

STATE OF OKLAHOMA STATEWIDE CONTRACT WITH PREMIER TRUCK GROUP

This State of Oklahoma Statewide Contract (“Contract”) is entered into between the state of Oklahoma by and through the Office of Management and Enterprise Services and Premier Truck Group (“Supplier”) and is effective as of the date of last signature to this Contract.

Purpose

The State is awarding this Contract to Supplier for the provision of Vehicle Repair and Maintenance, as more particularly described in certain Contract Documents. Supplier submitted a proposal which contained no exceptions to the Solicitation

Now, therefore, in consideration of the foregoing and the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged the parties agree as follows:

1. The parties agree that Supplier has not yet begun performance of work under this Contract. Upon full execution of this Contract, Supplier may begin work. Issuance of a purchase order is required prior to payment to a Supplier.
2. The following Contract Documents are attached hereto and incorporated herein:
 - 2.1. Solicitation, Attachment A;
 - 2.2. General Terms, Attachment B;
 - 2.3. Statewide Specific Terms, Attachment C
 - 2.4. Information Technology terms, Attachment D Omitted.
 - 2.5. Exhibit 1, Specifications
 - 2.6. Exhibit 2, Business Response
 - 2.7. Exhibit 3, Pricing
 - 2.8. Exhibit 4, Federal Terms
3. Attachments referenced in this section are attached hereto and incorporated herein.
4. Any reference to a Contract Document refers to such Contract Document as it may have been amended. If and to the extent any provision is in multiple documents and addresses the same or substantially the same subject matter but does not create an actual conflict, the more recent provision is deemed to supersede earlier versions.

STATE OF OKLAHOMA
by and through the
OFFICE OF MANAGEMENT AND
ENTERPRISE SERVICES

PREMIER TRUCK GROUP

By: Dan Sivard

Name: Dan Sivard

Title: State Purchasing Director

Date: Oct 26, 2022

By: Jon Scott
Jon Scott (Oct 25, 2022 16:24 CDT)

Name: Jon Scott

Title: Parts Sales Manager

Date: Oct 25, 2022

Tim Tuck
Tim Tuck (Oct 26, 2022 09:41 CDT)

Oct 26, 2022

Reviewed & Approved by OMES Legal

ATTACHMENT A
SOLICITATION NO. 0900000554
SW0767 – Vehicle Repair and Maintenance

This Solicitation is a Contract Document and is a request for proposal in connection with the Contract awarded by the Office of Management and Enterprise Services as more particularly described below. Any defined term used herein but not defined herein shall have the meaning ascribed in the General Terms or other Contract Document.

PURPOSE

The Contract is awarded as a statewide contract for vehicle repair facilities to provide statewide vehicle repair services for vehicles (automobiles, passenger trucks and medium to heavy duty trucks) owed by State Agencies within Oklahoma. There is a need to have multiple locations across the state that can repair vehicles without the agency having to take the vehicle long distances for repairs. When a repair is deemed necessary, the agency will be able to access the closest repair facility from a list of Supplier awarded contracts.

1. Contract Term and Renewal Options

The initial Contract term, which begins upon final signature will run concurrent with the original award for SW0767 which ends on April 26, 2023. There are four one-year options to renew the Contract.

2. Scope of Work

- 2.1 Certain Contract requirements are attached hereto as Exhibit 1 Specifications, Exhibit 2 Business Response, Exhibit 3 Pricing, and Exhibit 4 – Federal Funds Terms, are incorporated herein.
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ATTACHMENT B

STATE OF OKLAHOMA GENERAL TERMS

This State of Oklahoma General Terms (“General Terms”) is a Contract Document in connection with a Contract awarded by the Office of Management and Enterprise Services on behalf of the State of Oklahoma.

In addition to other terms contained in an applicable Contract Document, Supplier and State agree to the following General Terms:

1 Scope and Contract Renewal

- 1.1** Supplier may not add products or services to its offerings under the Contract without the State’s prior written approval. Such request may require a competitive bid of the additional products or services. If the need arises for goods or services outside the scope of the Contract, Supplier shall contact the State.
- 1.2** At no time during the performance of the Contract shall the Supplier have the authority to obligate any Customer for payment for any products or services (a) when a corresponding encumbering document is not signed or (b) over and above an awarded Contract amount. Likewise, Supplier is not entitled to compensation for a product or service provided by or on behalf of Supplier that is neither requested nor accepted as satisfactory.
- 1.3** If applicable, prior to any Contract renewal, the State shall subjectively consider the value of the Contract to the State, the Supplier’s performance under the Contract, and shall review certain other factors, including but not limited to the: a) terms and conditions of Contract Documents to determine validity with current State and other applicable statutes and rules; b) current pricing and discounts offered by Supplier; and c) current products, services and support offered by Supplier. If the State determines changes to the Contract are required as a condition precedent to renewal, the State and Supplier will cooperate in good faith to evidence such required changes in an Addendum. Further, any request for a price increase in connection with a renewal or otherwise will be conditioned on the Supplier providing appropriate documentation supporting the request.
- 1.4** The State may extend the Contract for ninety (90) days beyond a final renewal term at the Contract compensation rate for the extended period. If the State exercises such option to extend ninety (90) days, the State shall notify the

Supplier in writing prior to Contract end date. The State, at its sole option and to the extent allowable by law, may choose to exercise subsequent ninety (90) day extensions at the Contract pricing rate, to facilitate the finalization of related terms and conditions of a new award or as needed for transition to a new Supplier.

- 1.5** Supplier understands that supplier registration expires annually and, pursuant to OAC 260:115-3-3, Supplier shall maintain its supplier registration with the State as a precondition to a renewal of the Contract.

2 Contract Effectiveness and Order of Priority

- 2.1** Unless specifically agreed in writing otherwise, the Contract is effective upon the date last signed by the parties. Supplier shall not commence work, commit funds, incur costs, or in any way act to obligate the State until the Contract is effective.

- 2.2** Contract Documents shall be read to be consistent and complementary. Any conflict among the Contract Documents shall be resolved by giving priority to Contract Documents in the following order of precedence:

- A.** any Addendum;
- B.** any applicable Solicitation;
- C.** any Contract-specific terms contained in a Contract Document including, without limitation, information technology terms and terms specific to a statewide Contract or a State agency Contract;
- D.** the terms contained in this Contract Document;
- E.** any successful Bid as may be amended through negotiation and to the extent the Bid does not otherwise conflict with the Solicitation or applicable law;
- F.** any statement of work, work order, or other similar ordering document as applicable; and
- G.** other mutually agreed Contract Documents.

- 2.3** If there is a conflict between the terms contained in this Contract Document or in Contract-specific terms and an agreement provided by or on behalf of Supplier including but not limited to linked or supplemental documents which alter or diminish the rights of Customer or the State, the conflicting terms provided by Supplier shall not take priority over this Contract Document or

Acquisition-specific terms. In no event will any linked document alter or override such referenced terms except as specifically agreed in an Addendum.

- 2.4 Any Contract Document shall be legibly written in ink or typed. All Contract transactions, and any Contract Document related thereto, may be conducted by electronic means pursuant to the Oklahoma Uniform Electronic Transactions Act.

3 **Modification of Contract Terms and Contract Documents**

- 3.1 The Contract may only be modified, amended, or expanded by an Addendum. Any change to the Contract, including the addition of work or materials, the revision of payment terms, or the substitution of work or materials made unilaterally by the Supplier, is a material breach of the Contract. Unless otherwise specified by applicable law or rules, such changes, including without limitation, any unauthorized written Contract modification, shall be void and without effect and the Supplier shall not be entitled to any claim under the Contract based on those changes. No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in the Contract.
- 3.2 Any additional terms on an ordering document provided by Supplier are of no effect and are void unless mutually executed. OMES bears no liability for performance, payment or failure thereof by the Supplier or by a Customer other than OMES in connection with an Acquisition.

4 **Definitions**

In addition to any defined terms set forth elsewhere in the Contract, the Oklahoma Central Purchasing Act and the Oklahoma Administrative Code, Title 260, the parties agree that, when used in the Contract, the following terms are defined as set forth below and may be used in the singular or plural form:

- 4.1 **Acquisition** means items, products, materials, supplies, services and equipment acquired by purchase, lease purchase, lease with option to purchase, value provided or rental under the Contract.
- 4.2 **Addendum** means a mutually executed, written modification to a Contract Document.
- 4.3 **Amendment** means a written change, addition, correction or revision to the Solicitation.
- 4.4 **Bid** means an offer a Bidder submits in response to the Solicitation.

- 4.5 **Bidder** means an individual or business entity that submits a Bid in response to the Solicitation.
- 4.6 **Contract** means the written, mutually agreed and binding legal relationship resulting from the Contract Documents and an appropriate encumbering document as may be amended from time to time, which evidences the final agreement between the parties with respect to the subject matter of the Contract.
- 4.7 **Contract Document** means this document; any master or enterprise agreement terms entered into between the parties that are mutually agreed to be applicable to the Contract; any Solicitation; any Contract-specific terms; any Supplier's Bid as may be negotiated; any statement of work, work order, or other similar mutually executed ordering document; other mutually executed documents and any Addendum.
- 4.8 **Customer** means the entity receiving goods or services contemplated by the Contract.
- 4.9 **Debarment** means action taken by a debarring official under federal or state law or regulations to exclude any business entity from inclusion on the Supplier list; bidding; offering to bid; providing a quote; receiving an award of contract with the State and may also result in cancellation of existing contracts with the State.
- 4.10 **Destination** means delivered to the receiving dock or other point specified in the applicable Contract Document.
- 4.11 **Indemnified Parties** means the State and Customer and/or its officers, directors, agents, employees, representatives, contractors, assignees and designees thereof.
- 4.12 **Inspection** means examining and testing an Acquisition (including, when appropriate, raw materials, components, and intermediate assemblies) to determine whether the Acquisition meets Contract requirements.
- 4.13 **Moral Rights** means any and all rights of paternity or integrity of the Work Product and the right to object to any modification, translation or use of the Work Product and any similar rights existing under the judicial or statutory law of any country in the world or under any treaty, regardless of whether or not such right is denominated or referred to as a moral right.
- 4.14 **OAC** means the Oklahoma Administrative Code.
- 4.15 **OMES** means the Office of Management and Enterprise Services.

- 4.16 Solicitation** means the document inviting Bids for the Acquisition referenced in the Contract and any amendments thereto.
- 4.17 State** means the government of the state of Oklahoma, its employees and authorized representatives, including without limitation any department, agency, or other unit of the government of the state of Oklahoma.
- 4.18 Supplier** means the Bidder with whom the State enters into the Contract awarded pursuant to the Solicitation or the business entity or individual that is a party to the Contract with the State.
- 4.19 Suspension** means action taken by a suspending official under federal or state law or regulations to suspend a Supplier from inclusion on the Supplier list; be eligible to submit Bids to State agencies and be awarded a contract by a State agency subject to the Central Purchasing Act.
- 4.20 Supplier Confidential Information** means certain confidential and proprietary information of Supplier that is clearly marked as confidential and agreed by the State Purchasing Director or Customer, as applicable, but does not include information excluded from confidentiality in provisions of the Contract or the Oklahoma Open Records Act.
- 4.21 Work Product** means any and all deliverables produced by Supplier under a statement of work or similar Contract Document issued pursuant to this Contract, including any and all tangible or intangible items or things that have been or will be prepared, created, developed, invented or conceived at any time following the Contract effective date including but not limited to any (i) works of authorship (such as manuals, instructions, printed material, graphics, artwork, images, illustrations, photographs, computer programs, computer software, scripts, object code, source code or other programming code, HTML code, flow charts, notes, outlines, lists, compilations, manuscripts, writings, pictorial materials, schematics, formulae, processes, algorithms, data, information, multimedia files, text web pages or web sites, other written or machine readable expression of such works fixed in any tangible media, and all other copyrightable works), (ii) trademarks, service marks, trade dress, trade names, logos, or other indicia of source or origin, (iii) ideas, designs, concepts, personality rights, methods, processes, techniques, apparatuses, inventions, formulas, discoveries, or improvements, including any patents, trade secrets and know-how, (iv) domain names, (v) any copies, and similar or derivative works to any of the foregoing, (vi) all documentation and materials related to any of the foregoing, (vii) all other goods, services or deliverables to be provided by or on behalf of Supplier under the Contract and (viii) all Intellectual Property Rights in any of the foregoing, and which are or were created,

prepared, developed, invented or conceived for the use of benefit of Customer in connection with this Contract or with funds appropriated by or for Customer or Customer's benefit (a) by any Supplier personnel or Customer personnel or (b) any Customer personnel who then became personnel to Supplier or any of its affiliates or subcontractors, where, although creation or reduction-to-practice is completed while the person is affiliated with Supplier or its personnel, any portion of same was created, invented or conceived by such person while affiliated with Customer.

