularities in the Bid submission process, to supplement, amend, or otherwise modify this IFB and cancel this request with or without the substitution of another IFB, to extend the date for submission of responses, to request additional information and data from any or all respondents, references and other sources, to reissue the IFB, to increase or decrease the Scope of Work, negotiate changes in the Scope of Work prior to contract award and to award a contract to other than the lowest bidder. Metro will ensure that the lowest bidder is fully responsible and capable of carrying out the scope of work prior to awarding a contract. Metro will only award a contract to a bidder that is determined to be responsible and possesses the ability, willingness, and integrity to perform successfully under the terms and conditions of the contract. Federal law codified at 49 U.S.C. 5325(c) authorizes Metro to award a contract to other than the lowest bidder if the award furthers and objective consistent with the purposes of 49 U.S.C. Chapter 53 including but not limited to lower long-term costs and improved long-term operating efficiency

- (c) Any Addendum to this IFB shall be issued and posted to Metro's website. It is the responsibility of the bidder to ensure they review any such Addendum. Metro shall not be responsible should any Person fail to receive such Addendum or notice.
- (d) If bid security is required by Section 1.1.4(a) of this IFB, then Applicant shall include such security with the submission of its Bid. The security shall

be conditioned upon (i) the Bid remaining firm for a period of 60 days after the Bid deadline (and thereafter as extended by Applicant in writing upon request of the Grant Administrator. In the event an Applicant shall refuse to extend its bid security when requested to do so, Applicant's Bid shall be deemed to have been withdrawn.), (ii) the successful Applicant's execution and delivery of all such other and additional instruments and documents required by the IFB as a condition of the Contract, including the form of Contract, bonds and certificates or other evidence of policies of insurance. Retaining the proceeds of the bid security shall not constitute a waiver of any other rights, remedies or recourse available to Metro in the event a successful Applicant shall fail to enter into the Contract or to perform its obligations thereunder.

- (e) All Bids shall specify, on forms provided, in words and figures, the contract price, payment terms and other applicable material provisions. The Bid shall confirm that all material provisions of the Bid, including prices, shall remain firm through the Project Completion Date, unless otherwise expressly permitted by the Specifications. Metro is exempt from payment of federal excise and transportation tax, and Nebraska Sales Tax. These taxes shall not be included in the price for any Bid.
- (f) No Bid shall be considered compliant or responsive unless it materially complies with the IFB in its entirety and includes all information requested. Without limitation to the generality of the preceding sentence or any other provision of this IFB, Bids may be found not to be compliant or responsive if Applicant:
 - i. Misrepresents any material fact.
 - ii. Attempts to evade any material provision or requirement of this IFB.
 - iii. Fails to include the bid security required by Section 1.1.4 of this IFB.
 - iv. Fails to indicate in numbers and words, any amounts required to be identified.
 - v. Fails to timely submit a duly authorized and executed Bid.
 - vi. Submits a conditional Bid, or a Bid that takes exception to the Specifications, the IFB or any other Contract Document.
 - vii. Fails to fully execute or complete any forms, schedules or exhibits required by this IFB to be executed or completed.
 - viii. Otherwise fails to comply with any material provision or condition of this IFB.
- (g) Copies of responsive competing Bids shall not be made available to Applicants earlier than March 16, 2016. Upon written request, Applicants and other interested Persons may inspect Bids without charge during regular

Metro hours commencing March 17, 2016. Applicants should be aware that Metro is a public body to which the public records laws of the State of Nebraska may apply. Metro shall take reasonable steps to notify the Person designated by the Applicant in the Bid of any request by any Applicant or other Person to obtain copies of, or to otherwise review information, clearly identified in the Bid as “Confidential Information”. Metro expressly disclaims any further obligation or undertaking to otherwise protect the confidential nature of any information contained in any Bid.

1.1.2 Requests/Specified Parts and “Approved Equals”.

- (a) Other than a request for the IFB, no inquiry concerning the IFB shall be made except for clarification and as provided in Section 1.1.2(b). All such requests must be made in writing on the form required and reference the Project and Specification numbers. Requests for clarification shall include an explanation detailing why clarification is necessary. All requests must be received by Metro by **March 11, 2016** or as extended by Addendum.
- (b) In all cases, material must be furnished as required by the Specifications. Where brand names or specific items or processes are used in the Specifications, consider the term “approved equal” to follow. However, no “approved equal” shall be allowed unless accepted by Metro following Applicant’s written request. Applicant may also request substitutions if the proposed substitution is equal in all material respects to that which has been specified. All such requests must be made in writing on the form required and reference the Project and Specification numbers. All requests must be received by Metro by **March 11, 2016** or as otherwise modified by addendum. Metro may deny any such request in its absolute discretion. Nothing in this Section 1.1.2 shall be construed to require Metro to accept any substitution or proposed equal. Each request shall include only the most recent relevant objective information, documentation or support considered necessary by the Applicant. All information shall be completely accurate in all material respects, and shall be intended to demonstrate “equal” status in connection with suitability, physical, functional, performance, technical and other salient characteristics to that which has been specified. The Applicant may be required to supply the Grant Administrator with additional performance data, and other appropriate support, samples or documentation as a condition of Metro’s acceptance.
- (c) Metro shall respond to all Section 1.1.2 requests in writing in the form of an Addendum which will be issued on Metro’s website prior to the Bid deadline addressing the requests and will be the final opportunity for bidders

to obtain approvals for substitutions. Metro shall not be responsible should any Person fail to receive such Addendum.

