



CONTRACT NO. 500171

(RFP 802550)

**DEMAND RESPONSE PICKUP &
METROACCESS SERVICES**

CONTRACTOR:

MTM Transit, LLC
16 Hawk Ridge Circle
Lake St. Louis, MO 63367
636-695-5634

AWARD DATE:

July 22, 2024

TERM:

Notice To Proceed (NTP) through December 31, 2029

PERIOD OF PERFORMANCE:

January 1, 2025, through December 31, 2029

PRICE:

\$294,788,603.66

DBE GOAL:

.056%

PROJECT MANAGER:

Chris Mojica
760-696-5637
chris.mojica@capmetro.org

CONTRACT ADMINISTRATOR:

Terry Dudley
512-369-6225
terry.dudley@capmetro.org

PROCUREMENT DEPARTMENT
CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY
2910 E. 5th STREET
AUSTIN, TEXAS 78702



CONTRACT 500171

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DEMAND RESPONSE PICKUP & METROACCESS SERVICES

TABLE OF CONTENTS

ITEM	DESCRIPTION
1	AWARD/CONTRACT FORM
2	EXHIBIT A – REVISED-2 – PRICING SCHEDULE
3	EXHIBIT A-1 – REVISED-2 – PRICING BREAKDOWN
4	EXHIBIT A-2– REVISED-2 – STAFF PRICING DETAILS
5	EXHIBIT A-3 - REVISED-1– RESPONSIBILITY MATRIX (INFORMATIONAL PURPOSES ONLY)
6	EXHIBIT B - REPRESENTATIONS AND CERTIFICATIONS
7	EXHIBIT E – REVISED-5 - CONTRACTUAL TERMS AND CONDITIONS
8	EXHIBIT E-1 ADDENDUM TO CONTRACTUAL TERMS AND CONDITIONS - FEDERALLY ASSISTED CONTRACTS
9	EXHIBIT F – REVISED-4 - SCOPE OF SERVICES
10	EXHIBIT H - IT PROPRIETARY RIGHTS AND DATA SECURITY ADDENDUM
11	EXHIBIT I - AUTHORIZATION OF WORK PRODUCT
12	MTM TRANSIT, LLC FINAL PROPOSAL REVISION, DATED 06/04/2024
13	MTM TRANSIT, LLC, INITIAL PROPOSAL, DATED 04/23/2024
14	AMENDMENTS 1 - 5

	ATTACHMENTS
01	Bus and Paratransit Accident & Incident Scene Responsibilities
02	Supervisor's Accident/Incident Report
03	Accident and Incident Protocols
04	Accident Definitions & Criteria for Monthly Reporting
05	ADA & Pickup Service Areas
06	Biological Hazards Policy
07	Building Assets (509 Thompson Lane)
08	CapMetro Uniform and Appearance Standards
09	Current Collective Bargaining Agreement (CBA)
10	Contract, Policy or Procedure Exception Request Form
11	Environmental Management System Contractor/ Supplier Environmental Guidelines
12	Customer Call Report (CCR) Management
13	Customer Issue Response Process
14	Customer Service Survey Example
15	Definition of Like New Condition Minus Allowable W&T
16	Dispatch & Service Provider Roles and Responsibilities
17	Dispatch Responsibility Matrix
18	Dispatch Schedule Examples (Control Center Schedule)
19	Drug and Alcohol Policy
20	Electronic Device Policy
21	Emergency Notifications Procedure
22	Emergency Notification Quick Reference
23	Event Classification System
24	Front Line Feedback Process and Procedure
25	Fare Collection and Reconciliation Procedure
26	High Wind and Flooding Plan
27	Fuel Ordering, Delivery, Receiving, Dispensing, Inventory Reconciliation, Leak detection, and Spill Cleanup
28	Standard Operating Procedure for Spill Response and Capture
29	Holidays Observed by CapMetro
30	Inclement Weather Plan
31	Reduce Service Protocols
32	Invoice Certification Form
33	CapMetro Invoice Payment Memorandum
34	Designated Loading Location Evaluation Process and Procedures
35	Lost and Found Procedure
36	Standard Operating Procedure for Lost Passenger Procedure
37	Invoice Log & Historic Metrics
38	Major Collisions
39	Metro Access Rider Guide
40	Site Evaluation Flow Chart
41	Metro Access & Pickup Technology List
42	Accident Preventability Determination Guidance
43	No Show Procedure

44	Procedures for Non-Validated (Bus Pass) Fare Media on Pickup
45	Non-Revenue Fleet Management Policy
46	Operator Schedules (Driver Bid Sheet)
47	North Base Pickup Deadhead Zones
48	South Base Pickup Deadhead Zones
49	Daily Vehicle Inspection Report
50	Preventability Checklist for Unreported Damage
51	Procedure for Retiring a Vehicle Asset
52	Public Information Request
53	Quality Assurance Overview
54- Revised-1	North Base Revenue Inventory
55- Revised-1	South Base Revenue Inventory
56	Public Transportation Agency Safety Plan and Safety Management System
57	Technology Assignment and Acquisition Policy
58	Business Travel Policy and Procedures
59	Vehicle Branding - Metro Access
60	Vehicle Detailing
61	Vehicle Paratransit Vehicle Maintenance – Chevrolet 3500 Champion Series
62	Vehicle Operator Training MetroAccess
63	Vehicle Operator Training Pick-Up
64	Vehicle Service Miles
65	Vehicles and Specifications
66	Wellness Program
67	Change Management Plan
68	Guidelines for Pickup Services
69	Operating Procedure – Dispatch Response to Weapons on Vehicles
70	Safety & Security Quick Reference Guide
71	Access Control Policy
72	CapMetro Access February 2024 Ridership Report
73	CapMetro Pickup February 2024 Ride Request Report
74	Example Dispatch Schedule Winter Markup
75	Pickup Vehicle QTY by Hour of Service
76	CBA Work Rules MOU
77	U.S. Department of Labor Certification Letter
78	Vehicles Used in Revenue Service by Day of the Week



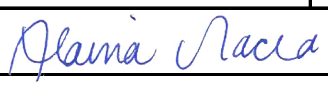
4. CONTRACTS ADMINISTRATOR: Terry Dudley		PHONE: 512-369-6225	
5. SHIP TO ADDRESS:		6. DELIVERY TERMS:	
Capital Metro 2910 East 5 th Street Austin, Texas 78702		F.O.B. Destination	
		7. DISCOUNTS FOR PROMPT PAYMENT: N/A	
8. CONTRACTOR NAME & ADDRESS:		9. REMITTANCE ADDRESS:	(If different from Item 8)
MTM Transit, LLC 16 Hawk Ridge Circle Lake St. Louis, MO 63367			
PHONE:	636-695-5634	EMAIL: amacia@mtm-inc.net	
10. DBE GOAL: .056 %			
CONTRACT EXECUTION			
CAUTION: A false statement in any bid or proposal submitted to CMTA may be a criminal offense in violation of Section 37.10 of the Texas Penal Code.			
<input checked="" type="checkbox"/>	NEGOTIATED AGREEMENT: (Contractor is required to sign below and return to the Contracting Officer within three (3) calendar days of receipt.)		
<p>The Contractor agrees to perform, furnish and deliver all the services set forth or otherwise identified in the following items and all relevant attachments and addenda for the base and option years. The rights and obligations of the parties to this contract shall be subject to and governed by the following documents: (a) this Award/Contract, (b) the solicitation, as amended, and (c), such provisions, representations, certifications, and specifications, as are attached or incorporated by reference herein.</p> <ul style="list-style-type: none"> Exhibit I – Authorization of Work Product Contractor's Final Proposal Revision dated June 04, 2024 Contractor's Initial Proposal dated April 23, 2024 Exhibit A - Revised-2 Exhibit A-1 Revised-2 Exhibit A-2 Revised-2 Exhibit A-3-Revised-1 Exhibit B Exhibit E - Revised-5 Exhibit E-1 Exhibit F - Revised-4 Exhibit H Attachments 			
SIGNATURE OF CONTRACTOR:			
Name/Title: Ms. Alaina Macia, President & CEO		Signature: 	Date: July 23rd, 2024
<input checked="" type="checkbox"/>	AWARD: Items listed below are changes from the original offer and solicitation as submitted.		
This Award/Contract Form may be executed in multiple originals, and an executed facsimile or email copy shall have the same force and effect as an original document.			
ALTERATIONS IN CONTRACT: Changes are as follows:			
<p>Refer to Exhibit E–Revised 4, Scope of Services section 52, Order of Precedence, which is updated to reflect the most recent version of the following Exhibits.</p> <p>1. Refer to Exhibit E – Revised-4, Scope of Services. Exhibit E-Revised 4, Scope of Services is hereby replaced in its entirety with Exhibit E–Revised-5, Scope of Services, attached hereto and made a part hereof for all pertinent purposes. Changes are marked in red and highlighted in yellow.</p> <ul style="list-style-type: none"> 1. Exhibit A–Revised-2, Pricing Schedule 2. Exhibit A-1–Revised-2, Pricing Breakdown 3. Exhibit A-2–Revised-2, Staff Pricing Details 4. Exhibit A-3–Revised-1, Responsibility Matrix 5. Exhibit E–Revised-5, Contractual Terms and Conditions 6. Exhibit I, Authorization of Work Product 7. Exhibit F–Revised-4, Scope of Services 			
11. ACCEPTED AS TO: Exhibit A-1-Revised-2 (Pricing Breakdown), Section 2. Pricing: Base Period Year 1 of the Contract, Line Items 1-5 inclusive; Section 3. Pricing: Base Period Year 2 of the Contract, Line Items 1-5 inclusive; and Section 4. Pricing: Base Period Year 3 of the Contract, Line Items 1-5 inclusive; Section 5. Pricing: Base Period Year 4 of the Contract, Line Items 1-5 inclusive; Section 6. Pricing: Base Period Year 5 of the Contract, Line Items 1-5 inclusive for the GRAND TOTAL BASE PERIOD not-to-exceed amount stated in Exhibit A-1–Revised-2, Section 12, Line Item 1, Grand Total Base Period (January 1, 2025, to December 31, 2029): \$294,788,603.66.			
SIGNATURE OF CONTRACTING OFFICER:		E-SIGNED by Muhammad Abdullah	
Muhammad Abdullah, C.P.M., VP Procurement & Chief Contracting Officer		Signature: 	Date: 2024-08-14 12:22:51 AKDT

EXHIBIT A- REVISED-2 - PRICING SCHEDULE**RFP 802550****THE OFFEROR IS REQUIRED TO SIGN AND DATE EACH PAGE OF THIS SCHEDULE****1. IDENTIFICATION OF OFFEROR AND SIGNATURE OF AUTHORIZED AGENT**

Company Name (Printed)	MTM Transit, LLC		
Address	16 Hawk Ridge Circle		
City, State, Zip	Lake St. Louis, MO 63385		
Phone, Email	636-561-5686	aritchie@mtm-inc.net	
The undersigned agrees, if this offer is accepted within the period specified, to furnish any or all supplies and/or services specified in the Schedule at the prices offered therein.			
Authorized Agent Name and Title (Printed)	Alaina Maciá, President and CEO		
Signature			Date 6/10/24

2. ACKNOWLEDGEMENT OF AMENDMENTS

The offeror must acknowledge amendment(s) to this solicitation in accordance with the ACKNOWLEDGMENT OF AMENDMENTS section of Exhibit C.

3. PROMPT PAYMENT DISCOUNT

# of Days	-	Percentage	-	%
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Note, payment terms are specified in Exhibit E, Contractual Terms and Conditions.

4. SBE DBE GOAL (TO BE COMPLETED UPON AWARD BY CAPITAL METRO)

The SBE DBE participation commitment for this contract is the following percentage of the total contract:

.056%

5. AUTHORITY'S ACCEPTANCE (TO BE COMPLETED UPON AWARD BY CAPITAL METRO)

The Authority hereby accepts this offer

Authorized Agent Name and Title (Printed)	
Signature and Date	
Accepted as to:	

The remainder of Exhibit A – Pricing Schedule has been redacted.

For further information regarding Exhibit A, you may:

- Reach out to the Contractor directly via the Contractor contact details provided on the cover page of this contract.

OR

- Submit a public information request directly to PIR@capmetro.org.

For more information regarding the Public Information Act and submitting public information requests, follow this link to our website: <https://www.capmetro.org/legal/>

EXHIBIT B
REPRESENTATIONS AND CERTIFICATIONS
(FEDERALLY ASSISTED SUPPLY/SERVICE/CONSTRUCTION CONTRACTS)
MUST BE RETURNED WITH THE OFFER

Note: This Exhibit B Federal Assisted Service Contracts with footer "12/08/2023" replaces the previous Exhibit B Locally Funded Service Contracts with footer "12/08/2023"

1. TYPE OF BUSINESS

(a) The offeror operates as (mark one):

- ☐ An individual
- ☐ A partnership
- ☐ A sole proprietor
- ☐ A corporation
- ☒ Another entity Limited Liability Company (LLC)

(b) If incorporated, under the laws of the State of:

Missouri

2. PARENT COMPANY AND IDENTIFYING DATA

(a) The offeror (mark one):

- ☐ is
- ☒ is not

owned or controlled by a parent company. A parent company is one that owns or controls the activities and basic business policies of the offeror. To own the offering company means that the parent company must own more than fifty percent (50%) of the voting rights in that company.

(b) A company may control an offeror as a parent even though not meeting the requirements for such ownership if the company is able to formulate, determine, or veto basic policy decisions of the offeror through the use of dominate minority voting rights, use of proxy voting, or otherwise.

(c) If not owned or controlled by a parent company, the offeror shall insert its own EIN (Employer's Identification Number) below:

(d) If the offeror is owned or controlled by a parent company, it shall enter the name, main office and EIN number of the parent company, below:

N/A

3. CERTIFICATION OF INDEPENDENT PRICE DETERMINATION

(a) The offeror (and all joint venture members, if the offer is submitted by a joint venture) certifies that in connection with this solicitation:

(1) the prices offered have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition, with any other offeror or with any other competitor;

(2) unless otherwise required by law, the prices offered have not been knowingly disclosed by the offeror and will not knowingly be disclosed by the offeror prior to opening of bids in the case of an invitation for bids, or prior to contract award in the case of a request for proposals, directly or indirectly to any other offeror or to any competitor; and

(3) no attempt has been made or will be made by the offeror to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

(b) Each signature on the offer is considered to be a certification by the signatory that the signatory:

(1) Is the person in the offeror's organization responsible for determining the prices being offered in this bid or proposal, and that the signatory has not participated and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; or

(i) Has been authorized, in writing, to act as agent for the following principals in certifying that those principals have not participated, and will not participate in any action contrary to paragraphs (a)(1) through (a)(3) of this provision _____ [insert full name of person(s) in the offeror's organization responsible for determining the prices offered in this bid or proposal, and the title of his or her position in the offeror's organization];

(ii) As an authorized agent, does certify that the principals named in subdivision (b)(1)(i) of this provision have not participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision; and

(iii) As an agent, has not personally participated, and will not participate, in any action contrary to paragraphs (a)(1) through (a)(3) of this provision.

(c) If the offeror deletes or modifies paragraph (a)(2) of this provision, the offeror must furnish with its offer a signed statement setting forth in detail the circumstances of the disclosure.

4. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

(a) In accordance with the provisions of 2 C.F.R. (Code of Federal Regulations), part 180 and part 1200, subpart C, the offeror certifies to the best of the offeror's knowledge and belief, that it and its principals for this covered transaction:

(1) are not presently excluded or disqualified (which may include being debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency);

(2) have not within a three (3) year period preceding this offer been convicted of or had a civil judgment rendered against them for (i) the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public or private agreement or transaction; (ii) violation of Federal or State antitrust statutes, including those proscribing price fixing between competitors, allocation of customers between competitors, and bid rigging; (iii) commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, receiving stolen property, making false claims, or obstruction of justice; or (iv) commission of any other offense indicating a lack of business integrity or business honesty that seriously and directly affects your present responsibility.

(3) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in (a)(2) above; and

(4) have not within a three (3) year period preceding this offer had one or more public transactions (Federal, State, or local) terminated for cause or default.

(b) Where the offeror is unable to certify to any of the statements above, the offeror shall attach a full explanation to its offer/bid/quote/qualifications statement.

(c) For any proposed subcontractor at any tier where the subcontract is expected to equal or exceed \$25,000:

(1) The offeror certifies that it has obtained a certification identical to (a) from such subcontractor.

(2) Where the prospective lower tier participant is unable to certify to (a), an explanation shall be attached to the offer.

(3) This certification (specified in paragraphs (c)(1) and (c)(2)), above, shall be included in all applicable subcontracts and a copy kept on file by the Prime Contractor. The Prime Contractor shall be required to furnish copies of the certifications to the Authority upon request.

5. **COMMUNICATIONS**

(a) All oral and written communications with the Authority regarding this solicitation shall be exclusively with, or on the subjects and with the persons approved by, the persons identified in this solicitation. Discussions with any other person not specified could result in disclosure of proprietary or other competitive sensitive information or otherwise create the appearance of impropriety or unfair competition and, thereby, compromise the integrity of the Authority's procurement system. If competition cannot be resolved through normal communication channels, the Authority's protest procedures shall be used for actual or prospective competitors claiming any impropriety in connection with this solicitation.

(b) By submission of this offer, the offeror certifies that it has not, and will not prior to contract award, communicate orally or in writing with any Authority employee or other representative of the Authority (including Board Members, the Authority's contractors or consultants) regarding this solicitation, except as described below:

Individual's Name	Date/Subject of Communication

(Attach continuation form, if necessary.)

6. **CONTINGENT FEE**

(a) Except for full-time, bona fide employees working solely for the offeror, the offeror represents as part of its offer that it (mark one):

- ☐ has
☒ has not

employed or retained any company or persons to solicit or obtain this contract, and (mark one):

- ☐ has
☒ has not

paid or agreed to pay any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

(b) The offeror agrees to provide information relating to (a) above, when any item is answered affirmatively.

7. CODE OF ETHICS

(a) Statement of Purpose

The brand and reputation of Capital Metro is determined in large part by the actions or ethics of representatives of the agency. Capital Metro is committed to a strong ethical culture and to ethical behavior by all individuals serving Capital Metro as employees, members of the Board of Directors or volunteers. Individuals serving Capital Metro will conduct business with honesty and integrity. We will make decisions and take actions that are in the best interest of the people we serve and that are consistent with our mission, vision and this policy. The Code of Ethics (the "Code") documents Capital Metro's Standards of Ethical Conduct and policies for Ethical Business Transactions. Compliance with the Code will help protect Capital Metro's reputation for honesty and integrity. The Code attempts to provide clear principles for Capital Metro's expectations for behavior in conducting Capital Metro business. We have a duty to read, understand and comply with the letter and spirit of the Code and Capital Metro policies. You are encouraged to inquire if any aspect of the Code needs clarification.

(b) Applicability

The Code applies to Capital Metro employees, contractors, potential contractors, Board Members and citizen advisory committee members. Violation of the Code of Ethics may result in discipline up to and including termination or removal from the Board of Directors.

(c) Standards of Ethical Conduct

The public must have confidence in our integrity as a public agency and we will act at all times to preserve the trust of the community and protect Capital Metro's reputation. To demonstrate our integrity and commitment to ethical conduct we will:

- (1) Continuously exhibit a desire to serve the public and display a helpful, respectful manner.
- (2) Exhibit and embody a culture of safety in our operations.
- (3) Understand, respect and obey all applicable laws, regulations and Capital Metro policies and procedures both in letter and spirit.
- (4) Exercise sound judgment to determine when to seek advice from legal counsel, the Ethics Officer or others.
- (5) Treat each other with honesty, dignity and respect and will not discriminate in our actions toward others.
- (6) Continuously strive for improvement in our work and be accountable for our actions.
- (7) Transact Capital Metro business effectively and efficiently and act in good faith to protect the Authority's assets from waste, abuse, theft or damage.
- (8) Be good stewards of Capital Metro's reputation and will not make any representation in public or private, orally or in writing, that states, or appears to state, an official position of Capital Metro unless authorized to do so.
- (9) Report all material facts known when reporting on work projects, which if not revealed, could either conceal unlawful or improper practices or prevent informed decisions from being made.

(10) Be fair, impartial and ethical in our business dealings and will not use our authority to unfairly or illegally influence the decisions of other employees or Board members.

(11) Ensure that our personal or business activities, relationships and other interests do not conflict or appear to conflict with the interests of Capital Metro and disclose any potential conflicts.

(12) Encourage ethical behavior and report all known unethical or wrongful conduct to the Capital Metro Ethics Officer or the Board Ethics Officer.

(d) Roles and Responsibilities

It is everyone's responsibility to understand and comply with the Code of Ethics and the law. Lack of knowledge or understanding of the Code will not be considered. If you have a question about the Code of Ethics, ask.

It is the responsibility of Capital Metro management to model appropriate conduct at all times and promote an ethical culture. Seek guidance if you are uncertain what to do.

It is Capital Metro's responsibility to provide a system of reporting and access to guidance when an employee wishes to report a suspected violation and to seek counseling, and the normal chain of command cannot, for whatever reason, be utilized. If you need to report something or seek guidance outside the normal chain of command, Capital Metro provides the following resources:

(1) Anonymous Fraud Hotline – Internal Audit

(2) Anonymous Online Ethics Reporting System

(3) Contact the Capital Metro Ethics Officer, Vice-President of Internal Audit, the EEO Officer or Director of Human Resources

(4) Safety Hotline

The Capital Metro Ethics Officer is the Chief Counsel. The Ethics Officer is responsible for the interpretation and implementation of the Code and any questions about the interpretation of the Code should be directed to the Ethics Officer.

(e) Ethical Business Transactions

Section 1. Impartiality and Official Position

(1) A Substantial Interest is defined by Tex. Loc. Govt. Code, § 171.002. An official or a person related to the official in the first degree by consanguinity or affinity has a Substantial Interest in:

(i) A business entity if the person owns ten percent (10%) or more of the voting stock or shares of the business entity or owns either 10% or more or \$15,000 or more of the fair market value of the business entity OR funds received by the person from the business entity exceed 10% of the person's gross income for the previous year; or

(ii) Real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.

Capital Metro will not enter into a contract with a business in which a Board Member or employee or a Family Member of a Board Member or employee as defined in Section 8 has a Substantial Interest except in case of emergency as defined in the Acquisition Policy PRC-100 or the business is the only available source for essential goods and services or property.

(2) No Board Member or employee shall:

(i) Act as a surety for a business that has work, business or a contract with Capital Metro or act as a surety on any official bond required of an officer of Capital Metro.

(ii) Represent for compensation, advise or appear on behalf of any person or firm concerning any contract or transaction or in any proceeding involving Capital Metro's interests.

(iii) Use his or her official position or employment, or Capital Metro's facilities, equipment or supplies to obtain or attempt to obtain private gain or advantage.

(iv) Use his or her official position or employment to unfairly influence other Board members or employees to perform illegal, immoral, or discreditable acts or do anything that would violate Capital Metro policies.

(v) Use Capital Metro's resources, including employees, facilities, equipment, and supplies in political campaign activities.

(vi) Participate in a contract for a contractor or first-tier subcontractor with Capital Metro for a period of one (1) year after leaving employment on any contract with Capital Metro.

(vii) Participate for a period of two (2) years in a contract for a contractor or first-tier subcontractor with Capital Metro if the Board Member or employee participated in the recommendation, bid, proposal or solicitation of the Capital Metro contract or procurement.

Section 2. Employment and Representation

A Board Member or employee must disclose to his or her supervisor, appropriate Capital Metro staff or the Board Chair any discussions of future employment with any business which has, or the Board Member or employee should reasonably foresee is likely to have, any interest in a transaction upon which the Board Member or employee may or must act or make a recommendation subsequent to such discussion. The Board Member or employee shall take no further action on matters regarding the potential future employer.

A Board Member or employee shall not solicit or accept other employment to be performed or compensation to be received while still a Board Member or employee, if the employment or compensation could reasonably be expected to impair independence in judgment or performance of their duties.

A Board Member or employee with authority to appoint or hire employees shall not exercise such authority in favor of an individual who is related within the first degree, within the second degree by affinity or within the third degree by consanguinity as defined by the Capital Metro Nepotism Policy in accordance with Tex. Govt. Code, Ch. 573.

Section 3. Gifts

It is critical to keep an arms-length relationship with the entities and vendors Capital Metro does business with in order to prevent the appearance of impropriety, undue influence or favoritism.

No Board Member or employee shall:

(1) Solicit, accept or agree to accept any benefit or item of monetary value as consideration for the Board Member's or employee's decision, vote, opinion, recommendation or other exercise of discretion as a public servant. [Tex. Penal Code §36.02(c)]

(2) Solicit, accept or agree to accept any benefit or item of monetary value as consideration for a violation of any law or duty. [Tex. Penal Code §36.02(a)(1)]

(3) Solicit, accept or agree to accept any benefit or item of monetary value from a person the Board Member or employee knows is interested in or likely to become interested in any Capital Metro contract or transaction if the benefit or item of monetary value could reasonably be inferred as intended to influence the Board Member or employee. [Tex. Penal Code §36.08(d)]

(4) Receive or accept any gift, favor or item of monetary value from a contractor or potential contractor of Capital Metro or from any individual or entity that could reasonably be inferred as intended to influence the Board Member or employee.

Exception: Consistent with state law governing public servants, a gift does not include a benefit or item of monetary value with a value of less than \$50, excluding cash or negotiable instruments, unless it can reasonably be inferred that the item was intended to influence the Board Member or employee. A department may adopt more restrictive provisions if there is a demonstrated and documented business need. [Tex. Penal Code § 36.10(a)(6)]

Exception: A gift or other benefit conferred, independent of the Board Member's or employee's relationship with Capital Metro, that is not given or received with the intent to influence the Board Member or employee in the performance of his or her official duties is not a violation of this policy. The Capital Metro Ethics Officer or Board Ethics Officer must be consulted for a determination as to whether a potential gift falls within this exception.

Exception: Food, lodging, or transportation that is provided as consideration for legitimate services rendered by the Board Member or employee related to his or her official duties is not a violation of this policy.

If you are uncertain about a gift, seek guidance from the Ethics Officer.

Section 4. Business Meals and Functions

Board Members and employees may accept invitations for free, reasonable meals in the course of conducting Capital Metro's business or while attending a seminar or conference in connection with Capital Metro business as long as there is not an active or impending solicitation in which the inviting contractor or party may participate and attendance at the event or meal does not create an appearance that the invitation was intended to influence the Board Member or employee.

When attending such events, it is important to remember that you are representing Capital Metro and if you chose to drink alcohol, you must do so responsibly. Drinking irresponsibly may lead to poor judgment and actions that may violate the Code or other Capital Metro policies and may damage the reputation of Capital Metro in the community and the industry.

Section 5. Confidential Information

It is everyone's responsibility to safeguard Capital Metro's nonpublic and confidential information.

No Board Member or employee shall:

(1) Disclose, use or allow others to use nonpublic or confidential information that Capital Metro has not made public unless it is necessary and part of their job duties and then only pursuant to a nondisclosure agreement approved by legal counsel or with consultation and permission of legal counsel.

(2) Communicate details of any active Capital Metro procurement or solicitation or other contract opportunity to any contractor, potential contractor or individual not authorized to receive information regarding the active procurement or contract opportunity.

Section 6. Financial Accountability and Record Keeping

Capital Metro's financial records and reports should be accurate, timely, and in accordance with applicable laws and accounting rules and principles. Our records must reflect all components of a transaction in an honest and forthright manner. These records reflect the results of Capital Metro's operations and our stewardship of public funds.

A Board Member or employee shall:

(1) Not falsify a document or distort the true nature of a transaction.

- (2) Properly disclose risks and potential liabilities to appropriate Capital Metro staff.
- (3) Cooperate with audits of financial records.
- (4) Ensure that all transactions are supported by accurate documentation.
- (5) Ensure that all reports made to government authorities are full, fair, accurate and timely.
- (6) Ensure all accruals and estimates are based on documentation and good faith judgment.

Section 7. Conflict of Interest

Employees and Board Members are expected to deal at arms-length in any transaction on behalf of Capital Metro and avoid and disclose actual conflicts of interest under the law and the Code and any circumstance which could impart the appearance of a conflict of interest. A conflict of interest exists when a Board Member or employee is in a position in which any official act or action taken by them is, may be, or appears to be influenced by considerations of personal gain rather than the general public trust.

Conflict of Interest [Tex. Loc. Govt. Code, Ch. 171 & 176, § 2252.908]

No Board Member or employee shall participate in a matter involving a business, contract or real property transaction in which the Board Member or employee has a Substantial Interest if it is reasonably foreseeable that an action on the matter would confer a special economic benefit on the business, contract or real property that is distinguishable from its effect on the public. [Tex. Loc. Govt. Code, § 171.004]

Disclosure

A Board Member or employee must disclose a Substantial Interest in a business, contract, or real property that would confer a benefit by their vote or decision. The Board Member or employee may not participate in the consideration of the matter subject to the vote or decision. Prior to the vote or decision, a Board Member shall file an affidavit citing the nature and extent of his or her interest with the Board Vice Chair or Ethics Officer. [Tex. Loc. Govt. Code, § 171.004]

A Board Member or employee may choose not to participate in a vote or decision based on an appearance of a conflict of interest and may file an affidavit documenting their recusal.