5 Pricing

- 5.1** Pursuant to 68 O.S. §§ 1352, 1356, and 1404, State agencies are exempt from the assessment of State sales, use, and excise taxes. Further, State agencies and political subdivisions of the State are exempt from Federal Excise Taxes pursuant to Title 26 of the United States Code. Any taxes of any nature whatsoever payable by the Supplier shall not be reimbursed.
- 5.2** Pursuant to 74 O.S. §85.40, all travel expenses of Supplier must be included in the total Acquisition price.
- 5.3** The price of a product offered under the Contract shall include and Supplier shall prepay all shipping, packaging, delivery and handling fees. All product deliveries will be free on board Customer's Destination. No additional fees shall be charged by Supplier for standard shipping and handling. If Customer requests expedited or special delivery, Customer may be responsible for any charges for expedited or special delivery.

6 Ordering, Inspection, and Acceptance

- 6.1** Any product or service furnished under the Contract shall be ordered by issuance of a valid purchase order or other appropriate payment mechanism, including a pre-encumbrance, or by use of a valid Purchase Card. All orders and transactions are governed by the terms and conditions of the Contract. Any purchase order or other applicable payment mechanism dated prior to termination or expiration of the Contract shall be performed unless mutually agreed in writing otherwise.
- 6.2** Services will be performed in accordance with industry best practices and are subject to acceptance by the Customer. Notwithstanding any other provision in the Contract, deemed acceptance of a service or associated deliverable shall not apply automatically upon receipt of a deliverable or upon provision of a service.

Supplier warrants and represents that a product or deliverable furnished by or through the Supplier shall individually, and where specified by Supplier to perform as a system, be substantially uninterrupted and error-free in operation and guaranteed against faulty material and workmanship for a warranty period of the greater of ninety (90) days from the date of acceptance or the maximum allowed by the manufacturer. A defect in a product or deliverable furnished by or through the Supplier shall be repaired or replaced by Supplier at no additional cost or expense to the Customer if such defect occurs during the warranty period.

Any product to be delivered pursuant to the Contract shall be subject to final inspection and acceptance by the Customer at Destination. The Customer assumes no responsibility for a product until accepted by the Customer. Title and risk of loss or damage to a product shall be the responsibility of the Supplier until accepted. The Supplier shall be responsible for filing, processing, and collecting any and all damage claims accruing prior to acceptance.

Pursuant to OAC 260:115-9-5, payment for an Acquisition does not constitute final acceptance of the Acquisition. If subsequent inspection affirms that the Acquisition does not meet or exceed the specifications of the order or that the Acquisition has a latent defect, the Supplier shall be notified as soon as is reasonably practicable. The Supplier shall retrieve and replace the Acquisition at Supplier's expense or, if unable to replace, shall issue a refund to Customer. Refund under this section shall not be an exclusive remedy.

- 6.3 Supplier shall deliver products and services on or before the required date specified in a Contract Document. Failure to deliver timely may result in liquidated damages as set forth in the applicable Contract Document. Deviations, substitutions, or changes in a product or service, including changes of personnel directly providing services, shall not be made unless expressly authorized in writing by the Customer. Any substitution of personnel directly providing services shall be a person of comparable or greater skills, education and experience for performing the services as the person being replaced. Additionally, Supplier shall provide staff sufficiently experienced and able to perform with respect to any transitional services provided by Supplier in connection with termination or expiration of the Contract.
- 6.4 Product warranty and return policies and terms provided under any Contract Document will not be more restrictive or more costly than warranty and return policies and terms for other similarly situated customers for a like product.

7 Invoices and Payment

- 7.1** Supplier shall be paid upon submission of a proper invoice(s) at the prices stipulated in the Contract in accordance with 74 O.S. §85.44B which requires that payment be made only after products have been provided and accepted or services rendered and accepted.

The following terms additionally apply:

- A.** An invoice shall contain the purchase order number, description of products or services provided and the dates of such provision.
- B.** Failure to provide a timely and proper invoice may result in delay of processing the invoice for payment. Proper invoice is defined at OAC 260:10-1-2.
- C.** Payment of all fees under the Contract shall be due NET 45 days. Payment and interest on late payments are governed by 62 O.S. §34.72. Such interest is the sole and exclusive remedy for late payments by a State agency and no other late fees are authorized to be assessed pursuant to Oklahoma law.
- D.** The date from which an applicable early payment discount time is calculated shall be from the receipt date of a proper invoice. There is no obligation, however, to utilize an early payment discount.
- E.** If an overpayment or underpayment has been made to Supplier any subsequent payments to Supplier under the Contract may be adjusted to correct the account. A written explanation of the adjustment will be issued to Supplier.
- F.** Supplier shall have no right of setoff.
- G.** Because funds are typically dedicated to a particular fiscal year, an invoice will be paid only when timely submitted, which shall in no instance be later than six (6) months after the end of the fiscal year in which the goods are provided or services performed.
- H.** The Supplier shall accept payment by Purchase Card as allowed by Oklahoma law.

8 Maintenance of Insurance, Payment of Taxes, and Workers' Compensation

- 8.1** As a condition of this Contract, Supplier shall procure at its own expense, and provide proof of, insurance coverage with the applicable liability limits set

forth below and any approved subcontractor of Supplier shall procure and provide proof of the same coverage. The required insurance shall be underwritten by an insurance carrier with an A.M. Best rating of A- or better.

Such proof of coverage shall additionally be provided to the Customer if services will be provided by any of Supplier's employees, agents or subcontractors at any Customer premises and/or employer vehicles will be used in connection with performance of Supplier's obligations under the Contract. Supplier may not commence performance hereunder until such proof has been provided. Additionally, Supplier shall ensure each insurance policy includes a thirty (30) day notice of cancellation and name the State and its agencies as certificate holder and shall promptly provide proof to the State of any renewals, additions, or changes to such insurance coverage. Supplier's obligation to maintain insurance coverage under the Contract is a continuing obligation until Supplier has no further obligation under the Contract. Any combination of primary and excess or umbrella insurance may be used to satisfy the limits of coverage for Commercial General Liability, Auto Liability and Employers' Liability. Unless agreed between the parties and approved by the State Purchasing Director, the minimum acceptable insurance limits of liability are as follows:

- A.** Workers' Compensation and Employer's Liability Insurance in accordance with and to the extent required by applicable law;
- B.** Commercial General Liability Insurance covering the risks of personal injury, bodily injury (including death) and property damage, including coverage for contractual liability, with a limit of liability of not less than \$5,000,000 per occurrence;
- C.** Automobile Liability Insurance with limits of liability of not less than \$5,000,000 combined single limit each accident;
- D.** Directors and Officers Insurance which shall include Employment Practices Liability as well as Consultant's Computer Errors and Omissions Coverage, if information technology services are provided under the Contract, with limits not less than \$5,000,000 per occurrence;
- E.** Security and Privacy Liability insurance, including coverage for failure to protect confidential information and failure of the security of Supplier's computer systems that results in unauthorized access to Customer data with limits \$5,000,000 per occurrence; and
- F.** Additional coverage required in writing in connection with a particular Acquisition.

- 8.2** Supplier shall be entirely responsible during the existence of the Contract for the liability and payment of taxes payable by or assessed to Supplier or its employees, agents and subcontractors of whatever kind, in connection with the Contract. Supplier further agrees to comply with all state and federal laws applicable to any such persons, including laws regarding wages, taxes, insurance, and Workers' Compensation. Neither Customer nor the State shall be liable to the Supplier, its employees, agents, or others for the payment of taxes or the provision of unemployment insurance and/or Workers' Compensation or any benefit available to a State or Customer employee.
- 8.3** Supplier agrees to indemnify Customer, the State, and its employees, agents, representatives, contractors, and assignees for any and all liability, actions, claims, demands, or suits, and all related costs and expenses (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) relating to tax liability, unemployment insurance and/or Workers' Compensation in connection with its performance under the Contract.

9 Compliance with Applicable Laws

- 9.1** As long as Supplier has an obligation under the terms of the Contract and in connection with performance of its obligations, the Supplier represents its present compliance, and shall have an ongoing obligation to comply, with all applicable federal, State, and local laws, rules, regulations, ordinances, and orders, as amended, including but not limited to the following:
- A.** Drug-Free Workplace Act of 1988 set forth at 41 U.S.C. §81.
 - B.** Section 306 of the Clean Air Act, Section 508 of the Clean Water Act, Executive Order 11738, and Environmental Protection Agency Regulations which prohibit the use of facilities included on the EPA List of Violating Facilities under nonexempt federal contracts, grants or loans;
 - C.** Prospective participant requirements set at 45 C.F.R. part 76 in connection with Debarment, Suspension and other responsibility matters;
 - D.** 1964 Civil Rights Act, Title IX of the Education Amendment of 1972, Section 504 of the Rehabilitation Act of 1973, Americans with Disabilities Act of 1990, and Executive Orders 11246 and 11375;
 - E.** Anti-Lobbying Law set forth at 31 U.S.C. §1325 and as implemented at 45 C.F.R. part 93;

- F.** Requirements of Internal Revenue Service Publication 1075 regarding use, access and disclosure of Federal Tax Information (as defined therein);
 - G.** Obtaining certified independent audits conducted in accordance with Government Auditing Standards and Office of Management and Budget Uniform Guidance, 2 CFR 200 Subpart F §200.500 et seq. with approval and work paper examination rights of the applicable procuring entity;
 - H.** Requirements of the Oklahoma Taxpayer and Citizen Protection Act of 2007, 25 O.S. §1312 and applicable federal immigration laws and regulations and be registered and participate in the Status Verification System. The Status Verification System is defined at 25 O.S. §1312, includes but is not limited to the free Employment Verification Program (E-Verify) through the Department of Homeland Security, and is available at www.dhs.gov/E-Verify;
 - I.** Requirements of the Health Insurance Portability and Accountability Act of 1996; Health Information Technology for Economic and Clinical Health Act; Payment Card Industry Security Standards; Criminal Justice Information System Security Policy and Security Addendum; and Family Educational Rights and Privacy Act; and
 - J.** Be registered as a business entity licensed to do business in the State, have obtained a sales tax permit, and be current on franchise tax payments to the State, as applicable.
- 9.2** The Supplier's employees, agents and subcontractors shall adhere to applicable Customer policies including, but not limited to acceptable use of Internet and electronic mail, facility and data security, press releases, and public relations. As applicable, the Supplier shall adhere to the State Information Security Policy, Procedures, Guidelines set forth at https://omes.ok.gov/sites/g/files/gmc316/f/InfoSecPPG_0.pdf. Supplier is responsible for reviewing and relaying such policies covering the above to the Supplier's employees, agents and subcontractors.
- 9.3** At no additional cost to Customer, the Supplier shall maintain all applicable licenses and permits required in association with its obligations under the Contract.
- 9.4** In addition to compliance under subsection 9.1 above, Supplier shall have a continuing obligation to comply with applicable Customer-specific mandatory

contract provisions required in connection with the receipt of federal funds or other funding source.