- (d) Metro shall not be obligated to extend the Bid deadline in the event of an approved request for clarification, substitutes or proposed equal, but may do so in its absolute discretion.
- (e) Metro may reject any request for a substitute or qualified equal made by any Contractor following the award of the Contract, in its absolute discretion.

1.1.3 Protests.

- (a) Protests made in connection with this IFB, including the protest of a denial or approval of any request made pursuant to Section 1.1.2 shall be made in writing received by the Grant Administrator by no later than ten (10) days before the Bid deadline. Protests shall be limited to those allowable by, and made in compliance with, the procedures established by Metro, copies of which may be obtained from the Executive Director of Metro upon written request. All protests shall be concise, direct and sufficient to permit Metro to determine the full and complete basis therefor, fully supported by all current, relevant objective information, documentation or support considered necessary by the Applicant that is completely accurate in all material respects. Metro shall decide the protest by no later than five (5) days prior to the Bid deadline. Procedures for appeals from any such decision are set forth in Metro's protest procedures.
- (b) Appeals from the award of a Contract must be made in writing received by the Executive Director of Metro not later than ten (10) days after the earlier of the award of the Contract or the announced intention of the award of the Contract. Appeals shall be limited to those allowable by, and made in compliance with, the procedures established by Metro, copies of which may be obtained from the Executive Director of Metro. All appeals shall be concise, direct and sufficient to permit Metro to determine the full and complete basis therefor, fully supported by all current, relevant objective information, documentation or support considered necessary by the Applicant that is completely accurate in all material respects. Procedures for appeals from any such decision are set forth in Metro's protest procedures.
- (c) The filing or approval of any protest or appeal may result in the extension of the Bid deadline, the issuance of an Addendum, the withdrawal of the

IFB or the reconsideration of any award of a Contract, in the sole discretion of Metro.

- (d) In the event of an appeal from the award of a Contract, the award shall not be considered final or binding upon Metro unless the award is thereafter confirmed in writing by the Executive Director.
- (e) For information purposes only, each Applicant should understand that the FTA will not accept any protest or appeal from any decision of Metro unless Metro fails to have any written protest procedures, Metro fails to follow such procedures or Metro fails to review a timely protest. An Applicant must exhaust all administrative remedies with Metro before pursuing a protest with FTA. An appeal to FTA must be received by the appropriate FTA regional or Headquarters Office within five (5) working days of the date the Applicant knew or should have known of the violation.

1.1.4 Insurance Requirements. The requirements identified below shall apply to any Bid or Contract related to this IFB. Any Bid which fails to include, or takes exception to, any such requirement shall be considered non-responsive and will be rejected.

- (a) Insurance Requirements.

NONE

1.2 **Applicant's Identification.**

1.2.1 Designated Authorized Representative. Applicant shall identify the individual(s) who shall have authority to bind the Applicant/Contractor in any matter related to the Bid, Contract or Work.

1.2.2 Applicant Identity. Applicant shall identify itself, and all Persons who will act, directly or indirectly, as a Subcontractor in connection with the Work, the Bid or the Contract. No Subcontractor shall be permitted to perform under the Contract without express approval from Metro.

1.2.3 Continued Identity. Applicant shall, in the form of written supplements to its Proposal addressed to the Authority Administrator, keep continuously current through the award of the Contract all information provided pursuant to Section 1.2 of this RFCP, including Sections 1.2.1 and 1.2.2.

1.2.4 Designated Recipient of Notice. Applicant shall designate a Person to receive copies of any correspondence, approvals or notice contemplated by the Contract from the Authority. Identification shall include a telephone number, address,

telefax number, hours of business and any other information appropriate to enable the Authority to provide any notice.

1.2.5 Designated Authorized Representative. Applicant shall identify the individual(s) who shall have authority to bind the Applicant/Contractor in any matter related to the Proposal, Contract or Work.