Section 8. Disclosure of Certain Relationships [Tex. Loc. Govt. Code, Ch. 176]

Definitions

- (1) A Local Government Officer is defined by Tex. Loc. Govt. Code § 176.001(4). A Local Government Officer is:
 - (i) A member of the Board of Directors;
 - (ii) The President/CEO; or
 - (iii) A third party agent of Capital Metro, including an employee, who exercises discretion in the planning, recommending, selecting or contracting of a vendor.
- (2) A Family Member is a person related within the first degree by consanguinity or the second degree by affinity as defined by Tex. Govt. Code, Ch. 573.
- (3) A Family Relationship is a relationship between a person and another person within the third degree by consanguinity or the second degree by affinity as defined by Tex. Govt. Code, Ch. 573.
- (4) A Local Government Officer must file a Conflicts Disclosure Statement (FORM CIS) if:

(i) The person or certain Family Members received at least \$2,500 in taxable income (other than investment income) from a vendor or potential vendor in the last twelve (12) months through an employment or other business relationship;

(ii) The person or certain Family Members received gifts from a vendor or potential vendor with an aggregate value greater than \$100 in the last 12 months; or

(iii) The vendor (or an employee of the vendor) has a Family Relationship with the Local Government Officer.

- (5) A vendor doing business with Capital Metro or seeking to do business with Capital Metro is required to file a completed questionnaire (FORM CIQ) disclosing the vendor's affiliations or business relationship with any Board Member or local government officer or his or her Family Member.

Section 9. Duty to Report and Prohibition on Retaliation

Board Members and employees have a duty to promptly report any violation or possible violation of this Code of Ethics, as well as any actual or potential violation of laws, regulations, or policies and procedures to the hotline, the Capital Metro Ethics Officer or the Board Ethics Officer.

Any employee who reports a violation will be treated with dignity and respect and will not be subjected to any form of retaliation for reporting truthfully and in good faith. Any retaliation is a violation of the Code of Ethics and may also be a violation of the law, and as such, could subject both the individual offender and Capital Metro to legal liability.

Section 10. Penalties for Violation of the Code of Ethics

In addition to turning over evidence of misconduct to the proper law enforcement agency when appropriate, the following penalties may be enforced:

(1) If a Board Member does not comply with the requirements of this policy, the Board member may be subject to censure or removal from the Board in accordance with Section 451.511 of the Texas Transportation Code.

(2) If an employee does not comply with the requirements of this policy, the employee shall be subject to appropriate disciplinary action up to and including termination.

(3) Any individual or business entity contracting or attempting to contract with Capital Metro which offers, confers or agrees to confer any benefit as consideration for a Board Member's or employee's decision, opinion, recommendation, vote or other exercise of discretion as a public servant in exchange for the Board Member's or employee's having exercised his official powers or performed his official duties, or which attempts to communicate with a Board Member or Capital Metro employee regarding details of a procurement or other contract opportunity in violation of Section 5, or which participates in the violation of any provision of this Policy may have its existing Capital Metro contracts terminated and may be excluded from future business with Capital Metro for a period of time as determined appropriate by the President/CEO.

(4) Any individual who makes a false statement in a complaint or during an investigation of a complaint with regard to a matter that is a subject of this policy is in violation of this Code of Ethics and is subject to its penalties. In addition, Capital Metro may pursue any and all available legal and equitable remedies against the person making the false statement or complaint.

Section 11. Miscellaneous Provisions

(1) This Policy shall be construed liberally to effectuate its purposes and policies and to supplement such existing laws as they may relate to the conduct of Board Members and employees.

(2) Within sixty (60) days of the effective date for the adoption of this Code each Board Member and employee of Capital Metro will receive a copy of the Code and sign a statement acknowledging that they have read, understand and will comply with Capital Metro's Code of Ethics. New Board Members and employees will receive a copy of the Code and are required to sign this statement when they begin office or at the time of initial employment.

(3) Board Members and employees shall participate in regular training related to ethical conduct, this Code of Ethics and related laws and policies.

8. PREVIOUS CONTRACTS AND COMPLIANCE REPORTS

The offeror represents as part of its offer that it (mark one):

☒ has
☐ has not

participated in a previous contract or subcontract subject either to Executive Order 11246 and its related regulations; and it (mark one):

☒ has
☐ has not

filed all required compliance reports.

9. AFFIRMATIVE ACTION COMPLIANCE

(a) The offeror represents as part of its offer that it has a workforce of (indicate below the number of employees including temporary, full-time, or part-time employees):

1,710

(b) The offeror:

☒ **has** developed an Affirmative Action Plan at each establishment as required by the rules and regulations of the Secretary of Labor (41 C.F.R. parts 60-1 and 60-2) and **has on file**. The offeror will submit the Affirmative Action Plan to the Authority within ten (10) days of the date of the Notice of Award (NOA).

☐ **has not** developed an Affirmative Action Plan at each establishment as required by the rules and regulations of the Secretary of Labor (41 C.F.R. parts 60-1 and 60-2) and **does not have on file**. The offeror will submit the Affirmative Action Plan to the Authority within one hundred and twenty (120) days of the date of the Notice to Proceed (NTP).

(c) The offeror:

☒ has
☐ has not

previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

10. DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOALS

The goal established for this solicitation must be met or the offeror must submit clear evidence of a "good faith effort" along with the offeror's completed Schedule C of Subcontractor Participation form (listing all proposed subcontractors, DBE and non-DBE) and an executed Intent to Perform as a DBE Subcontractor form for each DBE subcontractor listed on the Schedule C as part of the proposal or sealed bid. By submission of this offer, the offeror certifies that it

will comply with the provisions of Exhibit D attached to this solicitation entitled "Disadvantaged Business Enterprise Program" and will meet the goal as established in any ensuing contract.

11. **CLEAN AIR AND WATER CERTIFICATION**

Applicable if the offer exceeds \$150,000, or the Authority believes that orders under an indefinite contract in any year will exceed \$150,000 or a facility to be used has been the subject of a conviction under the Air Act [42 U.S.C. § 7413(c)(1)] or the Water Act [33 U.S.C. § 1319(c)] and is listed by the Environmental Protection Agency (EPA) as a violating facility, and the acquisition is not otherwise exempt.

By submission of this offer, the offeror certifies that:

(a) any facility to be used in the performance of this proposed contract (mark one):

- ☐ is
☒ is not

listed on the EPA List of Violating Facilities;

(b) it will immediately notify the Authority, before award, of the receipt of any communication from the EPA Administrator, or a designee of the EPA, indicating that any facility which it proposes to use for the performance of the contract is under consideration to be listed on the EPA List of Violating Facilities; and

(c) it will include a certification substantially the same as this certification, including this paragraph (c), in every subcontract not otherwise exempt by law.

12. **CERTIFICATION OF NON-SEGREGATED FACILITIES**

(a) By the submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not and will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained.

(b) The offeror agrees that a breach of this certification is a violation of the Civil Rights and Equal Opportunity Clause in Exhibit E of the contract.

(c) Definitions: For the purpose of this Certification of Non-Segregated Facilities, the following definitions shall apply:

(1) "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees that are segregated by explicit directive or are in fact segregated on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin, because of written or oral policies or employee custom. The term does not include separate or single-user restrooms or necessary dressing or sleeping areas provided to assure privacy between the sexes.

(2) "gender identity" refers to one's internal sense of one's own gender; it may or may not correspond to the sex assigned to a person at birth, and may or may not be made visible to others.

(3) "sexual orientation" refers to an individual's physical, romantic, and/or emotional attraction to people of the same and/or opposite gender; examples of sexual orientations include "straight" (or heterosexual), lesbian, gay, and bisexual.

(d) It further certifies that (except where it has obtained identical certifications from proposed subcontracts for specific time periods) it will:

- (1) obtain identical certifications from proposed subcontractors before the award of subcontracts under which the subcontractor will be subject to the Equal Opportunity provision in Exhibit E of the contract; and
- (2) retain such certifications in its files.

13. CERTIFICATION OF RESTRICTIONS ON LOBBYING

This Certification is applicable if the offer exceeds \$100,000.

- (a) By submission of this offer, the offeror certifies to the best of the offeror's knowledge or belief that no Federal appropriated funds have been paid, or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients and subcontractors shall certify and disclose accordingly.
- (d) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 or not more than \$100,000 for each such failure.

14. TEXAS ETHICS COMMISSION CERTIFICATION

In accordance with Section 2252.908, Texas Government Code, upon request of the Authority, the selected contractor may be required to electronically submit a "Certificate of Interested Parties" with the Texas Ethics Commission in the form required by the Texas Ethics Commission, and furnish the Authority with the original signed and notarized document prior to the time the Authority signs the contract. The form can be found at www.ethics.state.tx.us. Questions regarding the form should be directed to the Texas Ethics Commission.

15. CERTIFICATION REGARDING ISRAEL

As applicable and in accordance with Section 2271.002 of the Texas Government Code, the Contractor certifies that it does not boycott Israel and will not boycott Israel during the term of this Contract.

16. CERTIFICATION REGARDING FOREIGN TERRORIST ORGANIZATIONS

Contractor certifies and warrants that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government Code.

17. VERIFICATION REGARDING FIREARM ENTITIES AND FIREARM TRADE ASSOCIATIONS

As applicable and in accordance with Section 2274.002 of the Texas Government Code, Contractor verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the Contract against a firearm entity or firearm trade association.

18. BOYCOTT OF ENERGY COMPANIES PROHIBITED

Pursuant to Chapter 2274 of Texas Government Code, Contractor verifies that:

- (a) it does not, and will not for the duration of the Contract, boycott energy companies, as defined in Section 2274.002 of the Texas Government Code, or
- (b) the verification required by Section 2274.002 of the Texas Government Code does not apply to Contractor and this Contract. If circumstances relevant to this provision change during the course of the Contract, Contractor shall promptly notify the Authority.

19. CRITICAL INFRASTRUCTURE PROHIBITION

Pursuant to Chapter 2274 of Texas Government Code, Contractor certifies that, if this Contract or any contract between Contractor and Capital Metro relates to critical infrastructure, as defined in Chapter 2274 of the Texas Government Code, Contractor is not owned by or the majority of stock or other ownership interest of its firm is not held or controlled by:

- (a) individuals who are citizens of China, Iran, North Korea, Russia, or a Governor-designated country; or
- (b) a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea, Russia, or a Governor-designated country; or
- (c) headquartered in China, Iran, North Korea, Russia, or a Governor-designated country.

20. CERTIFICATION OF PRIME CONTRACTOR PARTICIPATION

- (a) The Prime Contractor shall perform no less than thirty percent (**30%**) of the work with his or her own organization. The on-site production of materials produced by other than the Prime Contractor's forces shall be considered as being subcontracted.
- (b) The organization of the specifications into divisions, sections, and articles, and the arrangement and titles of project drawings shall not control the Prime Contractor in dividing the work among subcontractors or in establishing the extent of work to be performed by any trade.
- (c) The offeror hereby certifies that the **Schedule C of Subcontractor Participation** form submitted with the Exhibit D, Disadvantaged Business Enterprise (DBE) portion of this offer represents no more than seventy percent (**70%**) of the work will be done by subcontractors.

21. REPRESENTATION REGARDING CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

- (a) *Prohibition.* This Contract is subject to the Public Law 115-232, Section 889, and 2 Code of Federal Regulations (CFR) Part 200, including §200.216 and §200.471 related to the prohibition of certain "covered telecommunications equipment and services", which includes:

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities)

- (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(3) Telecommunications or video surveillance services provided by such entities or using such equipment.

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(b) *Procedures.* The Offeror shall review the list of excluded parties in the System for Award Management (SAM) (<https://www.sam.gov>) for entities excluded from receiving federal awards for "covered telecommunications equipment or services".

(c) *Representation.* The Offeror represents that—

(1) It

- ☐ will
☒ will not

provide covered telecommunications equipment or services to the Authority in the performance of any contract, sub-contract or other contractual instrument resulting from this solicitation. The Offeror shall provide the additional disclosure information required at paragraph (d)(1) of this section if the Offeror responds "will" in paragraph (c)(1) of this section; and

(2) After conducting a reasonable inquiry, for purposes of this representation, the Offeror represents that—

- ☐ does
☒ does not

use covered telecommunications equipment or services, or use any equipment, system, or service that uses covered telecommunications equipment or services. The Offeror shall provide the additional disclosure information required at paragraph (d)(2) of this section if the Offeror responds "does" in paragraph (c)(2) of this section.

(d) *Disclosures.*

(1) Disclosure for the representation in paragraph (c)(1) of this provision. If the Offeror has responded "will" in the representation in paragraph (c)(1) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the original equipment manufacturer (OEM) or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (a)(1) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the Product Service Code (PSC) of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (a)(1) of this provision.

(2) Disclosure for the representation in paragraph (c)(2) of this provision. If the Offeror has responded "does" in the representation in paragraph (c)(2) of this provision, the Offeror shall provide the following information as part of the offer:

(i) For covered equipment—

(A) The entity that produced the covered telecommunications equipment (include entity name, unique entity identifier, CAGE code, and whether the entity was the OEM or a distributor, if known);

(B) A description of all covered telecommunications equipment offered (include brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); and

(C) Explanation of the proposed use of covered telecommunications equipment and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (a)(2) of this provision.

(ii) For covered services—

(A) If the service is related to item maintenance: A description of all covered telecommunications services offered (include on the item being maintained: Brand; model number, such as OEM number, manufacturer part number, or wholesaler number; and item description, as applicable); or

(B) If not associated with maintenance, the PSC of the service being provided; and explanation of the proposed use of covered telecommunications services and any factors relevant to determining if such use would be permissible under the prohibition in paragraph (a)(2) of this provision.

22. CERTIFICATION OF NO ORGANIZATIONAL CONFLICT OF INTEREST

(a) Offeror certifies that there is no real or apparent organizational conflict of interest ("Organizational Conflict"). An Organizational Conflict exists when (a) the Offeror is unable, or potentially unable, to provide impartial and objective assistance or advice to the Authority due to other activities, relationships, contracts, or circumstances; (b) the Offeror has an unfair competitive advantage through receipt of or obtaining access to nonpublic information; or (c) during the performance of an earlier contract or the conduct of a procurement, the Offeror has established the ground rules for this procurement by developing specifications, evaluation factors, or similar documents.

(b) If the Offeror is unable to certify to the above (in (a)), the Offeror, certifies that it has attached an explanation disclosing any real or apparent Organizational Conflict. Such attachment includes all relevant facts concerning any past, present, or currently planned interests that may present an Organizational Conflict.

23. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(a) Offeror certifies that it:

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

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

(b) If the Offeror is unable to certify to the above (in (a)), the Offeror certifies that it has attached an explanation stating to what part of (a) the Offeror is unable to certify.

(c) The Offeror certifies that it has required any subcontractors identified in its offer to certify to (a) or has attached a statement explaining why such identified subcontractor is unable to certify to (a).

24. LIMITATION ON CERTAIN ROLLING STOCK PROCUREMENTS

(a) *Prohibition.* This Contract is subject to Section 7613 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA 2020), Public Law 116-92 (Dec. 20, 2019) and 49 U.S.C. § 5323(u) which prohibit using financial assistance made available under Chapter 53 of Title 49 U.S. Code to award a contract or subcontract to an entity for the procurement of rolling stock for use in public transportation if the manufacturer of the rolling stock:

(1) is incorporated in or has manufacturing facilities in the United States; and

(2) is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that -

(i) is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;

(ii) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and

(iii) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416).

(a “Restricted Manufacturer”). For purposes of this provision, the term “otherwise related legally or financially” does not include a minority relationship or investment.

(b) *Procedures.* The Offeror shall review the relevant statutes to ascertain if the Offeror or any subcontractor or supplier is a Restricted Manufacturer.

(c) *Representation.* The Offeror represents that—

(1) It

☐ is
☒ is not

a Restricted Manufacturer; and

(2) It has obtained representations from all relevant subcontractors or suppliers, and that the subcontractors or suppliers—

☐ are
☒ are not

Restricted Manufacturers.

(d) *Disclosures.* Disclosure for the representation in paragraph (c) of this provision: If the Offeror has responded “is” in the representation in paragraph (c)(1) of this provision, the Offeror shall provide a statement providing all information reflecting the basis for its certification. If the Offeror has responded “are” in the representation in paragraph (c)(2) of this provision, the Offeror shall provide a statement identifying the subcontractor(s) or supplier(s) and all information reflecting the basis for the certification.

25. SIGNATURE BLOCK FOR ALL REPRESENTATIONS AND CERTIFICATIONS

(a) These representations and certifications concern a material representation of fact upon which reliance will be placed in awarding a contract. If it is later determined that the offeror knowingly rendered an erroneous or false

certification, in addition to all other remedies the Authority may have, the Authority may terminate the contract for default and/or recommend that the offeror be debarred or suspended from doing business with the Authority in the future.

(b) The offeror shall provide immediate written notice to the Authority if, at any time prior to contract award, the offeror learns that the offeror's certification was, or a subsequent communication makes, the certification erroneous.

(c) Offerors must set forth full, accurate and complete information as required by this solicitation (including this attachment). Failure of an offeror to do so may render the offer nonresponsive.

(d) I understand that a false statement on this certification may be grounds for rejection of this submittal or termination of the awarded contract.

(e) A false statement in any offer submitted to the Authority may be a criminal offense in violation of Section 37.10 of the Texas Penal Code. In addition, under 18 U.S.C. §. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to five (5) years, or both.

Name of Offeror:

MTM Transit, LLC

Type/Print Name of Signatory:

Alaina Maciá

Title of Signatory:

President and CEO

Signature:

Alaina Maciá

Date:

4/23/2024

EXHIBIT E-REVISED-5
CONTRACTUAL TERMS AND CONDITIONS
(SERVICES CONTRACT)

1. DEFINITIONS

As used throughout this Contract, the following terms shall have the meaning set forth below:

- (a) "Applicable Anti-Corruption and Bribery Laws" means international, federal, state, provincial and local laws, rules, regulations, directives and governmental requirements currently in effect and as they become effective relating in any way to the Contractor's provision of goods and/or services to Authority, including without limitation "FCPA" or any applicable laws and regulations, including in the jurisdiction in which the Contractor operates and/or manufactures goods for the Authority, relating to anti-corruption and bribery.
- (b) "Authority," "CapMetro," "Capital Metro," "CMTA" means Capital Metropolitan Transportation Authority.
- (c) "Authority Data" means all data, content and information (i) submitted by or on behalf of the Authority or its customers to the Contractor or loaded into the System, (ii) obtained, developed, produced or processed by the Contractor or by the Application or System in connection with the Contract, or (iii) to which the Contractor has access in connection with the Contract, and all derivative versions of such data, content and information, and any derivative versions thereof, in any form or format.
- (d) "Authority Electronic Property" means (i) any websites controlled by the Authority, (ii) any Authority mobile device apps, (iii) any application programming interfaces (API) to the Authority's information technology systems, (iv) any other kiosks, devices or properties for consumer interaction that are created, owned, or controlled by the Authority, and (v) versions and successors of the foregoing, any form or format now known or later developed, that may be used by customers obtaining products or services from the Authority.
- (e) "Change Order" means a written order to the Contractor signed by the Contracting Officer, issued after execution of the Contract, authorizing a change in the term or scope of the Contract.
- (f) "Contract" or "Contract Documents" means this written agreement between the parties comprised of all the documents listed in the Table of Contents, Change Orders and/or Contract Modifications that may be entered into by the parties.
- (g) "Contract Award Date" means the date of the Contract award notice, which may take the form of a purchase order, signed Contract or Notice of Award, issued by the Authority.
- (h) "Contract Modification" means any changes in the terms or provisions of the Contract which are reduced to writing and fully executed by both parties.
- (i) "Contract Sum" means the total compensation payable to the Contractor for performing the Services as originally contracted for or as subsequently adjusted by Contract Modification.
- (j) "Contract Term" means period of performance set forth in the paragraph entitled "Term" contained in **Exhibit E-Revised-5**.
- (k) "Contracting Officer" means a person with the authority to enter into, administer, and/or terminate contracts and make related determinations and findings on behalf of the Authority. The term includes certain authorized representatives of the Contracting Officer acting within the limits of their authority as delegated by the Contracting Officer.
- (l) "Contractor" means the entity that has assumed the legal obligation to perform the Services as identified in the Contract.

- (m) "Days" means calendar days. In computing any period of time established under this Contract, the day of the event from which the designated period of time begins to run shall not be included, but the last day shall be included unless it is a Saturday, Sunday, or Federal or State of Texas holiday, in which event the period shall run to the end of the next business day.
- (n) "FAR" means the Federal Acquisition Regulations codified in 48 C.F.R. Title 48.
- (o) "FCPA" means the United States Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, et seq., as amended.
- (p) "Force Majeure Event" means strikes, lockouts, or other industrial disputes; explosions, epidemics, civil disturbances, acts of domestic or foreign terrorism, wars within the continental United States, riots or insurrections; embargos, natural disasters, including but not limited to landslides, earthquakes, floods or washouts; interruptions by government or court orders; declarations of emergencies by applicable federal, state or local authorities; and present or future orders of any regulatory body having proper jurisdiction.
- (q) "FTA" means the Federal Transit Administration.
- (r) "Fully Burdened Hourly Labor Rate" means an hourly rate that includes all salary, overhead costs, general and administrative expenses, and profit.
- (s) "Intellectual Property Rights" means the worldwide legal rights or interests evidenced by or embodied in: (i) any idea, software, design, concept, personality right, method, process, technique, apparatus, invention, discovery, or improvement, including any patents, trade secrets, and know-how; (ii) any work of authorship, including any copyrights, moral rights or neighboring rights, and any derivative works thereto; (iii) any trademark, service mark, trade dress, trade name, or other indicia of source or origin; (iv) domain name registrations; and (v) any other proprietary or similar rights. The Intellectual Property Rights of a party include all worldwide legal rights or interests that the party may have acquired by assignment or license with the right to grant sublicenses.
- (t) "Manufacturing Materials" mean any completed or partially completed supplies and materials, parts, dies, jigs, fixtures, plans, drawings, information, and contract rights specifically produced or specially acquired by the Contractor for the performance of the Contract.
- (u) "Notice of Award" means formal notice of award of the Contract to the Contractor issued by the Contracting Officer.
- (v) "Notice to Proceed" means written authorization for the Contractor to start the Services.
- (w) "Project Manager" means the designated individual to act on behalf of the Authority, to monitor and certify the technical progress of the Contractor's Services under the terms of this Contract.
- (x) "Proposal" means the offer of the proposer, submitted on the prescribed form, stating prices for performing the work described in the Scope of Services.
- (y) "Services" means the services to be performed by the Contractor under this Contract, and includes services performed, workmanship, and supplies furnished or utilized in the performance of the Services.
- (z) "Subcontract" means the Contract between the Contractor and its Subcontractors.
- (aa) "Subcontractor" means subcontractors of any tier.
- (bb) "Works" means any tangible or intangible items or things that have been or will be specifically, generated, prepared, created, or developed by the Contractor (or such third parties as the Contractor may be permitted to engage) at any time following the effective date of the Contract, for the exclusive use of, and ownership by, Authority under the Contract, including but not limited to any (i) works of authorship (such as literary works, musical works, dramatic works, choreographic works, pictorial, graphic and sculptural works, motion pictures and other audiovisual works, sound recordings and architectural works, which includes but is not limited to manuals, instructions, printed

material, graphics, artwork, images, illustrations, photographs, computer software, scripts, object code, source code or other programming code, HTML code, 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, and (vi) all documentation and materials related to any of the foregoing.

2. TYPE OF CONTRACT

(a) This is a fixed price hybrid contract, portions of which are definite-quantity/definite-delivery and other portions are indefinite-quantity/indefinite-delivery. In particular:

(1) Definite-Quantity/Definite-Delivery. In addition to the line items specifically listed as “fixed” costs in Exhibit A-1-Revised-1 - Pricing Breakdown, the following line items are definite-delivery/definite quantity as follows:

(i) Item #1 of Sections 2 through 11.

(2) Indefinite-Quantity/Indefinite-Delivery. In addition to the line items specifically listed as “pass-through costs” in Exhibit A-1-Revised-1 - Pricing Breakdown, the following line items are Indefinite-Quantity/Indefinite-Delivery. The quantities of supplies and services specified are estimates only and are not purchased by this contract and there is no limit to the number of orders that may be placed under this Contract.

(i) Item #2 through #5 of Sections 2 through 11.

This Contract is subject to the following minimum/maximum paragraph:

(1) Minimum order. The Authority will order a minimum of \$1,000 for the Services and supplies under this Contract.

(2) Maximum order. The Authority will order the maximum not-to-exceed dollar amount of this Contract.

3. TERM

The term of the Contract shall be ~~five (5) years~~ from the Contract notice to proceed **through December 31, 2029, with a period of performance from January 1, 2025, through December 31, 2029.** No Services shall be performed under this Contract prior to issuance of a Notice to Proceed.

4. OPTION TO EXTEND CONTRACT TERM

(a) The Authority may extend the term of this contract before the contract expires. If feasible, The Authority shall give written notice of its intent to extend before the contract expires. The preliminary notice shall not commit the Authority to an extension and any absence of notice shall not affect the validity of any exercise of option to extend the term of this contract.

(b) The option period prices shall be the unit prices provided on Exhibits A-Revised-1, Pricing Schedule and Exhibit A-1-Revised-1, Pricing Breakdown

(c) There shall be one-option period of three (3) years in duration, and two-option periods of one (1) year in duration each.

(d) The total term of this contract shall not exceed ten (10) years.

5. ADDITIONAL OPTION TO EXTEND CONTRACT PERFORMANCE

If the options granted in Paragraph 4 have been exercised in their entirety, the Authority shall have the unilateral right and option to require continued performance of any services within the limits and rates specified in the Contract.

This option may be exercised more than once, but the extension of performance hereunder shall not exceed a total of 6 months. The Authority may exercise the option by written notice to the Contractor.

6. INVOICING AND PAYMENT

(a) Invoices may be submitted once per month for work completed and accepted by the Authority, and marked "Original" to:

Accounts Payable
Capital Metropolitan Transportation Authority
P.O. Box 6308
Austin, Texas 78762-6308

Or via e-mail to: ap_invoices@capmetro.org

and shall conform to policies or regulations adopted from time to time by the Authority. Invoices shall be legible and shall contain, as a minimum, the following information:

- (1) the Contract and order number (if any);
 - (2) a complete itemization of all costs including quantities ordered and delivery order numbers (if any);
 - (3) any discounts offered to the Authority under the terms of the Contract;
 - (4) evidence of the acceptance of the supplies or Services by the Authority;
 - (5) payroll support documentation for Operators must include: pay code number, description, and payroll code;
 - (6) payroll support documentation for non- Operators must include: pay code number, description, pay rate, and payroll code; and
 - (7) any other information necessary to demonstrate entitlement to payment under the terms of the Contract.
- (b) Payment to the Contractor shall be made by the Authority following:
- (1) completion and the Authority's acceptance of the Services and supplies provided by Contractor; and
 - (2) Contractor's presentation of an undisputed invoice.
 - (3) Adjustments made for incentives and Performance Deficiency Credits (PDC). See Attachment - List of Performance Deficiency Credits, Incentives/Disincentives.
- (c) Subject to withholding regarding retainage as provided herein, All undisputed invoices shall be paid within the time period allowed by law through the Texas Prompt Payment Act, Tex. Gov't Code § 2251.021(b).
- (d) The Contractor shall be responsible for all costs/expenses not otherwise specified in this Contract, including by way of example, all costs of equipment provided by the Contractor or Subcontractor(s), all fees, fines, licenses, bonds, or taxes required or imposed against the Contractor and Subcontractor(s), travel related expenses, and all other Contractor's costs of doing business.
- (e) In the event an overpayment is made to the Contractor under this Contract or the Authority discovers that the Authority has paid any invoices or charges not authorized under this Contract, the Authority may offset the amount of such overpayment or unauthorized charges against any indebtedness owed by the Authority to the Contractor, whether arising under this Contract or otherwise, including withholding payment of an invoice, in whole or in part, or the Authority may deduct such amounts from future invoices. If an overpayment is made to the Contractor under this Contract which cannot be offset under this Contract, the Contractor shall remit the full overpayment amount to the Authority within thirty (30) calendar days of the date of the written notice of such overpayment or such other period as the Authority may agree. The Authority reserves the right to withhold payment of an invoice, in whole or in part,

or deduct the overpayment from future invoices to recoup the overpayment.

(f) The following items may be billed to CapMetro as actual pass through (without markup) amounts which are supported by actual receipts. Pass Through Costs are defined as actual costs incurred by the Contractor, and approved by the Authority, without any markups and/or overhead, which are supported by actual receipts. CapMetro and the Contractor will work collaboratively to establish the information and documentation required to be provided by the Contractor to support billed pass-through amounts. This means that CapMetro will reimburse the exact dollars paid by the Contractor for the items listed below, but not limited to:

1. Wages and payroll taxes.
2. Worker's Compensation coverage.
3. Retirement (401K).
4. Health Benefits.
5. Sick Leave, Vacation and Personal Time Off (PTO).
6. Drug Testing, Physicals, Background Checks, Driving Records, and Training Materials.
7. Fares Petty Cash

The items 1 through 6 above apply to Operators, Vehicle Maintenance Staff, Operations Supervision, Maintenance Supervision, Parts Clerks and Building Maintenance Staff only. Wages and benefits for Key Personnel will not be treated as pass through costs (Please See Exhibit F-Revised-4 and the Responsibility Matrix (Exhibit A-3 -Revised-1)).