- 9.5** The Supplier is responsible to review and inform its employees, agents, and subcontractors who provide a product or perform a service under the Contract of the Supplier's obligations under the Contract and Supplier certifies that its employees and each such subcontractor shall comply with minimum requirements and applicable provisions of the Contract. At the request of the State, Supplier shall promptly provide adequate evidence that such persons are its employees, agents or approved subcontractors and have been informed of their obligations under the Contract.
- 9.6** As applicable, Supplier agrees to comply with the Governor's Executive Orders related to the use of any tobacco product, electronic cigarette or vaping device on any and all properties owned, leased, or contracted for use by the State, including but not limited to all buildings, land and vehicles owned, leased, or contracted for use by agencies or instrumentalities of the State.
- 9.7** The execution, delivery and performance of the Contract and any ancillary documents by Supplier will not, to the best of Supplier's knowledge, violate, conflict with, or result in a breach of any provision of, or constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, or result in the termination of, any written contract or other instrument between Supplier and any third party.
- 9.8** Supplier represents that it has the ability to pay its debts when due and it does not anticipate the filing of a voluntary or involuntary bankruptcy petition or appointment of a receiver, liquidator or trustee.
- 9.9** Supplier represents that, to the best of its knowledge, any litigation or claim or any threat thereof involving Supplier has been disclosed in writing to the State and Supplier is not aware of any other litigation, claim or threat thereof.
- 9.10** If services provided by Supplier include delivery of an electronic communication, Supplier shall ensure such communication and any associated support documents are compliant with Section 508 of the Federal Rehabilitation Act and with State standards regarding accessibility. Should any communication or associated support documents be non-compliant, Supplier shall correct and re-deliver such communication immediately upon discovery or notice, at no additional cost to the State. Additionally, as part of compliance with accessibility requirements where documents are only provided in non-electronic format, Supplier shall promptly provide such communication and any associated support documents in an alternate format

usable by individuals with disabilities upon request and at no additional cost, which may originate from an intended recipient or from the State.

10 Audits and Records Clause

- 10.1** As used in this clause and pursuant to 67 O.S. §203, “record” includes a document, book, paper, photograph, microfilm, computer tape, disk, record, sound recording, film recording, video record, accounting procedures and practices, and other data, regardless of type and regardless of whether such items are in written form, in the form of computer data, or in any other form. Supplier agrees any pertinent federal or State agency or governing entity of a Customer shall have the right to examine and audit, at no additional cost to a Customer, all records relevant to the execution and performance of the Contract except, unless otherwise agreed, costs of Supplier that comprise pricing under the Contract.
- 10.2** The Supplier is required to retain records relative to the Contract for the duration of the Contract and for a period of seven (7) years following completion or termination of an Acquisition unless otherwise indicated in the Contract terms. If a claim, audit, litigation or other action involving such records is started before the end of the seven-year period, the records are required to be maintained for two (2) years from the date that all issues arising out of the action are resolved, or until the end of the seven (7) year retention period, whichever is later.
- 10.3** Pursuant to 74 O.S. §85.41, if professional services are provided hereunder, all items of the Supplier that relate to the professional services are subject to examination by the State agency, State Auditor and Inspector and the State Purchasing Director.

11 Confidentiality

- 11.1** The Supplier shall maintain strict security of all State and citizen data and records entrusted to it or to which the Supplier gains access, in accordance with and subject to applicable federal and State laws, rules, regulations, and policies and shall use any such data and records only as necessary for Supplier to perform its obligations under the Contract. The Supplier further agrees to evidence such confidentiality obligation in a separate writing if required under such applicable federal or State laws, rules and regulations. The Supplier warrants and represents that such information shall not be sold, assigned, conveyed, provided, released, disseminated or otherwise disclosed by Supplier, its employees, officers, directors, subsidiaries, affiliates, agents, representatives, assigns, subcontractors, independent contractors, successor or any other persons or entities without Customer’s prior express written

permission. Supplier shall instruct all such persons and entities that the confidential information shall not be disclosed or used without the Customer's prior express written approval except as necessary for Supplier to render services under the Contract. The Supplier further warrants that it has a tested and proven system in effect designed to protect all confidential information.

- 11.2** Supplier shall establish, maintain and enforce agreements with all such persons and entities that have access to State and citizen data and records to fulfill Supplier's duties and obligations under the Contract and to specifically prohibit any sale, assignment, conveyance, provision, release, dissemination or other disclosure of any State or citizen data or records except as required by law or allowed by written prior approval of the Customer.
- 11.3** Supplier shall immediately report to the Customer any and all unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State or citizen data or records of which it or its parent company, subsidiaries, affiliates, employees, officers, directors, assignees, agents, representatives, independent contractors, and subcontractors is aware or have knowledge or reasonable should have knowledge. The Supplier shall also promptly furnish to Customer full details of the unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination, or attempt thereof, and use its best efforts to assist the Customer in investigating or preventing the reoccurrence of such event in the future. The Supplier shall cooperate with the Customer in connection with any litigation and investigation deemed necessary by the Customer to protect any State or citizen data and records and shall bear all costs associated with the investigation, response and recovery in connection with any breach of State or citizen data or records including but not limited to credit monitoring services with a term of at least three (3) years, all notice-related costs and toll free telephone call center services.
- 11.4** Supplier further agrees to promptly prevent a reoccurrence of any unauthorized use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of State or citizen data and records.
- 11.5** Supplier acknowledges that any improper use, appropriation, sale, assignment, conveyance, provision, release, access, acquisition, disclosure or other dissemination of any State data or records to others may cause immediate and irreparable harm to the Customer and certain beneficiaries and may violate state or federal laws and regulations. If the Supplier or its affiliates, parent company, subsidiaries, employees, officers, directors, assignees, agents,

representatives, independent contractors, and subcontractors improperly use, appropriate, sell, assign, convey, provide, release, access, acquire, disclose or otherwise disseminate such confidential information to any person or entity in violation of the Contract, the Customer will immediately be entitled to injunctive relief and/or any other rights or remedies available under this Contract, at equity or pursuant to applicable statutory, regulatory, and common law without a cure period.

11.6 The Supplier shall immediately forward to the State Purchasing Director, and any other applicable person listed in the Notices section(s) of the Contract, any request by a third party for data or records in the possession of the Supplier or any subcontractor or to which the Supplier or subcontractor has access and Supplier shall fully cooperate with all efforts to protect the security and confidentiality of such data or records in response to a third party request.

11.7 Customer may be provided access to Supplier Confidential Information. State agencies are subject to the Oklahoma Open Records Act and Supplier acknowledges information marked confidential information will be disclosed to the extent permitted under the Open Records Act and in accordance with this section. Nothing herein is intended to waive the State Purchasing Director's authority under OAC 260:115-3-9 in connection with Bid information requested to be held confidential by a Bidder. Notwithstanding the foregoing, Supplier Confidential Information shall not include information that: (i) is or becomes generally known or available by public disclosure, commercial use or otherwise and is not in contravention of this Contract; (ii) is known and has been reduced to tangible form by the receiving party before the time of disclosure for the first time under this Contract and without other obligations of confidentiality; (iii) is independently developed without the use of any of Supplier Confidential Information; (iv) is lawfully obtained from a third party (without any confidentiality obligation) who has the right to make such disclosure or (v) résumé, pricing or marketing materials provided to the State. In addition, the obligations in this section shall not apply to the extent that the applicable law or regulation requires disclosure of Supplier Confidential Information, provided that the Customer provides reasonable written notice, pursuant to Contract notice provisions, to the Supplier so that the Supplier may promptly seek a protective order or other appropriate remedy.

12 Conflict of Interest

In addition to any requirement of law or of a professional code of ethics or conduct, the Supplier, its employees, agents and subcontractors are required to disclose any outside activity or interest that conflicts or may conflict with the best interest of the State. Prompt disclosure is required under this section if the activity or interest is

related, directly or indirectly, to any person or entity currently under contract with or seeking to do business with the State, its employees or any other third-party individual or entity awarded a contract with the State. Further, as long as the Supplier has an obligation under the Contract, any plan, preparation or engagement in any such activity or interest shall not occur without prior written approval of the State. Any conflict of interest shall, at the sole discretion of the State, be grounds for partial or whole termination of the Contract.

13 Assignment and Permitted Subcontractors

13.1 Supplier's obligations under the Contract may not be assigned or transferred to any other person or entity without the prior written consent of the State which may be withheld at the State's sole discretion. Should Supplier assign its rights to payment, in whole or in part, under the Contract, Supplier shall provide the State and all affected Customers with written notice of the assignment. Such written notice shall be delivered timely and contain details sufficient for affected Customers to perform payment obligations without any delay caused by the assignment.

13.2 Notwithstanding the foregoing, the Contract may be assigned by Supplier to any corporation or other entity in connection with a merger, consolidation, sale of all equity interests of the Supplier, or a sale of all or substantially all of the assets of the Supplier to which the Contract relates. In any such case, said corporation or other entity shall by operation of law or expressly in writing assume all obligations of the Supplier as fully as if it had been originally made a party to the Contract. Supplier shall give the State and all affected Customers prior written notice of said assignment. Any assignment or delegation in violation of this subsection shall be void.

13.3 If the Supplier is permitted to utilize subcontractors in support of the Contract, the Supplier shall remain solely responsible for its obligations under the terms of the Contract, for its actions and omissions and those of its agents, employees and subcontractors and for payments to such persons or entities. Prior to a subcontractor being utilized by the Supplier, the Supplier shall obtain written approval of the State of such subcontractor and each employee, as applicable to a particular Acquisition, of such subcontractor proposed for use by the Supplier. Such approval is within the sole discretion of the State. Any proposed subcontractor shall be identified by entity name, and by employee name, if required by the particular Acquisition, in the applicable proposal and shall include the nature of the services to be performed. As part of the approval request, the Supplier shall provide a copy of a written agreement executed by the Supplier and subcontractor setting forth that such subcontractor is bound by and agrees, as applicable, to perform the same covenants and be subject to

the same conditions and make identical certifications to the same facts and criteria, as the Supplier under the terms of all applicable Contract Documents. Supplier agrees that maintaining such agreement with any subcontractor and obtaining prior written approval by the State of any subcontractor and associated employees shall be a continuing obligation. The State further reserves the right to revoke approval of a subcontractor or an employee thereof in instances of poor performance, misconduct or for other similar reasons.

13.4 All payments under the Contract shall be made directly to the Supplier, except as provided in subsection A above regarding the Supplier's assignment of payment. No payment shall be made to the Supplier for performance by unapproved or disapproved employees of the Supplier or a subcontractor.

13.5 Rights and obligations of the State or a Customer under the terms of this Contract may be assigned or transferred, at no additional cost, to other Customer entities.

14 Background Checks and Criminal History Investigations

Prior to the commencement of any services, background checks and criminal history investigations of the Supplier's employees and subcontractors who will be providing services may be required and, if so, the required information shall be provided to the State in a timely manner. Supplier's access to facilities, data and information may be withheld prior to completion of background verification acceptable to the State. The costs of additional background checks beyond Supplier's normal hiring practices shall be the responsibility of the Customer unless such additional background checks are required solely because Supplier will not provide results of its otherwise acceptable normal background checks; in such an instance, Supplier shall pay for the additional background checks. Supplier will coordinate with the State and its employees to complete the necessary background checks and criminal history investigations. Should any employee or subcontractor of the Supplier who will be providing services under the Contract not be acceptable as a result of the background check or criminal history investigation, the Customer may require replacement of the employee or subcontractor in question and, if no suitable replacement is made within a reasonable time, terminate the purchase order or other payment mechanism associated with the project or services.

15 Patents and Copyrights

Without exception, a product or deliverable price shall include all royalties or costs owed by the Supplier to any third party arising from the use of a patent, intellectual property, copyright or other property right held by such third party. Should any third party threaten or make a claim that any portion of a product or service provided by Supplier under the Contract infringes that party's patent, intellectual property,

copyright or other property right, Supplier shall enable each affected Customer to legally continue to use, or modify for use, the portion of the product or service at issue or replace such potentially infringing product, or re-perform or redeliver in the case of a service, with at least a functional non-infringing equivalent. Supplier's duty under this section shall extend to include any other product or service rendered materially unusable as intended due to replacement or modification of the product or service at issue. If the Supplier determines that none of these alternatives are reasonably available, the State shall return such portion of the product or deliverable at issue to the Supplier, upon written request, in exchange for a refund of the price paid for such returned goods as well as a refund or reimbursement, if applicable, of the cost of any other product or deliverable rendered materially unusable as intended due to removal of the portion of product or deliverable at issue. Any remedy provided under this section is not an exclusive remedy and is not intended to operate as a waiver of legal or equitable remedies because of acceptance of relief provided by Supplier.