1.3 Not Used

1.4 Termination.

1.4.1 Termination for Convenience by Authority.

- (a) Any Contract, or any part thereof, awarded by the Authority pursuant to this IFB shall be subject to termination at any time by the Authority upon notice in writing to be effective as of the date of receipt of such notice. Upon receipt of such notice, Contractor shall, unless otherwise specified in the notice, immediately stop all Work and, to the extent permitted under each applicable subcontract or agreement, give prompt written notice to Subcontractors to cease all related Work. In the event this Agreement is terminated by application of this Section 1.4., Contractor shall have no claim, right, remedy or entitlement for damages, compensation or equitable relief for early termination other than as provided in Section 1.4.1(b). Contractor waives any other right, remedy or recourse of any nature whatsoever it may have now or at any other time against the Authority and the FTA.
- (b) In the event of termination for convenience pursuant to Section 1.4.1, Authority shall be responsible to pay the Contractor only for all authorized Work performed up to the date of termination and conforming to the Contract, without allocation of profit for unperformed, remaining or incomplete Work. In no event shall the aggregate charges to be paid by Authority pursuant to the preceding sentence exceed resulting from the percentage of the completed Work to that remaining multiplied by the aggregate Contract price. In the event of such termination, Contractor shall have no recourse against Authority except as earlier stated in this Section 1.4.1(b) and as follows: Contractor shall be entitled to receive reimbursement from Authority an amount equal to the sum of: (i) the reasonable out-of-pocket costs actually and necessarily incurred by

Contractor in withdrawing its equipment and personnel from the Work and otherwise demobilizing; (ii) the actual, reasonable and necessary costs reasonably incurred by Contractor in terminating those contracts, not assumed by Authority, for Subcontractors; (iii) provided, however, Contractor shall not be paid for any Work after receipt of such notice or for any costs incurred by Subcontractors after receipt of Customer's termination notice, or for Work which Contractor could reasonably have avoided Contractor. Contractor shall document any cost claimed by it to Authority's reasonable satisfaction and shall supply Authority with copies of all invoices for Subcontractors covering the amounts claimed as costs for such purpose. Contractor shall submit an invoice to Authority for the amount of reimbursement claimed by Contractor with all supporting information and requisite documents. Unless disputed in good faith by the Authority, Customer shall be paid such amounts within thirty (30) business days after Customer delivers all Work, completed or not completed, in its then current form, free and clear of all liens and assigns to Authority together with any subcontracts, duly assigned, that Authority is willing to assume.

- 1.4.2 Suspension by Authority. Upon seven (7) days' prior notice, the Authority may suspend, delay, or interrupt for up to six (6) months the Work or the Project for the convenience of the Authority. Nothing in this Section 1.4.2 shall be construed to apply to any such suspension, delay or interruption caused by an event of force majeure. In the event such suspension, delay, or interruption causes a change in Contractor's cost or time required for performance of the Work, the Parties will agree on an equitable adjustment through a written amendment to the Contract to be signed by Authority and Contractor. A suspension may be withdrawn by Authority upon five (5) days' written notice to Contractor. Any suspension, delay or interruption that exceeds six (6) months shall be deemed to be a termination by Authority and Contractor shall be compensated by Authority as if this were a termination for convenience under Section 1.4.1.
- 1.4.3 Termination for Default by Authority. Without prejudice to any other remedy or recourse, including its right to seek damages, the Authority may:
- (a) Terminate the Contract effective immediately upon Contractor's receipt of written notice from Authority specifying any of the following events:
 - (i) Insolvency of Contractor.

- (ii) The filing of a meritorious petition of bankruptcy by or against Contractor or the filing of any petition by Contractor seeking protection under Chapters 7, 11 or 13 of the United States Bankruptcy Code.
 - (iii) The conviction of Contractor of a felony in connection with the Work.
 - (iv) Except as provided in Section 1.4.3(b)(i), the failure to materially comply with any of the Laws.
 - (v) Any attempt to evade any material provision of the Contract or to practice any fraud or deceit upon Authority.
 - (vi) The failure of Contractor or any of its Subcontractor's to fully comply with the lawful directives or cooperate with requests of Authority inspectors or other officials administering or monitoring Work, including any federal, state or other public authority.
 - (vii) The failure to provide any required bond within ten (10) days of notice of the award of the Contract.
 - (viii) Any material misrepresentation by Contractor made at any time.
 - (ix) Contractor improperly assigns or attempts to assign the Contract or any of the Work.
 - (x) The failure to properly maintain, provide or permit Authority access to any books, records, bank accounts or documentation related to the Contract.
- (b) Terminate the Contract, if any of the following (which shall also constitute a material default or breach of the Contract) is not cured to the satisfaction of the Authority within the earlier of thirty (30) days or the time prescribed therefor, in either event from the receipt of written notice from the Authority specifying such breach or default:
- (i) Contractor fails to conform operations which are in violation of the Laws because of a change in the Laws within 30 days following the effective date of such change.
 - (ii) The failure to promptly pay any sums due to Authority within 5 days of notice.

Work.

- (iii) Contractor refuses or fails to timely commence or perform the
- (iv) Contractor refuses or fails to supply enough properly skilled workers, or proper materials or Subcontractors to timely perform the Work.
- (v) Contractor fails to comply promptly with rejection notices or notices to correct defects in the Work.
- (vi) Contractor causes or permits any repudiation, lapse or cancellation of performance or other security required by Section 1.1.5.
- (vii) Any other materially breach or default of any covenant, term, condition or provision the Contract, whether or not specified in this Section 1.4.3.