(g) See Exhibit F-Revised-4, Section 18.10.1.1 for additional invoicing requirements.

(h) Release of Payment Claims by Contractor. The final invoice submitted by Contractor shall be accompanied by a complete and legally effective release of the Authority from all known and unknown payment claims relating to the Contract on a form provided by the Authority. Contractor's acceptance of final payment constitutes a waiver of all known or unknown payment claims against the Authority related to the Contract, other than those specifically excepted in the General Release of Claims Form.

7. ACCEPTANCE CRITERIA

A review of the Contractor's Services will be performed by the Authority upon delivery. If any Services performed or supplies provided under this Contract are deemed incomplete or unacceptable in any way, the Authority will require the Contractor to take corrective measures at no additional cost to the Authority.

8. INSURANCE

(a) The Contractor shall furnish proof of CapMetro-stipulated insurance requirements specified below. All insurance policies shall be primary and non-contributing with any other valid and collectible insurance or self-insurance available to the Authority and shall contain a contract waiver of subrogation in favor of the Authority. The Contractor shall furnish to the Authority certificate(s) of insurance evidencing the required coverage and endorsement(s). Prior to the expiration of a certificate of insurance, a new certificate of insurance shall be furnished to the Authority showing continued coverage. Each policy shall be endorsed to provide thirty (30) days' written notice of cancellation or non-renewal to the Authority, and the Authority shall be named as an Additional Insured under each policy except Professional Liability insurance, Workers' Compensation, Employment Practices Liability, Technology Error's & Omissions, Employment Practices Liability, and Cyber policies, if required by this Contract. All insurance policies shall be written by reputable insurance company or companies acceptable to the Authority with a current Best's Insurance Guide Rating of A- and Class VII or better. The Contractor shall notify the Authority in writing of any material alteration of such policies, including any change in the retroactive date in any "claims-made" policy or substantial reduction of aggregate limits if such limits apply or cancellation thereof at least thirty (30) days prior thereto. The below requirements only represent the minimum coverage acceptable to the Authority and these requirements are not intended to represent the maximum risk or the maximum liability of the Contractor. The Contractor shall be responsible for setting

its own insurance requirements, if any, for the kind and amounts of insurance to be carried by its Subcontractors in excess of the insurance required by the Authority." Bidder's insurance policies are confidential, and Bidder does not want to risk our policies being subjected to the Freedom of Information Act. A- and Class VII is standard for the industry.

The Contractor shall carry and pay the premiums for insurance of the types and in the amounts stated below.

CAPMETRO MINIMUM COVERAGE REQUIREMENTS

(1) **Commercial General Liability Insurance:** Coverage with limits of not less than One Million and No/100 Dollars (\$1,000,000) Combined Single Limit of Liability for Bodily Injury and Property Damage.

(2) **Automobile Liability Insurance:** covering all owned, hired and non-owned automobiles used in connection with work with limits not less than One Million and No/100 Dollars (\$1,000,000) Combined Single Limit of Liability for Bodily Injury and Property Damage.

(3) **Workers' Compensation Insurance:** Statutory Workers' Compensation coverage in the State of Texas. Employers Liability Insurance with minimum limits of liability of One Million and No/100 Dollars (\$1,000,000).

(4) **Umbrella Liability Coverage:** This coverage with limits of not less than Five Million and No/100 Dollars (\$5,000,000).

(5) **Errors & Omissions Insurance:** Errors & Omissions Policy with a minimum One Million and No/100 Dollars (\$1,000,000) claim limit, including covering negligent acts, errors and omissions arising from the Contractor's professional services to pay damages for which the Contractor may become legally obligated (such coverage to be maintained for at least two (2) years after termination of this contract.

(6) **Cyber Liability Policy:** \$1,000,000 Policy with a minimum One Million and No/100 Dollars (\$1,000,000) per occurrence limit.

(a) The limits of liability as required above may be provided by a single policy of insurance or by a combination of primary, excess or umbrella policies but in no event shall the total limits of liability available for any one occurrence or accident be less than the amount required above.

(b) The Contractor, and all of its insurers shall, in regard to the above stated insurance, agree to waive all rights of recovery or subrogation against the Authority, its directors, officers, employees, agents, successors and assigns, and the Authority's insurance companies arising out of any claims for injury(ies) or damages resulting from the Services performed by or on behalf of the Contractor under this Contract and/or use of any Authority premises or equipment under this Contract.

(c) Each insurance policy shall contain the following endorsements: PRIMARY AND NON-CONTRIBUTORY INSURANCE and WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS, which shall be evidenced on the Certificate of Insurance. The General Liability insurance shall include contractual endorsement(s) which acknowledge all indemnification requirements under the Agreement. All required endorsements shall be evidenced on the Certificate of Insurance, which shall be evidenced on the Certificate of Insurance. Proof that insurance coverage exists shall be furnished to the Authority by way of a Certificate of Insurance before any part of the Contract work is started.

(d) If any insurance coverage required to be provided by the Contractor is canceled, terminated, or modified so that the required insurance coverages are no longer in full force and effect, the Authority may terminate this Contract or obtain insurance coverages equal to the required coverage, the full cost of which will be the responsibility of the Contractor and shall be deducted from any payment due the Contractor.

(e) If any part of the Contract is sublet, the Contractor shall be liable for its Subcontractor's insurance coverages of the types and in the amounts stated above and shall furnish the Authority with copies of such Certificates of Insurance. No delay in the Services caused by the Contractor's enforcement of its Subcontractor's insurance requirements

shall be excusable delay in the Contract. In the event a Subcontractor is unable to furnish insurance in the limits required under the Contract, the Contractor shall endorse the Subcontractor as an ADDITIONAL INSURED on the Contractor's policies.

(f) All insurance required to be maintained or provided by the Contractor shall be with companies and through policies approved by The Authority. The Authority reserves the right to inspect in person, prior to the commencement of the Services, all of the Contractor's insurance policy required under this Contract.

(g) The Contractor must furnish proof of the required insurance within five (5) days of the award of the Contract. Certificate of Insurance must indicate the Contract number and description. The insurance certificate should be furnished to the attention of the Contracting Officer.

(h) The Contractor and its lower tier Subcontractors are required to cooperate with the Authority and report all potential claims (workers' compensation, general liability and automobile liability) pertaining to this Contract to the Authority's Risk Management Department at (512) 389-7538 within two (2) days of the incident.

(i) The Contractor shall provide to the Authority on an annual basis a list of Workers Compensation claims, and the claims costs.

9. PERFORMANCE BOND

The Contractor shall be required to furnish **an annual** Performance Bond, in the amount equal to 3% of the total Base Contract period. The bonding company providing the bond must be approved for amount of bonds on U.S. Department of Treasury Circular 570 and licensed to do business in the state of Texas. The Performance bond shall be submitted to the Contracting Officer within ten (10) calendar days after receipt of a copy of the executed Contract or a Notice of Award. **Thereafter, the Performance Bond shall be due ninety calendar days prior to the start of each year of the Contract.** The Notice to Proceed will not be issued until a properly executed bond is received and accepted by the Authority.

10. PERFORMANCE OF SERVICES BY THE CONTRACTOR

Except as otherwise provided herein, the Contractor shall perform no less than thirty percent (30%) of the Services with its own organization. If, during the progress of Services hereunder, the Contractor requests a reduction in such performance percentage and the Authority determines that it would be to the Authority's advantage, the percentage of the Services required to be performed by the Contractor may be reduced; provided, written approval of such reduction is obtained by the Contractor from the Authority.

11. REMOVAL OF ASSIGNED PERSONNEL

The Authority may require, in writing, that the Contractor remove from the Services any employee or Subcontractor of the Contractor that the Authority deems inappropriate for the assignment.

12. REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to the Authority, that the Services shall be performed in conformity with the descriptions and other data set forth in this Contract and with sound professional principles and practices in accordance with accepted industry standards, and that work performed by the Contractor's personnel shall reflect sound professional knowledge, skill and judgment. If any breach of the representations and warranties is discovered by the Authority during the process of the work or within one (1) year after acceptance of the work by the Authority, the Contractor shall again cause the nonconforming or inadequate work to be properly performed at the Contractor's sole expense and shall reimburse for costs directly incurred by the Authority as a result of reliance by the Authority on services failing to comply with the representations and warranties.

13. CATASTROPHIC DAMAGE TO / OR FAILURE OF FLEET VEHICLES

(a) CapMetro does not provide a warranty for fleet vehicles. A warranty is neither expressed nor implied.

(b) Damage to or failure of a fleet vehicle which has been caused or contributed to by improper use or storage by any Person other than CapMetro; failure to comply with the operating, maintenance or service instructions by any Person other than CapMetro; modifications so as to substantially alter the operating characteristics of the equipment; improper repair or repair with parts not approved or supplied by CapMetro; improper installation; or other circumstances beyond CapMetro's control will be paid by Contractor and not by CapMetro.

14. INDEPENDENT CONTRACTOR

The Contractor's relationship to the Authority in the performance of this Contract is that of an independent Contractor. The personnel performing Services under this Contract shall at all times be under the Contractor's exclusive direction and control and shall be employees of the Contractor and not employees of the Authority. The Contractor shall be fully liable for all acts and omissions of its employees, Subcontractors, and their suppliers and shall be specifically responsible for sufficient supervision and inspection to assure compliance in every respect with Contract requirements. There shall be no contractual relationship between any Subcontractor or supplier of the Contractor and the Authority by virtue of this Contract. The Contractor shall pay wages, salaries and other amounts due its employees in connection with this Agreement and shall be responsible for all reports and obligations respecting them, such as Social Security, income tax withholding, unemployment compensation, workers' compensation and similar matters.

15. COMPOSITION OF CONTRACTOR

If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

16. SUBCONTRACTORS AND OUTSIDE CONSULTANTS

Any Subcontractors and outside associates or consultants required by the Contractor in connection with the Services covered by the Contract will be limited to such individuals or firms as were specifically identified and agreed to by the Authority in connection with the award of this Contract. Any substitution in such Subcontractors, associates, or consultants will be subject to the prior approval of the Authority.

17. EQUITABLE ADJUSTMENTS

(a) Any requests for equitable adjustments under any provision shall be governed by the following provisions:

(1) Upon written request, the Contractor shall submit a proposal, in accordance with the requirements and limitations set forth in this paragraph, for Services involving contemplated changes covered by the request. The proposal shall be submitted within the time limit indicated in the request for any extension of such time limit as may be subsequently granted. The Contractor's written statement of the monetary extent of a claim for equitable adjustment shall be submitted in the following form:

(i) Proposals totaling \$5,000 or less shall be submitted in the form of a lump sum proposal with supporting information to clearly relate elements of cost with specific items of Services involved to the satisfaction of the Contracting Officer, or his/her authorized representative.

(ii) For proposals in excess of \$5,000, the claim for equitable adjustment shall be submitted in the form of a lump sum proposal supported with an itemized breakdown of all increases and decreases in the Contract.

(b) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Contract.

18. CONTRACTOR AND SUBCONTRACTOR ANNUAL AUDITED FINANCIAL STATEMENTS AND ABILITY

TO PERFORM

The Contractor must provide evidence of its financial resources and its ability to perform the services for which Contractor is submitting a response. This includes information Contractor or believes is pertinent that demonstrates its financial capability, financial solvency, and capability to fulfill the requirements of this contract.

The Contractor shall provide to the Authority a copy of Contractors' and Subcontractors' latest audited financial statements, which may include Contractor's balance sheet, statements of income, retained earnings, cash flows, and the notes to the financial statements, as well as Contractor's most current 10-K, if applicable, throughout the term of the Contract. The audited financial statements shall be provided annually. The financial statements shall be provided to the Authority within ninety (90) calendar days from the end of Contractor's fiscal period. For instance, if Contractor's fiscal period ends each December 31st, then the financial statements shall be provided to the Authority no later than March 31st of the following year. The Authority, at its' discretion, may accept unaudited financial reports.

19. PERSONNEL ASSIGNMENTS

(a) The Contractor shall perform the Services in an orderly and workmanlike manner and shall utilize persons skilled and qualified for the performance of the Services. The Authority will have the right to review the experience of each person assigned to perform the Services and approve personnel assignments, including those to be performed by Subcontractors,

(b) The Contractor certifies that the Contractor, and each Subcontractor, have established a criminal history background policy that complies with guidance issued by the U.S. Equal Employment Opportunity Commission and that the Contractor and each Subcontractor conducts criminal history checks on its assigned personnel in accordance with such policy to identify, hire and assign personnel to work on this Contract whose criminal backgrounds are appropriate for the Services being performed, considering the risk and liability to the Contractor and the Authority. The Authority reserves the right to require the Contractor and any Subcontractor to disclose any criminal or military criminal convictions of assigned personnel and the right to disapprove the use of assigned personnel with criminal or military convictions.

(c) The Contractor represents and warrants that all contractor employees in driving positions (that includes any person that may at any time operate a Capital Metro or Contractor vehicle) will have held a valid driver's licenses for at least the past three (3) years.

(d) At the commencement of the Contract, the Contractor shall provide a list of candidates to be used to provide the Services and shall certify that a criminal history background check has been completed on each candidate within the preceding 6-month period. Thereafter during the Term, the Contractor shall submit a quarterly report containing a list of all persons (including Subcontractors) assigned to perform Services under the Contract and a certification that each named person has undergone a criminal background check as required by this Contract. The Authority shall have the right to audit the Contractor's records for compliance with the provisions of this Section. Criminal background checks shall include the following:

(1) State Criminal History: The Contractor shall research criminal history, including driving records (where applicable), covering all jurisdictions within the state, including local counties and municipalities.

(2) Out of State Criminal History: The Contractor shall research criminal history, including state driving records (where applicable), for all 50 states.

(3) National Sex Offender Registry

(4) Military Discharge: For any candidates that have served in the military, the Contractor shall review the DD Form 214 "Certificate of Release or Discharge from Active Duty" (Long Form).

*Matters identified on the Long Form as military discipline will be considered in accordance with the corresponding crime listed below with respect to classification, severity and time elapsed.

The Contractor shall disclose to the Authority the type of arrests with pending dispositions and convictions for crimes according to the classification of offense and the timetable below:

Offense Type	Action Required
Crimes Against the Person (other than sex crimes)	
Felony	Submit to CapMetro for review if less than 10 years from date of release from confinement
Class A or B Misdemeanor	Submit to CapMetro for review if less than 7 years from date of conviction
Class C Misdemeanor	Submit to CapMetro for review if less than 5 years from date of conviction
Crimes Against the Person - Sex Crimes/Registered Sex Offenders	
ALL	Submit to CapMetro for review
Crimes Against Property	
Felony	Submit to CapMetro for review if less than 10 years from date of release from confinement
Moral Crimes, including, but not limited to: Drug Crimes, Prostitution, Bigamy, Illegal Gambling, Child Pornography	
Felony	Submit to CapMetro for review if less than 10 years from date of release from confinement
Class A or B Misdemeanor	Submit to CapMetro for review if less than 7 years from date of conviction
Class C Misdemeanor	Submit to CapMetro for review if less than 5 years from date of conviction
Driving Offenses	
Class A or B Misdemeanor, DWI/DUI or other "serious driving offense"	Disqualified if less than 7 years from date of conviction or deferred adjudication. Submit to CapMetro for review if between 7-10 years since conviction or deferred adjudication or more than 2 convictions in a lifetime
Class C Misdemeanor Moving Violations	Disqualified from driving if more than 2 moving violations in the past 5 years (Any more than one driving safety course taken for a moving violation that appears on a five (5) year record will be treated as a moving violation and will count against the employee)

The Contractor may not assign an employee to provide Services if the employee has any conviction in the applicable categories listed above, unless an exception is granted by the Authority in accordance with subparagraph (d).

(e) The Contractor may request the Authority perform an individual assessment of a candidate with a criminal conviction meeting one of the above categories. In conducting an individual assessment, the Authority's review will include, but not be limited to, the following factors:

- (1) The nature and gravity of the offense or conduct;
- (2) The degree of harm caused by the offense or conduct;
- (3) The time that has elapsed since the conviction or completion of probation or jail time;
- (4) The nature of the job sought, including the job duties, environment, and level of supervision;
- (5) Any incorrect criminal history;

- (6) Wrongful identification of the person;
- (7) The facts and circumstances surrounding the offense or conduct;
- (8) The number of offenses for which the candidate was convicted;
- (9) The subsequent conviction for another relevant offense;
- (10) The age of the person at the time of conviction or completion of probation or jail time;
- (11) Evidence that the person performed the same type of work, post-conviction, with the same or different employer, with no known incidents of criminal conduct;
- (12) The length and consistency of employment history before and after the conviction in a similar field as the current position sought;
- (13) Rehabilitation efforts, e.g., education, treatment, training;
- (14) Employment or character references and any other information regarding fitness for the particular position;
- (15) Whether the person is bonded or licensed under any federal, state or local program or any licensing authority;
- (16) The person's statement of the circumstances surrounding the offense and conviction and relevant factors is consistent with publicly available record related to the crime and conviction; and
- (17) Any other factors deemed relevant in the consideration of a particular assessment.

At the time a request is made for an individual assessment, the Contractor must include the following documentation:

- the candidate's application/resume;
- a copy of the criminal conviction history, including those tried in a military tribunal;
- available court information related to the conviction;
- any publicly available information related to the offense and conviction;
- a statement from the candidate addressing any/all factors set forth above and explaining why the person is qualified for the assignment notwithstanding the conviction; and
- a statement from the candidate explaining why the person is an acceptable risk for the work to be performed by the candidate.

The Authority will provide a written decision to the Contractor within five (5) working days of receipt of all required documentation from the Contractor.

(e) The Contractor will conduct new criminal history background checks on all assigned personnel every two (2) years during the Contract to ensure the preceding criterion are still met by the assigned personnel and notify the Authority if an employee has a subsequent arrest with pending disposition or conviction (or change in driving record, as applicable) that requires further review by the Authority using the criterion set forth above. The Authority reserves the right to request that the assigned individual be removed from performing work under this Contract.

20. BADGES AND ACCESS CONTROL DEVICES

(a) The Contractor and each of the Contractor's employees, as well as each Subcontractor of any tier and any workers working on behalf of Subcontractor, shall be required to wear a CapMetro Contractor Photo Identification Badge ("badge") at all times while on the Authority's premises. The badge will be provided by CapMetro. If any badge holder loses or misplaces his or her badge, the Contractor shall immediately notify the Project Manager upon discovery. The Contractor will be charged a \$50.00 replacement fee for each lost or misplaced badge, which fee shall be deducted any amounts due and owing to the Contractor or if the Contract is terminated upon demand by the Authority. The Contractor shall return all badges provided when any badge holder is no longer working on the Contract, and all badges shall be returned upon completion of the Contract. In the event the Contractor fails to do so, the Contractor will pay a \$50.00 per badge fee deducted from any amounts due and owing to the Contractor or if the Contract is terminated upon demand by the Authority. All badges should be returned to the Project Manager. All requests for new and replacement badges must be submitted in writing to the Project Manager. The misuse of a badge may result in termination of the Contract.

(b) Access Control Devices will be issued to employees of the Contractor and to each Subcontractor of any tier and any worker working on behalf of Subcontractor as necessary to perform the Contract. Access Control Devices are not transferable between the Contractor employees or workers working on behalf of the Subcontractor. The Contractor employees and workers on behalf of the Subcontractor are prohibited from loaning Access Control Devices or providing access to an unauthorized person into restricted areas without prior arrangements with the Project Manager. All requests for new and replacement Access Control Devices must be submitted in writing to the Project Manager. Lost Access Control Devices must be reported to the Project Manager immediately upon discovery. All Access Control Devices should be returned to the Project Manager. The misuse of an Access Control Device(s) may result in termination of the Contract. The Contractor shall return all Access Control Devices once an assigned employee or worker is no longer working on the Contract or upon termination of the Contract. In the event the Contractor fails to do so, then the Contractor shall be responsible for the replacement cost of an Access Control Device which shall be deducted from any amounts due and owing to the Contractor or payable on demand if the Contract has terminated. The replacement cost will be calculated at current market value to include labor and materials.

(f) The provisions of this paragraph survive termination of the Contract.

21. CHANGES

(a) The Authority may, at any time, by written order, make changes within the general scope of the Contract in the Services to be performed. If such changes cause an increase or decrease in the Contractor's cost of, or time required for, performance of any Services under this Contract, whether or not changed by any order, an equitable adjustment shall be made and the Contract shall be modified in writing accordingly. Any claim of the Contractor for adjustment under this paragraph must be asserted in writing within thirty (30) days from the date of receipt by the Contractor of the notification of change unless the Contracting Officer grants a further period of time before the date of final payment under the Contract.

(b) No Services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Authority.

(c) Any other written order (which, as used in this paragraph (c), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change in the Contractor's obligations shall be treated as a Change Order under this paragraph; provided that the Contractor gives the Contracting Officer written notice stating (1) the date, circumstances, and source of the order and (2) that the Contractor regards the order as a Change Order.

(d) Except as provided in this paragraph, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this paragraph or entitle the Contractor to an equitable adjustment.

(e) If any change under this paragraph causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the Services under this Contract, whether or not changed by any such order, the Contracting Officer may make an equitable adjustment and modify the Contract in writing in accordance with the provisions in paragraph entitled "Equitable Adjustments" contained in **Exhibit E-Revised-5**.

22. TERMINATION FOR DEFAULT

(a) The Authority may, subject to the provisions of subparagraph (c) below, by written notice of default to the Contractor, terminate the whole or any part of this Contract in either one of the following circumstances:

(1) if the Contractor fails to perform the Services within the time specified herein or any extension thereof;
or

(2) if the Contractor fails to perform any of the other provisions of this Contract and does not cure such failure within a period ten (10) days (or such longer period as the Authority may authorize in writing) after receipt of notice from the Authority specifying such failure.

(b) In the event the Authority terminates this Contract in whole or in part as provided in subparagraph (a) of this paragraph, the Authority may procure, upon such terms and in such manner as the Authority may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to the Authority for any excess costs for such similar supplies or services; provided, that the Contractor shall continue the performance of this Contract to the extent, if any, it has not been terminated under the provisions of this subparagraph.

(c) Except with respect to the defaults of Subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. Such causes may include, but are not restricted to Force Majeure Events; provided, however, in every case the failure to must be beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a Subcontractor and if such default arises out of causes beyond the control of both the Contractor and Subcontractor and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or Services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

(d) If this Contract is terminated as provided in subparagraph (a), the Authority, in addition to any other rights provided in this subparagraph, may require the Contractor to transfer title and deliver to the Authority in the manner and to the extent directed by the Authority any Manufacturing Materials as the Contractor has specifically produced or specifically acquired for the performance of such part of this Contract as has been terminated; and the Contractor shall, upon direction of the Authority, protect and preserve property in possession of the Contractor in which the Authority has an interest. Payment for completed Manufacturing Materials delivered to and accepted by the Authority shall be at the Contract price. The Authority may withhold from amounts otherwise due the Contractor for such completed Manufacturing Materials such sum as the Authority determines to be necessary to protect the Authority against loss because of outstanding liens or claims of former lien holders.

(e) If, after notice of termination of this Contract under the provisions of this paragraph, it is determined by the Authority that the Contractor was not in default or that the default was excusable under the provisions of this paragraph, the rights and obligations of the parties shall be those provided in the paragraph entitled "Termination for Convenience" contained in this **Exhibit E-Revised-5**.

(f) The rights and remedies of the Authority provided in this paragraph shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

23. TERMINATION FOR CONVENIENCE

(a) The Authority may, whenever the interests of the Authority so require, terminate this Contract, in whole or in part, for the convenience of the Authority. The Authority shall give written notice of the termination to the Contractor specifying the part of the Contract terminated and when termination becomes effective.

(b) The Contractor shall incur no further obligations in connection with the terminated orders, and, on the date set forth in the notice of termination, the Contractor will stop providing Services to the extent specified. The Contractor also shall terminate outstanding orders and subcontracts as they relate to the terminated order. The Contractor shall settle the liabilities and claims arising out of the termination of subcontracts and orders connected with the terminated

orders. The Authority may direct the Contractor to assign the Contractor's right, title, and interest under terminated orders or Subcontracts to the Authority. The Contractor must still complete any orders not terminated by the notice of termination and may incur such obligations as are necessary to do so.

(c) The Authority may require the Contractor to transfer title and deliver to the Authority in the manner and to the extent directed by the Authority: (1) any completed supplies; and (2) such partially completed supplies and materials, parts, tools, dies, jigs, fixtures, plans, drawings, information and contract rights (hereinafter called "Manufacturing Materials") as the Contractor has specifically produced or specially acquired for the performance of the terminated part of this Contract. The Contractor shall, upon direction of the Authority, protect and preserve property in the possession of the Contractor in which the Authority has an interest. If the Authority does not exercise this right, the Contractor shall use its best efforts to sell such supplies and Manufacturing Materials.

(d) The Authority shall pay the Contractor the following amounts:

(1) Contract prices for supplies accepted under the Contract;

(2) costs incurred in preparing to perform and performing the terminated portion of the Services plus a fair and reasonable profit on such portion of the Services (such profit shall not include anticipatory profit or consequential damages), less amounts paid or to be paid for accepted supplies; provided, however, that if it appears that the Contractor would have sustained a loss if the entire Contract would have been completed, no profit shall be allowed or included, and the amount of compensation shall be reduced to reflect the anticipated rate of loss;

(3) costs of settling and paying claims arising out of the termination of subcontracts (these costs must not include costs paid in accordance with subparagraph (2) of this paragraph); and

(4) the reasonable settlement costs of the Contractor and other expenses reasonably necessary for the preparation of settlement claims and supporting data with respect to the terminated portion of the Contract and for the termination and settlement of subcontracts thereunder, together with reasonable storage, transportation, and other costs incurred in connection with the protection or disposition of property allocable to the terminated portion of this Contract.

(5) The total sum to be paid the Contractor under this paragraph shall not exceed the total Contract Sum plus the reasonable settlement costs of the Contractor reduced by the amount of payments otherwise made, the proceeds of any sales of supplies and Manufacturing Materials under this paragraph, and the contract price of orders not terminated.

24. CONTRACTOR CERTIFICATION

The Contractor certifies that the fees in this Contract have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

25. INTELLECTUAL PROPERTY; DATA PRIVACY PROVISIONS

(a) As between the Contractor and the Authority, the Works and Intellectual Property Rights therein are and shall be owned exclusively by CapMetro, and not the Contractor. The Contractor specifically agrees that all Works shall be considered "works made for hire" and that the Works shall, upon creation, be owned exclusively by the Authority. To the extent that the Works, under applicable law, may not be considered works made for hire, the Contractor hereby agrees that this Contract effectively transfers, grants, conveys, assigns, and relinquishes exclusively to the Authority all right, title and interest in and to all worldwide ownership rights in the Works, and all Intellectual Property Rights in the Works, without the necessity of any further consideration, and the Authority shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Works. Works does not include that which was prepared, created, developed, produced or generated prior to the Contract award date (such as Contractor's preexisting assets, code, software, or COTS), but does include prior Works prepared, created, developed, produced or generated specifically for the Authority through any other previous Authority contract with Contractor if there was Works in that contract (if, for example, Contractor was an incumbent with a contract for prior Works).

(b) The Contractor, upon request and without further consideration, shall perform any acts that may be deemed necessary or desirable by the Authority to evidence more fully the transfer of ownership of all Works to the Authority to the fullest extent possible, including but not limited to the execution, acknowledgement and delivery of such further documents in a form determined by the Authority. In the event the Authority shall be unable for any reason to obtain the Contractor's signature on any document necessary for any purpose set forth in the foregoing sentence, the Contractor hereby irrevocably designates and appoints the Authority and its duly authorized officers and agents as the Contractor's agent and the Contractor's attorney-in-fact to act for and in the Contractor's behalf and stead to execute and file any such document and to do all other lawfully permitted acts to further any such purpose with the same force and effect as if executed and delivered by the Contractor.

(c) To the extent that any pre-existing rights and/or third-party rights or limitations are embodied, contained, reserved or reflected in the Works, the Contractor shall either:

(1) grant to the Authority the irrevocable, perpetual, non-exclusive, worldwide, royalty-free right and license to:

(i) use, execute, reproduce, display, perform, distribute copies of, and prepare derivative works based upon such pre-existing rights and any derivative works thereof in connection with the sale, offering for sale, marketing, advertising, and promotion of the Authority's goods and services, and in all forms of media, media channels and/or publicity that may now exist or hereafter be created or developed, including but not limited to television, radio, print, Internet, and social media (e.g., Facebook, Twitter, YouTube, etc.) and

(ii) authorize others to do any or all of the foregoing, or

(2) where the obtaining of worldwide rights is not reasonably practical or feasible, provide written notice to the Authority of such pre-existing or third party rights or limitations, request the Authority's approval of such pre-existing or third party rights, obtain a limited right and license to use such pre-existing or third-party rights on such terms as may be reasonably negotiated, and obtain the Authority's written approval of such pre-existing or third-party rights and the limited use of same. The Contractor shall provide the Authority with documentation indicating a third party's written approval for the Contractor to use any pre-existing or third-party rights that may be embodied, contained, reserved or reflected in the Works. The Contractor shall indemnify, defend and hold the Authority harmless from and against any and all claims, demands, regulatory proceedings and/or causes of action, and all losses, damages, and costs (including attorneys' fees and settlement costs) arising from or relating to, directly or indirectly, any claim or assertion by any third party that the Works infringe any third-party rights. The foregoing indemnity obligation shall not apply to instances in which the Authority either:

(i) exceeded the scope of the limited license that was previously obtained by the Contractor and agreed to by the Authority, or

(ii) obtained information or materials, independent of the Contractor's involvement or creation, and provided such information or materials to the Contractor for inclusion in the Works, and such information or materials were included by the Contractor, in an unaltered and unmodified fashion, in the Works.