16 Indemnification

16.1 Acts or Omissions

- A.** Supplier shall defend and indemnify the Indemnified Parties, as applicable, for any and all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising out of, or resulting from any action or claim for bodily injury, death, or property damage brought against any of the Indemnified parties to the extent arising from any negligent act or omission or willful misconduct of the Supplier or its agents, employees, or subcontractors in the execution or performance of the Contract.
- B.** To the extent Supplier is found liable for loss, damage, or destruction of any property of Customer due to negligence, misconduct, wrongful act, or omission on the part of the Supplier, its employees, agents, representatives, or subcontractors, the Supplier and Customer shall use best efforts to mutually negotiate an equitable settlement amount to repair or replace the property unless such loss, damage or destruction is of such a magnitude that repair or replacement is not a reasonable option. Such amount shall be invoiced to, and is payable by, Supplier sixty (60) calendar days after the date of Supplier's receipt of an invoice for the negotiated settlement amount.

16.2 Infringement

Supplier shall indemnify the Indemnified Parties, as applicable, for all liability, claims, damages, losses, costs, expenses, demands, suits and actions of third parties (including without limitation reasonable attorneys' fees and costs required to establish the right to indemnification) arising from or in connection with Supplier's breach of its representations and warranties in the Contract or alleged infringement of any patent, intellectual property, copyright or other property right in connection with a product or service provided under the Contract. Supplier's duty under this section is reduced to the extent a claimed infringement results from: (a) a Customer's or user's content; (b) modifications by Customer or third party to a product delivered under the Contract or combinations of the product with any non-Supplier-provided services or products unless Supplier recommended or participated in such modification or combination; (c) use of a product or service by Customer in violation of the Contract unless done so at the direction of Supplier, or (d) a non-Supplier product that has not been provided to the State by, through or on behalf of Supplier as opposed to its combination with products Supplier provides to or develops for the State or a Customer as a system.

16.3 Notice and Cooperation

In connection with indemnification obligations under the Contract, the parties agree to furnish prompt written notice to each other of any third-party claim. Any Customer affected by the claim will reasonably cooperate with Supplier and defense of the claim to the extent its interests are aligned with Supplier. Supplier shall use counsel reasonably experienced in the subject matter at issue and will not settle a claim without the written consent of the party being defended, which consent will not be unreasonably withheld or delayed, except that no consent will be required to settle a claim against Indemnified Parties that are not a State agency, where relief against the Indemnified Parties is limited to monetary damages that are paid by the defending party under indemnification provisions of the Contract.

16.4 Coordination of Defense

In connection with indemnification obligations under the Contract, when a State agency is a named defendant in any filed or threatened lawsuit, the defense of the State agency shall be coordinated by the Attorney General of Oklahoma, or the Attorney General may authorize the Supplier to control the defense and any related settlement negotiations; provided, however, Supplier shall not agree to any settlement of claims against the State without obtaining advance written concurrence from the Attorney General. If the Attorney General does not authorize sole control of the defense and settlement negotiations to Supplier, Supplier shall have authorization to equally

participate in any proceeding related to the indemnity obligation under the Contract and shall remain responsible to indemnify the applicable Indemnified Parties.

16.5 Limitation of Liability

- A.** With respect to any claim or cause of action arising under or related to the Contract, neither the State nor any Customer shall be liable to Supplier for lost profits, lost sales or business expenditures, investments, or commitments in connection with any business, loss of any goodwill, or for any other indirect, incidental, punitive, special or consequential damages, even if advised of the possibility of such damages.
- B.** Notwithstanding anything to the contrary in the Contract, no provision shall limit damages, expenses, costs, actions, claims, and liabilities arising from or related to property damage, bodily injury or death caused by Supplier or its employees, agents or subcontractors; indemnity, security or confidentiality obligations under the Contract; the bad faith, negligence, intentional misconduct or other acts for which applicable law does not allow exemption from liability of Supplier or its employees, agents or subcontractors.
- C.** The limitation of liability and disclaimers set forth in the Contract will apply regardless of whether Customer has accepted a product or service. The parties agree that Supplier has set its fees and entered into the Contract in reliance on the disclaimers and limitations set forth herein, that the same reflect an allocation of risk between the parties and form an essential basis of the bargain between the parties. These limitations shall apply notwithstanding any failure of essential purpose of any limited remedy.

17 Termination for Funding Insufficiency

- 17.1** Notwithstanding anything to the contrary in any Contract Document, the State may terminate the Contract in whole or in part if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. In the event of such insufficiency, Supplier will be provided at least fifteen (15) calendar days' written notice of termination. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated. The determination by the State of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

- 17.2** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contractor certain obligations are terminated shall be refunded.
- 17.3** The State's exercise of its right to terminate the Contract under this section shall not be considered a default or breach under the Contract or relieve the Supplier of any liability for claims arising under the Contract.

18 Termination for Cause

- 18.1** Supplier may terminate the Contract if (i) it has provided the State with written notice of material breach and (ii) the State fails to cure such material breach within thirty (30) days of receipt of written notice. If there is more than one Customer, material breach by a Customer does not give rise to a claim of material breach as grounds for termination by Supplier of the Contract as a whole. The State may terminate the Contract in whole or in part if (i) it has provided Supplier with written notice of material breach, and (ii) Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. Any partial termination of the Contract under this section shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that are not terminated.
- 18.2** The State may terminate the Contract in whole or in part immediately without a thirty (30) day written notice to Supplier if (i) Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract; (ii) Supplier's material breach is reasonably determined to be an impediment to the function of the State and detrimental to the State or to cause a condition precluding the thirty (30) day notice or (iii) when the State determines that an administrative error in connection with award of the Contract occurred prior to Contract performance.
- 18.3** Upon receipt of notice of a termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence

of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination is not an exclusive remedy but is in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

- 18.4** The Supplier's repeated failure to provide an acceptable product or service; Supplier's unilateral revision of linked or supplemental terms that have a materially adverse impact on a Customer's rights or obligations under the Contract (except as required by a governmental authority); actual or anticipated failure of Supplier to perform its obligations under the Contract; Supplier's inability to pay its debts when due; assignment for the benefit of Supplier's creditors; or voluntary or involuntary appointment of a receiver or filing of bankruptcy of Supplier shall constitute a material breach of the Supplier's obligations, which may result in partial or whole termination of the Contract. This subsection is not intended as an exhaustive list of material breach conditions. Termination may also result from other instances of failure to adhere to the Contract provisions and for other reasons provided for by applicable law, rules or regulations; without limitation, OAC 260:115-9-9 is an example.

19 Termination for Convenience

- 19.1** The State may terminate the Contract, in whole or in part, for convenience if it is determined that termination is in the State's best interest. In the event of a termination for convenience, Supplier will be provided at least thirty (30) days' written notice of termination. Any partial termination of the Contract shall not be construed as a waiver of, and shall not affect, the rights and obligations of any party regarding portions of the Contract that remain in effect.
- 19.2** Upon receipt of notice of such termination, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to the effective date of termination, the termination does not relieve an obligation to pay for the product or service but

there shall not be any liability for further payments ordinarily due under the Contract or for any damages or other amounts caused by or associated with such termination. Such termination shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees that are unused when the Contract or certain obligations are terminated shall be refunded. Termination of the Contract under this section, in whole or in part, shall not relieve the Supplier of liability for claims arising under the Contract.

20 Suspension of Supplier

- 20.1** Supplier may be subject to Suspension without advance notice and may additionally be suspended from activities under the Contract if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements applicable to Supplier's performance or obligations under the Contract.
- 20.2** Upon receipt of a notice pursuant to this section, Supplier shall immediately comply with the notice terms and take all necessary steps to minimize the incurrence of costs allocable to the work affected by the notice. If a purchase order or other payment mechanism has been issued and a product or service has been accepted as satisfactory prior to receipt of notice by Supplier, the Suspension does not relieve an obligation to pay for the product or service but there shall not be any liability for further payments ordinarily due under the Contract during a period of Suspension or suspended activity or for any damages or other amounts caused by or associated with such Suspension or suspended activity. A right exercised under this section shall not be an exclusive remedy but shall be in addition to any other rights and remedies provided for by law. Any amount paid to Supplier in the form of prepaid fees attributable to a period of Suspension or suspended activity shall be refunded.
- 20.3** Such Suspension may be removed, or suspended activity may resume, at the earlier of such time as a formal notice is issued that authorizes the resumption of performance under the Contract or at such time as a purchase order or other appropriate encumbrance document is issued. This subsection is not intended to operate as an affirmative statement that such resumption will occur.

21 Certification Regarding Debarment, Suspension, and Other Responsibility Matters

The certification made by Supplier with respect to Debarment, Suspension, certain indictments, convictions, civil judgments and terminated public contracts is a material representation of fact upon which reliance was placed when entering into the Contract.

A determination that Supplier knowingly rendered an erroneous certification, in addition to other available remedies, may result in whole or partial termination of the Contract for Supplier's default. Additionally, Supplier shall promptly provide written notice to the State Purchasing Director if the certification becomes erroneous due to changed circumstances.

22 Certification Regarding State Employees Prohibition From Fulfilling Services

Pursuant to 74 O.S. § 85.42, the Supplier certifies that no person involved in any manner in development of the Contract employed by the State shall be employed to fulfill any services provided under the Contract.

23 Force Majeure

23.1 Either party shall be temporarily excused from performance to the extent delayed as a result of unforeseen causes beyond its reasonable control including fire or other similar casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority provided the party experiencing the force majeure event has prudently and promptly acted to take any and all steps within the party's control to ensure continued performance and to shorten duration of the event. If a party's performance of its obligations is materially hindered as a result of a force majeure event, such party shall promptly notify the other party of its best reasonable assessment of the nature and duration of the force majeure event and steps it is taking, and plans to take, to mitigate the effects of the force majeure event. The party shall use commercially reasonable best efforts to continue performance to the extent possible during such event and resume full performance as soon as reasonably practicable.

23.2 Subject to the conditions set forth above, non-performance as a result of a force majeure event shall not be deemed a default. However, a purchase order or other payment mechanism may be terminated if Supplier cannot cause delivery of a product or service in a timely manner to meet the business needs of Customer. Supplier is not entitled to payment for products or services not received and, therefore, amounts payable to Supplier during the force majeure event shall be equitably adjusted downward.

23.3 Notwithstanding the foregoing or any other provision in the Contract, (i) the following are not a force majeure event under the Contract: (a) shutdowns, disruptions or malfunctions in Supplier's system or any of Supplier's telecommunication or internet services other than as a result of general and widespread internet or telecommunications failures that are not limited to Supplier's systems or (b) the delay or failure of Supplier or subcontractor personnel to perform any obligation of Supplier hereunder unless such delay

or failure to perform is itself by reason of a force majeure event and (ii) no force majeure event modifies or excuses Supplier's obligations related to confidentiality, indemnification, data security or breach notification obligations set forth herein.

24 Security of Property and Personnel

In connection with Supplier's performance under the Contract, Supplier may have access to Customer personnel, premises, data, records, equipment and other property. Supplier shall use commercially reasonable best efforts to preserve the safety and security of such personnel, premises, data, records, equipment, and other property of Customer. Supplier shall be responsible for damage to such property to the extent such damage is caused by its employees or subcontractors and shall be responsible for loss of Customer property in its possession, regardless of cause. If Supplier fails to comply with Customer's security requirements, Supplier is subject to immediate suspension of work as well as termination of the associated purchase order or other payment mechanism.

25 Notices

All notices, approvals or requests allowed or required by the terms of any Contract Document shall be in writing, reference the Contract with specificity and deemed delivered upon receipt or upon refusal of the intended party to accept receipt of the notice. In addition to other notice requirements in the Contract and the designated Supplier contact provided in a successful Bid, notices shall be sent to the State at the physical address set forth below. Notice information may be updated in writing to the other party as necessary. Notwithstanding any other provision of the Contract, confidentiality, breach and termination-related notices shall not be delivered solely via e-mail.