Termination under this Section 1.4.3(b) shall be effective as of the expiration of the period so specified without the necessity of further action by the Authority.

1.4.4 Wrongful Termination by Authority. In the event the Authority shall wrongfully terminate the Contract, unless otherwise agreed by the Parties in writing, to reinstate or otherwise continue the Contract in accordance with its terms, the Authority's termination shall be construed to be a termination for convenience and Section 1.4.1 shall apply.

1.4.5 Future Breach not Waived. No waiver by Authority of any breach or default by Contractor under the Contract shall operate or be construed to operate as a waiver of any other existing or future breach or default, whether of a similar or different character. Failure of the Authority to insist upon strict performance of any provision under this Agreement shall not constitute a waiver of, or estoppel against asserting the right to require strict performance of any other provision of this Agreement or the same provision in the future, nor shall a waiver or estoppel in any one instance constitute a waiver or estoppel with respect to a later default or breach. No waiver by any Person of any default by any Party in the performance of any provision, condition or requirement herein shall be deemed to be a waiver of, or in any manner release of, said Party from performance of any other provision, condition or requirement herein; nor shall such waiver be deemed to be a waiver of, or in any manner a release of, said Party from future performance of the same provision, condition or requirement. Any delay or omission of any Party to exercise any right hereunder shall not impair the exercise of any such right, or any like right,

accruing to it thereafter. No waiver of a right created by this Agreement by one or more Parties shall constitute a waiver of such right by the other Parties except as may otherwise be required by law with respect to Persons not parties hereto. The failure of one or more Parties to perform its or their obligations hereunder shall not release the other Parties from the performance of such obligations.

- 1.4.6 Contractor's Right to Terminate. Contractor shall not be entitled to terminate the Contract for any reason except as provided in this Section 1.4.6. In the event that the Authority fails to timely pay to Contractor any undisputed amounts due pursuant to the terms of the Contract, Authority shall be in default under this Contract and Authority shall be allowed thirty (30) days from receipt of a written notice of such default from Contractor in which to cure such default, after which Seller may immediately terminate this Contract by written notice to Buyer. Any amount disputed by Authority to be due under this Contract must be disputed in good faith.
- 1.4.7 Waiver of Contractor's Other Remedies. Except as provided in Section 1.4.3(b), Contractor waives any claim or other right it may have to proceed in law or equity against Authority or to otherwise obtain any money or any damages under or in respect to this Contract for any wrongful or other termination or for any default or breach in the keeping or performance of any warranty, covenant or obligation under or in respect to this Contract by Authority or for any other act, operation or omission of Authority in respect to the Contract, under any theory whatsoever.
- 1.4.8 Dispute. Continuing Performance. In the event of any dispute between Authority and Contractor with respect to the interpretation of this Contract, any required payment under or the performance required by this Contract, including any dispute which may result in a claim, (a "Dispute"), the aggrieved Party shall notify the other in writing of the Dispute then existing (the "Dispute Notice"). In order for a Party to proceed under this Section, the Dispute Notice must specifically state that the aggrieved Party is invoking the Dispute procedure of this Section 1.4.8. The Parties shall then make a good faith attempt to resolve the Dispute, first through direct discussions between their respective designated representatives. In the event the designated representatives are unable to reach agreement then upon the written request of either Party, each of the Parties will appoint a designated executive whose task it will be to meet for the purpose of endeavoring to resolve such dispute. The designated executives shall meet in Omaha, Nebraska as often as the Parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the Parties believe to be appropriate and germane in connection with its resolution. Such executives will discuss the problem and/or negotiate in good faith in an effort to resolve the dispute

without the necessity of any formal proceeding relating thereto. No action for the resolution of such dispute outside of these procedures shall be taken by either Party until one of the designated executives concludes in good faith that amicable resolution through continued negotiation of the matter in issue does not appear likely and so notifies the other designated executive in writing either party in its sole discretion may invoke litigation, provided that failure to invoke litigation shall not be a waiver of any such Dispute except as otherwise provided in the Contract. During any mediation or litigation which arises out of a Dispute, all parties will continue to perform pursuant to the Contract, without prejudice to the express rights of Authority or Contractor set forth in this Section 1.4 to terminate the Contract. In addition to the specific rights of termination and suspension as set forth in Section 1.4, Authority and Contractor shall have also available the remedy of specific performance to enforce this Section 1.4.8, which may be raised as a defense in any action commenced prior to the Parties' compliance with this Section 1.4.8.