(d) The Contractor hereby warrants and represents to the Authority that individuals or characters appearing or depicted in any advertisement, marketing, promotion, publicity or media, of any type or form that may now exist or hereafter be created or developed by or on behalf of the Contractor for the use by or benefit of the Authority, have provided their written consent for the use, reproduction, display, performance, and distribution of, and/or preparation of derivative works to, their persona or personality rights, including name, biographical information, picture, portrait, likeness, performance, voice and/or identity ("Personality Rights"), and have been compensated for such Personality Rights, if appropriate. If such permission has been obtained for a limited time, the Contractor shall be responsible for any costs associated with claims resulting from such use, etc., of the Personality Rights after the expiration of those time limits. The Contractor agrees to defend, indemnify and hold the Authority harmless from any claims, including but not limited to claims for invasion of privacy, infringement of the right of publicity, libel, unfair competition, false advertising, intentional or negligent infliction of emotional distress, copyright or trademark infringement, and/or claims for attorney's fees, resulting from such use, etc., of the Personality Rights.

(e) The Contractor hereby irrevocably and forever waives, and agrees never to assert, any Moral Rights in or to the Works which the Contractor may now have or which may accrue to the Contractor's benefit under U.S. or foreign copyright laws and any and all other residual rights and benefits which arise under any other applicable law now in force or hereafter enacted. The term "Moral Rights" shall mean any and all rights of paternity or integrity of the Works and the right to object to any modification, translation or use of the Works, 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.

(f) The Contract is intended to protect the Authority's proprietary rights pertaining to the Works, and the Intellectual Property Rights therein, and any misuse of such rights would cause substantial and irreparable harm to the Authority's business. Therefore, the Contractor acknowledges and stipulates that a court of competent jurisdiction should immediately enjoin any material breach of the intellectual property and confidentiality provisions of this Contract, upon a request by the Authority, without requiring proof of irreparable injury as same should be presumed.

(g) Upon the request of the Authority, but in any event upon termination of this Contract, the Contractor shall surrender to the Authority all documents and things pertaining to the Works, including but not limited to drafts, memoranda, notes, records, drawings, manuals, computer software, reports, data, and all other documents or materials (and copies of same) generated or developed by the Contractor or furnished by the Authority to the Contractor, including all materials embodying the Works, any Authority confidential information, or Intellectual Property Rights, regardless of whether complete or incomplete. This paragraph is intended to apply to all Works made or compiled by the Contractor, as well as to all documents and things furnished to the Contractor by the Authority or by anyone else that pertains to the Works.

(h) The Contractor and its subcontractors and their respective employees and personnel may have access to the Authority Data (including without limitation, personally identifiable information ("PII")) in connection with the performance of the Contract. PII shall be any information that identifies or describes a person or can be directly linked to a specific individual, including ridership and usage data. Examples of PII include, but are not limited to, name, address, phone or fax number, signature, date of birth, e-mail address, method of payment, ridership and travel pattern data. Customer Personally Identifiable Information, or Customer PII, means any PII relating to the Authority's customers. To the extent any Authority Data (including PII) is made available to the Contractor under the Contract, the Contractor shall take reasonable steps to maintain the confidentiality, security, safety, and integrity of all PII and other Authority Data in accordance with the Authority's Proprietary Rights and Data Security Addendum, which will be attached as an addendum to the Contract, as applicable.

(i) The Contractor and its subcontractors, employees and consultants may require access to the Authority Electronic Property and related Authority Data in connection with the performance of services under the Contract. In such event, the Contractor agrees that it will, and it will cause its subcontractors and any of their respective employees and personnel to, execute the Authority's Access and Use Agreement, which will be attached as an addendum to the Contract, as applicable.

(j) This Section 23 will survive termination or expiration of this Agreement for any reason.

26. STANDARDS OF PERFORMANCE

The Contractor shall perform the Services hereunder in compliance with all applicable federal, state, and local laws and regulations. The Contractor shall use only licensed personnel to perform Services required by law to be performed by such personnel.

27. INSPECTIONS AND APPROVALS

(a) All Services performed by the Contractor, or its Subcontractors or consultants shall be subject to the inspection and approval of the Authority at all times, but such approval shall not relieve the Contractor of responsibility for the proper performance of the Services. The Contractor shall provide sufficient, safe, and proper facilities at all times for such inspection of the Services and shall furnish all information concerning the Services and give the Authority or its representatives free access at all reasonable times to the facilities where the Services are performed.

(b) The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the Services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Authority during Contract performance and for as long afterwards and the Contract requires.

(c) The Authority has the right to inspect and test all Services called for by this Contract, to the extent practicable, at all times and places during the term of the Contract. The Authority shall perform inspections and tests in a manner that will not unduly delay the Services.

(d) If any of the Services do not conform with Contract requirements, the Authority may require the Contractor to perform the Services again in conformity with the Contract requirements, at no increase in the Contract Sum. When the defects in services cannot be corrected by performance, the Authority may (1) require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and (2) reduce the Contract Sum to reflect the reduced value of the Services performed.

(e) If the Contractor fails promptly to perform the Services again or to take the necessary action to ensure future performance in conformity with Contract requirements, the Authority may (1) by contract or otherwise, perform the Services and charge to the Contractor any cost incurred by the Authority that is directly related to the performance of such service or (2) terminate the Contract for default.

28. SUSPENSION OF SERVICES

(a) The Authority may order the Contractor in writing to suspend all or any part of the Services for such period of time as the Authority determines to be appropriate for the convenience of the Authority.

(b) If the performance of all or any part of the Services is, for an unreasonable period of time, suspended or delayed by an act of the Authority in the administration of this Contract, or by the Authority's failure to act within the time specified in this Contract (or, if no time is specified, within a reasonable time), an adjustment shall be made for any increase in cost of performance of this Contract (excluding profit) necessarily caused by such unreasonable suspension or delay, and the Contract modified in writing accordingly. However, no adjustment shall be made under this paragraph for any suspension or delay to the extent (1) that performance would have been suspended or delayed by any other cause, including the fault or negligence of the Contractor, or (2) for which an equitable adjustment is provided for or excluded under any other provision of this Contract.

(c) No claim under this paragraph shall be allowed (1) for any costs incurred more than twenty (20) days before the Contractor shall have notified the Authority in writing of the act or failure to act involved (but this requirement shall not apply to a claim resulting from a suspension order), and (2) unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of such suspension or delay, but not later than the date of final payment. No part of any claim based on the provisions of this subparagraph shall be allowed if not supported by adequate evidence showing that the cost would not have been incurred but for a delay within the provisions of this paragraph.

29. PAYMENT TO SUBCONTRACTORS

(a) Payments by Contractors to subcontractors associated with Authority contracts are subject to the time periods established in the Texas Prompt Payment Act, Tex. Gov't Code § 2251.

(b) A false certification to the Authority under the provisions of the paragraph entitled "Invoicing and Payment" hereof may be a criminal offense in violation of Tex. Penal Code § 10.

30. FEDERAL, STATE AND LOCAL TAXES

The Contract Sum includes all applicable federal, state, and local taxes and duties. The Authority is exempt from taxes imposed by the State of Texas and local sales and use taxes under Texas Tax Code § 151.309, and any such taxes included on any invoice received by the Authority shall be deducted from the amount of the invoice for purposes of payment. The Contractor may claim exemption from payment of applicable State taxes by complying with such

procedures as may be prescribed by the State Comptroller of Public Accounts. The Contractor bears sole and total responsibility for obtaining information pertaining to such exemption.

31. EQUAL OPPORTUNITY

During the performance of this Contract, the Contractor agrees that it will, in good faith, afford equal opportunity required by applicable federal, state, or local law to all employees and applicants for employment without regard to race, color, religion, sex, national origin, disability or any other characteristic protected by federal, state or local law.

32. CONFLICT OF INTEREST

(a) Reference is made to Exhibit B, Representations and Certifications, Code of Ethics, which is incorporated herein and made a part of this Contract. Capitalized terms used in this paragraph and not otherwise defined shall have the meanings as described to them in the Code of Ethics.

(b) The Contractor represents that no Employee has a Substantial Interest in the Contractor or this Contract, which Substantial Interest would create or give rise to a Conflict of Interest. The Contractor further represents that no person who has a Substantial Interest in the Contractor and is or has been employed by the Authority for a period of two (2) years prior to the date of this Contract has or will (1) participate, for the Contractor, in a recommendation, bid, proposal or solicitation on any Authority contract, procurement or personnel administration matter, or (2) receive any pecuniary benefit from the award of this Contract through an ownership of a Substantial Interest (as that term is defined in Paragraph II, subparagraphs (1) and (3) of the Code of Ethics) in a business entity or real property.

(c) The Contractor agrees to ensure that the Code of Ethics is not violated as a result of the Contractor's activities in connection with this Contract. The Contractor agrees to immediately inform the Authority if it becomes aware of the existence of any such Substantial Interest or Conflict of Interest, or the existence of any violation of the Code of Ethics arising out of or in connection with this Contract.

(d) The Authority may, in its sole discretion, require the Contractor to cause an immediate divestiture of such Substantial Interest or elimination of such Conflict of Interest, and failure of the Contractor to so comply shall render this Contract voidable by the Authority. Any willful violation of these provisions, creation of a Substantial Interest or existence of a Conflict of Interest with the express or implied knowledge of the Contractor shall render this Contract voidable by the Authority.

(e) In accordance with paragraph 176.006, Texas Local Government Code, "vendor" is required to file a conflict-of-interest questionnaire within seven business days of becoming aware of a conflict of interest under Texas law. The conflict of interest questionnaire can be obtained from the Texas Ethics Commission at www.ethics.state.tx.us. The questionnaire shall be sent to the Authority's Contract Administrator.

33. GRATUITIES

The Authority may cancel this Contract, without liability to the Contractor, if it is found that gratuities in the form of entertainment, gifts, or otherwise were offered or given by the Contractor or any agent or representative to any Authority official or employee with a view toward securing favorable treatment with respect to the performance of this Contract. In the event this Contract is canceled by the Authority pursuant to this provision, the Authority shall be entitled, in addition to any other rights and remedies, to recover from the Contractor a sum equal in amount to the cost incurred by the Contractor in providing such gratuities.

34. PUBLICATIONS

All published material and written reports submitted under this Contract must be originally developed material unless otherwise specifically provided in the Contract document. When material, not originally developed, is included in a report, it shall have the source identified. This provision is applicable when the material is in a verbatim or extensive paraphrased format.

35. REQUEST FOR INFORMATION

- (a) The Contractor shall not provide information generated or otherwise obtained in the performance of its responsibilities under this Contract to any party other than the Authority and its authorized agents except as otherwise provided by this Contract or after obtaining the prior written permission of the Authority.
- (b) This Contract, all data and other information developed pursuant to this Contract shall be subject to the Texas Public Information Act. The Authority shall comply with all aspects of the Texas Public Information Act.
- (c) The Contractor is instructed that any requests for information regarding this Contract and any deliverables shall be referred to the Authority.
- (d) The requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Contractor or vendor agrees that the contract can be terminated if the Contractor or vendor knowingly or intentionally fails to comply with a requirement of that subchapter.

(1) The requirement of Subchapter J, Chapter 552, Government Code as amended currently applies to expenditures of at least \$1 million in public funds for the purchase of goods or services.

36. RIGHTS TO PROPOSAL AND CONTRACTUAL MATERIAL

- (a) All documentation related to or prepared in connection with any proposal, including the contents of any proposal contracts, responses, inquiries, correspondence, and all other material submitted in connection with the proposal shall become the property of the Authority upon receipt.
- (b) All documents, reports, data, graphics and other materials produced under this Contract shall become the sole possession of the Authority upon receipt and payment, subject only to the Contractor's professional obligation to maintain copies of its work product.

37. LIMITATION OF LIABILITY

In no event shall the Authority or its officers, directors, agents or employees be liable in contract or tort, to the Contractor or its Subcontractors for special, indirect, incidental or consequential damages, resulting from the Authority's performance, nonperformance, or delay in performance of its obligations under this Contract, or the Authority's termination of the Contract with or without cause, or the Authority's suspension of the Services. This limitation of liability shall not apply to intentional tort or fraud. The Contractor shall include similar liability provisions in all its Subcontracts.

38. LAWS, STATUTES AND OTHER GOVERNMENTAL REQUIREMENTS

The Contractor agrees that it shall be in compliance with all laws, statutes, and other governmental requirements, regulations or standards prevailing during the term of this Contract.

39. CLAIMS

In the event that any claim, demand, suit, or other action is made or brought by any person, firm, corporation, or other entity against the Contractor arising out of this Contract, the Contractor shall give written notice thereof, to the Authority within three (3) working days after being notified of such claim, demand, suit, or action. Such notice shall state the date and hour of notification of any such claim, demand, suit, or other action; the name and address of the person, firm, corporation, or other entity making such claim or instituting or threatening to institute any type of action or proceeding; the basis of such claim, action, or proceeding; and the name of any person against whom such claim is being made or threatened. Such written notice shall be delivered either personally or by mail and shall be directly sent to the attention of the President/CEO, Capital Metropolitan Transportation Authority, 2910 E. 5th Street, Austin, Texas 78702.

40. LICENSES AND PERMITS

The Contractor shall, without additional expense to the Authority, be responsible for obtaining any necessary licenses, permits, and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to the Services to be provided under this Contract including, but not limited to, any laws or regulations requiring the use of licensed Subcontractors to perform parts of the work.

41. NOTICE OF LABOR DISPUTES

(a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this Contract, the Contractor immediately shall give notice, including all relevant information, to the Authority.

(b) The Contractor agrees to insert the substance of this paragraph, including this subparagraph (b), in any Subcontract under which a labor dispute may delay the timely performance of this Contract; except that each Subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the Subcontractor shall immediately notify the next higher tier Subcontractor or the Contractor, as the case may be, of all relevant information concerning the dispute.

42. PUBLICITY RELEASES

All publicity releases or releases of reports, papers, articles, maps, or other documents in any way concerning this Contract or the Services hereunder which the Contractor or any of its Subcontractors desires to make for the purposes of publication in whole or in part, shall be subject to approval by the Authority prior to release.

43. INTEREST OF PUBLIC OFFICIALS

The Contractor represents and warrants that no employee, official, or member of the Board of the Authority is or will be pecuniarily interested or benefited directly or indirectly in this Contract. The Contractor further represents and warrants that it has not offered or given gratuities (in the form of entertainment, gifts or otherwise) to any employee, official, or member of the Board of the Authority with a view toward securing favorable treatment in the awarding, amending, or evaluating the performance of this Contract. For breach of any representation or warranty in this paragraph, the Authority shall have the right to terminate this Contract without liability and/or have recourse to any other remedy it may have at law or in equity.

44. INDEMNIFICATION

(a) **THE CONTRACTOR WILL INDEMNIFY, DEFEND AND HOLD THE AUTHORITY AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND REPRESENTATIVES (THE AUTHORITY AND EACH SUCH PERSON OR ENTITY IS AN "INDEMNIFIED PARTY") HARMLESS FROM AND AGAINST AND PAY ANY AND ALL DAMAGES (AS DEFINED HEREIN) DIRECTLY OR INDIRECTLY RESULTING FROM, RELATING TO, ARISING OUT OF OR ATTRIBUTABLE TO ANY OF THE FOLLOWING:**

(1) **ANY BREACH OF ANY REPRESENTATION OR WARRANTY THAT THE CONTRACTOR HAS MADE IN THIS CONTRACT;**

(2) **ANY BREACH, VIOLATION OR DEFAULT BY OR THROUGH THE CONTRACTOR OR ANY OF ITS SUBCONTRACTORS OF ANY OBLIGATION OF THE CONTRACTOR IN THIS CONTRACT OR ANY OTHER AGREEMENT BETWEEN THE CONTRACTOR AND THE AUTHORITY;**

(3) **THE USE, CONDITION, OPERATION OR MAINTENANCE OF ANY PROPERTY, VEHICLE, FACILITY OR OTHER ASSET OF THE AUTHORITY TO WHICH THE CONTRACTOR HAS ACCESS OR AS TO WHICH THE CONTRACTOR PROVIDES SERVICES; OR**

(4) **ANY ACT OR OMISSION OF THE CONTRACTOR OR ANY OF ITS SUBCONTRACTORS OR ANY**

OF THEIR OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, CUSTOMERS, INVITEES, REPRESENTATIVES OR VENDORS.

(b) **“ACTION” MEANS ANY ACTION, APPEAL, PETITION, PLEA, CHARGE, COMPLAINT, CLAIM, SUIT, DEMAND, LITIGATION, MEDIATION, HEARING, INQUIRY, INVESTIGATION OR SIMILAR EVENT, OCCURRENCE OR PROCEEDING.**

(c) **“DAMAGES” MEANS ALL DIRECT OR INDIRECT DAMAGES, LOSSES, LIABILITIES, DEFICIENCIES, SETTLEMENTS, CLAIMS, AWARDS, INTEREST, PENALTIES, JUDGMENTS, FINES, OR OTHER COSTS OR EXPENSES OF ANY KIND OR NATURE WHATSOEVER, WHETHER KNOWN OR UNKNOWN, CONTINGENT OR VESTED, MATURED OR UNMATURED, AND WHETHER OR NOT RESULTING FROM THIRD-PARTY CLAIMS, INCLUDING COSTS (INCLUDING, WITHOUT LIMITATION, REASONABLE FEES AND EXPENSES OF ATTORNEYS, OTHER PROFESSIONAL ADVISORS AND EXPERT WITNESSES) RELATED TO ANY INVESTIGATION, ACTION, SUIT, ARBITRATION, APPEAL, CLAIM, DEMAND, INQUIRY, COMPLAINT, MEDIATION, INVESTIGATION OR SIMILAR EVENT, OCCURRENCE OR PROCEEDING.**

(d) **“THREATENED” MEANS A DEMAND OR STATEMENT HAS BEEN MADE (ORALLY OR IN WRITING) OR A NOTICE HAS BEEN GIVEN (ORALLY OR IN WRITING), OR ANY OTHER EVENT HAS OCCURRED OR ANY OTHER CIRCUMSTANCES EXIST THAT WOULD LEAD A PRUDENT PERSON OR ENTITY TO CONCLUDE THAT AN ACTION OR OTHER MATTER IS LIKELY TO BE ASSERTED, COMMENCED, TAKEN OR OTHERWISE PURSUED IN THE FUTURE.**

(e) **IF ANY ACTION IS COMMENCED OR THREATENED THAT MAY GIVE RISE TO A CLAIM FOR INDEMNIFICATION (A “CLAIM”) BY ANY INDEMNIFIED PARTY AGAINST THE CONTRACTOR, THEN SUCH INDEMNIFIED PARTY WILL PROMPTLY GIVE NOTICE TO THE CONTRACTOR AFTER SUCH INDEMNIFIED PARTY BECOMES AWARE OF SUCH CLAIM. FAILURE TO NOTIFY THE CONTRACTOR WILL NOT RELIEVE THE CONTRACTOR OF ANY LIABILITY THAT IT MAY HAVE TO THE INDEMNIFIED PARTY, EXCEPT TO THE EXTENT THAT THE DEFENSE OF SUCH ACTION IS MATERIALLY AND IRREVOCABLY PREJUDICED BY THE INDEMNIFIED PARTY’S FAILURE TO GIVE SUCH NOTICE. THE CONTRACTOR WILL ASSUME AND THEREAFTER DILIGENTLY AND CONTINUOUSLY CONDUCT THE DEFENSE OF A CLAIM WITH COUNSEL THAT IS SATISFACTORY TO THE INDEMNIFIED PARTY. THE INDEMNIFIED PARTY WILL HAVE THE RIGHT, AT ITS OWN EXPENSE, TO PARTICIPATE IN THE DEFENSE OF A CLAIM WITHOUT RELIEVING THE CONTRACTOR OF ANY OBLIGATION DESCRIBED ABOVE. IN NO EVENT WILL THE CONTRACTOR APPROVE THE ENTRY OF ANY JUDGMENT OR ENTER INTO ANY SETTLEMENT WITH RESPECT TO ANY CLAIM WITHOUT THE INDEMNIFIED PARTY’S PRIOR WRITTEN APPROVAL, WHICH WILL NOT BE UNREASONABLY WITHHELD. UNTIL THE CONTRACTOR ASSUMES THE DILIGENT DEFENSE OF A CLAIM, THE INDEMNIFIED PARTY MAY DEFEND AGAINST A CLAIM IN ANY MANNER THE INDEMNIFIED PARTY REASONABLY DEEMS APPROPRIATE. THE CONTRACTOR WILL REIMBURSE THE INDEMNIFIED PARTY PROMPTLY AND PERIODICALLY FOR THE DAMAGES RELATING TO DEFENDING AGAINST A CLAIM AND WILL PAY PROMPTLY THE INDEMNIFIED PARTY FOR ANY DAMAGES THE INDEMNIFIED PARTY MAY SUFFER RELATING TO A CLAIM.**

(f) **THE INDEMNIFICATION OBLIGATIONS AND RIGHTS PROVIDED FOR IN THIS CONTRACT DO NOT REQUIRE (AND SHALL NOT BE CONSTRUED AS REQUIRING) THE CONTRACTOR TO INDEMNIFY, HOLD HARMLESS, OR DEFEND ANY INDEMNIFIED PARTY (OR ANY THIRD PARTY) AGAINST ANY ACTION OR CLAIM (OR THREATENED ACTION OR CLAIM) CAUSED BY THE NEGLIGENCE OR FAULT, THE BREACH OR VIOLATION OF A STATUTE, ORDINANCE, GOVERNMENTAL REGULATION, STANDARD, OR RULE, OR THE BREACH OF CONTRACT OF ANY INDEMNIFIED PARTY, ITS AGENTS OR EMPLOYEES, OR ANY THIRD PARTY UNDER THE CONTROL OR SUPERVISION OF ANY INDEMNIFIED PARTY, OTHER THAN THE CONTRACTOR OR ITS AGENTS, EMPLOYEES, OR SUBCONTRACTORS OF ANY TIER.**

(g) **THIS PARAGRAPH WILL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS CONTRACT.**

45. RECORD RETENTION; ACCESS TO RECORDS AND REPORTS

(a) The Contractor will retain, and will require its Subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the Contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

(b) If this is a cost-reimbursement, incentive, time and materials, labor hour, or price determinable Contract, or any combination thereof, the Contractor shall maintain, and the Authority and its representatives shall have the right to examine, all books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this Contract.

(c) If the Contractor submitted certified cost or pricing data in connection with the pricing of this Contract or if the Contractor's cost of performance is relevant to any change or modification to this Contract, the Authority and its representatives shall have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing, or performance of such Contract, change, or modification for the purpose of evaluating the costs incurred and the accuracy, completeness, and currency of the cost or pricing data submitted. The right of examination shall extend to all documents necessary to permit adequate evaluation of the costs incurred and the cost or pricing data submitted, along with the computations and projections used therein.

(d) The Contractor shall maintain all books, records, accounts and reports required under this paragraph for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

(e) The Contractor agrees to provide sufficient access to the Authority and its contractors to inspect and audit records and information related to performance of this Contract as reasonably may be required.

(f) The Contractor agrees to permit the Authority and its Contractors' access to the sites of performance under this Contract as reasonably may be required.

(g) If an audit pursuant to this paragraph reveals that the Authority has paid any invoices or charges not authorized under this Contract, the Authority may offset or recoup such amounts against any indebtedness owed by it to the Contractor, whether arising under this Contract or otherwise, over a period of time equivalent to the time period over which such invoices or charges accrued.

(h) This paragraph will survive any termination or expiration of this Contract.

46. EXCUSABLE DELAYS

(a) Except for defaults of Subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this Contract under its terms if the failure arises from Force Majeure Events. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor. "Default" includes failure to make progress in the performance of the Services.

(b) If the failure to perform is caused by the failure of a Subcontractor at any tier to perform or make progress, and if the cause of the failure was beyond the control of both the Contractor and Subcontractor and without the fault or negligence of either, the Contractor shall not be deemed to be in default, unless:

- (1) the subcontracted supplies or services were obtainable from other sources;
- (2) the Authority ordered the Contractor in writing to obtain these services from the other source; and
- (3) the Contractor failed to comply reasonably with this order.

(c) Upon the request of the Contractor, the Authority shall ascertain the facts and extent of the failure. If the Authority determines that any failure to perform results from one or more of the causes above, the delivery schedule or period of performance shall be revised, subject to the rights of the Authority under this Contract.

47. LOSS OR DAMAGE TO PROPERTY

The Contractor shall be responsible for any loss or damage to property including money securities, merchandise, fixtures and equipment belonging to the Authority or to any other individual or organization, if any such loss or damage was caused by the Contractor or any SubContractor at any tier, or any employee thereof, while such person is on the premises of the Authority as an employee of the Contractor or Subcontractor.

48. CONTRACTOR CONTACT/AUTHORITY DESIGNEE

The Contractor shall provide the Authority with a telephone number to ensure immediate communication with a person (not a recording) anytime during Contract performance. Similarly, the Authority shall designate an Authority representative who shall be similarly available to the Contractor.

49. QUALITY ASSURANCE

A periodic review of the Contractor's scheduled work may be performed by the Authority. If work is deemed incomplete or unacceptable in any way, the Authority will determine the cause and require the Contractor to take corrective measures in accordance with the terms of the Contract.

50. INTERPRETATION OF CONTRACT – DISPUTES

All questions concerning interpretation or clarification of this Contract, or the acceptable fulfillment of this Contract by the Contractor shall be immediately submitted in writing to the Authority's Contracting Officer for determination. All determinations, instructions, and clarifications of the Contracting Officer shall be final and conclusive unless the Contractor files with CapMetro President/CEO within two (2) weeks after the Authority notifies the Contractor of any such determination, instruction or clarification, a written protest, stating in detail the basis of the protest. The President/CEO shall consider the protest and notify the Contractor within two (2) weeks of the protest filing of his or her final decision. The President/CEO's decisions shall be conclusive subject to judicial review. Notwithstanding any disagreement the Contractor may have with the decisions of the President/CEO, the Contractor shall proceed with the Services in accordance with the determinations, instructions, and clarifications of the President/CEO. The Contractor shall be solely responsible for requesting instructions or interpretations and liable for any cost or expenses arising from its failure to do so. The Contractor's failure to protest the Contracting Officer's determinations, instructions, or clarifications within the two-week period shall constitute a waiver by the Contractor of all of its rights to further protest.

51. TOBACCO FREE WORKPLACE

(a) Tobacco products include cigarettes, cigars, pipes, snuff, snus, chewing tobacco, smokeless tobacco, dipping tobacco and any other non-FDA approved nicotine delivery device.

(b) The tobacco free workplace policy refers to all CapMetro owned or leased property. Note that this includes all buildings, facilities, work areas, maintenance facilities, parking areas and all Authority owned vehicles.

(c) Tobacco use is not permitted at any time on CapMetro owned or leased property, including personal vehicles parked in CapMetro parking lots.

(d) Littering of tobacco-related products on the grounds or parking lots is also prohibited.

52. ORDER OF PRECEDENCE

In the event of inconsistency between the provisions of this Contract, unless otherwise provided herein, the inconsistency shall be resolved by giving precedence in the following order, as revised:

1. Exhibit A-Revised-2 – Pricing Schedule
2. Exhibit A-1-Revised-2 – Pricing Breakdown
3. Exhibit A-2-Revised-2 – Staff Pricing Details
4. Exhibit A-3-Revised-1 – Responsibility Matrix
5. Exhibit E-Revised-5 – Contractual Terms and Condition
6. Exhibit B – Representations and Certifications
7. Exhibit D – Disadvantage Business Enterprise Program/DBE(if applicable)
8. Exhibit F-Revised-4 – Scope of Services
9. Exhibit H – Proprietary Rights and Data Security Addendum
10. Exhibit I – Authorization of Work Product
11. Other provisions or attachments to the Contract

53. ANTI-CORRUPTION AND BRIBERY LAWS

The Contractor shall comply with all Applicable Anti-Corruption and Bribery Laws. The Contractor represents and warrants that it has not and shall not violate or cause the Authority to violate any such Anti-Corruption and Bribery Laws. The Contractor further represents and warrants that, in connection with supplies or Services provided to the Authority or with any other business transaction involving the Authority, it shall not pay, offer, promise, or authorize the payment or transfer of anything of value, directly or indirectly to: (a) any government official or employee (including employees of government owned or controlled companies or public international organizations) or to any political party, party official, or candidate for public office or (b) any other person or entity if such payments or transfers would violate applicable laws, including Applicable Anti-Corruption and Bribery Laws. Notwithstanding anything to the contrary herein contained, the Authority may withhold payments under this Contract, and terminate this Contract immediately by way of written notice to the Contractor, if it believes, in good faith, that the Contractor has violated or caused the Authority to violate the Applicable Anti-Corruption and Bribery Laws. The Authority shall not be liable to the Contractor for any claim, losses, or damages related to its decision to exercise its rights under this provision.