If sent to the State:

State Purchasing Director
2401 N. Lincoln Blvd., Suite 116
Oklahoma City, Oklahoma 73105

With a copy, which shall not constitute notice, to:

Purchasing Division Deputy General Counsel
2401 N. Lincoln Blvd., Suite 116
Oklahoma City, Oklahoma 73105

26 Miscellaneous

26.1 Choice of Law and Venue

Any claim, dispute, or litigation relating to the Contract Documents, in the singular or in the aggregate, shall be governed by the laws of the State without regard to application of choice of law principles. Pursuant to 74 O.S. §85.14, where federal granted funds are involved, applicable federal laws, rules and regulations shall govern to the extent necessary to insure benefit of such federal funds to the State. Venue for any action, claim, dispute, or litigation relating in any way to the Contract Documents, shall be in Oklahoma County, Oklahoma.

26.2 No Guarantee of Products or Services Required

The State shall not guarantee any minimum or maximum amount of Supplier products or services required under the Contract.

26.3 Employment Relationship

The Contract does not create an employment relationship. Individuals providing products or performing services pursuant to the Contract are not employees of the State or Customer and, accordingly are not eligible for any rights or benefits whatsoever accruing to such employees.

26.4 Transition Services

If transition services are needed at the time of Contract expiration or termination, Supplier shall provide such services on a month-to-month basis, at the contract rate or other mutually agreed rate. Supplier shall provide a proposed transition plan, upon request, and cooperate with any successor supplier and with establishing a mutually agreeable transition plan. Failure to cooperate may be documented as poor performance of Supplier.

26.5 Publicity

The existence of the Contract or any Acquisition is in no way an endorsement of Supplier, the products or services and shall not be so construed by Supplier in any advertising or publicity materials. Supplier agrees to submit to the State all advertising, sales, promotion, and other publicity matters relating to the Contract wherein the name of the State or any Customer is mentioned or language used from which, in the State's judgment, an endorsement may be inferred or implied. Supplier further agrees not to publish or use such advertising, sales promotion, or publicity matter or release any informational pamphlets, notices, press releases, research reports, or similar public notices concerning the Contract or any Acquisition hereunder without obtaining the prior written approval of the State.

26.6 Open Records Act

Supplier acknowledges that all State agencies and certain other Customers are subject to the Oklahoma Open Records Act set forth at 51 O.S. §24A-1 *et seq.* Supplier also acknowledges that compliance with the Oklahoma Open Records Act and all opinions of the Oklahoma Attorney General concerning the Act is required.

26.7 Failure to Enforce

Failure by the State or a Customer at any time to enforce a provision of, or exercise a right under, the Contract shall not be construed as a waiver of any such provision. Such failure to enforce or exercise shall not affect the validity of any Contract Document, or any part thereof, or the right of the State or a Customer to enforce any provision of, or exercise any right under, the Contract at any time in accordance with its terms. Likewise, a waiver of a breach of any provision of a Contract Document shall not affect or waive a subsequent breach of the same provision or a breach of any other provision in the Contract.

26.8 Mutual Responsibilities

- A.** No party to the Contract grants the other the right to use any trademarks, trade names, other designations in any promotion or publication without the express written consent by the other party.
- B.** The Contract is a non-exclusive contract and each party is free to enter into similar agreements with others.
- C.** The Customer and Supplier each grant the other only the licenses and rights specified in the Contract and all other rights and interests are expressly reserved.
- D.** The Customer and Supplier shall reasonably cooperate with each other and any Supplier to which the provision of a product and/or service under the Contract may be transitioned after termination or expiration of the Contract.
- E.** Except as otherwise set forth herein, where approval, acceptance, consent, or similar action by a party is required under the Contract, such action shall not be unreasonably delayed or withheld.

26.9 Invalid Term or Condition

To the extent any term or condition in the Contract conflicts with a compulsory applicable State or United States law or regulation, such Contract term or

condition is void and unenforceable. By executing any Contract Document which contains a conflicting term or condition, no representation or warranty is made regarding the enforceability of such term or condition. Likewise, any applicable State or federal law or regulation which conflicts with the Contract or any non-conflicting applicable State or federal law or regulation is not waived.

26.10 Severability

If any provision of a Contract Document, or the application of any term or condition to any party or circumstances, is held invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable and the application of such provision to other parties or circumstances shall remain valid and in full force and effect. If a court finds that any provision of this contract is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

26.11 Section Headings

The headings used in any Contract Document are for convenience only and do not constitute terms of the Contract.

26.12 Sovereign Immunity

Notwithstanding any provision in the Contract, the Contract is entered into subject to the State's Constitution, statutes, common law, regulations, and the doctrine of sovereign immunity, none of which are waived by the State nor any other right or defense available to the State.

26.13 Survival

As applicable, performance under all license, subscription, service agreements, statements of work, transition plans and other similar Contract Documents entered into between the parties under the terms of the Contract shall survive Contract expiration. Additionally, rights and obligations under the Contract which by their nature should survive including, without limitation, certain payment obligations invoiced prior to expiration or termination; confidentiality obligations; security incident and data breach obligations and indemnification obligations, remain in effect after expiration or termination of the Contract.

26.14 Entire Agreement

The Contract Documents taken together as a whole constitute the entire agreement between the parties. No statement, promise, condition,

understanding, inducement or representation, oral or written, expressed or implied, which is not contained in a Contract Document shall be binding or valid. The Supplier's representations and certifications, including any completed electronically, are incorporated by reference into the Contract.

26.15 Gratuities

The Contract may be immediately terminated, in whole or in part, by written notice if it is determined that the Supplier, its employee, agent, or another representative violated any federal, State or local law, rule or ordinance by offering or giving a gratuity to any State employee directly involved in the Contract. In addition, Suspension or Debarment of the Supplier may result from such a violation.

26.16 Import/Export Controls

Neither party will use, distribute, transfer or transmit any equipment, services, software or technical information provided under the Contract (even if incorporated into other products) except in compliance with all applicable import and export laws, conventions and regulations.

ATTACHMENT C

OKLAHOMA STATEWIDE CONTRACT TERMS

1. Statewide Contract Type

- 1.1** The Contract is a non-mandatory statewide contract for use by State agencies. Additionally, the Contract may be used by any governmental entity specified as a political subdivision of the State pursuant to the Governmental Tort Claims Act including any associated institution, instrumentality, board, commission, committee, department or other entity designated to act on behalf of the political subdivision; a state, county or local governmental entity in its state of origin; and entities authorized to utilize contracts by the State via a multistate or multigovernmental contract.
- 1.2** The Contract is a firm, fixed price contract for indefinite delivery and quantity for the Acquisitions available under the Contract.

2. Orders and Addendums

- 2.1** Unless mutually agreed in writing otherwise, orders shall be placed directly with the Supplier by issuance of written purchase orders or by Purchase Card by state agencies and other authorized entities. All orders are subject to the Contract terms and any order dated prior to Contract expiration shall be performed. Delivery to multiple destinations may be required.
- 2.2** Any ordering document shall be effective between Supplier and the Customer only and shall not be an Addendum to the Contract in its entirety or apply to any Acquisition by another Customer.
- 2.3** Additional terms added to a Contract Document by a Customer shall be effective if the additional terms do not conflict with the General Terms and are acceptable to Supplier. However, an Addendum to the Contract shall be signed by the State Purchasing Director or designee. Regarding information technology and telecommunications contracts, pursuant to 62 O.S., §34.11.1, the Chief Information Officer acts as the Information Technology and Telecommunications Purchasing Director.

3. Termination for Funding Insufficiency

In addition to Contract terms relating to termination due to insufficient funding, a Customer may terminate any purchase order or other payment mechanism if funds sufficient to pay obligations under the Contract are not appropriated or received from an intended third-party funding source. The determination by the Customer of insufficient funding shall be accepted by, and shall be final and binding on, the Supplier.

4. Termination for Cause

In addition to Contract terms relating to termination for cause, a customer may terminate its obligations, in whole or in part, to Supplier if it has provided Supplier with written notice of material breach and Supplier fails to cure such material breach within thirty (30) days of receipt of written notice. The Customer may also terminate a purchase order or other payment mechanism or Supplier's activities under the Contract immediately without a thirty (30) day written notice to Supplier, if Supplier fails to comply with confidentiality, privacy, security, environmental or safety requirements if such non-compliance relates or may relate to Supplier provision of products or services to the Customer or if Supplier's material breach is reasonably determined (i) to be an impediment to the function of the Customer and detrimental to the Customer, or (ii) when conditions preclude the thirty (30) day notice.

5. Termination for Convenience

In addition to any termination for convenience provisions in the Contract, a Customer may terminate a purchase order or other payment mechanism for convenience if it is determined that termination is in the Customer's best interest. Supplier will be provided at least thirty (30) days' written notice of termination.

6. Contract Management Fee and Usage Report

6.1 Pursuant to 74 O.S. § 85.33A, the State assesses a contract management fee on all transactions under a statewide contract. The payment of such fee will be calculated for all transactions, net of returns and the Supplier has no right of setoff against such fee regardless of the payment status of any Customer or any aggregate accounts receivable percentage. Supplier acknowledges and agrees that all prices quoted under any statewide contract shall include the contract management fee and the contract management fee shall not be reflected as a separate line item in Supplier's billing. The State reserves the

right to change this fee upward or downward upon sixty (60) calendar days' written notice to Supplier without further requirement for an Addendum.

6.2 While Supplier is the awardee of a statewide contract, transactions that occur under the terms of the statewide contract are subject to a one percent (1%) contract management fee to be paid by Supplier. Supplier shall submit a Contract Usage Report on a quarterly basis for each contract using a form provided by the State and such report shall include applicable information for each transaction. Reports shall include usage of the statewide contract by every Customer during the applicable quarter. A singular report provided late will not be considered a breach of the statewide contract; provided, however, repeated failure to submit accurate quarterly usage reports and submit timely payments may result in suspension or termination, in whole or in part, of the Contract.

6.3 All Contract Usage Reports shall meet the following criteria:

- i. Electronic submission in Microsoft Excel format to strategic.sourcing@omes.ok.gov;
- ii. Quarterly submission regardless of whether there were transactions under the Contract during the applicable quarterly reporting period;
- iii. Submission no later than forty-five (45) days following the end of each calendar quarter;
- iv. Contract quarterly reporting periods shall be as follows:
 - a. January 01 through March 31;
 - b. April 01 through June 30;
 - c. July 01 through September 30; and
 - d. October 01 through December 31.
- v. Reports must include the following information:
 - a. Procuring entity;
 - b. Order date;

- c. Purchase Order number or note that the transaction was paid by Purchase Card;
- d. City in which products or services were received or specific office or subdivision title;
- e. Product manufacturer or type of service;
- f. Manufacturer item number, if applicable;
- g. Product description;
- h. General product category, if applicable;
- i. Quantity;
- j. Unit list price or MSRP, as applicable;
- k. Unit price charged to the purchasing entity; and
- l. Other Contract usage information requested by the State.

6.4 Payment of the contract management fee shall be delivered to the following address within forty-five (45) calendar days after the end of each quarterly reporting period:

State of Oklahoma
Office of Management and Enterprise Services, Central Purchasing
2401 North Lincoln Boulevard, Suite 116
Oklahoma City, Oklahoma 73105

To ensure payment is properly accounted for, Supplier shall provide the following information with payment: (i) reference to the applicable Contract Usage Report and quarterly reporting period and (ii) the applicable statewide contract number(s) and the amount of the contract management fee being paid for each contract number.

EXHIBIT 1 - SPECIFICATIONS
SOLICITATION NO. 0900000554
SW0767 – VEHICLE REPAIR AND MAINTENANCE

A. BACKGROUND

The Office of Management and Enterprise Services (OMES) has the primary responsibility and oversight of developing statewide contracts for efficiency of providing services to state agencies. State agencies own vehicles used for conducting state business that require maintenance and services. Vehicles are located throughout the State of Oklahoma.

The state-owned vehicles may be comprised of Chrysler/Dodge, Chevrolet, Ford, General Motors and Honda brands of various models and age.