1.5 Warranties of the Parties.

1.5.1 Warranties of Applicant/Contractor. In addition to those representations and warranties set forth in the Specifications, or otherwise made in or required by the Contract, for purposes of its Proposal and the Contract, if awarded to Applicant, Applicant hereby warrants and represents that:

- (a) It is duly organized and existing under and by virtue of the laws of the state of its organization and has the power and authority to own its properties and to carry on the business as presently conducted and as represented and to do business in the State of Nebraska.
- (b) It has all requisite corporate power and authority to execute, deliver and perform the Proposal and Contract; the Proposal and the Contract have been duly authorized, executed and delivered, and as such, constitute its valid and binding obligation, enforceable in accordance with its terms and conditions.
- (c) Performance of the Contract will not violate, or be in conflict with, or result in a material breach of, or constitute a default under, any material agreement, order, judgment, or decree to which it is a party or by which it is bound.
- (d) It has examined or is familiar with all current Laws and shall undertake its performance under the Contract in conformity with the same.

- (e) The representations made in the Contract, including the Certifications made in its Proposal are true, accurate and complete in all respects.
- (f) To the best of its knowledge, after due and diligent inquiry, no elected official of the Authority of Omaha, and no member of the Board of Directors of the Authority nor any the Authority's officers or employees is employed by, or has a financial interest, direct or indirect, in the Contract, the Applicant, the Contractor or any Subcontractors.
- (g) It shall execute and deliver all such other and additional instruments and documents and to do such other acts and things as may be reasonably necessary more fully to effectuate the Work and the Contract. Without limitation to any of the foregoing, all warranties required by the Contract or otherwise applicable to the Work shall be assignable to the Authority upon the completion of the Work or any termination of the Contract.
- (h) In its performance of the Work, Contractor, including its Subcontractors shall use the standard of professional ethics and the degree of skill, care and diligence normally employed by professionals and trades performing the same or similar Work (collectively, the "Standard"). Except as expressly limited by the Specifications, all Work to be furnished under the Contract shall be of highest quality and new, free from faults and defects, suitable for the Authority's purposes and in conformity with the Contract. Any other Work shall be considered defective. Without prejudice to any other recourse available to the Authority, Contractor will re-perform and otherwise remedy any defective Work, including any Work not meeting the Standard without additional compensation.

1.5.2 Warranties of Authority. The Authority makes no representation of any nature to the Applicant, other than that the information provided in this RFCP is true and accurate to the best of its knowledge at the time of its writing.

1.6 Miscellaneous Matters.

1.6.1 Severability. The invalidity or unenforceability of any provision of the Contract shall not affect the validity or enforceability of any other provision of the Contract, nor shall the invalidity or unenforceability of a portion of any provision of the Contract affect the validity and enforceability of the balance of such provision. All other provisions and parts of provisions shall remain in full force and effect, provided however, if in the sole opinion of Authority, the removal or inoperative effect of any such provision or part of provision so declared invalid or

unenforceable shall materially affect Authority's rights under the Contract, the Authority may terminate the Contract as set forth in Section 1.4.1(a).

- 1.6.2 Time is of Essence in this Agreement. Whenever the Contract shall set forth any time for any action to be performed by or on behalf of the Contractor, time shall be deemed of the essence and as such shall be deemed a material provision of the Contract.
- 1.6.3 Complete Agreement. The Contract constitutes the entire agreement between the Authority and Contractor and supersedes any other agreement or understanding between them. Should the Authority determine that any material provision of the Contract is adversely affected by the subsequent action of the state or federal government (as determined by the Authority in its sole and absolute discretion), the Authority shall have the right to modify the provisions of the Contract to such extent as may be necessary to carry out its original full intent and purpose, otherwise the Contract shall be not be amended or otherwise modified except as required by changes in Law, Sections 1.6.1 or by written mutual agreement of the Parties. All modifications shall be effected by Authority only as permitted by its internal control provisions, which shall be made available from the Grant Administrator. Any amendments or modifications to this Agreement shall be binding upon Contractor's guarantor or surety without notice.
- 1.6.4 Governing Law. The Contract shall be governed by and construed in accordance with the Laws.
- 1.6.5 Venue. With respect to any claim of any Person arising out of the Contract (i) each Party irrevocably submits to the exclusive jurisdiction of the federal courts located in Douglas County in the State of Nebraska (unless such federal courts lack subject matter jurisdiction, in which case each Party irrevocably submits to the exclusive jurisdiction of the State courts located in Douglas County in the State of Nebraska), and (ii) each Party irrevocably waives any objection which it may have at any time to the venue of any suit, action or proceeding arising out of or relating to the Contract brought in any such courts and irrevocably waives any claim that such suit, action or proceeding is brought in an inconvenient forum, and further irrevocably waives the right to object, with respect to such claim, suit or proceeding brought in any such court, that such court does not have jurisdiction over such Party.
- 1.6.6 Assignment. Neither the Contract nor any of Contractor's rights, privileges, liabilities or obligations under the Contract may be assigned, subcontracted (other

than to Subcontractors identified in the Bid) or transferred by Contractor without the prior written consent of the Authority, which may be withheld in its discretion.