54. VARIATION IN ESTIMATED QUANTITY

If the quantity of a unit-priced item in this Contract is an estimated quantity and the actual quantity of the unit-priced item varies more than ten percent (10%) above or below the estimated quantity, an equitable adjustment in the Contract price shall be made in accordance with pricing established in Exhibit A-Revised-2, Pricing Schedule, Exhibit A-1-Revised-2, Pricing Breakdown, and Exhibit A-2-Revised-2, Staff Pricing Details.

55. ORGANIZATIONAL CONFLICT OF INTEREST (OCI)

(a) This Contract may task the Contractor to prepare or assist in preparing work statements that directly, predictably and without delay are used in future competitive acquisitions. The parties recognize that by the Contractor providing this support a potential conflict of interest arises as defined by FAR 9.5.

(b) For the purposes of this paragraph, the term “Contractor” means the Contractor, its subsidiaries and affiliates, joint ventures involving the Contractor, any entity with which the Contractor may hereafter merge or affiliate and any other successor or assignee of the Contractor.

(c) The Contractor acknowledges the full force and effect of this paragraph. It agrees to be bound by its terms and conditions and understands that violation of this paragraph may, in the judgment of the Contracting Officer, be cause for Termination for Default. The Contractor also acknowledges that this does not represent the sole and exclusive remedy available to the Authority in the event the Contractor breaches this or any other Organizational Conflict of Interest paragraph.

56. MISCELLANEOUS

(a) This Contract does not intend to, and nothing contained in this Contract shall create any partnership, joint venture or other equity type agreement between the Authority and the Contractor.

(b) All notices, statements, demands, requests, consents or approvals required under this Contract or by law by either party to the other shall be in writing and may be given or served by depositing same in the United States mail, postage paid, registered or certified and addressed to the party to be notified, with return receipt requested; by personally delivering same to such party; an agent of such party; or by overnight courier service, postage paid and addressed to the party to be notified; or by e-mail with delivery confirmation. Notice deposited in the U.S. mail in the manner hereinabove described shall be effective upon such deposit. Notice given in any other manner shall be effective only if and when received by the party to be notified.

If to the Contractor: As set forth in Exhibit B to this Contract

If to the Authority: Capital Metropolitan Transportation Authority
Attn: Chief Contracting Officer
2910 E. 5th Street
Austin, Texas 78702

Address for notice can be changed by written notice to the other party.

(c) In the event the Authority finds it necessary to employ legal counsel to enforce its rights under this Contract, or to bring an action at law, or other proceeding against the Contractor to enforce any of the terms, covenants or conditions herein, the Contractor shall pay to the Authority its reasonable attorneys' fees and expenses, regardless of whether suit is filed.

(d) If any term or provision of this Contract or any portion of a term or provision hereof or the application thereof to any person or circumstance shall, to any extent, be void, invalid or unenforceable, the remainder of this Contract will remain in full force and effect unless removal of such invalid terms or provisions destroys the legitimate purpose of the Contract in which event the Contract will be terminated.

(e) This Contract represents the entire agreement between the parties concerning the subject matter of this Contract and supersedes any and all prior or contemporaneous oral or written statements, agreements, correspondence, quotations and negotiations. In executing this Contract, the parties do not rely upon any statement, promise, or representation not expressed herein. This Contract may not be changed except by the mutual written agreement of the parties.

(f) A facsimile signature shall be deemed an original signature for all purposes. For purposes of this paragraph, the phrase "facsimile signature" includes without limitation, an image of an original signature.

(g) Whenever used herein, the term "including" shall be deemed to be followed by the words "without limitation." Words used in the singular number shall include the plural, and vice-versa, and any gender shall be deemed to include each other gender. All Exhibits attached to this Contract are incorporated herein by reference.

(h) All rights and remedies provided in this Contract are cumulative and not exclusive of any other rights or remedies that may be available to the Authority, whether provided by law, equity, statute, or otherwise. The election of any one or more remedies the Authority will not constitute a waiver of the right to pursue other available remedies.

(i) The Contractor shall not assign the whole or any part of this Contract or any monies due hereunder without the prior written consent of the Contracting Officer. No assignment shall relieve the Contractor from any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void.

(j) The failure of the Authority to insist upon strict adherence to any term of this Contract on any occasion shall not be considered a waiver or deprive the Authority thereafter to insist upon strict adherence to that term or other terms of this Contract. Furthermore, the Authority is a governmental entity, and nothing contained in this Contract shall be deemed a waiver of any rights, remedies or privileges available by law.

(k) This Contract shall be governed by and construed in accordance with the laws of the State of Texas. Any dispute arising with respect to this Contract shall be resolved in the state or federal courts of the State of Texas, sitting in Travis County, Texas and the Contractor expressly consents to the personal jurisdiction of these courts.

(l) This Contract is subject to the Texas Public Information Act, Tex. Gov't Code, Chapter 552.

(m) The Contractor represents, warrants and covenants that: (a) it has the requisite power and authority to execute, deliver and perform its obligations under this Contract; and (b) it is in compliance with all applicable laws related to such performance.

(n) The person signing on behalf of the Contractor represents for himself or herself and the Contractor that he or she is duly authorized to execute this Contract.

(o) No term or provision of this Contract is intended to be, or shall be, for the benefit of any person, firm, organization, or corporation for a party hereto, and no such other person, firm, organization or corporation shall have any right or cause of action hereunder.

(p) CapMetro is a governmental entity and nothing in this Contract shall be deemed a waiver of any rights or privileges under the law.

(q) Funding for this Contract after the current fiscal year is subject to revenue availability and appropriation of funds in the annual budget approved by the Authority's Board of Directors.

(r) Time is of the essence for all delivery, performance, submittal, and completion dates in this Contract.

57. DRUG AND ALCOHOL TESTING PROGRAM

(a) The Authority and its Contractors and Subcontractors are required to comply with the requirements of 49 C.F.R. Part 219 with no exceptions. The Contractor has established and implemented, or agrees to establish and implement, and cause its applicable Subcontractors to establish and implement, a drug and alcohol testing program for regulated employees (including volunteers, employees and probationary employees) whose duties include inspection, construction, maintenance or repair of roadway track; bridges, roadway, signal and communications systems, electric traction systems, roadway facilities or roadway maintenance machinery on or near track or with the potential of fouling a track and flagmen and watchmen/lookouts ("Part 219 employees") that complies with 49 C.F.R. Part 219, produce any documentation necessary to establish its compliance with Part 219, and permit any authorized representative of the United States Department of Transportation or the Federal Railroad Administration ("FRA") and the Authority to inspect the facilities and records associated with the implementation and operation of the drug and alcohol testing program as required under 49 C.F.R. Part 219, including the review of the testing process.

(b) **Prior to the performance of any work under the Contract by any Part 219 employees on or after June 12, 2017**, the Contractor shall furnish the Authority, and cause each Subcontractor that provides Part 219 employees to perform work under the Contract to furnish the Authority, with copies of all supporting compliance documentation including but not limited to the following:

(1) A copy of the Contractor's 49 C.F.R. Part 219 Railroad Contractor Compliance Plan.

(2) A copy of the Federal Railroad Administration's acceptance letter for 49 C.F.R. Part 219 Railroad Contractor Compliance Plan.

(3) A certified list of the Contractor's Part 219 grandfathered employees (June 12, 2017).

(4) A certified list of employees who are currently regulated by 49 C.F.R. Part 219 Railroad Contractor Compliance Plan Part 219.

(5) Copies of the employees DOT 40-25 previous employer drug and alcohol record covered by 49 C.F.R. Part 219 Railroad Contractor Compliance Plan.

(6) Updated list of the Contractor's employees when an employee status has changed or employee becomes ineligible, along with an updated certification required in subparagraph (4).

- (7) Rule G Observations when requested by the Authority.
- (8) Management Information System Report (MIS) each six (6) months.

Access to the work site will be prohibited to employees not named in the certified list required by subparagraphs (4) and (6).

(c) Upon notice to the Contractor, Capital Metro may require the Contractor and any Subcontractor providing Part 219 employees to use a third-party compliance provider to track the Contractor's Part 219 compliance. If the Contractor or any of its Subcontractors fails to utilize such required compliance provider or an approved equivalent as required, then the Authority may suspend the Contractor's performance under this Contract and/or pursue default remedies under this Contract. The Authority reserves the right to change the required third-party compliance provider upon notice to the Contractor. In the event that Capital Metro requires the Contractor to use a third-party compliance service, any costs of the required service will be reimbursed by Capital Metro provided the Contractor follows the following reimbursement procedure: the Contractor shall provide the estimated costs of the compliance service within fourteen (14) calendar days following Capital Metro's notice to the Contractor of the adoption of a third-party compliance provider requirement and the Contractor shall not incur any costs until a subsequent Contract modification is fully executed.

(d) The Contractor shall provide the Authority with a list of the names of any Subcontractors performing Part 219 Services, along with a certified list of the employees assigned by the Subcontractor to perform work under the Contract, at least ten (10) calendar days prior to the time a Subcontractor or its Part 219 employees enters the work site. The Contractor and each Subcontractor shall be solely responsible for their compliance with 49 C.F.R. Part 219.

(e) The Contractor shall include the substance of subparagraph (a)-(e) of this paragraph, in each applicable Subcontract under this Contract.

(f) If the Authority discovers that the Contractor or any of its subcontractors are not in compliance with the requirements of 49 C.F.R. Part 219, the Authority may suspend the Contractor's performance under this Contract and/or pursue default remedies under this Contract.

58. FUNDING AVAILABILITY

Funding after the current fiscal year of any contract resulting from this solicitation is subject to revenue availability and appropriation of funds in the annual budget approved by the Authority's Board of Directors.

59. SUSTAINABILITY

The Contractor is to provide the Authority with all information that the Authority may reasonably request regarding the environmental impact of the supply and use of materials the Contractor selects for use in this contract. Products used by the Contractor can provide various environmental benefits, including resource efficiency, reduced toxicity, durability, and recycled content. The Contractor is encouraged to suggest economically viable amendments to the Authority's requirements which may improve environmental performance in the carrying out of the service or works included in this contract.

60. NONWAIVER OF RIGHTS

Failure or delay of the Authority (a) to insist in any one or more instances upon performance of any of the terms and conditions of this contract or (b) to exercise any rights or remedies, or (c) to approve the Services shall not release Contractor from any of its obligations under this contract and shall not be construed as a waiver or relinquishment of the Authority's rights (a) to require strict performance of Contractor's obligations or (b) to require the future performance of any terms and conditions, but the Contractor's obligations with respect to such performance shall continue in full force and effect.

61. LABOR PROVISIONS

(a) Section 13(c). Except as provided in subsections (b) and (c) below, the Authority shall be administratively and financially responsible for obligations under Section 13(c) of the Federal Transit Act (49 USC §5333(b)) and CapMetro 1989 13(c) Agreement and the National Model 13(c) Agreement.

(b) The Contractor shall be responsible for and have financial liability for any 13(c) claims or obligations that arise out of any acts or omissions of the Contractor that are not directed or authorized by the Authority. The Contractor agrees that it is bound to the terms of the 1989 13(c) Agreement and the National Model 13(c) Agreement and shall collectively bargain with the collective bargaining representative selected by the work force in accordance with the National Labor Relations Act (NLRA) and applicable law and shall comply with the terms and conditions of any collective bargaining agreement it enters into with such representative. In addition, the Contractor shall cooperate with the Authority (including the provision of payroll records and other information) in the resolution or defense of any 13(c) claims or disputes, and in the implementation of any 13(c) remedies.

(c) The Contractor shall not assist or encourage any employee to file or otherwise pursue a 13(c) claim against the Authority or take any action which is contrary to the interests of the Authority under 13(c) or its 13(c) arrangements or agreements, relating to the termination of Services under this contract, any future transition from the Contractor to service provider, or any other action or event relating to this contract. If the Contractor fails to comply with this obligation, the Contractor shall be financially liable for all costs incurred by the Authority (including attorneys' fees) associated with any 13(c) claims or delays in the receipt of Federal grants.

(d) Labor Provisions – The Contractor is contractually required to comply with the labor obligations and requirements set forth in section 31, entitled Labor Relations, in Exhibit F-Revised-4, Scope of Services, as if set forth fully in the Contractual Terms and Conditions of this **Exhibit E-Revised-5**.

62. CAPMETRO PROPERTY

(a) CapMetro-furnished property.

(1) CapMetro shall deliver to the Contractor, for use in connection with and under the terms of this Contract, CapMetro-furnished property described together with any related data and information that the Contractor may request and is reasonably required for the intended use of the property (hereinafter referred to as "CapMetro-furnished property").

(2) The delivery or performance dates for this Contract are based upon the expectation that CapMetro-furnished property suitable for use (except for property furnished "as is") will be delivered to the Contractor in sufficient time to enable the Contractor to meet the Contract's delivery or performance dates.

(3) If CapMetro-furnished property is received by the Contractor in a condition not suitable for the intended use, the Contractor shall, upon receipt of it, notify CapMetro Program Manager, detailing the facts, and, as directed by CapMetro and at CapMetro expense, either repair, modify, return, or otherwise dispose of the property. After completing the directed action and upon written request of the Contractor, CapMetro shall make an equitable adjustment as provided in paragraph (h) of this clause.

(4) If CapMetro-furnished property is not delivered to the Contractor by the required time, CapMetro shall, upon the Contractor's timely written request, make a determination of the delay, if any, caused the Contractor and shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(b) Changes in CapMetro-furnished property.

(1) CapMetro may, by written notice:

(i) decrease CapMetro-furnished property provided or to be provided under this contract, or

(ii) substitute other CapMetro-furnished property for the property to be provided by CapMetro, or to be acquired by the Contractor for CapMetro, under this contract. The Contractor shall promptly take such action as CapMetro may direct regarding the removal, shipment, or disposal of the property covered by such notice.

(2) Upon the Contractor's written request, the Contracting Officer shall make an equitable adjustment to the contract in accordance with paragraph (h) of this clause, if CapMetro has agreed to make the property available for performing this contract and there is any-

- (i) Decrease or substitution in this property pursuant to paragraph (b)(1) of this clause; or
- (ii) Withdrawal of authority to use this property, if provided under any other contract or lease.

(c) Title in CapMetro property.

(1) CapMetro shall retain title to all CapMetro-furnished property.

(2) All CapMetro-furnished property and all property acquired by the Contractor, title to which vests in CapMetro under this paragraph (collectively referred to as "CapMetro property"), are subject to the provisions of this clause. Title to CapMetro property shall not be affected by its incorporation into or attachment to any property not owned by CapMetro, nor shall CapMetro property become a fixture or lose its identity as personal property by being attached to any real property.

(3) Title to each item of facilities and equipment acquired by the Contractor for CapMetro under this Contract shall pass to and vest in CapMetro when its use in performing this Contract commences or when CapMetro has paid for it, whichever is earlier, whether or not title previously vested in CapMetro.

(4) If this Contract contains a provision directing the Contractor to purchase material for which CapMetro will reimburse the Contractor as a direct item of cost under this Contract-

(i) Title to material purchased from a vendor shall pass to and vest in CapMetro upon the vendor's delivery of such material; and

(ii) Title to all other material shall pass to and vest in CapMetro upon-

- (A) Issuance of the material for use in contract performance;
- (B) Commencement of processing of the material or its use in contract performance; or
- (C) Reimbursement of the cost of the material by CapMetro, whichever occurs first.

(d) Use of CapMetro property.

CapMetro property shall be used only for performing this contract, unless otherwise provided in this contract or approved by CapMetro.

(e) Property administration.

(1) The Contractor shall be responsible and accountable for all CapMetro property provided under this contract.

(2) The Contractor shall establish and maintain a program for the use, maintenance, repair, protection, and preservation of CapMetro property in accordance with sound industrial practice.

(3) If damage occurs to CapMetro property, the risk of which has been assumed by CapMetro under this Contract, CapMetro shall replace the items, or the Contractor shall make such repairs as CapMetro directs. However, if the Contractor cannot affect such repairs within the time required, the Contractor shall dispose of the property as directed by CapMetro. When any property for which CapMetro is responsible is replaced or repaired, CapMetro shall make an equitable adjustment in accordance with paragraph (h) of this clause.

(4) The Contractor represents that the Contract price does not include any amount for repairs or replacement for which CapMetro is responsible. Repair or replacement of property for which the Contractor is responsible shall be accomplished by the Contractor at its own expense.

(f) Access.

CapMetro and all its designees shall have access at all reasonable times to the premises in which any CapMetro property is located for the purpose of inspecting CapMetro property.

(g) Risk of loss.

Unless otherwise provided in this Contract, the Contractor assumes the risk of, and shall be responsible for, any loss or destruction of, or damage to, CapMetro property upon its delivery to the Contractor or upon passage of title to CapMetro under paragraph (c) of this clause. However, the Contractor is not responsible for reasonable wear and tear to CapMetro property or for CapMetro property properly consumed in performing this contract.

(h) Equitable adjustment.

When this clause specifies an equitable adjustment, it shall be made to any affected contract provision in accordance with the procedures of the Changes clause. When appropriate, CapMetro may initiate an equitable adjustment in favor of CapMetro. The right to an equitable adjustment shall be the Contractor's exclusive remedy. CapMetro shall not be liable to suit for breach of contract for-

- (1) Any delay in delivery of CapMetro-furnished property;
- (2) Delivery of CapMetro-furnished property in a condition not suitable for its intended use;
- (3) A decrease in or substitution of CapMetro-furnished property; or
- (4) Failure to repair or replace CapMetro property for which CapMetro is responsible.

(i) Final accounting and disposition of CapMetro property.

Upon completing this contract, or at such earlier dates as may be fixed by CapMetro, the Contractor shall submit, in a form acceptable to CapMetro, inventory schedules covering all items of CapMetro property (including any resulting scrap) not consumed in performing this contract or delivered to CapMetro. The Contractor shall prepare for shipment, deliver f.o.b. origin, or dispose of CapMetro property as may be directed or authorized by CapMetro. The net proceeds of any such disposal shall be credited to the contract price or shall be paid to CapMetro as CapMetro directs.

(j) Abandonment and restoration of Contractor's premises.

Unless otherwise provided herein, CapMetro –

(1) May abandon any CapMetro property in place, at which time all obligations of CapMetro regarding such abandoned property shall cease; and

(2) Has no obligation to restore or rehabilitate the Contractor's premises under any circumstances (e.g., abandonment, disposition upon completion of need, or upon contract completion). However, if CapMetro-furnished property is withdrawn or is unsuitable for the intended use, or if other CapMetro property is substituted, then the equitable adjustment under paragraph (h) of this clause may properly include restoration or rehabilitation costs.

(k) Communications.

All communications under this clause shall be in writing.

63. CAPMETRO PROPERTY (FACILITIES)

(a) Definitions. For the purpose of this contract, the following definitions apply:

- "Facilities," as used in this clause, means all property provided under this contract
- "Related contract," as used in this clause, means a CapMetro contract or subcontract for supplies or services under which the use of the facilities is or may be authorized.

(b) Facilities to be provided.

CapMetro, subject to the provisions of this contract, shall furnish to the Contractor the facilities identified, as CapMetro-furnished facilities.

(c) Period of this contract.

If not otherwise specified in the contract and if not previously terminated under paragraph (m) below, the use of the facilities authorized under this contract shall terminate upon expiration of the contract.

(d) Title in the facilities.

(1) CapMetro shall retain title to all CapMetro-furnished property.

(2) Title to all facilities and components shall pass to and vest in CapMetro upon delivery by the vendor of all such items purchased by the Contractor for which it is entitled to be reimbursed as a direct item of cost under this contract.

(3) Title to replacement parts furnished by the Contractor in carrying out its normal maintenance obligations under paragraph (h) below shall pass to and vest in CapMetro upon completion of their installation in the facilities.

(4) Title to other property, the cost of which is reimbursable to the Contractor under this Contract, shall pass to and vest in CapMetro upon:

- (i) Issuance of the property for use in performing this Contract;
- (ii) Commencement of processing or use of the property in performing this Contract; or
- (iii) Reimbursement of the cost of the property by CapMetro, whichever occurs first.

(5) Title to the facilities shall not be affected by their incorporation into or attachment to any property not owned by CapMetro, nor shall any item of the facilities become a fixture or lose its identity as personal property by being attached to any real property. The Contractor shall keep the facilities free and clear of all liens and encumbrances and, except as otherwise authorized by this contract or by CapMetro, shall not remove or otherwise part with possession of, or permit the use by others of, any of the facilities.

(6) The Contractor may at its own expense, with the written approval of CapMetro, install, arrange, or rearrange, on CapMetro-furnished premises, readily movable machinery, equipment, and other items belonging to the Contractor. Title to any such item shall remain in the Contractor even though it may be attached to real property owned by CapMetro, unless CapMetro determines that it is so permanently attached that removal would cause substantial injury to CapMetro property.

(7) The Contractor shall not construct or install, at its own expense, any fixed improvement or structural alterations in CapMetro buildings or other real property without advance written approval of CapMetro. Fixed improvement or structural alterations, as used herein, means any alteration or improvement in the nature of the building or other real property that, after completion, cannot be removed without substantial loss of value or damage to the premises. The term does not include foundations for production equipment.

(e) Location of the facilities.

The Contractor may use the facilities at any of the locations with the prior written approval of CapMetro, at any other location. In granting this approval, CapMetro may prescribe such terms and conditions as may be deemed necessary for protecting CapMetro's interest in the facilities involved. Those terms and conditions shall take precedence over any conflicting provisions of this contract.

(f) Notice of use of the facilities.

The Contractor shall notify CapMetro in writing:

(1) Whenever use of all facilities for CapMetro work in any quarterly period averages less than 75 percent of the total use of the facilities; or

(2) Whenever any item of the facilities is no longer needed or usable for performing existing related contracts that authorize such use.

(g) Property control.

The Contractor shall maintain property control procedures and records and a system of identification of the facilities, in accordance with Management of CapMetro Property in the Possession of Contractors, of this **Exhibit E-Revised-5**.

(h) Maintenance.

(1) Except as otherwise provided in the Contract, the Contractor shall perform normal maintenance of the facilities in accordance with sound industrial practice, including protection, preservation, and repair of the facilities and normal parts replacement for equipment. In addition, the maintenance shall include, but not be limited to the following:

(i) Annual inspection and certification of existing back flow protection device on the 2" water line for the bus wash system.

(ii) Annual industrial waste/discharge permit for the existing sludge/grease traps located on site underground.

(iii) Annual cost of having sludge/grease pit emptied and disposal of contents at a licensed hazardous waste disposal site and tracking of hazardous waste according all local, state or other applicable regulations or EPA guidelines.

(iv) Disposal of reclaimed motor oil;

(v) Annual inspection of existing irrigation system and replacement of damaged parts;

(vi) Plumbing lines and equipment repair;

(vii) Exterior lighting and high-bay maintenance light bulb replacement;

(viii) Bus wash gantry system annual maintenance and repair.

(2) **Within twenty (20) days** after the issuance of Notice to Proceed, the Contractor shall submit to CapMetro Project Manager a written proposed maintenance program, including a maintenance records system, in sufficient detail to show its adequacy. If the Project Manager agrees to the proposed program, it shall become the normal maintenance obligation of the Contractor. The Contractor's performance according to the approved program shall satisfy the Contractor's obligations under paragraphs (h)(1) and (h)(5) of this clause.

(3) CapMetro may at any time direct the Contractor in writing to reduce the work required by the normal maintenance program. If such order reduces the cost of performing the maintenance, an appropriate equitable adjustment may be made in any affected related contract that so provides.

(4) The Contractor shall perform any maintenance work directed by CapMetro in writing. The Contractor shall notify CapMetro in writing when sound industrial practice requires maintenance in excess of the normal maintenance program.

(5) The Contractor shall keep records of all work done on the facilities and shall give CapMetro reasonable opportunity to inspect these records. All records related to asset management, maintenance and disposal will be documented in the Spear 4i asset management system. When facilities are disposed of under this contract, the Contractor shall deliver the related records to CapMetro or, if CapMetro directs, to third persons.

(6) The Contractor's obligation under this clause for each item of facilities shall continue until the item is removed, abandoned, or disposed of; until the expiration of the 120-day period stated in paragraph (n)(3) of this clause; and until the Contractor has discharged its other obligations under this contract with respect to such items.

(i) Access.

CapMetro and any persons designated by it shall, at all reasonable times, have access to the premises where any of the facilities are located.

(j) Indemnification of CapMetro.

The Contractor shall indemnify CapMetro and hold it harmless against claims for injury to persons or damage to property of the Contractor or others arising from the Contractor's possession or use of the facilities.

(k) Late delivery, diversion, and substitution.

(1) CapMetro shall not be liable for breach of contract for any delay in delivery or non-delivery of facilities to be furnished under this contract.

(2) CapMetro has the right, at its expense, to divert the facilities under this contract by directing the Contractor to-

(i) Deliver any of the facilities to locations other than those specified; or

(ii) Assign purchase orders or subcontracts for any of the facilities to CapMetro or third parties.

(3) CapMetro may furnish any facilities instead of having the Contractor acquire or construct them. In such event, the Contractor is entitled to reimbursement for the cost related to the acquisition or construction of the facilities, including the cost of terminating purchase orders and subcontracts.

(4) Appropriate equitable adjustment may be made in any related contract that so provides and that is affected by any non-delivery, delay, diversion, or substitution under this paragraph (k).

(l) Representations and warranties.

(1) CapMetro makes no warranty, express or implied, regarding the condition or fitness for use of any facilities. To the extent practical, the Contractor shall be allowed to inspect all the facilities to be furnished by CapMetro before the award of this contract.

(2) If the Contractor receives facilities in a condition not suitable for the intended use, the Contractor shall, within 30 days after receipt and installation thereof, so notify CapMetro, detailing the facts and, as directed by CapMetro and at CapMetro expense, either

(i) return such item or otherwise dispose of it or

(ii) effect repairs or modifications. An appropriate equitable adjustment may be made in any related contract that so provides and that is affected by the return, disposition, repair, or modification of any facilities.

(m) Termination of the use of the facilities.

The Contracting Officer may at any time, upon written notice, terminate or limit the Contractor's authority to use any of the facilities. Except as otherwise provided in this contract, an equitable adjustment may be made in any related contract of the Contractor that so provides and that is affected by such notice.

(n) Disposition of the facilities.

(1) The provisions of this paragraph (n) shall apply to facilities for which use has been terminated by CapMetro under paragraph (m), except as provided in paragraph (n)(2).

(2) Within 60 days after the effective date of any notice of termination given under paragraph (m), or within such longer period as CapMetro may approve in writing, the Contractor shall submit to CapMetro, in a form satisfactory to CapMetro, an accounting for all the facilities covered by the notice.

(3) Within 120 days after the Contractor accounts for any facilities under paragraph (n)(2), CapMetro shall give written notice to the Contractor as to the disposition of the facilities, except as otherwise provided in paragraph (n)(5). In its disposition of the facilities, CapMetro may either-

(i) Abandon the facilities in place, in which case all obligations of CapMetro regarding such abandoned facilities and the restoration or rehabilitation of the premises in and on which they are located shall immediately cease; or

(ii) Require the Contractor to comply, at CapMetro expense, with such directions as CapMetro may give with respect to:

(A) The preparation, protection, removal, or shipment of the affected facilities;

(B) The retention or storage of the affected facilities; provided that CapMetro shall not direct the Contractor to retain or store any items of facilities in or on real property not owned by CapMetro if such retention or storage will interfere with the Contractor's operations;

(C) The restoration of CapMetro-owned property incident to the removal of the facilities from such property; and

(D) The sale of any affected facilities in such manner, at such times, and at such price as may be approved by CapMetro, except that the Contractor shall not be required to extend credit to any purchaser.

(4) If CapMetro fails to give the written notice required by paragraph (n)(3) within the prescribed 120-day period, the Contractor may, upon not less than 30 days' written notice to CapMetro and at CapMetro risk and expense,

(i) retain the facilities in place, or

(ii) remove any of the affected severable facilities located in Contractor-owned property and store them at the Contractor's plant or in a public insured warehouse, in accordance with sound practice. Except as provided in this paragraph, CapMetro shall not be liable to the Contractor for failure to give the written notice required by paragraph (n)(3).

(5) Non-severable items of the facilities or items of the facilities subject to patent or proprietary rights shall be disposed of in such manner as the parties may have agreed to in writing.

(6) CapMetro, either directly or by third persons engaged by it, may remove or otherwise dispose of any facilities for which the Contractor's authority to use has been terminated, other than those for which specific provision is made in paragraph (n)(5).

(7) The Contractor shall, within a reasonable time after the expiration of the 120-day period specified in paragraph (n)(3), remove all of its property from CapMetro property and take such action as CapMetro may direct in writing with respect to restoring that CapMetro property (to the extent that it is affected by the installation of the Contractor's property) to its condition before such installation.

(8) Unless otherwise specifically provided in this contract, CapMetro shall not be obligated to the Contractor to restore or rehabilitate any property at the Contractor's plant, except for restoration or rehabilitation costs caused by removal of the facilities under subdivision (n)(3)(ii). The Contractor agrees to indemnify CapMetro against all suits or claims for damages arising out of CapMetro's failure to restore or rehabilitate any property at the Contractor's plant or property of its subcontractors, except any damage as may be caused by the negligence of CapMetro, its agents, or independent Contractors.