The state-owned medium duty trucks between 25,500 to 66,000 lbs. and heavy-duty trucks may be comprised of International, Kenworth, Mack, Sterling, Volvo, Freightliner, GMC, Ford, Chevrolet, Peterbilt, Crane, Western Star and other brands that may not be listed of various models and age.

B. ADDITIONAL PROVISIONS

This shall be a multiple award contract that allows state agencies to obtain vehicle repair services from any contractor issued an award resulting from this solicitation and subsequent contract.

This shall be a firm fixed price contract for diagnostic charges, labor cost with a percentage discount off list price for vehicle parts.

Services outlined in this contract shall be performed on an as needed basis.

The state does not guarantee any dollar value or specify quantity of vehicle for repairs. Service requirement shall be determined by actual need.

State agencies shall pay for repair work performed on vehicles owned by the State of Oklahoma.

C. SCOPE OF WORK

The State of Oklahoma is seeking responsible contractors to provide vehicle repair services.

Vehicle repair services are needed in various areas of the State. Included is a map of the State of Oklahoma divided into 8 zones with each zone consisting of several counties.

This map will be used in the evaluation process for identifying the geographic location of vehicle repair facilities.

Contract shall be established with vehicle repair facilities capable of performing both warranty and non-warranty vehicle repair work.

D. TYPE OF SERVICES

The State is issuing this Request for Proposal for the following Automotive Services:

Automotive repair for Ford, Dodge/Chrysler/Plymouth, GM, and Honda Brands

Medium and Heavy-Duty Truck repair and maintenance services

Vehicle Glass / Windshield Service / Replacement / Repair

Transmission Service / Installation / Repair

Car Detail Service / Repair

Paint and Body Repair

Upholstering

E. CONTRACTOR'S RESPONSIBILITIES (ALL SERVICES):

Authorization

No work shall be performed without prior authorization from the agency contact person. Work performed without prior authorization shall be done at no cost to the State.

All vehicle repair services shall be authorized by the Agency contacts provided in the contract.

Prior to Repair

Before actual repair work begins, ownership of the vehicle(s) shall be established.

The contractor shall ensure the vehicles in need of repair belongs to the agency requesting the service.

The following information shall be provided in order to determine ownership of vehicle(s) requiring repair services:

Name of Driver.

Name of agency and division in which the driver is employed.

Make, model and VIN of vehicle.

Agency vehicle control number

Estimate

Once vehicle ownership has been established, the contractor shall provide a written estimate of the repair work to the attention of the agency contact person.

The written estimate shall be itemized to include all cost associated with the repair of the vehicle.

The contractor shall obtain authorization from the agency contact person prior to performing any work. Vehicle drivers are not authorized to approve any repair work to be performed.

Work performed shall not exceed the original estimate without the prior approval of agency contact person.

The contract shall not perform warranty repairs unless the facility is certified by the vehicle manufacturer. Repairs made which are covered by a warranty will not be paid by the state agency.

Subcontracting

Contractor shall retain total responsibility of all vehicle repair work performed. If the contractor elects to sub-contract, the state agency shall only communicate with and make payment to the party awarded the contract.

Storage

Vehicles that remain in the contractor's possession overnight and for an extended period shall be stored in a safe and secure location for protection from theft and environmental dangers.

Care of State Property

The contractor shall be responsible for the proper care and custody of any state-owned vehicle in their possession.

The contractor shall assume full responsibility for damage to state owned property caused by the contractor's employees or equipment.

The contract shall reimburse the State for any property loss or damage cause by the contractor in a timely matter.

Invoices

Invoices shall include a detailed breakdown of all charges to be paid.

Payment will be in arrears. The State agency shall not make advance payments or advance deposits.

Payment made by State agencies may be made by the procurement card that is issued by the State Fleet credit card (Comdata) in order to provide for tracking of maintenance. You may review information about this program at:

<https://www.ok.gov/dcs/solicit/app/solicitationDetail.php?conID=3336>

Capability

The contractor shall have a full-service automotive maintenance repair facility where vehicle repair work will be performed. Provide the physical address where vehicle repair work will be performed. (See Exhibit 2 – Business Response)

The vendors selected to perform the services outlined in this solicitation shall furnish all necessary supervision, labor, equipment, tools, parts, materials, and supplies needed for vehicle repair work.

Calculating Labor Rates / Hours

Supplier shall provide the price list / time guide to be used when calculating the labor rates and the number of hours required to make repairs in your response.

Personnel

Performance of this contract shall be employees of the contractor and be fully qualified to perform the work required. Vehicle repair work shall be performed by ASE certified or factory trained automotive service technicians.

Vehicle repair facilities shall be certified by the Vehicle manufacturer to perform warranty work for vehicles covered under a manufacturer warranty.

All Personnel employed by the Supplier shall be identifiable by uniform and proper identification.

Warranty

All services performed and parts/materials supplied shall meet or exceed original equipment manufacturer (OEM) warranty requirements. Equivalent substitutions must be approved by the agency contact person prior to installation.

All parts and labor shall be guaranteed for at least 12 months or 12,000 miles, even if the contract has expired or been cancelled less than 30 days after completion of work.

Work performed not meeting specifications, or found to be defective, shall not be accepted. The contractor shall be required to make repairs or corrections at no additional cost to the state agency.

Certifications / Licenses

The contract certifies, at the time of entering into this contract, it has currently in effect all necessary licenses, certifications, approvals, permits and all requisite documentation required by the State of Oklahoma to perform the services covered by this contract.

The supplier shall be responsible for complying with all OSHA regulations. The supplier shall bear full responsibility for personnel training and safety.

Insurance

As referenced in Section 8. of Attachment B – State General Terms insurance requirements are listed.

In addition to above reference insurance requirements, additional insurance for this contract include:

Premises Operations
Product/Completed Operations
Fire Damage
Garage Keepers Liability Insurance
Commercial Property Coverage

F. TYPE OF SERVICES - SOLICITATION SPECIFICATIONS

Services and repairs may include, but not be limited to the following:

Level “A” Service

Replace engine oil and filter.
Lubricate chassis and universal joints, and CV joints, if applicable.
Check and fill all fluids to proper levels, to include: transmission, differentials, power steering, brake, windshield washer, radiator coolant, battery and 4-wheel drive transfer case;
Check tire condition and pressure rotate and balance, if necessary, and check spare.
Check for proper operation of the following: windshield wiper and washer, all lights and reflectors, horn, heater and air conditioner, emergency brake and radio;
Check for fluid leaks

Level “B” Service

- . All Level A services.
- . Minor tune and filters to include replace PCV valve and clean/protect battery terminal ends, replace air filter and breather elements, replace fuel filter.
- . Check engine.
- . Check brakes.
- . Check shocks.

. For rear drive vehicles, check front wheel bearings and for front drive vehicle check drive axle boots.

Level “C: Service

All Level A services.

Service transmission.

Replace all belts.

Additional Services

Inspect for wear, proper operation, leaks and note defects on service report and report defects to OMES Fleet Management Service Management to include: engine, air filter, breather element, drive belts (including serpentine), undercarriage, exhaust system, lights and turn signals;

Engine Diagnostic, drive ability problems, and repairs.

Drive train problems, transmission, differential, and repairs.

Brakes, Steering and suspension problems and repairs.

Air conditioning and related problems, and repairs.

Electrical problems and repairs.

Front end and 4-wheel alignment.

G. VEHICLE GLASS/WINDSHIELD SERVICE/REPLACEMENT/REPAIR

This contract shall cover automotive and truck glass replacement services for vehicles owned by the State of Oklahoma.

The contractor shall have trained personnel, glass inventory, facilities, and equipment/materials/supplies necessary to perform services specified in this contract.

Contractor’s Responsibility

The contractor shall furnish all necessary supervision, labor, tools, equipment, parts, materials, supplies, and transportation required to perform the services specified in this contract.

The contractor shall provide only qualified personnel, certified and trained in the performance of automotive glass repair/replacement services.

Technicians performing automotive glass repair/replacement services on State vehicles shall be certified with the National Glass Association (NGA) as an Auto Glass Technician (CAGT) and/or Master Auto Glass Technician (CMAGT).

Documentation must be provided with proposal response that will validate the glass technicians performing repairs on state vehicles are currently certified with the NGA.

Removal of Broken / Cracked glass

The contractor shall be responsible for removing and disposing as debris resulting from glassrepair/replacement services.

All disposals shall be carried out in accordance with all applicable local, state and federal regulations.

The contractor shall not utilize owner's on-site trash bin for disposal of debris resulting from glassrepair/replacement services.

After the completion of each new automotive glass installation, the new glass shall be free of leaks, cracks, chips, wind noise and be air and watertight.

All door glass replacement shall be capable of being easily rolled up and down by its mechanism.

The cost for glass replacement service including requirement of special tools, installation kits and special materials necessary to perform service shall be included in the glass replacement solicitation price.

Broken glass and related debris shall be vacuumed from vehicle interior. Windows shall be cleaned, and excess sealer shall be removed.

The contractor shall maintain mobile units capable of providing on-site glass repair and replacement services.

All glass repair/replacement services shall be performed during business hours of 7:30am – 4:30 pm on-site within 24 hours of telephone notification at state locations.

Any person on-site performing automotive glass repair/replacement services shall have an identifiable uniform, proper identification, and a marked vehicle.

Glass Requirements

Automotive glass furnished under this contract should be original factory installed glass. If available and acceptable to the end user Aftermarket glass is acceptable.

Glass products shall meet the requirement of ANSI/SAE Z26.1 as required by Federal Motor Vehicle Safety Standards No. 205.

Curved laminated glass shall be used for all other replacement(s).

Tempered automotive glass shall be used for all other replacement(s).

Full cut urethane insulation shall be used to prevent glass fallouts during roll overs and airbag discharges.

Storage

Vehicles that remain in the contractor's possession overnight or for extended periods shall be stored in a safe and secure location for protection from theft and other environmental dangers.

H. TRANSMISSION SERVICE / REPLACEMENT / REPAIR

Work Requirements

The contract shall be for complete installation including the transmission, torque converter, fluids, and labor.

Transmissions shall include converters.

Re-Manufactured or rebuilt transmissions will include all manufacturer updates and modifications for that transmission.

Re-Manufactured transmissions will perform to OEM specifications and contain all new OEM or equivalent parts. The transmission housing may be used.

Rebuilt transmissions will contain a new rebuild kit and other new or used parts as necessary to repair the transmission to OEM specifications.

The vendor must be able to provide accurate diagnostic service and repair for all component parts as needed including any testing and repairs to any electronic system or component associated with the transmission or exchange transmissions including removing old transmission from vehicle and installing and adjustment of rebuilt transmission.

Vendor Responsibility

The Vendor shall provide trained, certified personnel, supervision, tools, equipment, parts, materials, supplies and necessary transportation required to perform the services specified in this contract. Documentation must be provided with solicitation response that will validate certification.

The Vendor certifies that, at the time of entering into the contract, it has currently in effect all necessary licenses, certifications, approvals and permits as required by the State of Oklahoma to properly perform the services covered by this contract.

The Vendor shall be responsible for complying with all OSHA regulations. The Vendor shall bear full responsibility for personnel training and safety.

All Personnel employed by the Vendor shall be identifiable by uniform and proper identification.

Inspection and Quality Reporting

The vendor shall provide all warranties covering transmission, parts, removal, and labor.

Warranties shall include mileage and age limits and specify any exceptions or limitations.

The minimum warranty for re-manufactured transmissions shall be one (1) year or 12,000 miles.

The minimum warranty for rebuilt transmissions shall be six (6) months or 6,000 miles.

Agency shall inspect the completed process. If the work performed does not meet specifications or is found to be defective, the Agency shall not accept the work as performed and the Vendor shall be required to make repairs or corrections at no additional cost to the State.

Delivery

The Agency will deliver vehicles to the Vendor's location and pick them up when the service is completed.

The cost of the repair work will include Transmission, Torque Converter, Fluids, Labor, and installation. Transmissions and converters will be priced as one unit.

I. PAINT AND BODY

Work Requirements

All phases of body repair, including frame straightening, re-upholstering and repair, painting, and alignment

Repair major and minor wrecks.