- 1.6.7 Survival. All waivers, representations, warranties, indemnities, limitations and remedies provided for in the Contract shall survive the expiration or termination of the Contract.
- 1.6.8 Notice. Unless otherwise expressly provided in the Contract Documents, any request, protest, notice, response, or approval, required or contemplated by the RFCP or the Contract, shall be considered sufficient only if made in writing and hand-delivered or sent by telephone facsimile or certified or registered mail, postage prepaid to the Person designated below, addressed as follows:

- (a) To the Authority:

Grant Administrator
Metro
2222 Cuming Street
Omaha, NE 68102

- (b) To the Contractor:

That Person identified in the Bid for such purposes.

Either party may designate a different Person or address by providing notice of the change to the other.

- 1.6.9 Requests/Approvals/Consents. Whether or not otherwise so specified in the Contract, all requests and any required consents, notices and approvals shall not be valid unless made in writing.
- 1.6.10 Headings. The descriptive headings of the Contract are used for convenience only and shall not be deemed to affect the meaning or construction of any such provision.
- 1.6.11 Relationship of Parties. Nothing in the Contract shall be deemed or construed to create a joint venture, agency or any other relationship by or between the Authority and Contractor other than that of an independent contractor.
- 1.6.12 Indemnity. For purposes of this Section 1.6.12, “damages” shall mean any and all damages, loss or injury of whatsoever nature, including all claims, demands, suits,

proceedings, judgments, recoveries (including any payments by Authority in respect to the foregoing pursuant to a court judgment or good faith settlement by Authority) any fine, penalty, liability, loss, any direct, special, incidental or consequential damages, any damage or injury to Person (including death or bodily injury) or property and causes of action made, asserted, sought or obtained by any private or public third Person from or against, or otherwise sustained by, Authority (including Authority's contractors, employees, licensees, officers, elected or appointed officials and all sums reasonably expended by the Authority for attorney fees in asserting or defending against such damages) whether under theories of breach of contract, tort, negligence, or otherwise. Contractor shall bear sole responsibility and be liable for, and shall hold the Authority harmless and indemnify it from and against, all damages resulting or arising from or out of or in connection with (a) Contractor's operations, including as a result of any act, error or omission of (b) Contractor's and its Subcontractor's (including their respective agents, employees or assigns), performance, non-performance or wrongful performance of or under the Contract or undertaken or made pursuant to the authority of the Contract, (c) any misrepresentation made by Contractor in the Contract Documents, and (d) the breach or default of any warranty. The Authority shall have the right to defend itself (or join in the defense at the cost of Contractor) from and against such liabilities and damages, unless Contractor fails to promptly or competently undertake defense on behalf of the Authority as required.

- 1.6.13 Contractor's Books and Records. Contractor shall maintain complete and accurate accounting records in accordance with generally accepted accounting practices in connection with all matters related to the Contract and the Work, including to substantiate charges on each invoice. Contractor shall also retain all such records, books, correspondence, instructions, drawings, receipts, subcontracts, agreements, commitments, purchase orders, memoranda, and other data relating to the Contract or the Work normally maintained as part of its established business operations and as may be required by Law. Contractor will permit the Authority and its representatives, at all reasonable times and as otherwise required by the Laws, access to all offices and other facilities and to all such records, to make such reasonable inspections as they may require and will cause its officers promptly to furnish them with such financial and operating data and other information with respect to the business and properties of Contractor relating to the Contract or the Work. Contractor shall preserve all such records for a period required by Law, but in no event less than five (5) years following final payment under the Contract.
- 1.6.14 Change in Work. Authority shall have the right to request Contractor to make reasonable changes to the Work ("Work Change"). Contractor shall consent to

make such requested Work Changes, provided that Contractor is technically capable of making such Work Changes, and further provided that: (a) such Work Changes do not materially, individually, or cumulatively increase Contractor's expenses in providing the Work, or (b) if such Work Changes materially increase Contractor's expenses in providing such Work, Contractor agrees to bear the cost for the Work Changes at standard rates in accordance with the Contract Documents.

- 1.6.15 Specific Performance. Each of the Parties recognizes and affirms that in the event of breach by any of them of any of the provisions of this Contract, money damages alone would be inadequate and no adequate remedy at law would exist. Accordingly, each of the Parties agrees that the Authority shall have the right, in addition to any other rights and remedies existing in its favor, to enforce its rights and the obligations of the Contractor under this Contract not only by action or actions for damages, but also by an action or actions for specific performance, injunction and/or other equitable relief in order to enforce or prevent any violations of the provisions of the Contract. In accordance with the above, Contractor waives any claim or defense that the Authority has or may have an adequate remedy at law.