64. LIABILITY FOR THE FACILITIES

(a) The term "Contractor's managerial personnel," as used in this clause, means any of the Contractor's directors, officers, managers, superintendents, or equivalent representatives who have supervision or direction of:

(1) All or substantially all of the Contractor's business,

(2) All or substantially all of the Contractor's operations at any one plant or separate location in which the facilities are installed or located, or

(3) A separate and complete major industrial operation in connection with which the facilities are used.

(b) The Contractor shall not be liable for any loss or destruction of, or damage to, the facilities or for expenses incidental to such loss, destruction, or damage, except as provided in this clause.

(c) The Contractor shall be liable for loss or destruction of, or damage to, the facilities, and for expenses incidental to such loss, destruction, or damage:

(1) Which results from a risk expressly required to be insured under this contract, but only to the extent of the insurance required to be purchased and maintained, or to the extent of insurance actually purchased and maintained, whichever is greater;

(2) Which results from a risk that is in fact covered by insurance or for which the Contractor is otherwise reimbursed, but only to the extent of such insurance or reimbursement;

(3) For which the Contractor is otherwise responsible under the express terms of this contract;

(4) Which results from willful misconduct or lack of good faith on the part of the Contractor's managerial personnel; or

(5) Which results from a failure, due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel:

(i) To establish, maintain, and administer a system for control of the facilities in as set forth herein; or

(ii) To maintain and administer a program for maintenance, repair, protection, and preservation of the facilities, or to take reasonable steps to comply with any appropriate written direction that CapMetro may prescribe as reasonably necessary for the protection of the facilities.

(d) If the Contractor fails to act as provided by paragraph (c)(5) of this clause, after being notified (by certified mail addressed to one of the Contractor's managerial personnel) of CapMetro's disapproval, withdrawal of approval, or non-acceptance of the system or program, it shall be conclusively presumed that such failure was due to willful misconduct or lack of good faith on the part of the Contractor's managerial personnel.

Furthermore, any loss or destruction of, or damage to, CapMetro property shall be presumed to have resulted from such failure unless the Contractor can establish by clear and convincing evidence that such loss, destruction, or damage:

- (1) Did not result from the Contractor's failure to maintain an approved program or system, or
- (2) Occurred while an approved program or system was maintained by the Contractor.

(e) If the Contractor transfers facilities to the possession and control of a subcontractor, the transfer shall not affect the liability of the Contractor for loss or destruction of, or damage to, the facilities. However, the Contractor shall require the subcontractor to assume the risk of, and be responsible for, any loss or destruction of, or damage to, the facilities while in the subcontractor's possession or control, except to the extent that the subcontract, with the advance approval of CapMetro, relieves the subcontractor from such liability. In the absence of such approval, the subcontract shall contain appropriate provisions requiring the return of all the facilities in as good condition as when received, except for reasonable wear and tear or for their utilization in accordance with the provisions of the prime contract.

(f) Unless expressly directed in writing by CapMetro, the Contractor shall not include in the price or cost under any contract with CapMetro the cost of insurance (including self-insurance) against any form of loss, destruction, or damage to the facilities. Any insurance required under this clause shall be in such form, in such amounts, for such periods of time, and with such insurers (including the Contractor as self-insurer in appropriate circumstances) as CapMetro shall require or approve. Such insurance shall provide for thirty (30) days advance notice to the Contracting Officer, in the event of cancellation or material change in the policy coverage on the part of the insurer. Documentation of insurance or an authenticated copy of such insurance shall be deposited promptly with CapMetro. The Contractor shall, not less than thirty (30) days before the expiration of such insurance, deliver to CapMetro documentation of insurance or an authenticated copy of each renewal policy. The insurance shall be in the name of CapMetro, the Contractor, and such other interested parties as CapMetro shall approve and shall contain a loss payable clause reading substantially as follows: Any loss under this policy shall be adjusted with (Contractor) and the proceeds, at the direction of CapMetro, shall be paid to (Contractor). Proceeds not paid to (Contractor) shall be paid to the office designated by CapMetro.

(g) When there is any loss or destruction of, or damage to, the facilities:

(1) The Contractor shall promptly notify CapMetro and, with the assistance of CapMetro, shall take all reasonable steps to protect the facilities from further damage, separate the damaged and undamaged facilities, put all the facilities in the best possible order, and promptly furnish to CapMetro (and in any event within 30 days) a statement of:

- (i) The facilities lost or damaged,
- (ii) The time and origin of the loss or damage,
- (ii) All known interests in commingled property of which the facilities are a part, and
- (iv) Any insurance covering any part of or interest in such commingled property.

(2) The Contractor shall make such repairs, replacements and renovations of the lost, destroyed, or damaged facilities, or take such other action as CapMetro may direct in writing; and

(3) The Contractor shall perform its obligations under this paragraph (g) at CapMetro expense, except to the extent that the Contractor is liable for such damage, destruction, or loss under the terms of this clause, and except as any damage, destruction, or loss is compensated by insurance.

(h) CapMetro is not obliged to replace or repair the facilities that have been lost, destroyed, or damaged. If CapMetro does not replace or repair the facilities, the right of the parties to an equitable adjustment in delivery or performance dates, price, or both, and in any other contractual condition of the related contracts affected shall be governed by the terms and conditions of those contracts.

(i) Except to the extent of any loss or destruction of, or damage to, the facilities for which the Contractor is relieved of liability, the facilities shall be returned to CapMetro or otherwise disposed of under the terms of this contract:

- (1) In as good condition as when received by the Contractor;
- (2) Improved; or
- (3) As required under the terms of this contract, less ordinary wear and tear.

(j) If the Contractor is in any way compensated (excepting proceeds from use and occupancy insurance, the cost of which is not borne directly or indirectly by CapMetro) for any loss or destruction of, or damage to, the facilities, the Contractor, as directed by CapMetro, shall:

- (1) Use the proceeds to repair, renovate, or replace the facilities involved; or
- (2) Pay such proceeds to CapMetro.

(k) The Contractor shall do nothing to prejudice CapMetro's right to recover against third parties for any loss or destruction of, or damage to, the facilities. Upon the request of the Contracting Officer, the Contractor shall furnish to CapMetro, at CapMetro expense, all reasonable assistance and cooperation (including the prosecution of suit and the execution of instruments of assignment in favor of CapMetro) in obtaining recovery.

65. MANAGEMENT OF CAPMETRO PROPERTY IN THE POSSESSION OF CONTRACTORS

(a) Scope

This section prescribes the minimum requirements Contractors must meet in establishing and maintaining control over CapMetro property. If there is any inconsistency between this section and the terms of the contract under which CapMetro property is provided, the terms of the contract shall govern.

(b) Definitions

(1) "Accessory item," as used in this section, means an item that facilitates or enhances the operation of plant equipment, but which is not essential for its operation.

(2) "Auxiliary item," as used in this section, means an item without which the basic unit of plant equipment cannot operate.

(3) "Contractor-acquired property," as used in this part, means property acquired or otherwise provided by the Contractor for performing a contract and to which CapMetro has title.

(4) "Custodial records," as used in this section, means written memoranda of any kind, such as requisitions, issue hand receipts, tool checks, and stock record books, used to control items issued from tool cribs, tool rooms, and stockrooms.

(5) "Discrepancies incident to shipment," as used in this section, means all deficiencies incident to shipment of CapMetro property to or from a Contractor's facility whereby differences exist between the property purported to have been shipped and property actually received. Such deficiencies include loss, damage, destruction, improper status and condition coding, errors in identity or classification, and improper consignment.

(6) "Facilities," as used in this section, means a contract under which CapMetro facilities are provided to a Contractor or subcontractor by CapMetro for use in connection with performing one or more related contracts for supplies or services.

(7) "CapMetro-furnished property," as used in this part, means property in the possession of, or directly acquired by, CapMetro and subsequently made available to the Contractor.

(8) "CapMetro property," means all property owned by or leased to CapMetro or acquired by CapMetro under the terms of the contract. It includes both CapMetro-furnished property and Contractor-acquired property as defined in this section. "Individual item record," as used in this section, means a separate card, form, document or specific line(s) of computer data used to account for one item of property.

(9) "Plant equipment," as used in this part, means personal property of a capital nature (including equipment, machine tools, test equipment, furniture, vehicles, and accessory and auxiliary items) for use in manufacturing supplies, in performing services, or for any administrative or general plant purpose. It does not include special tooling or special test equipment.

(10) "Property administrator," as used in this section, means an authorized representative of CapMetro assigned to administer the contract requirements and obligations relating to CapMetro property.

(11) "Real property," as used in this part, means land and rights in land, ground improvements, utility distribution systems, and buildings and other structures. It does not include foundations and other work necessary for installing special tooling, special test equipment, or plant equipment.

(12) "Property," as used in this part, means all property, both real and personal. It includes facilities, material, special tooling, special test equipment, and agency-peculiar property.

(13) "Salvage," as used in this section, means property that, because of its worn, damaged, deteriorated, or incomplete condition or specialized nature, has no reasonable prospect of sale or use as serviceable property without major repairs, but has some value in excess of its scrap value.

(14) "Scrap," as used in this section, means personal property that has no value except for its basic material content.

(15) "Special test equipment," as used in this part, means either single or multipurpose integrated test units engineered, designed, fabricated, or modified to accomplish special purpose testing in performing a contract. It consists of items or assemblies of equipment including standard or general-purpose items or components that are interconnected and interdependent so as to become a new functional entity for special testing purposes. It does not include material, special tooling, facilities (except foundations and similar improvements necessary for installing special test equipment), and plant equipment items used for general plant testing purposes.

(16) "Special tooling," as used in this part, means jigs, dies, fixtures, molds, patterns, taps, gauges, other equipment and manufacturing aids, all components of these items, and replacement of these items, which are of such a specialized nature that without substantial modification or alteration their use is limited to the development or production of particular supplies or parts thereof or to the performance of particular services. It does not include material, special test equipment, facilities (except foundations and similar improvements necessary for installing special tooling), general or special machine tools, or similar capital items.

(17) "Stock record," as used in this section, means a perpetual inventory record which shows by nomenclature the quantities of each item received and issued and the balance on hand.

(18) "Summary record," as used in this section, means a separate card, form, document or specific line(s) of computer data used to account for multiple quantities of a line item of special tooling, special test equipment, or plant equipment costing less than \$5,000 per unit.

(19) "Utility distribution system," as used in this section, includes distribution and transmission lines, substations, or installed equipment forming an integral part of the system by which gas, water, steam, electricity, sewerage, or other utility services are transmitted between the outside building or structure in which the services are used and the point of origin, disposal, or connection with some other system. It does not include communication services.

(20) "Work-in-process," as used in this section, means material that has been released to manufacturing, engineering, design or other services under the contract and includes undelivered manufactured parts, assemblies, and products, either complete or incomplete.

(c) Contractor Responsibility

(1) The Contractor is directly responsible and accountable for all CapMetro property in accordance with the requirements of the contract. This includes CapMetro property in the possession or control of a subcontractor. The Contractor shall establish and maintain a system in accordance with this section to control, protect, preserve, and maintain all CapMetro property. This property control system shall be in writing unless the property administrator determines that maintaining a written system is unnecessary. The system shall be reviewed and, if satisfactory, approved in writing by the property administrator.

(2) The Contractor shall maintain and make available the records required by this section and account for all CapMetro property until relieved of that responsibility. The Contractor shall furnish all necessary data to substantiate any request for relief from responsibility.

(3) The Contractor shall be responsible for the control of CapMetro property under this section upon:

(i) Delivery of CapMetro-furnished property into its custody or control;

(ii) Delivery, when property is purchased by the Contractor and the contract calls for reimbursement by CapMetro (this requirement does not alter or modify contractual requirements relating to passage of title);

(iii) Approval of its claim for reimbursement by CapMetro or upon issuance for use in contract performance, whichever is earlier, of property withdrawn from Contractor-owned stores and charged directly to the contract; or

(iv) Acceptance of title by CapMetro when title is acquired pursuant to specific contract clauses or as a result of change orders or contract termination.

(4) Property to which CapMetro has acquired a lien or title solely as a result of advance, progress, or partial payments is not subject to the requirements of this section.

(5) The Contractor shall require subcontractors provided CapMetro property under the prime contract to comply with the requirements of this section. Procedures for assuring subcontractor compliance shall be included in the Contractor's property control system.

(6) If the property management finds any portion of the Contractor's property control system to be inadequate, the Contractor must take any necessary corrective action before the system can be approved. If the Contractor and property administrator cannot agree regarding the adequacy of control and corrective action, the matter shall be referred to the contracting officer.

(7) When CapMetro property is disclosed to be in the possession or control of the Contractor but not provided under any contract, the Contractor shall promptly:

(i) Record such property according to the established property control procedure; and

(ii) Furnish to the property administrator all known circumstances and data pertaining to its receipt and a statement as to whether there is a need for its retention.

(8) The Contractor shall promptly report all CapMetro property in excess of the amounts needed to complete full performance under the contracts providing it or authorizing its use.

(9) When unrecorded CapMetro property is found, both the cause of the discrepancy and actions taken or needed to prevent recurrence shall be determined and reported to the property administrator.

(d) Receipts for CapMetro Property

The Contractor shall furnish written receipts for all or specified classes of CapMetro property only when the property administrator deems it essential for maintaining minimum acceptable property controls. If evidence of receipt is required for Contractor-acquired property, the Contractor shall provide it before submitting its request for payment for the property. For CapMetro-furnished property, the Contractor shall provide the required receipt immediately upon receipt of the property.

(e) Discrepancies Incident to Shipment

(1) CapMetro-furnished property. If overages, shortages, or damages are discovered upon receipt of CapMetro-furnished property, the Contractor shall provide a statement of the condition and apparent causes to the property administrator and to other activities specified in the approved property control system. Only that quantity of property actually received will be recorded on the official records.

(2) Contractor-acquired property. The Contractor shall take all actions necessary in adjusting overages, shortages, or damages in shipment of Contractor-acquired property from a vendor or supplier. However, when the shipment has moved by CapMetro bill of lading and carrier liability is indicated, the Contractor shall report the discrepancy in accordance with paragraph (1) of this subsection.

(f) Relief from Responsibility

Unless the contract or CapMetro provides otherwise, the Contractor shall be relieved of property control responsibility for CapMetro property by:

(1) Reasonable and proper consumption of property in the performance of the contract as determined by the property administrator;

(2) Retention by the Contractor, with the approval of CapMetro, of property for which CapMetro has received consideration;

(3) The authorized sale of property, provided the proceeds are received by or credited to CapMetro;

(4) Shipment from the Contractor's plant, under CapMetro instructions, except when shipment is to a subcontractor or other location of the Contractor; or

(5) A determination by CapMetro of the Contractor's liability for any property that is lost, damaged, destroyed, or consumed in excess of that normally anticipated in a manufacturing or processing operation, if:

(i) The determination is furnished to the Contractor in writing;

(ii) CapMetro is reimbursed where required by the determination; and

(iii) Property rendered unserviceable by damage is properly disposed of, and the determination is cross-referenced to the shipping or other documents evidencing disposal.

(g) Contractor's Liability

(1) Subject to the terms of the contract and the circumstances surrounding the particular case, the Contractor may be liable for shortages, loss, damages, or destruction of CapMetro property. The Contractor may also be liable when the use or consumption of CapMetro property unreasonably exceeds the allowances provided for by the contract, the bill of material, or other appropriate criteria.

(2) The Contractor shall investigate and report to the property administrator all cases of loss, damage, or destruction of CapMetro property in its possession or control as soon as the facts become known or when requested by the property administrator. A report shall be furnished when completed and accepted products or end items are lost, damaged, or destroyed while in the Contractor's possession or control.

(3) The Contractor shall require any of its subcontractors possessing or controlling CapMetro property accountable under the contract to investigate and report all instances of loss, damage, or destruction of such property.

(h) Records and Reports of CapMetro Property

(1) The Contractor's property control records shall constitute CapMetro's official property records unless an exception has been authorized. The Contractor shall establish and maintain adequate control records for all CapMetro property, including property provided to and in the possession or control of a subcontractor. The property control records specified in this section are the minimum required by CapMetro. Unless the property administrator directs otherwise, when a subcontractor has an approved property control system for CapMetro property provided under its own prime contracts, the Contractor shall use the records created and maintained under that system.

(2) The Contractor's property control system shall provide financial accounts for CapMetro -owned property in the Contractor's possession or control. The system shall be subject to internal control standards and be supported by property records for such property.

(3) Official CapMetro property records must identify all CapMetro property and provide a complete, current, auditable record of all transactions. The Contractor's system of records maintenance shall be sufficient to adequately control CapMetro property as required by this section. The Contractor's system of records maintenance, as a minimum, shall be equivalent to and maintained in the same manner as the Contractor's system for maintaining records of Contractor-owned property, but need not exceed the requirements of this section. The records shall be safeguarded from tampering or destruction. Records shall be accessible to authorized CapMetro personnel.

(4) Separate property records for each contract are desirable, but a consolidated property record may be maintained if it provides the required information.

(5) Special tooling and special test equipment fabricated from materials that are the property of CapMetro shall be recorded as CapMetro-owned immediately upon fabrication. Special tooling and special test equipment fabricated from materials that are the property of the Contractor shall be recorded as CapMetro property at the time title passes to CapMetro.

(6) Property records of the type established for components acquired separately shall be used for serviceable components permanently removed from items of CapMetro property as a result of modification.

(7) The Contractor's property control system shall contain a system or technique to locate any item of CapMetro property within a reasonable period of time.

(i) Basic Information

(1) Unless summary records are used as authorized under paragraph (b) of this section, the Contractor's property control records shall provide the following basic information for every item of CapMetro property in the Contractor's possession, regardless of value:

- (i) The name, description, and Stock Number (if furnished by CapMetro or available in the property control system).
- (ii) Quantity received (or fabricated), issued, and on hand.
- (iii) Unit price (and unit of measure).
- (iv) Contract number or equivalent code designation.
- (v) Location.
- (vi) Disposition.
- (vii) Posting reference and date of transaction.

(2) Summary records are normally adequate for special tooling, special test equipment, and plant equipment costing less than \$5,000 per unit, except where CapMetro determines that individual item records are necessary for effective control, calibration, or maintenance. Summary records shall provide the information listed in paragraphs (1)(i) through (1)(vii) of this section, but may reference a general location, provided the Contractor can locate the property within a reasonable period of time.

(j) Records of Pricing Information

(1) Requirement for unit prices.

(i) The Contractor's property control system shall contain the unit price for each item of CapMetro property except as provided in (2) of this section. When a Contractor records the unit price of property on other than the quantitative inventory records, those supplementary records shall become part of the official CapMetro property records.

(ii) The requirement that unit prices be contained in the official CapMetro property records does not apply to those separate property records located at a Contractor's secondary sites and subcontractor plants; provided, that-

(A) Records maintained by the prime Contractor at its primary site include unit prices; and

(B) The prime Contractor agrees to furnish actual or estimated unit prices to the secondary site or subcontractor as the need arises.

(iii) When definite information as to unit price cannot be obtained, reasonable estimates will be used.

(2) Determining unit price.

(i) Contractor-acquired and Contractor-fabricated property. Except for items fabricated by nonprofit organizations for research and development purposes, the unit price of Contractor-acquired and Contractor-fabricated property shall be determined in accordance with the system established by the Contractor in conformance with consistently applied sound accounting principles. Generally, separate unit prices should be applied to items of special tooling and special test equipment fabricated or acquired by the Contractor. However, if the Contractor's accounting system is acceptable, and if maintaining detailed cost records results in excessive accounting cost or is otherwise impracticable, group pricing may be used for special tooling, special test equipment, and work-in-process in accordance with the Contractor's acceptable cost accounting system. All processed material, fabricated parts, components, and assemblies charged to the Contractor's work-in-process inventory, including items in temporary storage while awaiting processing, may be considered as work-in-process for this purpose.

(ii) CapMetro-furnished property. CapMetro shall determine and furnish to the Contractor the unit price of CapMetro-furnished property. Transportation and installation costs shall not generally be considered as part of the unit price for this purpose. Normally, the unit price of CapMetro-furnished property will be provided on the document covering shipment of the property to the Contractor. In the event the unit price is not provided on the document, the Contractor will take action to obtain the information.

(k) Records of Material

(1) General. All CapMetro material furnished to the Contractor, as well as other material to which title has passed to CapMetro by reason of allocation from Contractor-owned stores or purchase by the Contractor for direct charge to a CapMetro contract or otherwise, shall be recorded in accordance with the Contractor's property control system and the requirements of this section.

(2) Consolidated stock record. When a Contractor has more than one CapMetro contract under which CapMetro material is provided, a consolidated record for materials may be authorized by the property administrator, provided, the total quantity of any item is allocated to each contract by contract number and each requisition of

material from Contractor-owned stores is charged to the contract on which the material is to be used. The supporting document or issue slip shall show the contract number or equivalent code designation to which the issue is charged.

(3) Custodial records. The Contractor shall maintain custodial records for tool crib items, guard force items, protective clothing, and other items issued to individuals for use in their work.

(4) Use of receipt and issue documents. The property administrator may authorize the Contractor to maintain, in lieu of stock records, a file of appropriately cross-referenced documents evidencing receipt, issue, and use of CapMetro-provided material that is issued for immediate consumption and is not entered in the inventory record as a matter of sound business practice. This method of control may be authorized for-

(i) Material charged through overhead;

(ii) Material under research and development contracts;

(iii) Subcontracted or outside production items;

(iv) Nonstock or special items;

(v) Items that are produced for direct charge to a contract, or are acquired and issued for installation upon receipt, and involve no spoilage; and

(vi) Items issued from Contractor-owned inventory direct to production or maintenance, etc.

(5) The Contractor shall take physical inventories of material in stores included in the systems (other than work-in-process) at least annually, extend and reconcile prices to the quantitative balance for each item, and record adjustments in the stock record and financial inventory control accounts. Such physical inventories and adjustments, as well as equitable distribution to cost accounts of any inventory losses, shall be reviewed by and are subject to the approval of the property administrator.

(l) Records of Real Property

The Contractor shall maintain an itemized record of the description, location, acquisition cost, and disposition of all CapMetro real property (including unimproved real property); all alterations, all construction work, and sites connected with such alteration and construction, acquired by purchase, lease, or otherwise. These records, including maps, drawings, plans, specifications, and supplementary data where necessary, shall-

(1) Be complete,

(2) Show the original cost of the property and improvements and the cost of any changes and additions, and

(3) Be appropriately indexed.

(m) Records of Scrap or Salvage

(1) The Contractor shall maintain records of all scrap or salvage generated. These records shall conform to the Contractor's established system of scrap and salvage control approved by the property administrator.

(2) The Contractor's property control system shall provide the following information:

(i) Contract number, if practical, or equivalent code designation from which the scrap or salvage derived.

(ii) Nomenclature or description of salvable items or classification (material content) of scrap.

(iii) Quantity on hand.

(iv) Posting reference and date of transaction.

(v) Disposition.

(n) Records of Related Data and Information

The Contractor shall maintain property control and accountability, in accordance with sound business practice, of manufacturing or assembly drawings; installation, operation, repair, or maintenance instructions; and other similar information furnished to the Contractor by CapMetro or generated or acquired by the Contractor under the contract and for which title vests in CapMetro. The requirements of this section do not otherwise apply to such property.

(o) Reports of CapMetro Property

(1) The Contractor's property control system shall provide annually the total acquisition cost of CapMetro property for which the Contractor is accountable under each contract, including CapMetro property at subcontractor plants and alternate locations. The following classifications (property classifications may be varied to meet individual agency needs) shall be reported:

(i) Land and rights therein.

(ii) Other real property, including utility distribution systems, buildings, structures, and improvements thereto.

(iii) Plant equipment.

(iv) Special tooling.

(v) Special test equipment.

(vi) Material.

(vii) Agency peculiar property.

(2) The Contractor shall report the information under paragraph (1) as directed by the contracting officer.

(p) Identification

(1) Upon receipt of CapMetro property, the Contractor shall promptly:

(I) Identify the property in accordance with CapMetro procedures;

(II) Mark the property in accordance with this section, and;

(III) Record the property in its property control records.

(2) Except for the following, all CapMetro property shall be marked with an indication of CapMetro ownership:

(i) Items issued to individuals for use in their work (e.g., protective clothing or tool crib tools) where adequate physical control is maintained over the items.

(ii) Property of a bulk type, or where its general nature of packing or handling precludes adequate marking.

(iii) Material that is commingled with Contractor's

(iv) Where the property administrator agrees that marking is impractical.

(v) Exempted items shall be entered and described on the accountable property records.

(3) In addition to marking with an indication of CapMetro ownership, the following property shall be marked with a serial number in accordance with procedures approved by the property administrator:

(i) Special tooling.

(ii) Special test equipment.

(iii) Components of special test equipment that have an acquisition cost of \$5,000 or more and are incorporated in a manner that makes removal and reutilization feasible and economical.

(iv) Plant equipment.

(v) Accessory or auxiliary equipment associated with a specific item of plant equipment that is recorded on the property records, if necessary to assure return with the associated basic item.

(4) The Contractor shall record assigned numbers on all applicable documents pertaining to the property control system.

(5) If the property is included in the CapMetro system, the Contractor may use the property's registration number as the serial number. The Contractor should obtain the registration number through the property administrator.

(6) The markings in paragraphs (2) and (3) of this section shall be:

(i) securely affixed to the property,

(ii) legible, and

(iii) conspicuous. Examples of appropriate markings are bar coding, decals, and stamping. If marking will damage the property or is otherwise impractical, the Contractor shall promptly notify the property administrator and ask for the item to be exempted (see paragraph (2) of this section). Markings shall be removed or obliterated when CapMetro property is sold, scrapped, or donated.

(q) Segregation of CapMetro Property

CapMetro property shall be kept physically separate from Contractor-owned property. However, when advantageous to CapMetro and consistent with the Contractor's authority to use such property, the property may be commingled-

(1) When CapMetro property is special tooling, special test equipment, or plant equipment clearly identified and recorded as CapMetro property;

(2) When-

(i) Scrap of a uniform nature is produced from both CapMetro-owned and Contractor-owned material and physical segregation is impracticable,

(ii) Scrap produced from CapMetro-owned material is insignificant in consideration of the cost of segregation and control, or

(iii) CapMetro contracts involved are fixed-price and provide for the retention of the scrap by the Contractor; or

(3) When otherwise approved by the property administrator.

(r) Physical Inventories

The Contractor shall periodically, but not less than every two (2) years, physically inventory all CapMetro property (except materials issued from stock for manufacturing, research, design, or other services required by the contract) in its possession or control and shall cause subcontractors to do likewise. The Contractor, with the approval of the property administrator, shall establish the type, frequency, and procedures. These may include electronic reading, recording and reporting or other means of reporting the existence and location of the property and reconciling the records. Type and frequency of inventory should be based on the Contractor's established practices, the type and use of CapMetro property involved, or the amount of CapMetro property involved and its monetary value, and the reliability of the Contractor's property control system. Type and frequency of physical inventories normally will not vary between contracts being performed by the Contractor but may vary with the types of property being controlled. Personnel who perform the physical inventory shall not be the same individuals who maintain the property records or have custody of the property unless the Contractor's operation is too small to do otherwise.

(s) Inventories Upon Termination or Completion

(1) General. Immediately upon termination or completion of a contract, the Contractor shall perform and cause each subcontractor to perform a physical inventory, adequate for disposal purposes, of all CapMetro property applicable to the contract, unless the requirement is waived as provided in paragraph (2) of this section.

(2) Exception. The requirement for physical inventory at the completion of a contract may be waived by the property administrator when the property is authorized for use on a follow-on contract; provided, that-

(i) Experience has established the adequacy of property controls and an acceptable degree of inventory discrepancies; and

(ii) The Contractor provides a statement indicating that record balances have been transferred in lieu of preparing a formal inventory list and that the Contractor accepts responsibility and accountability for those balances under the terms of the follow-on contract.

(3) Listings for disposal purposes.

(i) Standard items that have been modified may be described on listings for disposal purposes as standard items with a general description of the modification.

(ii) Items that have been fabricated, such as test equipment, shall be described in sufficient detail to permit a potential user to determine whether they are of sufficient interest to warrant further inspection.

(t) Reporting Results of Inventories

The Contractor shall, as a minimum, submit the following to the property administrator promptly after completing the physical inventory:

(1) A listing that identifies all discrepancies disclosed by a physical inventory.

(2) A signed statement that physical inventory of all or certain classes of CapMetro property was completed on a given date and that the official property records were found to be in agreement except for discrepancies reported.

(u) Quantitative and Monetary Control

When requested by CapMetro, the Contractor's reports of results of physical inventory shall be prepared on a quantitative and monetary basis and segregated by categories of property.

(v) Care, Maintenance, and Use

The Contractor shall be responsible for the proper care, maintenance, and use of CapMetro property in its possession or control from the time of receipt until properly relieved of responsibility, in accordance with sound industrial practice

and the terms of the contract. The removal of CapMetro property to storage, or its contemplated transfer, does not relieve the Contractor of these responsibilities.

(w) Contractor's Maintenance Program

(1) Consistent with the terms of the contract, the Contractor's maintenance program shall provide for-

- (i) Disclosure of need for and the performance of preventive maintenance;
- (ii) Disclosure and reporting of need for capital rehabilitation; and
- (iii) Recording of work accomplished under the program.