Recondition equipment.

Dent, scrape, and scratch removal

Frame and body component repair

Re-priming and painting

Undercarriage and suspension rebuilding

Painting of vehicles

Upholstering

Supplemental repairs not originally identified on work estimates must be approved by the agency prior to the actual work being performed.

The vendor may subcontract repairs performed under this contract.

All parts used to repair the vehicles covered under the contract shall equal the original equipment manufacturers specifications. The agency reserves the right to supply their own parts or specify a specific brand or type of repair parts.

Vendor Responsibility

The Vendor shall provide trained, certified personnel, supervision, tools, equipment, parts, materials, and supplies required to perform the services specified in this contract. Documentation must be provided with the response that will validate certification.

Warranties shall include length of coverage for serviceability, paint, and assembly and shall specify any exceptions or limitations.

Delivery

The vendor shall pick up all vehicles from agency locations and deliver to the vendor repair location. Upon completion of the repair the vendor will deliver the vehicle back to agency location.

J. Vehicle Detail

Complete Detail

Complete detail shall include waxing and/or compounding the exterior of the vehicle. The appearance of the vehicle shall be returned as close as possible to the original factory condition.

Exterior surface detailing shall include all outer parts of the vehicle. This includes windows surfaces hood top, sides, rear deck, tires, wheels, rims, and fenders. Clean and dress wheels, paint wheels as necessary. Clean undercarriage. Excess water shall be removed from vehicle. Remove all road tar and oils residue. Interior cleaning shall include the dashboard, console, steering wheel, back and front seats, door panels, window surfaces, ashtrays, mirror, plexiglass partition (where applicable), vacuuming of interior floor (to include under seats and cleaning of floor mats), shampoo and dressing, including carpets, seats, and headliner, remove all spots, stains, and dirt from front and rear seats and remove any trash or litter. Interior cleaning of vans and wagons includes rear storage portion of vehicle. Clean trunk area. Clean engine and paint when necessary.

Exterior Detail

Exterior detail shall include waxing and/or compounding the outer parts of the vehicle. The appearance of vehicle shall be returned as close as possible to the original factory condition. This includes window surfaces, hood, top, sides, rear deck, tires, wheels, rims, and fenders. Clean and dress wheels, paint wheels as necessary. Clean undercarriage. Excess water shall be removed from vehicle. Remove all road tar and oil residue.

Interior Detail

Interior cleaning shall include the dashboard, console, steering wheel, back and front seats, door panels, window surfaces, ashtrays, mirror, plexiglass partition (where applicable), vacuuming of interior floor (to include under seats and cleaning of floor mats), shampoo and dressing, including carpets, seats, and headliner, remove all spots, stains and dirt from front and rear seats and remove any trash or litter. Interior cleaning of vans and wagons including rear storage portion of vehicle. Clean trunk area. Clean engine and paint when necessary.

Shampoo Carpet Only

Removal of Decals

This is for the removal of State applied decal. Do not remove original factory decal. Contractor shall be notified which decals to be removed.

Quality and Acceptability of Work

Vehicle detailing services shall be completed within a twenty-four (24) hour turn-around time.

The pick-up and delivery of vehicles for detailing shall be determined by the Agency.

Vehicle detailing services not meeting specifications or found to unsatisfactory, shall not be accepted.

The contractor shall be required to make corrections and/or repeat performance of detailing services, at no additional cost to the State.

Delivery

Only individuals with a valid driver's license to operate a vehicle in the State of Oklahoma shall be permitted to transport vehicles owned and/or maintained by the State.

Contractor's personnel are required to possess identification cards. Upon the request of the agency the contractor's personnel shall be able to present their identification card showing they are an employee of the contractor.

EXHIBIT 2 – BUSINESS RESPONSE

SOLICITATION NO. 0900000554

SW0767

VEHICLE REPAIR AND MAINTENANCE

Surrounding Counties, you can service:

attached

(If you have multiple locations please attach a separate sheet with the same information as above.)

Please list the brands of equipment that you are able to service, and the publication used for pricing the hourly labor rate:

*Freightliner, Western Star, Thomas Built Bus,
Detroit, Cat, Cummins, Eaton Fuller
Mitchell Labor Guide For Rates*

Which of the brands are you factory authorized from the manufacturer to work on?

Freightliner, Western Star, Cat, Cummins, Detroit

Please list the brands of parts that you are able to provide:

*unlimited class 8 truck parts
Freightliner, Western Star, Sterling, Detroit, Cat, Cummins,
Kalten Fuller, Delco, Herten, Bendix, Meritor, Tennet, Alliance.*

Which of the brands of parts you are factory authorized to sell?

Freightliner, Western Star

same as above.

Lead Time for service (i.e., within 24 hours of service or parts request):

Payment Remittance Address:

Premier Truck Group
PO Box 203796
Dallas TX 75320-3796

Correspondence Address:

Premier Truck Group
Attn: Credit Department
PO Box 272430
Oklahoma City OK 73137-2430
P: 405-917-2030
P: 800-600-1461
F: 405-948-0820



ATC Freightliner Group LLC
dba's: Premier Truck Group

Oklahoma Locations:

Premier Truck Group of Ardmore
Parts/Service (M-F 7a-5p and Sat 8a-Noon)
3601 12th Ave NW
Ardmore OK 73401
580-223-2233

Premier Truck Group of Muskogee
Parts/Service (M-F 8a-5p)
2950 N 32nd St / 2950 Highway 69 North
Muskogee OK 74401-2263
Parts: 918-687-0133 Service: 918-687-1943

Premier Truck Group of Oklahoma City
Parts/Service (24/7) Body Shop (M-F 7:30a-4p)
5301 I-40 W
Oklahoma City OK 73128-1211
405-942-8827 or 800-999-6511

Premier Truck Group of Tulsa
Parts/Service (24/7) Body Shop (M-F 8a-4:30p)
5104 W 60th St
Tulsa OK 74107-8816
918-445-5300 or 800-725-5312

Texas Locations:

Premier Truck Group of Amarillo
Parts/Service (24/7)
2210 Whitaker Rd
Amarillo TX 79118
806-374-1033

Premier Truck Group of Arlington
Parts/Service (M-F 8a-5p)
1808 E Division St
Arlington TX 76011-7812
817-617-2548

Premier Truck Group of Dallas (North)
Parts/Service (7 days a week 7a-7p)
Body Shop (M-F 7:30am-4p)
3040 Irving Blvd
Dallas TX 75247-6213
214-631-2620 or 888-287-0176

Premier Truck Group of Dallas (South)
Parts/Service (24/7)
4200 Port Blvd
Dallas TX 75241-7637
972-225-4300 or 800-580-2620

Premier Truck Group of Fort Worth
Parts/Service (24/7) Body Shop (M-F 7:30a-4p)
1804 NE Loop 820
Fort Worth TX 76106-1732
817-626-7090 or 800-580-9101

Premier Truck Group of Midland
Parts (M-F 8a-5p)
4 S Industrial Loop
Midland TX 79701
432-687-5437

Premier Truck Group of Odessa
Parts/Service (M-F 7a-7p Sat 8a-5p)
1100 S Grandview Ave
Odessa TX 79761
432-580-8400

Premier Truck Group of North Texas
Parts/Service (M-F 8a-5p and Sat 8a-Noon)
1610 N Collins Fwy
Howe TX 75459
903-532-1313

EXHIBIT 3 – PRICING
SOLICITATION NO. 0900000554
SW0767-AUTOMOTIVE REPAIR AND MAINTENANCE

AUTOMOBILE REPAIR AND MAINTENANCE

Pricing shall include all costs associated with auto repair services.

AUTOMOBILE REPAIR SERVICES, LABOR RATE

\$ NA Per Hour

PARTS, AT LIST PRICE, LESS A PERCENTAGE DISCOUNT:

NA % Discount

COST FOR TROUBLE SHOOTING OR DIAGNOSTIC CHARGE

\$ NA Per Hour

Name of publication(s) used for determining labor rates and labor hour:

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EXHIBIT 3 - PRICING
SOLICITATION NO. 0900000554
SW0767-AUTOMOTIVE REPAIR AND MAINTENANCE

MEDIUM AND HEAVY-DUTY TRUCK REPAIR AND MAINTENANCE

This Section is for suppliers who can repair Medium and Heavy-Duty Trucks. Automotive Repair Shops DO NOT need to fill in this Section

TRUCK REPAIR SERVICES, LABOR RATE

\$ 156 Per Hour

PARTS, AT LIST PRICE, LESS A PERCENTAGE DISCOUNT:

10 % Discount

COST FOR TROUBLE SHOOTING OR DIAGNOSTIC CHARGE

\$ 156 Per Hour

Name of publication(s) used for determining labor rates and labor hour:

Detroit & Cummins warranty manuals

EXHIBIT 3 – PRICING
SOLICITATION NO. 0900000554
SW0767-AUTOMOTIVE REPAIR AND MAINTENANCE

GLASS/WINDSHIELD SERVICE/REPLACEMENT/REPAIR

Pricing shall include all necessary supervision, labor, tools, equipment, parts, materials, supplies and transportation required to perform the services.

GLASS/WINDSHIELD REPLACEMENT SERVICES, LABOR RATE

\$ NA Per Hour

PARTS, AT LIST PRICE, LESS A PERCENTAGE DISCOUNT:

10 % Discount

WINDSHIELD REPAIR SERVICE

1st Crack – Rock Ding less than 1” crack from point to point \$ NA Per Occurrence

Each Additional Crack – Rock Ding less than 1” \$ NA Per Occurrence

1st Crack – Rock Ding larger than 1” crack from point to point \$ NA Per Occurrence

Each Additional Crack – Rock Ding larger than 1” \$ NA Per Occurrence

EXHIBIT 3 – PRICING
SOLICITATION NO. 0900000554
SW0767-AUTOMOTIVE REPAIR AND MAINTENANCE

TRANSMISSION SERVICE, REPLACEMENT AND REPAIR PRICING

Pricing shall be in the form of a discount from "List price". The pricing shall include all costs; re-manufacturing, rebuilding, and installation of transmissions with converters, fluids and all trained personnel, supervision, tools, equipment, parts, materials, supplies and necessary transportation required to perform the services specified in this contract.

LABOR RATE PER HOUR

\$ 156 Per Hour

PARTS, AT LIST PRICE, LESS A PERCENTAGE DISCOUNT:

10 % Discount

Do the services meet specifications? ☒ Yes ☐ No

Vendor Remarks:

EXHIBIT 3 - PRICING
SOLICITATION NO. 0900000554
SW0767-AUTOMOTIVE REPAIR AND MAINTENANCE

PAINT AND BODY PRICING

LABOR RATE PER HOUR:

\$ 100 Per Hour

UNIBODY AND FRAME REPAIR RATE PER HOUR:

\$ 129 Per Hour

PARTS PRICING DISCOUNT FROM LIST PRICE

10 %Discount

Specify cost list used, i.e.: Wholesale, Retail, Distributor, etc.

Retail

EXHIBIT 3 - PRICING
SOLICITATION NO. 0900000554
SW0767-AUTOMOTIVE REPAIR AND MAINTENANCE

UPHOLSTERING

Upholstering services including repair or replace seats and/or trim.

LABOR RATE PER HOUR:

\$ NA Per Hour

Specify cost list used, i.e.: Wholesale, Retail, Distributor, etc.

PAINT -Paint Charges (Entire Vehicle)

*Sale cars and utility i.e., Expeditions, Broncos, Tahoe's, etc. One Color Fill 7 holes (Maximum)
Machines and ships and scratches*

\$ NA

Reissue cars and utility vehicles. One Color. Fill 7 holes (Maximum) machine sand chips and scratches.

\$ NA

EXHIBIT 3 – PRICING
SOLICITATION NO. 0900000554
SW0767-AUTOMOTIVE REPAIR AND MAINTENANCE

VEHICLE DETAIL PRICING

Supplier shall provide pricing for each vehicle detail services listed for each vehicle category.