III. DETAILED SPECIFICATIONS

PEST CONTROL

Metro reserves the right to request detailed information and specifications (including but not limited to MSDS sheets) on all products used to render services under the scope of work of this contract. Metro further reserves the right in its sole and absolute discretion to deny the usage of any suggested product or materials and to require the contractor to use an alternate product at no additional cost. Metro requests Bids for the following pest control goods and services:

- Insect/Bug Control – chemical spray that is non-toxic to people and service animals.
 - Metro Administrative/Maintenance Facility – 2222 Cuming Street
 - Performed monthly or on demand as requested by authorized Metro staff.
 - Interior of approximately 110 buses and 25 paratransit vans
 - Performed monthly from April – September
 - Performed twice per month from October – March
 - As needed upon request of authorized Metro staff
 - Metro Transit Center Facilities – spraying includes both inside and outside of shelters (semi-enclosed waiting areas on platforms) and restrooms
 - North Omaha Transit Center – 30th and Taylor
 - Benson Park Transit Center – 709 Military Avenue
 - Westroads Transit Center - 1099 North 102nd Street
 - Metropolitan Community College Transit Center – South Campus, 2801 Babe Gomez
 - Upon request by Metro Staff; It is anticipated that North Omaha Transit Center will need Insect Control treatment approximately twice a year
- Rodent Control – Price per setting of trap and/or re-baiting/cleaning of trap. Metro staff will determine the number and placement of traps.
 - Metro Administrative/Maintenance Facility – 2222 Cuming Street
 - Performed monthly or on demand as requested by Metro.
 - Metro Transit Center Facilities
 - North Omaha Transit Center – 30th and Taylor
 - Benson Park Transit Center – 709 Military Avenue
 - Westroads Transit Center - 1099 North 102nd Street
 - Metropolitan Community College Transit Center – South Campus, 2801 Babe Gomez
 - Upon request by authorized Metro staff

Metro reserves the right to, in its sole discretion and at no additional cost above the quoted unit prices; increase/decrease the frequency of service and/or number of units. Furthermore, Metro reserves the right to make minor modifications to the scope of work throughout the contract.

ATTACHMENT A

**ATTACHMENT A
FEDERAL CLAUSES**

FEDERAL CLAUSES FOR PROCUREMENT OF PROFESSIONAL SERVICES

NO OBLIGATION BY THE FEDERAL GOVERNMENT

Metro 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 Metro, Contractor, Subcontractor or any other Party (whether or not a Party to that contract) pertaining to any matter resulting from the Contract.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

ACCESS TO RECORDS

In addition to any other provisions of this Contract, Contractor agrees to (a) provide Metro, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions; (b) make available records related to the Contract to Metro, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection; permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed; maintain all books, records, accounts and reports required under this Contract for a period of not less than three 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 event Contractor agrees to maintain same until Metro, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

FEDERAL CHANGES

Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the current Master Agreement between Metro and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Contractor's failure to fully and completely comply shall constitute a material breach of this contract.

CIVIL RIGHTS

- (1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of Race, Color, Creed, Religion, Sex (including pregnancy), Mental/Physical Disability, Age (40 or over), National Origin, Genetic Information or any other basis prohibited by law. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) **Equal Employment Opportunity**
 - (a) **Race, Color, Creed, Religion, Sex (including pregnancy), Mental/Physical Disability, Age (40 or over), National Origin, Genetic Information or any other basis prohibited by law** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 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. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - (b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 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.

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

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, June 19, 2003, 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 of Metro's requests, which would cause Metro to be in violation of the FTA terms and conditions.

ENERGY CONSERVATION

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

ELECTRONIC AND INFORMATION TECHNOLOGY

When using Federal financial assistance to procure reports or information to be delivered to Metro for distribution to FTA, among others, Metro agrees to include in its specification a requirement that the reports or information will be prepared using electronic or information technology capable of assuring that, when provided to FTA, the reports or information will meet the applicable accessibility standards of section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and U.S. ATBCB regulation, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194.

STATE AND LOCAL LAW DISCLAIMER

All regulations listed in this document apply to the Third Party Contractor in the same manner as they apply to Metro. Offers will be received and reviewed, but no contract shall be awarded until all applicable Federal, State and Local Government regulations have been complied with.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

This requirement applies to all contracts in excess of \$25,000.

Contractors are required to pass this requirement on to subcontractors seeking subcontracts over \$100,000. Thus, the terms "lower tier covered participant" and "lower tier covered transaction" include both contractors and subcontractors and contracts and subcontracts over \$100,000.

1. **By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.**

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, Metro may pursue available remedies, including suspension and/or debarment.
3. The prospective lower tier participant shall provide immediate written notice to Metro if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "persons," "lower tier covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549 [49 CFR Part 29]. You may contact Metro for assistance in obtaining a copy of those regulations.
5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized in writing by Metro.
6. The prospective lower tier participant further agrees by submitting this proposal that it will include the following clause, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions:

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction"

- (1) The prospective lower tier participant certifies, by submission of this bid or proposal, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.
 - (2) When the prospective lower tier participant is unable to certify to the statements in this certification, such prospective participant shall attach an explanation to this proposal.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Non-procurement List issued by U.S. General Service Administration.
 8. Nothing contained in the foregoing shall be construed to require establishment of system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under Paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to all remedies available to the Federal Government, Metro may pursue available remedies including suspension and/or debarment.