(2) Preventive maintenance is maintenance performed on a regularly scheduled basis to prevent the occurrence of defects and to detect and correct minor defects before they result in serious consequences. An effective preventive maintenance program shall include at least-

- (i) Inspection of buildings at periodic intervals to assure detection of deterioration and the need for repairs;
- (ii) Inspection of plant equipment at periodic intervals to assure detection of maladjustment, wear, or impending breakdown;
- (iii) Regular lubrication of bearings and moving parts in accordance with a lubrication plan;
- (iv) Adjustments for wear, repair, or replacement of worn or damaged parts and the elimination of causes of deterioration;
- (v) Removal of sludge, chips, and cutting oils from equipment that will not be used for a period of time;
- (vi) Taking necessary precautions to prevent deterioration caused by contamination, corrosion, and other substances; and
- (vii) Proper storage and preservation of accessories and special tools furnished with an item of plant equipment but not regularly used with it.

(3) The Contractor's maintenance program shall provide for disclosing and reporting the need for major repair, replacement, and other capital rehabilitation work for CapMetro property in its possession or control.

(4) The Contractor shall keep records of maintenance actions performed and any deficiencies in CapMetro property discovered as a result of inspections.

(x) Use of CapMetro Property

(1) The Contractor's procedures shall be in writing and adequate

(i) To assure that CapMetro property will be used only for those purposes authorized in the contract and that any required approvals will be obtained, and

(ii) To provide a basis for determining and allocating rental charges.

(2) With respect to plant equipment with an acquisition value of \$5,000 or more, the procedures, as a minimum, shall-

(i) Establish a minimum level of use below which an analysis of need shall be made and retention justified, except for inactive plants and equipment retained for mobilization (the use level may be established for individual items or families of items, depending upon circumstances of use);

(ii) Provide for recording authorized and actual use consistent with the established use levels;

(iii) Require periodic analyses of production needs for plant equipment utilization based upon known requirements; and

(iv) Provide for prompt reporting to CapMetro of all plant equipment for which retention is not justified.

(y) Property in Possession of Subcontractors

The Contractor shall require any of its subcontractors possessing or controlling CapMetro property to adequately care for and maintain that property and assure that it is used only as authorized by the contract. The Contractor's approved property control system shall include procedures necessary for accomplishing this responsibility.

(z) Audit of Property Control System

CapMetro may audit the Contractor's property control system as frequently as conditions warrant. These audits may take place at any time during contract performance, upon contract completion or termination, or at any time thereafter during the period the Contractor is required to retain such records. The Contractor shall make all such records and related correspondence available to the auditors.

66. COVID 19 AND SUBCONTRACTORS

The Authority's subcontractors will comply with Texas Health and Safety Code Sec. 161.0085 regarding COVID-19 and the Authority will include the following clause in subcontractor contracts that perform services under this Contract. "Pursuant to Section 161.0085, Texas Health and Safety Code (enacted by SB 968, 87th Texas Legislature, Regular Session (2021)), Contractor certifies that it does not require a [UT Austin customer] to provide any documentation certifying their COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from Contractor's business. Contractor acknowledges that such a vaccine or recovery requirement would make Contractor ineligible for a state-funded Contract."

EXHIBIT E-1
ADDENDUM TO CONTRACTUAL TERMS AND CONDITIONS
FEDERALLY ASSISTED SUPPLY OR SERVICE CONTRACT

The Contractor clauses and provisions of this Exhibit apply to all Federally assisted supply and service contracts. These provisions supersede and take precedence over any other clause or provision contained within this contract which may be in conflict therewith.

1. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(a) It is the policy of the Authority and the U.S. Department of Transportation ("DOT" or "U.S. DOT") that Disadvantaged Business Enterprises (DBEs) as defined in 49 C.F.R. Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Contract. Consequently, the DBE requirements of 49 C.F.R. Part 26 apply to this Contract and all subcontracts awarded under this Contract.

(b) The Contractor and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 C.F.R. Part 26, and the Authority's DOT approved Disadvantaged Business Enterprise (DBE) program in the award of subcontracts and administration of this Contract. Failure by the Contractor to carry out these requirements is a material breach of the Contract, which may result in the termination of this Contract or such other remedy, as the Authority deems appropriate, including but not limited to:

- (i) Withholding monthly progress payments,
- (ii) Assessing sanctions,
- (iii) Liquidating damages, and/or
- (iv) Disqualifying Contractor or subcontractor from future bidding as non-responsible.

(c) Contractor shall pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Authority makes to the Contractor.

(d) If this Contract contains a defined DBE goal, the Contractor shall use the specific DBEs listed in its bid/proposal/offer to perform the work and supply the materials for which each is listed unless the Contractor obtains the Authority's written consent. Accordingly, the Contractor may not terminate a DBE subcontractor listed in its bid/proposal/offer without the Authority's prior written consent. Contractor actions covered by this subsection include, but are not limited to, instances in which the Contractor seeks to perform work originally designated for a DBE subcontractor with: (i) its own forces or those of an affiliate; (ii) a non-DBE firm; or (iii) another DBE firm. Unless the Authority's consent is provided under this clause, the Contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. If the Authority provides its written consent, the Contractor shall comply with 49 C.F.R. 26.53(f) in executing the termination; the Contractor shall also comply with 49 C.F.R. 26.53(g) and use the delineated good-faith efforts to find another DBE subcontractor to substitute for the original DBE subcontractor and maintain and provide relevant documentation regarding such efforts.

(e) Contractor shall make available upon request a copy of all DBE subcontracts.

(f) Contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials require that the subcontract and all lower-tier subcontractors be performed in accordance with this clause.

(g) If subcontracts will be let, Contractor shall take the affirmative steps listed in 2 C.F.R. 200.321, which addresses contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

2. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT – OVERTIME COMPENSATION

(a) Overtime Requirements. No contractor or subcontractor contracting for any part of the Contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty (40) hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half (1-1/2) times the basic rate of pay for all hours worked in excess of forty (40) hours in such workweek.

(b) Violation, Liability for Unpaid Wages, Liquidated Damages. In the event of any violation of the provisions set forth in paragraph (a) above, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under the Contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) above, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty (40) hours without payment of the overtime wages required by the provisions set forth in paragraph (a) above.

(c) Withholding for Unpaid and Liquidated Damages. The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) Payroll and Basic Records.

(1) The Contractor or Subcontractor shall maintain payroll records during the course of Contract work and shall preserve them for a period of three (3) years from the completion of the Contract for all laborers and mechanics working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Nothing in this paragraph shall require the duplication of records required to be maintained for construction work by Department of Labor regulations at 29 C.F.R. 5.5(a)(3) implementing the Davis-Bacon Act.

(2) The records to be maintained under paragraph (d)(1) of this clause shall be made available by the Contractor or Subcontractor for inspection, copying, or transcription by authorized representatives of the Authority, the Federal Transit Administration (FTA), or the Department of Labor. The Contractor or Subcontractor shall permit such representatives to interview employees during working hours on the job.

(e) Subcontracts. The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (d) above, and also a provision requiring the subcontractors to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (d) above.

3. CIVIL RIGHTS AND EQUAL OPPORTUNITY

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

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

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

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

(d) Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § A-27 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(e) Information and Reports. The Contractor shall provide all information and reports required by the Regulations or directive issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Authority or the Federal Transit Administration (FTA) to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information is required or a Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the Authority, or FTA, as appropriate, and shall set forth what efforts it has made to obtain the information.

(f) Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the provisions of this Contract, the Authority shall impose such Contract sanctions as it or the FTA may determine to be appropriate, including, but not limited to:

- (1) withholding of payments to the Contractor under the Contract until the Contractor complies; and/or
- (2) cancellation, termination or suspension of the Contract, in whole or in part.

(g) Incorporation of Provisions. The Contractor shall include the provisions of paragraph (a) through (f) of this clause in every subcontract or procurement, including subcontracts or procurements for materials and leases of equipment, unless exempt by the applicable law or regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the Authority or FTA may direct as a means of enforcing such revisions including sanctions for noncompliance: provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the Authority, and, in addition, the United States to enter into such litigation to protect the interests of the Authority and the United States.

4. CLEAN AIR AND WATER ACT

(a) Definitions:

(1) "Air Act," as used in this clause, means the Clean Air Act (42 U.S.C. § 7401 et seq.).

(2) "Clean Air Standards," as used in this clause means:

(i) any enforceable rules, regulations, guidelines, standards, limitations, orders, controls, prohibitions, work practices, or other requirements contained in, issued under, or otherwise adopted under the Air Act or Executive Order 11738.

(ii) an applicable implementation plan as described in Section 110(d) of the Air Act [42 U.S.C. § 7410(d)]; or

(iii) an approved implementation procedure under Section 112(d) of the Air Act [42 U.S.C. § 7412(d)].

(3) "Clean Water Standards," as used in this clause, means any enforceable limitation, control, condition, prohibition, standard, or other requirement promulgated under the Water Act or contained in a permit issued to a discharger by the Environmental Protection Agency or by a State under an approved program, as authorized by Section 402 of the Water Act (33 U.S.C. § 1342), or by local government to ensure compliance with pre-treatment regulations as required by Section 307 of the Water Act (33 U.S.C. § 1317).

(4) "Compliance," as used in this clause, means compliance with:

(i) Clean Air or Water Standards; or

(ii) a schedule or plan ordered or approved by a court of competent jurisdiction, the Environmental Protection Agency, or an air or water pollution control agency under the requirements of the Air Act or Water Act and related regulations.

(5) "Facility," as used in this clause, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised, by a Contractor or Subcontractor, sued in the performance of a contract or subcontract. When a location or site of operations includes more than one building, plant, installation, or structure, the entire location or site shall be deemed a facility except when the Administrator, or a designee of the Environmental Protection Agency, determines that independent facilities are co-located in one geographical area.

(6) "Water Act," as used in this clause, means Clean Water Act (33 U.S.C. § 1251 et seq.).

(b) The Contractor agrees:

(1) to comply with all Clean Air Standards and Clean Water Standards.

(2) that no portion of the work required by the Contract will be performed in a facility listed on the Environmental Protection Agency List of Violating Facilities on the date when this Contract was awarded unless and until the EPA eliminates the name of the facility from the listing;

(3) that it will report all violations to FTA and the Regional Office of the Environmental Protection Agency;

(4) to use best efforts to comply with clean air standards and clean water standards at the facility in which the Contract is being performed; and

(5) to insert the substance of this clause into any nonexempt Subcontract, including this paragraph (b)(4).

5. ENERGY POLICY AND CONSERVATION ACT

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6321 et seq.).

6. OFFICIALS NOT TO BENEFIT

No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Contract or to any benefit arising from it. However, this clause does not apply to this Contract to the extent that this Contract is made with a corporation for the corporation's general benefit.

7. BUY AMERICA PROVISION

(a) The Contractor agrees to comply with 49 U.S.C. 5323(j) and the FTA's implementing regulations found at 49 C.F.R. Part 661, the Build America, Buy America Act, Public Law 117-58, div. G, tit. IX, sections 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation (DOT), and the Federal Transit Administration (FTA), which require that all steel, iron, manufactured products and construction materials used in FTA-funded projects are produced in the United States, unless DOT or FTA has granted a waiver or the product or material is subject to a general waiver. The provisions of the statutes and their implementing regulations and guidance are hereby incorporated by reference into this Contract. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid.

(b) If applicable, the Contractor also agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. Part 663.

8. CARGO PREFERENCE - USE OF UNITED STATES FLAG VESSELS

This clause only applies to contracts in which materials, equipment, or commodities may be transported by ocean vessel in carrying out the terms of the contract. As required by 46 C.F.R. Part 381, the Contractor agrees:

(a) to utilize privately owned United States flag commercial vessels to ship at least fifty percent (50%) of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this Contract, to the extent such vessels are available at fair and reasonable rates of United States flag commercial vessels; and

(b) to furnish within twenty (20) days following the date of loading for shipments originating with the United States, or within thirty (30) working days following the date of loading for shipments originating outside of the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (a) above to the Authority, (through the prime Contractor in the case of a Subcontractor's bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, D.C. 20590, marked with appropriate identification of the project; and

(c) to insert the substance of the provisions of this clause in all Subcontracts issued pursuant to this Contract.

9. FLY AMERICA

The Contractor agrees that if Federal funds are used to fund international air transportation of any persons (and their personal effects) involved in or property acquired for the Contract, the transportation must be provided by U.S. flag air carriers to the extent service by these carriers is available, as required by the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. 40118, in accordance with U.S. GAO regulations, "Uniform Standards and Procedures for Transportation Transactions," 4 C.F.R. Part 52, and U.S. GAO Guidelines for Implementation of the "Fly America Act" B-138942, 1981 U.S. Comp. Gen. LEXIS 2166. March 31, 1981.

10. AUDIT AND INSPECTION OF RECORDS

(a) This clause is applicable if this Contract was entered into by means of negotiation and shall become operative with respect to any modification to this Contract whether this Contract was initially entered into by means of negotiation or by means of formal advertising.

(b) The Contractor shall maintain complete and readily accessible records and shall permit the Authority, the U.S. Department of Transportation, and the Comptroller General of the United States or any of their duly authorized representatives access to and the right to examine any directly pertinent books, documents, papers, and records of such Contractor, involving transactions related to the Contract, for the purpose of making audit, examination, excerpts and transcriptions. Such access requires the Contractor to provide timely and reasonable access for the purpose of interview and discussion related to such documents.

(c) The Contractor agrees to comply with the record-retention requirements in 2 C.F.R. 200.334 (previously 2 C.F.R. 200.333). Under such requirements, the Contractor shall maintain all books, documents, papers, and records required under the Contract for a period of at least three years after the date of termination or expiration of the Contract, or the disposition of all litigation, appeals, claims, or exceptions related to this Contract (whichever is later). The rights of access in this clause are not limited to the required retention period(s) but last as long as the records are retained.

(d) The Contractor further agrees to include in all subcontracts a clause that requires the subcontractor:

(1) To maintain complete and readily accessible records and to permit the Authority, the U.S. Department of Transportation, and the Comptroller General of the United States or any of their duly authorized representatives access to and the right to examine any directly pertinent books, documents, papers, and records of such subcontractor, involving transactions related to the Contract, for the purpose of making audit, examination, excerpts, and transcriptions. The clause shall also require the subcontractor to provide timely and reasonable access for the purpose of interview and discussion related to such documents.

(2) To comply with the record-retention requirements in 2 C.F.R. 200.334 (previously 2 C.F.R. 200.333), the subcontractor shall maintain all books, documents, papers, and records required under the Contract for a period of at least three years after the date of termination or expiration of the Contract, or the disposition of all litigation, appeals, claims, or exceptions related to this Contract (whichever is later). The clause shall note that the rights of access in the clause are not limited to the required retention period(s) but last as long as the records are retained.

11. RESTRICTIONS ON LOBBYING

(a) The Contractor shall timely comply with the requirements of the lobbying restrictions set forth in Section 319 of Public Law 101-121, as implemented by the Department of Transportation in 49 C.F.R. Part 20, and as those authorities may be hereafter amended.

(b) If a Standard Form LLL, "Disclosure Form to Report Lobbying," is required to be completed by the Contractor or Subcontractor at any tier, such disclosure form shall be furnished to the Authority.

12. ACCESS REQUIREMENTS TO INDIVIDUALS WITH DISABILITIES

The Contractor shall comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101, et seq. and 49 U.S.C. § 322; Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; the Architectural Barriers Act of 1968, as amended 42 U.S.C. § 4151, et seq.; Federal Transit law, specifically 49 U.S.C. § 5332; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. 1612; and the following regulations and any amendments thereto:

(a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

(b) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

(c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. Part 39;

(d) Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

- (e) DOJ Regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
- (f) Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
- (g) Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F;
- (h) FTA regulations, "Transportation for Elderly and Handicapped Persons", 49 C.F.R. Part 609;
- (i) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 38;
- (j) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194;
- (k) FTA Circular 4710.1, "Americans with Disabilities Act: Guidance;" and
- (l) Other Federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.

13. OPERATIONS SERVICE CONTRACTS

If this is an operational service contract, the Contractor agrees to the following and agrees to include the substance of this clause in each subcontract that may involve operating public transit services:

- (a) Charter Service Operations. The Contractor agrees to comply with 49 U.S.C. § 5323(d), 5323(r), and 49 C.F.R. Part 604. The Contractor is prohibited from providing charter service using federally funded equipment or facilities if there is at least one (1) private charter operator willing and able to provide the service, except under one of the specified exceptions. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation; and
- (b) School Bus Operations. Pursuant to 49 U.S.C. § 5323(f) and 49 C.F.R. Part 605, the Contractor may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, the Contractor may not use federally funded equipment, vehicles, or facilities.

14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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

(b) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

(c) The Contractor agrees to include the above two clauses in each Subcontract associated with this Contract. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

15. PRIVACY ACT

(a) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restriction and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the Contract.

(b) The Contractor agrees to include the above clause in each Subcontract associated with this Contract. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor who will be subject to the provisions.

16. NO OBLIGATION BY THE FEDERAL GOVERNMENT

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

(b) The Contractor agrees to include the above clause in each Subcontract associated with this Contract. The clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

17. NOTICE OF FEDERAL REQUIREMENTS

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

(b) The Contractor is advised that Federal requirements applicable to this Contract as set forth in federal law, regulations, policies, and related administrative practices may change during the performance of this Contract. Any such changes shall also apply to this Contract and subcontracts at all tiers.

18. INCORPORATION OF FTA TERMS – FTA CIRCULAR 4220.1F

The preceding provisions include, in part, certain Standard Terms and Conditions required by the DOT, whether or not expressly set forth in the preceding Contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, dated November 1, 2008, 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests, which would cause the Authority to be in violation of the FTA terms and conditions.

19. SEISMIC SAFETY REGULATIONS

To the extent applicable to Contractor's work, the Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 C.F.R. Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this Contract including work performed by a Subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

20. DRUG-FREE WORKPLACE PROGRAM

(a) As used in this clause:

(1) "Alcohol" means ethyl alcohol and any beverage containing ethyl alcohol.

(2) "Controlled substance(s)" means a substance, including a drug and an immediate precursor listed in Schedules I through V of Subchapter A of the Texas Controlled Substances Act, Tex. Rev. Civ. Stat. Ann. Articles 481.032 - 481.036. These substances include, but are not limited to, marijuana, heroin, LSD, concentrated cannabis or cannabinoids, hashish or hash oil, morphine or its derivatives, mescaline, peyote, phencyclidine (PCP, Angel Dust), opium, opiates, methadone, cocaine, Quaaludes, amphetamines, "exotic/designer" drugs, benzodiazepines, Seconal, codeine, barbiturates, Phenobarbital, or Valium.

(3) "Safety sensitive task" means each category of work performed at a construction workplace which, if performed by a person impaired by the effects of alcohol or a controlled substance:

(i) would pose a serious risk of death or personal injury to the employee or others in the vicinity; or

(ii) could compromise the quality of the construction in such manner as would impose a significant public safety risk in the operation of the Authority's public transportation system.

(4) "Drug-free workplace" means a site for the performance of work done in connection with the Authority's construction contract at which employees are prohibited from using alcohol or from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance.

(5) "Employee" means an employee of a Contractor or Subcontractor who may be directly engaged in the performance of work under the Authority's construction contract.

(6) "Reasonable suspicion" means the presence or absence of specific criteria identified in the Contractor's drug-free workplace program (indicating the possibility that a person is under the influence of alcohol or a controlled substance) as observed by the Contractor's supervisory personnel with reasonable training in the identification of such criteria.

(b) The program shall provide for mandatory drug testing of employees who are to perform safety sensitive tasks under the following circumstances:

(1) All employees will be tested prior to assignment to the Authority's construction project to ascertain the use of controlled substances if the employee will be performing safety sensitive tasks; and

(2) When there is a reasonable suspicion that an employee is under the influence of alcohol or a controlled substance at the workplace; and

(3) When an employee has been involved in an accident or unsafe practice (as defined in the Contractor's safety program) at the workplace.

(c) The program may, at the Contractor's discretion, include mandatory employee drug testing under the following circumstances:

(1) As part of or as a follow-up to counseling or rehabilitation for controlled substance use; or

(2) As part of a voluntary employee drug testing program.

(d) A random testing procedure to detect the use of alcohol or a controlled substance by employees performing safety sensitive tasks is required as part of the Contractor's program for the purpose of preventing or deterring hazardous performance. The procedure shall require that, at a minimum, five percent (5%) of the Contractor's employees will be randomly tested within the Contract period or within each year of the Contract period, whichever period is shorter.

(e) All testing by or on behalf of the Contractor because of a requirement in the Authority's Contract shall be conducted only for employees engaged (or to be engaged) in safety sensitive tasks and only for use of alcohol or a

controlled substance and shall be conducted in a manner and under written policies that minimize the intrusion on the employee's privacy and personal dignity. This provision shall not preclude the Contractor from adding its own additional testing requirements.

(f) The Contractor shall publish a statement notifying employees that the use of alcohol at the workplace or the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance by employees at any time is prohibited and specifying the actions that will be taken against employees for violations of such prohibition.

(g) The program must require each employee who will perform a safety sensitive task, prior to working under the Authority's Contract to:

(1) Acknowledge in writing the Contractor's drug-free workplace program; and

(2) Give advance written consent to any drug testing that may be conducted under the Contractor's program and the use of test results for decisions related to employment, disciplinary action, or continued employment. The Contractor will agree, in connection with the employee's consent that the results of testing for alcohol and controlled substances will not be voluntarily referred to any law enforcement agency. If the Contractor is subject to a collective bargaining agreement:

(i) the procedure for obtaining the individual employee's acknowledgment and consent must be consistent with the Contractor's obligations under the collective bargaining agreement; and

(ii) employees shall have the right to be accompanied by a union representative when any specimen is obtained for testing.

(h) The Contractor will establish a drug-free awareness program to inform its employees about:

(1) The dangers of drug abuse in the workplace;

(2) The Contractor's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees who refuse to submit to required testing and for other violations of the drug-free workplace program including, but not limited to, being unable to remain employed at the workplace until approval to return is obtained from the Authority.

(i) The Contractor's drug-free workplace program shall, at a minimum, include:

(1) Policies and procedures for specimen collection, chain of custody for specimens, laboratory qualification standards, laboratory analysis procedures, quality control requirements, and test result reporting procedures which substantially conform to the material requirements of the Mandatory Guidelines for Federal Workplace Drug Testing Programs promulgated by the U.S. Department of Health and Human Services in effect on the date of award of the Authority's construction contract.

(2) Procedures for the Contractor's employees to report their use of prescription drugs used in the course of medical treatment or which have been prescribed and authorized for use by a licensed medical practitioner.

(3) The criteria the Contractor will use for "reasonable suspicion" testing.

(4) The levels of alcohol or controlled substances which will be used in conjunction with a determination that an employee is "under the influence" or is "impaired by the effects of" alcohol or controlled substance(s).

(j) The Contractor shall display a notice, prominently placed near each entrance to the workplace, stating that, by entering the premises, persons are consenting to an inspection of themselves and their property including, but not limited to, their clothing, vehicles, briefcases, lunch boxes, tool boxes, purses, and packages.

(k) The Contractor agrees to use its best efforts to establish and maintain a work environment free of use by employees of alcohol or controlled substances through implementation of paragraph (b) through (j) of this clause. The Contractor shall prepare and maintain records in sufficient detail to demonstrate compliance with the requirements of this clause including, but not limited to, certifications from Subcontractors and records of drug or alcohol tests conducted during performance of the Contract. Such records shall be subject to inspection and audit by the

Authority, and the Contractor's noncompliance may authorize the Authority to withhold all or any portion of any payments due the Contractor until the Contractor demonstrates compliance.

(l) As applicable, the Contractor also agrees to establish and implement a drug and alcohol testing program that complies with 49 U.S.C. § 5331, 49 C.F.R. Part 655, and 49 C.F.R. Part 40, produce any documentation necessary to establish its compliance with such requirements, and permit any authorized representative of the U.S. DOT or its operating administrations, any state oversight agency, and/or the Authority, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program and review the testing process. The Contractor agrees further to certify annually its compliance with Part 655 before issuance of the Notice to Proceed and annually thereafter and to submit, by March 1 of each year of the term of the Contract, a Management Information System (MIS) report covering the previous calendar year to CapMetro, Attn: Chief Contracting Officer, 2910 East 5th Street, Austin, Texas 78702. To certify compliance the Contractor shall use the "Alcohol and Controlled Substances Testing" certification in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

(m) A Drug-Free Workplace Program clause identical to this clause (except for changes appropriate for designation of the parties), including this subparagraph (l) will be included in every Subcontract entered into in connection with this Contract.

21. RECYCLED PRODUCTS; 42 U.S.C. § 6962, 40 C.F.R. Part 247, Executive Order 12873, 2 C.F.R. 200.322

(a) Applicability to Contracts

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or Contractor procures \$10,000 or more of one 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. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.

(b) Flow Down

These requirements flow down to all contractor and Subcontractor tiers.

(c) Recovered Materials

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

22. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS; 49 U.S.C. § 5310, § 5311, and § 5333, 29 C.F.R. Part 215

(a) Applicability to Contracts

The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator. (Because transit operations involve many activities apart from directly driving or operating transit vehicles, FTA determines which activities constitute transit "operations" for purposes of this clause.)

(b) Flow Down

These provisions are applicable to all contracts and Subcontracts at every tier.

(c) Transit Employee Protective Provisions

- (1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(i) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying Contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this Contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying Contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(ii) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying Contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying Contract in compliance with the conditions stated in that U.S. DOL letter.

(iii) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

- (2) The Contractor also agrees to include the any applicable requirements in each Subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

(d) The Authority encourages the Contractor, to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies that bar text messaging while driving company-owned or –rented vehicles, or government-owned, leased, or rented vehicles or privately-owned vehicles when on official Authority business or when performing any work for or on behalf of the Authority. See Executive Order 13513 “Federal Leadership on Reducing Text Messaging While Driving”, Oct. 1, 2009 (available at <http://edocket.access.gpo.gov/2009/E9-24203.htm>) and DOT Order 3902.10 “Text Messaging While Driving”, Dec. 30, 2009, as implemented by Financial Assistance Policy Letter (No. FAP-2010-01, February 2, 2010, available at https://www.transportation.gov/sites/dot.dev/files/docs/FAPL_2010-01.pdf). This includes, but is not limited to:

- (1) Considering new rules and programs or re-evaluating existing programs to prohibit text messaging while driving;
 - (2) Conducting education, awareness, and other outreach for employees about the safety risks associated with texting while driving; and
 - (3) Encouraging voluntary compliance with the agency’s text messaging policy while off duty.
- (e) The Contractor is encouraged to insert the substance of this clause in all tier Subcontract awards.

23. DISTRACTED DRIVING, INCLUDING TEXT MESSAGING WHILE DRIVING

(a) The Contractor agrees to comply with:

(1) Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225);

(2) U.S. DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009; and:

(i) Adopt and enforce policies that ban text messaging while driving in Contractor-owned or rented vehicles or, if applicable, Authority-owned vehicles; or while driving privately-owned vehicles when performing any Work for or on behalf of the Authority.

(ii) Conduct initiatives in a manner commensurate with the size of the business, such as,

(A) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(B) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

(3) The following U.S. DOT Special Provision pertaining to Distracted Driving:

(i) *Safety*. The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Contract, or when performing any work for or on behalf of the Contract;

(ii) *Contractor Size*. The Contractor agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and

(iii) *Extension of Provision*. The Contractor agrees to include these Special Provisions of this Contract in its sub-contract agreements, and encourage its sub-contractors to comply with this Special Provision.

(b) For purposes of this paragraph, the phrase "text messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication operating a motor vehicle on an active roadway with the motor running, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise; it does not include operating a motor vehicle with or without the motor running when one has pulled over to the side of, or off, an active roadway and has halted in a location where one can safely remain stationary.

24. VETERANS EMPLOYMENT

CapMetro is a recipient of Federal financial assistance on this Contract. The Contractor shall give a hiring preference, to the extent practicable, to veterans (as defined in Section 2108 of Title 5 C.F.R.) who have the requisite skills and abilities to perform the construction work required under the Contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

25. SEAT BELT

Seat Belt Use. The Contractor agrees to implement Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

- (a) Adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles; and
- (b) Including a "Seat Belt Use" provision in each of its sub-contractor agreements related to the Contract.

26. PROHIBITION ON CONTRACTING FOR CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT

(a) Pursuant to Public Law 115-232, Section 889, and 2 C.F.R. Part 200, including §200.216 and §200.471, the Authority is prohibited from using federal funds to:

- (1) Procure or obtain,
- (2) Extend or renew a contract to procure or obtain; or

(3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that use "Covered Telecommunications Equipment or Services" as a substantial or essential component of any system, or as critical technology as part of any system.

(b) As described in Public Law 115-232, section 889, "Covered Telecommunications Equipment or Services" is:

(1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities)

(2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(3) Telecommunications or video surveillance services provided by such entities or using such equipment.

(4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(c) Contractor shall not use or provide to the Authority Covered Telecommunications Equipment or Services in the performance of this Contract.

(d) Contractor shall insert the substance of this Paragraph in all subcontracts and other contractual instruments, including subcontracts for the acquisition of commercial items.

(e) Contractor shall notify the Authority immediately if Contractor cannot comply with the prohibition during the performance of this Contract.