No Detail Services

	Complete Detail	Exterior Detail	Interior Detail	Shampoo Carpet Only	Removal of Decals
Cars	\$	\$	\$	\$	\$
Mini Vans	\$	\$	\$	\$	\$
Full Size Van	\$	\$	\$	\$	\$
Truck up to 1 ton	\$	\$	\$	\$	\$
Truck over 1 ton	\$	\$	\$	\$	\$

Exhibit Number 4 – Federal Funds Clauses

A. NO FEDERAL GOVERNMENT COMMITMENT OR LIABILITY TO THIRD PARTIES

A.A.1. Except as the Federal Government expressly consents in writing, the Recipient agrees that:

A.A.1.1. The Federal Government does not and shall not have any commitment or liability related to the Underlying Agreement, to any Third Party Participant at any tier, or to any other person or entity that is not a party (FTA or the Recipient) to the Underlying Agreement, and

A.A.1.2. Notwithstanding that the Federal Government may have concurred in or approved any Solicitation or Third Party Agreement at any tier that may affect the Underlying Agreement, the Federal Government does not and shall not have any commitment or liability to any Third Party Participant or other entity or person that is not a party (FTA or the Recipient) to the Underlying Agreement.

B. False or Fraudulent Statements or Claims.

A.B.1. Civil Fraud. The Recipient acknowledges and agrees that:

A.B.1.1. Federal laws, regulations, and requirements apply to itself and its Underlying Agreement, including 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.

A.B.1.2. By executing the Underlying Agreement, the Recipient certifies and affirms to the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Recipient provides to the Federal Government.

A.B.1.3. The Federal Government may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Recipient presents, submits, or makes available any false, fictitious, or fraudulent information.

A.B.2. Criminal Fraud. The Recipient acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Recipient provides a false, fictitious, or fraudulent claim, statement, submission, certification assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law.

C. Access to Recipient and Third Party Participant Records.

A.C.1. The Recipient agrees and assures that each Subrecipient, if any, will agree to:

A.C.1.1. Provide, and require its Third Party Participants at each tier to provide, sufficient access to inspect and audit records and information related to its Award, the accompanying Underlying Agreement, and any Amendments thereto to the U.S. Secretary of Transportation or the Secretary's duly authorized representatives, to the Comptroller General of the United States, and the Comptroller General's duly authorized representatives, and to the Recipient and each of its Subrecipients,

A.C.1.2. Permit those individuals listed above to inspect all work and materials related to its Award, and to audit any information related to its Award under the control of the Recipient or Third Party Participant within books, records, accounts, or other locations, and

A.C.1.3. Otherwise comply with 49 U.S.C. § 5325(g), and federal access to records requirements as set forth in the applicable U.S. DOT Common Rules.

D. Federal Changes

A.D.1. The Recipient shall at all times comply with all applicable Federal regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement as amended or promulgated from time to time during the term of this contract.

E. Civil Rights Requirements

- A.E.1.** The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.
- A.E.2.** Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third Party Participant, will:
 - A.E.2.1.** Prohibit discrimination on the basis of race, color, religion, national origin, sex (including gender identity), disability, or age.
- A.E.3.** Prohibit the:
 - A.E.3.1.** Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332,
 - A.E.3.2.** Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or
 - A.E.3.3.** Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in.
- A.E.4.** Follow:
 - A.E.4.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but
 - A.E.4.2.** FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- A.E.5.** Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant, will:
 - A.E.5.1.** Prohibit discrimination on the basis of race, color, or national origin,
- A.E.6.** Comply with:
 - A.E.6.1.** Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.,
 - A.E.6.2.** U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and
 - A.E.6.3.** Federal transit law, specifically 49 U.S.C. § 5332, and
- A.E.7.** Follow:
 - A.E.7.1.** The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance,
 - A.E.7.2.** U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and
 - A.E.7.3.** All other applicable federal guidance that may be issued.
- A.E.8.** Equal Employment Opportunity.
 - A.E.8.1.** Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and:
 - A.E.8.2.** Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq.,

- A.E.8.3.** Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
- A.E.8.4.** Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement,
- A.E.8.5.** FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients," and
- A.E.8.6.** Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability,
- A.E.8.7.** Specifics. The Recipient agrees to, and assures that each Third Party Participant will:
- A.E.8.8.** Prohibited Discrimination. Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, as provided in Executive Order No. 11246 and by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations,
- A.E.8.9.** Affirmative Action. Take affirmative action that includes, but is not limited to:
 - A.E.8.9.1. Recruitment advertising, recruitment, and employment,
 - A.E.8.9.2. Rates of pay and other forms of compensation,
 - A.E.8.9.3. Selection for training, including apprenticeship, and upgrading, and
 - A.E.8.9.4. Transfers, demotions, layoffs, and terminations, but
- A.E.8.10.** Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and
- A.E.8.11.** Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), with:
- A.E.8.12.** U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and
- A.E.8.13.** 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.

F. Incorporation Of Federal Transit Administration (FTA) Terms

- A.F.1.** The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in the most current FTA Circular 4220, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any NCTD requests which would cause NCTD to be in violation of the FTA terms and conditions.

G. Energy Conservation

- A.G.1.** The Recipient agrees to, and assures that its Subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 *et seq.*, and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

H. Right of the Federal Government to Terminate

- A.H.1.** Justification. After providing written notice to the Recipient, the Recipient agrees that the Federal Government may suspend, suspend then terminate, or terminate all or any part of the federal assistance for the Award if:
 - A.H.1.1.** The Recipient has failed to make reasonable progress implementing the Award,

- A.H.1.2.** The Federal Government determines that continuing to provide federal assistance to support the Award does not adequately serve the purposes of the law authorizing the Award, or
- A.H.1.3.** The Recipient has violated the terms of the Underlying Agreement, especially if that violation would endanger substantial performance of the Underlying Agreement.
- A.H.2.** Financial Implications. In general, termination of federal assistance for the Award will not invalidate obligations properly incurred before the termination date to the extent that the obligations cannot be canceled. The Federal Government may recover the federal assistance it has provided for the Award, including the federal assistance for obligations properly incurred before the termination date if it determines that the Recipient has misused its federal assistance by failing to make adequate progress, failing to make appropriate use of the Project property, or failing to comply with the Underlying Agreement, and require the Recipient to refund the entire amount or a lesser amount, as the Federal Government may determine including obligations properly incurred before the termination date.
- A.H.3.** Expiration of the Period of Performance. Except for a Full Funding Grant Agreement, expiration of any period of performance established for the Award does not, by itself, constitute an expiration or termination of the Award; FTA may extend the period of performance to assure that each Formula Project or related activities and each Project or related activities funded with “no year” funds can receive FTA assistance to the extent FTA deems appropriate.

I. Debarment and Suspension

- A.I.1.** The Recipient agrees to the following:
 - A.I.1.1.** It will comply with the following requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200.
 - A.I.1.2.** It will not enter into any arrangement to participate in the development or implementation of the Underlying Agreement with any Third Party Participant that is debarred or suspended except as authorized by:
 - A.I.1.2.1.** U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200,
 - A.I.1.2.2.** U.S. OMB regulatory guidance, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto,
 - A.I.1.2.3.** Executive Orders No. 12549, “Uniform Suspension, Debarment or Exclusion of Participants from Procurement or Nonprocurement Activity,” October 13, 1994, 31 U.S.C. § 6101 note, as amended by Executive Order No. 12689, “Debarment and Suspension,” August 16, 1989, 31 U.S.C. § 6101 note, and
 - A.I.1.2.4.** Other applicable federal laws, regulations, or guidance regarding participation with debarred or suspended Recipients or Third Party Participants.
 - A.I.1.3.** It will review the U.S. GSA “System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs,” <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200.
 - A.I.1.4.** It will include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant:
 - A.I.1.4.1.** Complies with federal debarment and suspension requirements, and
 - A.I.1.4.2.** Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.
 - A.I.1.5.** If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the:
 - A.I.1.5.1.** FTA Regional Counsel for the Region in which the Recipient is located or implements the Underlying Agreement,
 - A.I.1.5.2.** FTA Headquarters Manager that administers the Grant or Cooperative Agreement, or
 - A.I.1.5.3.** FTA Chief Counsel.

J. Buy America

- A.J.1.** The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j),

K. Disputes, Breaches, Defaults, or Other Litigation

- A.K.1.** FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise.
- A.K.2.** Notification to FTA. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which the Recipient is located. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
- A.K.3.** 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.
- A.K.4.** If the Recipient has credible evidence that a Principal, Official, Employee, Agent, or Third Party Participant of the Recipient, or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 *et seq.*, or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, the Recipient must promptly notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located.
- A.K.5.** Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA's prior written concurrence.
- A.K.6.** Enforcement. The Recipient must pursue its legal rights and remedies available under any third party agreement, or any federal, state, or local law or regulation.

L. Lobbying Restrictions

- A.L.1.** The Recipient agrees that neither it nor any Third Party Participant will use federal assistance to influence any officer or employee of a federal agency, member of Congress or an employee of a member of Congress, or officer or employee of Congress on matters that involve the Underlying Agreement, including any extension or modification, according to the following:
- A.L.1.1.** Laws, Regulations, Requirements, and Guidance. This includes:
- A.L.1.1.1.** The Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352, as amended,
- A.L.1.1.2.** U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. part 20, to the extent consistent with 31 U.S.C. § 1352, as amended, and
- A.L.1.1.3.** Other applicable federal laws, regulations, requirements, and guidance prohibiting the use of federal assistance for any activity concerning legislation or appropriations designed to influence the U.S. Congress or a state legislature, and
- A.L.1.2.** Exception. If permitted by applicable federal law, regulations, requirements, or guidance, such lobbying activities described above may be undertaken through the Recipient's or Subrecipient's proper official channels.

M. Clean Air Act

- A.M.1.** (42 U.S.C. §§ 7401 – 7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251 – 1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401 – 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251 – 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

N. Clean Water

- A.N.1.** The Common Grant Rules specifically prohibit the use of facilities included in the EPA “List of Violating Facilities,” in the performance of any third party contract at any tier exceeding \$100,000. The contractor must also comply with all applicable standards, orders, or regulations issued under Section 508 of the Clean Water Act, as amended, 33 U.S.C. Section 1368, and other applicable requirements of the Clean Water Act, as amended, 33 U.S.C. Sections 1251 through 1377.

O. Cargo Preference.

- A.O.1.** Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels,” 46 C.F.R. part 381, and

P. Disadvantaged Business Enterprises

- A.P.1.** The Recipient acknowledges and understands that the statutory and regulatory provisions relating to disadvantaged business enterprises (DBE) differ significantly between FTA and FRA, including Section 1101(b) of the FAST Act (23 U.S.C. § 101 note) and U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. part 26, both of which apply to FTA, but not to FRA.
- A.P.2.** FRA is not authorized to use FTA’s DBE regulations, and consequently the Recipient agrees to comply with the statutory and regulatory DBE provisions that apply to federal assistance provided by FTA when using that federal assistance for purchases.
- A.P.3.** The Recipient agrees to use the “contracting with small and minority firms, women's business enterprise” provisions of the applicable U.S. DOT Common Rules.

Q. Prompt Payment and Return of Retainage

- A.Q.1.** The entity utilizing this Contract declines to hold retainage from prime contractor and requires a contract clause obligating the prime contractor to make prompt and full payment of any retainage kept by a prime contractor to the subcontractor within 30 days after the subcontractor’s work is satisfactorily completed.

R. RECYCLED PRODUCTS

- A.R.1.** 42 U.S.C. 6962
- A.R.2.** 40 CFR Part 247
- A.R.3.** Executive Order 12873
- A.R.4. Applicability to Contracts:** The Recycled Products requirements apply to all contracts for items designated by the EPA, when the Recipient procures \$10,000 or more of one (1) of these items during the fiscal year, or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds.
- A.R.5. Flow down Requirements:** These requirements flow down to all recipient and sub-recipient tiers.
- A.R.6.** Recovered Materials - The Recipient agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247. The recipient agrees to comply with the U.S. Environmental Protection Agency (US EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 CFR part 247.

S. ADA ACCESS REQUIREMENTS

A.S.1. 49 U.S.C. § 5301, 29 U.S.C. § 794, 42 U.S.C. § 12101

A.S.2. Applicability to Contracts: The Recipient shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Recipient shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.