LOBBYING

This requirement applies to all contracts in excess of \$100,000.

Contractors who apply or bid for an award of \$100,000 or more shall execute and submit with their bid or offer, 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, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

CLEAN AIR

This requirement applies to all contracts in excess of \$100,000.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. . The Contractor agrees to report each violation to Metro and understands and agrees that Metro will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

CLEAN WATER

This requirement applies to all contracts in excess of \$100,000.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to Metro and understands and agrees that Metro will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

NEW EMPLOYEE WORK ELIGIBILITY STATUS

The Contractor is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States

Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

If the Contractor is an individual or sole proprietorship, the following applies:

1. The Contractor must complete the United States Citizenship Attestation Form, available on the Department of Administrative Services website at www.das.state.ne.us.
2. If the Contractor indicates on such attestation form that he or she is a qualified alien, the Contractor agrees to provide the US Citizenship and Immigration Services documentation required to verify the Contractor's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.
3. The Contractor understands and agrees that lawful presence in the United States is required and the Contractor may be disqualified or the contract terminated if such lawful presence cannot be verified as required by Neb. Rev. Stat. §4-108.

SPECIAL PROVISION – TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order No. 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, 23 U.S.C.A. § 402 note, and DOT Order 3902.10, Text Messaging While December 30, 2009, the Grantee is encouraged to comply with the terms of the following Special Provision.

a. Definitions - As used in this Special Provision:

1) Driving

Means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. Driving does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

2) Text Messaging

Means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

b. Safety - The Grantee is encouraged to:

- 1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving-
 - a) Grantee-owned or Grantee-rented vehicles or Government-owned, leased or rented vehicles;
 - b) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or
 - c) Any vehicle, on or off duty, and using an employer supplied electronic device.
- 2) Conduct workplace safety initiatives in a manner commensurate with the Grantee's size, such as:

- a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
- b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving

ATTACHMENT B

REQUEST FOR CLARIFICATIONS/SUBSTITUTIONS

Metro Transit

Project No. NE-90-X0101 Grant/Specification No. 02-16

Request for Clarifications/Substitutions

Project Title: _____

Company Name: _____ Date: _____

Document Reference (check one): _____ Page No: _____

General Requirements _____

Specifications _____

Section Number _____

Section Title: _____

BIDDER'S REQUEST:

METRO RESPONSE:

Approved _____

Denied _____

Metro Comments:

Metro Authorized Signature
, Grant Administrator

Date of Response

Metro Transit, 2222 Cuming Street, Omaha, NE 66102 lcencic@ometro.com

ATTACHMENT C

LOBBYING CERTIFICATION

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for 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 instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq .)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Printed Name and Title of Contractor's Authorized Official

Date

This form must be signed and submitted in bid package. All signatures must be original.

ATTACHMENT D

PRICE SCHEDULE FORM

Project: Pest Control Services

Date _____

Project No. NE-90-X101 GRANT / Specification No. 02-16

The undersigned hereby agrees to perform the work in accordance with the Detailed Specifications, Federal Clauses and other requirements of the Invitation to Bid..

The undersigned understands that this Offer will be examined by Metro, that it shall not be withdrawn for sixty (60) days and that no award shall be made until all required documentation is obtained. Metro reserves the right to reject or declare non-responsive any or all bids.

Metro is exempt from payment of all federal, state and local taxes and these shall not be included in any pricing. Metro will furnish the successful Offeror with necessary tax exempt certificates upon request.

All quantities, timelines, and frequency of performance of Services are subject to change as directed by Metro.

Unit costs shall be all inclusive as needed to fully complete the Services. Materials, travel and other supplies, as required by the scope of work as well as all other expenses such as reporting, oversight, and account management shall be included in the applicable unit costs.

Unit Costs					
Description	Year 1	Year 2	Year 3	Year 4	Year 5
Insect/Bug Control					
Interior of Admin / Maintenance Facility (per visit cost) Anticipated for approximately 1/month	\$	\$	\$	\$	\$
Interior of Bus Fleet (entire fleet per visit cost) *fleet size subject to change	\$	\$	\$	\$	\$
Per vehicle cost for additional treatment (price is per vehicle per visit unlike above price.)	\$	\$	\$	\$	\$
Transit Center treatment – Per visit to 1 transit center.	\$	\$	\$	\$	\$
Rodent Control					
Unit price per trap setting or rebaiting/cleaning (for Metro Admin/Maintenance facility or Transit Center as needed)	\$	\$	\$	\$	\$

ACKNOWLEDGMENT OF ADDENDA

In submitting this Bid, I hereby acknowledge receipt of addendum # ____ through ____

Print Name of Firm

Print Name of Authorized Representative

Print Email Address

Print Title of Authorized Representative

Print Street Address / Mailing Address

Area Code & Telephone Number

Area Code & Fax Number

Signature of Authorized Representative

This form must be signed and submitted in bid package. All signatures must be original