27. BUS TESTING

(a) The following applies to purchases or leases of any new bus model or any bus model with a major change in configuration or components to be acquired or leased with FTA funds.

(b) Contractor agrees to comply with the Bus Testing requirements under 49 U.S.C. § 5318(e) and FTA's implementing regulation at 49 C.F.R. Part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the Contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the Authority.

28. TRAFFICKING IN PERSONS

The Contractor agrees that it and its employees shall not, at any time during the performance of this Contract, do any of the following:

(a) Engage in severe forms of trafficking in persons, as defined Section 103 of the Trafficking Victims Protection Act of 2000 ("TVPA"), as amended, 22 U.S.C. § 7102;

(b) Procure a commercial sex act, as defined Section 103 of the TVPA, as amended, 22 U.S.C. § 7102; or

(c) Use forced labor, defined as labor obtained by recruitment, harboring, transportation, provision, or other means of obtaining of a person for labor or services through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery, in the performance of the Contract or permit the use of forced labor in the performance of any subcontract hereunder.

29. GOVERNMENT-WIDE SUSPENSION AND DEBARMENT

(a) Contractor shall 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.

(b) Contractor shall not enter into any "covered transaction" (as defined in the above-referenced regulations) that is, or whose principal is, suspended, debarred, or otherwise excluded from participating in covered transactions, except as authorized by

(i) U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. Part 1200;

(ii) U.S. OMB regulatory guidance, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. Part 180; and

(iii) Other applicable federal laws, regulations, or requirements regarding participation with debarred or suspended Recipients or Third Party Participants.

(c) Contractor shall review the U.S.GSA "System for Award Management – Lists of Parties Excluded from Federal Procurement and Nonprocurement Programs," if required by U.S. DOT regulations, 2 C.F.R. Part 1200.

(d) Contractor will ensure that all subcontracts include a provision necessary to flow down these suspension and debarment provisions to all lower-tier covered transactions.

30. PATENT RIGHTS AND RIGHTS IN DATA

If the Federal award meets the definition of "funding agreement" under 37 C.F.R. 401.2 (a) and Contractor is a small business firm or nonprofit organization performing experimental, developmental, or research work under that "funding agreement," the Contractor agrees that the use of any data produced or delivered under the terms of the Contract including, but not limited to, engineering drawings and associated lists, specifications, process sheets and technical reports, shall be governed by the requirements of 37 C.F.R. Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA. In addition, the Contractor agrees that it will not publish such data without the written consent of the Authority and, if appropriate, the Federal Government.

31. NATIONAL INTELLIGENT TRANSPORTATION SYSTEMS STANDARDS

The Contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), unless the Authority has obtained an exemption from the requirements and provided Contractor information regarding the exemption. The Contractor further agrees to follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects," 66 Fed. Reg. 1455, January 8, 2001, and all other applicable Federal guidance.

32. NOTIFICATION OF LEGAL MATTERS

Contractor shall notify the Authority of any and all matters that Contractor knows or reasonably should know may affect the Federal Government's interests. This notification requirement includes, but is not limited to, current or prospective legal matters such as an actual or potential major dispute, breach, default, litigation, naming of the Authority or the Federal Government as a party to litigation, or a legal disagreement in any forum for any reason. Matters that may affect the Federal Government include but are not limited to, the Federal Government's interests in the Contract, the underlying Authority/FTA Agreement, and any amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements. Contractor agrees to include this clause in every subcontract awarded at every tier. Contractor shall further notify the Authority of any potential fraud, waste, or abuse occurring on the contract or Project.

33. FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTION

Contractor agrees that, prior to entering into any subcontract, Contractor will require the subcontractor to provide a certification on Federal Tax Liability and Recent Felony Convictions, which should be identical to the certification that Contractor provided the Authority. If the prospective subcontractor cannot certify as to the statements, Contractor shall not enter into the subcontract absent Authority and FTA approval. Contractor agrees to include this clause in every subcontract awarded at every tier.

34. COVID-19 SAFETY REQUIREMENTS

The Contractor agrees to comply with the Centers for Disease Control and Prevention ("CDC") Order of January 29, 2021, titled Requirement for Persons to Wear Masks While on Conveyances and at Transportation Hubs ("CDC Mask Order"), as has been and may later be amended, and any other subsequent orders that may be issued. In addition, the Contractor shall comply with all applicable Authority policies and procedures, including those of the Authority's service contractors. The Contractor agrees to include this clause in each subcontract to this Contract and to require subcontractors to include the clause in all lower-tier subcontracts.

35. LIMITATION ON CERTAIN ROLLING STOCK PROCUREMENTS

(a) Pursuant to Section 7613 of the National Defense Authorization Act for Fiscal Year 2020 (NDAA 2020), Public Law 116-92 (Dec. 20, 2019) and 49 U.S.C. § 5323(u), the Authority is prohibited from using financial assistance under Chapter 53 of title 49 U.S. Code to award a contract or subcontract to an entity for the procurement of rolling stock for use in public transportation if the manufacturer of the rolling stock:

(1) is incorporated in or has manufacturing facilities in the United States; and

(2) is owned or controlled by, is a subsidiary of, or is otherwise related legally or financially to a corporation based in a country that -

(i) is identified as a nonmarket economy country (as defined in section 771(18) of the Tariff Act of 1930 (19 U.S.C. 1677(18))) as of the date of enactment of this subsection;

(ii) was identified by the United States Trade Representative in the most recent report required by section 182 of the Trade Act of 1974 (19 U.S.C. 2242) as a foreign country included on the priority watch list defined in subsection (g)(3) of that section; and

(iii) is subject to monitoring by the Trade Representative under section 306 of the Trade Act of 1974 (19 U.S.C. 2416)

(a "Restricted Manufacturer").

- (b) For purposes of this provision, the term “otherwise related legally or financially” does not include a minority relationship or investment.
- (c) Contractor shall not provide the Authority with rolling stock under this Contract if the rolling stock is from a Restricted Manufacturer or otherwise in violation of this prohibition.
- (d) Contractor shall insert this provision in all applicable subcontracts and other contractual instruments.
- (e) Contractor shall notify the Authority immediately if Contractor or any of its subcontractors cannot comply with this provision during the performance of this Contract.

EXHIBIT F-REVISED-4
SCOPE OF SERVICES
DEMAND RESPONSE PICKUP & METROACCESS SERVICES

1. CONTENTS OF SCOPE
2. DEFINITIONS
3. OVERVIEW OF SCOPE
4. CAPMETRO DEMAND RESPONSE BACKGROUND
5. CAPMETRO DEMAND RESPONSE OVERVIEW
6. TYPES OF SERVICES PROVIDED BY DEMAND RESPONSE
7. TECHNOLOGY AND COMMUNICATION
8. KEY & GENERAL PERSONNEL OVERVIEW
9. ORGANIZATION AND PERSONNEL REQUIREMENTS
10. STAFF TRAINING
11. VEHICLE OPERATOR EXPECTATIONS, CONDUCT, & DRESS
12. DISPATCH OPERATIONS
13. EMPLOYEE NOTIFICATION SYSTEM
14. SCHEDULING/RESERVATIONS
15. CUSTOMER SERVICE & COMPLAINTS
16. SAFETY
17. SECURITY
18. DATA AND REPORTING
19. FACILITY, BUILDING, AND EQUIPMENT MAINTENANCE
20. VEHICLES
21. VEHICLE MAINTENANCE
22. MAINTENANCE OVERSIGHT
23. POLICIES & PROCEDURES
24. EMERGENCIES AND SERVICE DISRUPTIONS
25. SERVICE QUALITY AND PERFORMANCE INDICATORS
26. PDC SUMMARY
27. ANNUAL BUS ROADEO
28. NATIONAL TRANSIT DATABASE REQUIREMENTS
29. PUBLIC INFORMATION REQUESTS
30. DRUG & ALCOHOL PROGRAM
31. LABOR RELATIONS
32. MARKETING AND PUBLIC RELATIONS
33. INNOVATIVE BENEFIT PROGRAMS
34. FAILURE TO COMPLY
35. MOBILIZATION AND STARTUP SCHEDULE
36. IMPROVEMENTS TO REQUESTED SERVICES
37. DEMOBILIZATION
38. CONTRACT DELIVERY REQUIREMENTS LIST (CDRL)

2. **DEFINITIONS**

Accident Rate: The rate of which accidents occur within a particular mode of transit (e.g., CapMetro Access or Pickup). The ratio is the total number of accidents per month divided by total service miles in the same period. This is a total accident rate that includes all accidents, both “preventable” and “non-preventable” (See “Preventable Accident Rate” and “Non-Preventable Accident Rate” definitions below).

Accident (Collision), Vehicle:

1. Collisions that cause damage to a CapMetro vehicle
2. Any vehicle accident in which a fatality is reported, a passenger is transported by EMS, or an employee (CapMetro or Contractor) is injured, regardless of damage.
3. Collisions where claimant calls in a claim for property damage/injury due to a CapMetro reported vehicle accident.
4. Collisions between pedestrians and a CapMetro vehicle if injury is claimed.
5. Any other collision caused by a CapMetro vehicle where there is known damage regardless of whether a claim is made.

Accident (Incident), Passenger:

1. Passenger transported due to injury on a CapMetro vehicle.
2. Passenger making a claim due to injury on a CapMetro vehicle that can be substantiated (as determined by CapMetro).

Action Plan: A written plan submitted by the Contractor at the request of CapMetro to address deficiencies or shortcomings. Sometimes referred to as “corrective action plan.”

Airtime: For the two-way radio system, the frequencies made available for exclusive CapMetro use.

American with Disabilities Act of 1990 (ADA): The Americans with Disabilities Act of 1990 and 2008 amendment.

ADA Paratransit Eligible: The status given to a person who has been authorized to use ADA Paratransit services due to a disability or medical condition, which limits or prevents them from independently using accessible bus service some or all the time.

ADA Service Area: CapMetro's ADA Service area is defined as the geographic area defined by a 0.75-mile buffer surrounding specific fixed route service. The corridor varies throughout the week, depending upon the day of the week, as well as the time of day.

Asset Management System: Software provided by CapMetro that tracks, schedules, and archives all vehicle and facility maintenance activities and materials.

Attendant: May also be referred to as a Personal Care Attendant (PCA). A person traveling as an aide requested by a person with a disability and having the same origin and destination as the person with a disability.

Authority: Capital Metropolitan Transportation Authority also referred to as "CapMetro", and "The Authority."

Automatic Vehicle Location (AVL): Position determination via an automatic technology or combination of technologies, such as Global Positioning System (triangulation of satellite signals) and includes real-time reporting of that location to a dispatcher.

Block: A vehicle schedule, i.e., the daily assignment of an individual vehicle. One or more runs may work a block.

Boarding: The transportation of a passenger, rider, companion, or attendant from a point of origin to a single destination, each individual counting as a separate boarding. Used interchangeably with “ride.”

Body Damage: Any accident damage, and/or a ding, dent, scrape, bend, scratch, tear, and/or break in the exterior body panels that is easily visible from 3 feet away, including: broken or cracked glass; missing exterior pieces and/or trim that have been hit and knocked loose, or off; and painted bumpers that have been deformed at one time to have the paint cracked and creased.

Bomb Threat: Credible written or oral (e.g., telephone) communication threatening the use of an explosive or incendiary device for the purpose of disrupting public transit services or to create a public emergency.

Breaks: Any interval of time a run that has commenced revenue service is taken out of service for any reason.

Bus Bridge: A temporary system of shuttle buses bypassing a failure in some other mode of transit.

Business Day: Monday through Friday between the hours of 8 AM to 5 PM, excluding CapMetro recognized holidays.

Cancel at the Door: A passenger or responsible party cancels a trip in person when the Vehicle Operator shows up to make the pick-up. This is considered as a “no show” under the passenger no show policy as outlined in the Demand Response Rider guide.

Cancellation: A trip that is canceled after it has been created.

Capital Metropolitan Transportation Authority: The formal name for this transit agency, but not the commonly used name. “CapMetro” is the preferred name for this transit authority. CapMetro operates bus, ADA paratransit, on-demand, bike, and commuter rail services for Austin and several suburbs in Travis and Williamson counties.

CapMetro Law Enforcement: CapMetro has an internal police department to assist with law enforcement specifically around public transit services. Additionally, the Authority may contract the local police department, sheriffs, or Department of Public Safety (DPS) to provide security forces as needed.

Collective Bargaining Agreement (CBA): The contractual agreement between an employer and a labor union that governs wages, hours, and working conditions for employees and which can be enforced against both the employer and the union for failure to comply with its terms.

Collision: A vehicle accident in which there is an impact of a transit vehicle with: another transit vehicle, a non-transit vehicle, an object, a person(s) (suicide excluded), an animal or a rail vehicle.

Computer Aided-Dispatch/Automatic Vehicle Location (CAD/AVL): System that connects vehicles to dispatching software. It automatically collects vital data used by dispatchers (CAD) such as bus GPS locations (AVL) to manage schedule adherence, breakdowns, and emergencies. It also integrates with other systems to pass information to in-vehicle equipment (head signs, annunciators, etc.) and passenger information systems (website and mobile applications).

Companion: A person (who may or may not be registered with CapMetro Access) other than a PCA traveling with an ADA eligible passenger and having the same origin and destination as the CapMetro Access eligible passenger.

Conditional Eligibility: An ADA paratransit eligibility level where passengers are required to use fixed route services unless certain conditions or barriers are present that prevent them from doing so. Conditionally eligible passengers are only authorized to use Demand Response service when the limiting conditions are present.

Contractor: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with CapMetro for the performance of Services or work under the Contract.

Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between CapMetro and the Contractor for completion of the work.

Contracted Security Force: Non-sworn security guards (i.e., not sworn police officers) contracted by CapMetro to provide security.

Contracting Officer's Technical Representative (COTR): The COTR is responsible for monitoring the Contractor's progress in fulfilling the technical requirements specified in this contract. The COTR maintains administration records, approves invoices and performs periodic (month/quarter/annual) monitoring reports to confirm the Contractor is meeting the terms and conditions under this contract. This role is currently filled by the Demand Response Program Manager over contracts.

Curb-to-curb (C2C): Service type where Vehicle Operators only assist passengers into and out of the vehicle. Vehicle Operators do not provide rider assistance beyond the curb of the origin or destination.

Customer: Any person being transported. Used interchangeably with the defined term "rider" and "passenger" in this document.

Customer Complaint: Any complaint logged by CapMetro from a customer/rider/passenger in the CapMetro customer service database. Customer complaints are a Key Performance Indicator for this contract. Performance quality is measured on how low customer complaint totals are from month-to-month and on how timely the Contractor resolves the Customer's complaint (**See the Section Titled Customer Service and Complaints for more information**).

Customer Complaint Report (CCR): The documentation of a Customer Complaint within CapMetro's Customer Relationship Management system (currently Salesforce).

Customer Complaint Report (CCR) Resolution. Resolving CCRs is a scope requirement of the Contract. Resolution of a CCR can be defined as communicating with the customer, concluding the resolution by either meeting the customer's concern/complaint, or educating the customer on applicable policies/procedures. Additionally, CCR resolution can be defined as proper action taken to resolve the complaint/concern reported (e.g., retrain staff involved, fix equipment reported broken, inform Demand Response Customer Service team process improvement requests, etc.) If the Contractor is unable to resolve the complaint after three (3) documented attempts to contact the customer without customer response, the Contractor can status the CCR as "technically" resolved and close the CCR.

Customer Service Representative: A CapMetro staff member who responds to requests for transportation and informs requester of the disposition of the ride request.

Deadhead – CapMetro Access (Miles and Hours): The miles and hours that a vehicle travels when not in revenue service. Deadhead includes leaving or returning to the garage or yard facility or changing routes when there is no expectation of carrying revenue passengers.

Deadhead – Pickup (Miles and Hours): The miles and time that a vehicle travels to or from the garage and the zone boundary where revenue service begins and ends.

Defect Card: A form completed by the Operator that documents completion of the pre-trip and other inspections and notes any mechanical defects and/or body damage on the vehicle.

Demand Response: Refers to a subtype of transit services that are responsive to the individual needs/demands of actual transit customers. This is also the title of the department overseeing this contract and managing CapMetro Access (ADA paratransit), Pickup (on-demand), and Metro-Bike services.

Demand Response Control Center (DRCC): Comprises three functions of the Demand Response program currently operated by CapMetro employees. These three functions are Reservations, Scheduling, and Dispatch.

Destination: The location where a passenger trip ends.

Driver: Generic terminology for Vehicle Operator. See definition of Operator.

Door-to-door (D2D): Service type where Vehicle Operators assist passengers to the door of the origin and the destination. Vehicle Operators can go through only one set of vestibule doors at commercial locations while maintaining line of sight of their vehicle. Vehicle Operators are never permitted to enter any passenger's home.

Duty: A “duty” is a term within the CapMetro Access scheduling software (Spare) that is synonymous with the term “run” or “shift.” Refer to the “Run” definition below.

Duty Dispatcher: Synonymous with Window Dispatcher and Run Dispatcher. An individual responsible for monitoring the duties performed at the dispatch window as operators report to work. They also manage work assignments, and vehicle assignments. They assign open or unfilled work consistent with the collective bargaining agreement (CBA).

Eligible Rider: A person registered with CapMetro Access as authorized to use CapMetro Access ADA paratransit transportation.

Enterprise Asset Management System: The management of the maintenance of physical assets of an organization throughout each asset’s lifecycle. EAM is used to plan, optimize, execute, and track the needed maintenance activities with the associated priorities, skills, materials, tools, and information. This covers the design, construction, commissioning, operations, maintenance, and decommissioning or replacement of equipment and facilities (also: asset management system).

Exception Request: Relief from a specific reporting requirement or PDC based on either a threshold value or documentation of good cause. The Contractor may request an exception to any contractual requirement or PDC. Exceptions requests must be provided in writing and require written approval by CapMetro. Exception Requests will be evaluated for approval/denial by appropriate CapMetro department representative (e.g., Vehicle Maintenance PDCs will be evaluated by Vehicle Maintenance assigned Representative). If the contractor wishes to dispute exception request denials determined by the CapMetro department representative, the COTR will evaluate and make a final determination.

Fare: Payment required from each passenger for a ride on any mode of transportation provided by CapMetro.

Fixed Route Services: Public transit service in which a vehicle is operated along predefined routes on a fixed time schedule.

Frontline Personnel: Staff required to perform basic, frontline transit jobs, including, but not limited to: Operators, Mechanics, Service Island/Utility Workers, Parts Clerks, Road Supervisors, Maintenance Supervisors, and Dispatchers.

General Manager: The individual designated by the Contractor to manage the project daily and who may represent the Contractor in contract administration.

Hand-to-hand (H2H): Service type where Vehicle Operators must contact an appropriate person (e.g., caretaker, guardian) when taking custody of the passenger at the trip origin and dropping that passenger off at the trip destination to hand over physical custody of the passenger. This service is provided to passengers who have a demonstrated need to not be left alone at any point while under CapMetro Access care.

Housekeeping: Housekeeping encapsulates general cleaning and care for all work areas, tools, and equipment. This includes, but is not limited to, maintenance areas, service islands, parking lots, storage spaces, and any equipment/machinery. Housekeeping is keeping an appropriate cleanliness standard. Examples of Housekeeping issues are, but not limited to, cleaning up residual oil spills, removing tripping hazards, resolving overflowing containers, washing used oil rags, wiping down unkempt machinery, picking up trash laying around, removing spiderwebs, keeping walk spaces clear, etc.

Incident: Any unusual occurrence (excluding a vehicle or passenger accident), disruption or misconduct involving Demand Response service that results (or has the potential to result) in property damage, personal injury, or denial of service to a passenger.

Invoice Backup: Can be defined as data and information documented for any costs requesting payment within an invoice submittal to CapMetro. No cost will be paid by CapMetro if the costs cannot be substantiated through backup data and information (**See the Section Titled Invoice Requirements**)

Janitorial: Janitorial can be defined as contracted services to provide a standardized cleaning service for the facilities provided by CapMetro in this contract. Janitorial staff shall provide a clean working environment at the facilities. Note – Janitorial is different from “Housekeeping.” “Janitorial” is contracted standard cleaning services, whereas “Housekeeping” is focused on ad hoc general upkeep of the facilities and equipment. (See “Housekeeping” definition above for more information).

Lagging Indicator: Safety measurement used to measure a company’s incidents in the form of past accident/incident statistics. Examples include vehicle/passenger accidents, Injury frequency & severity, OSHA recordable injuries, lost workdays, worker’s compensation claims, etc.

Leading Indicator: Safety measurement used to measure preceding or indicating a future event used to drive and measure activities carried out to prevent and control injury. Examples include safety training, hazard mitigations, ergonomic opportunities identified and corrected, safety audits, drug/alcohol testing, etc.

Lost Service: Synonymous with “Missed” Service. Any length of time cut or not covered from a run as scheduled by CapMetro. This time is not billable by the Contractor.

Major Vehicle Repair: Repairs to major vehicle systems or components, including engine rebuilding, transmission rebuilding, differential/rear axle rebuilding, and major body repair. Often referred to as heavy repair.

Major Facility Repair: Required repair to the facility and/or facility equipment/machinery that is outside the standard repairs of a preventative maintenance work order and is time consuming or overly challenging to repair. Typically, major/complex repairs are costly and require at least one technical expert to fix.

Manifest: Written or digital record of trip information in sequential order required for the Vehicle Operator’s transportation pick-up and drop-off instructions, including scheduled and actual times.

CapMetro Access: Branding of the CapMetro ADA paratransit transportation service.

CapMetro Access ID number: The unique CapMetro Access passenger identification number assigned by CapMetro.

CapMetro Access Monthly Pass: Pass issued or recognized by CapMetro as valid fare for a single individual to ride on CapMetro Access service during the month indicated on the card.

CapMetro BikeShare (MetroBike): CapMetro BikeShare (previously branded MetroBike) is a bikeshare service that CapMetro provides as a bus/train alternative.

MDD: Mobile Data Device. A portable device, tablet or computer that allows digital communication between a vehicle and a central office.

Miles Between Road Calls (MBRC): Key Performance Indicator. MBRC measures how many road calls occurred against how many miles of service were performed. This is measured on a month-to-month basis. See “Road Call” definition.

Missed Service: Synonymous with “Lost” Service. Any length of time cut or not covered from a run as scheduled by CapMetro. This time is not billable by the Contractor.

Missed Trip – CapMetro Access: A trip that is not completed in its entirety, transporting the wrong passenger, a trip for which the passenger is dropped off at an incorrect or unauthorized drop off location, or where the arrival time is more than one (1) hour after the close of the operating window.

Missed Trip – Pickup: A trip that is not completed in its entirety, a trip that transported the wrong customer, or a trip for which the customer is dropped off at an incorrect or unauthorized drop off location – to include outside of the zone.

National Safety Council (NSC): The National Safety Council (NSC) is a 501(c)(3) nonprofit, nongovernmental public service organization promoting the health and safety in the United States of America. Headquartered in Itasca, Illinois, NSC is a member organization, founded in 1913 and granted a congressional charter in 1953.

Near Miss: A narrowly avoided collision or other accident.

North Base Demand Response (NBDR): A common nomenclature for the northern facility location that Demand Response Pickup & MetroAccess services operate out of.

Non-Preventable Accident: A collision in which the Vehicle Operator did everything reasonably possible to avoid the collision.

Non-Revenue Vehicle: Vehicles provided by CapMetro for the Contractor to utilize for field supervision and other operational support. Also termed as a "Support Vehicle."

No Show: When a vehicle arrives for a passenger inside the trip window and the passenger does not board the vehicle within five (5) minutes. If a vehicle arrives before the opening of the window, the five-minute clock does not begin until the window opens.

Observation Report: A written record of CapMetro Quality Assurance audits, inspections or reviews that may require a written response by the Contractor.

OEM: Original Equipment Manufacturer.

Offeror: An entity that submits a Proposal.

On Time: Arriving within the operating window (See below).

On Time Performance: This is a Key Performance Indicator of this contract. This is measured by how many pickups are completed within the 30-minute operating window against how many total pickups occurred during a month-to-month period.

Operations: The day-to-day delivery of service, including CapMetro Access and Pickup services, vehicle maintenance, fleet cleaning and fueling, and all other services required to deliver services identified in the contract.

Operators: The personnel scheduled to operate CapMetro vehicles (to include Demand Response and Pickup vehicles). Also referred to as Drivers or Vehicle Operators.

Operating Window: A thirty (30) minute period when a passenger must be ready to board the vehicle within 5 minutes. The Operating Window starts 15 minutes before the scheduled pickup time and ends 15 minutes after the scheduled pickup time. (E.g., if the scheduled pickup time is 10:00 AM, then the Operating Window is 9:45 AM to 10:15AM. Once the Operator arrives, the passenger has 5 minutes to be at the vehicle).

Origin: The location where a rider boards a vehicle at the beginning of each ride.

Overflow Trip: An overflow trip refers to a situation where the number of trips exceeds the capacity of the Contractor resources. CapMetro reserves the right to provide a contracted overflow provider as needed to maintain service levels and overall service performance.

Park and Ride: Park and ride lots provide parking for people who wish to transfer from private vehicles, bicycles, and other modes to CapMetro public transportation or to personal carpools/vanpools.

Passenger: Any person being transported. Used interchangeably with the defined term "rider" and "customer" in this document.

Personal Care Attendant (PCA): See "Attendant."

Performance Deficiency Credit (PDC): A fixed dollar amount for Contractor's failure to perform a specific obligation under this Contract which amount shall be reflected as a credit against amounts owing Contractor under the Contract; a penalty under Texas Transportation Code Section 451.137.

Pickup by CapMetro: Branding of the CapMetro micro transit services provided by Demand Response. This is a parallel service provided by the Contractor alongside CapMetro Access. It is an app-based service that takes customers from one location to another within a specified zone. Pickup services can be utilized by CapMetro Access paratransit riders at their own discretion.

Pickup Zone Tardiness: Pickup service is based on a designated window of time. Pickup Zone Tardiness is defined as an Operator not in zone at the start of the service window (or has not logged in), and/or has left the zone earlier than the end of the service window (or has logged out early).

Preventable Accident/Collision: A collision in which the Vehicle Operator failed to do everything that reasonably could have been done to avoid it.

Preventable Accident Rate: This is a Key Performance Indicator within the contract and is the rate of which "preventable" accidents occur within a particular mode of transit (e.g., CapMetro Access or Pickup). The ratio is based off the total amount of "preventable" accidents per month against total service miles in the same period. CapMetro determines which accidents are "preventable" by using the National Safety Council guidelines.

Preventative Maintenance Inspection (PMI): The PMI includes the Inspection, the Repetitive, and the PM Repairs. A PMI is a scheduled event of condition-based inspection and maintenance of vehicle or facility systems, components, and functions against an established criterion. The Repetitive is a mileage and time-based set of maintenance tasks and steps that are performed after the Inspection, and before the PMI repairs. The PMI Repairs are those repairs generated from the list of defects from the Inspection. All repairs are to be completed prior to the vehicle being returned to service. All work is to be completed in accordance with the standards identified in the Scope of Services. Once a vehicle begins its PMI, it is to remain out of service until all repairs are complete.

Productivity Rate: This is a Key Performance Indicator in this contract. It is measured as the number of passengers per vehicle service hour.

Project: The implementation of the requirements of the Contract, including this **Exhibit F**.

Project/Program Manager: The CapMetro technical representative who has been designated as having the responsibility for assessing the Contractor's technical performance and progress, inspecting, and periodically reporting on such performance and progress during the stated period of performance, and finally certifying as to the acceptability of the Contractor's work in its entirety or any portion thereof, as required by the contract documents.

Proposal: An Offeror's response to the RFP for this contract.

Property Damage. The estimated dollar value of all property that is damaged in a Reportable Incident. This includes CapMetro-owned property and other vehicles/property involved in the incidents that are not owned by CapMetro.

Public Transportation: As defined in the Federal Transit Act, "transportation by a conveyance that provides regular and continuing general or special transportation to the public."

Quality Assurance (QA): The systematic monitoring and evaluation of the various aspects of the service provided to maximize the probability that minimum standards of quality are being attained.

Quality Control (QC): The process by which the quality of all factors involved in fulfilling contract provisions is reviewed.

Qualified Instructor: A person responsible for instructing operator trainees. Persons designated as a "qualified instructor" for operator training must have a record of safe driving and at least two years of experience driving professionally and demonstrate the ability to provide high-quality customer service.

Radio Dispatcher: An individual who maintains radio contact with Vehicle Operators used in providing service, monitors location and availability of vehicles in real time, ensures timely transport of passengers, handles issues and service disruptions encountered and ensures operational data is correctly reconciled in dispatching applications.

Remote Zone: A Pickup zone in which the vehicle is maintained at the zone and the operator reports directly to the vehicle to start their run.

Revenue Service (Hours, Miles, and Trips): The time when a vehicle is available to the public and there is an expectation of carrying passengers. Revenue service excludes deadhead, vehicle maintenance, school bus service, and charter services.

Revenue Vehicle: A vehicle which transports CapMetro Access customers. May be assigned multiple trips on a run or single trips if serving as overflow.

Rider: Any person being transported. Used interchangeably with defined terms “passenger” and “customer” in this document.

Road Call: A road call occurs when a failure of any component or system on a bus causes the bus to be unable to complete its scheduled service without repair (**See the Section Titled Road Calls for more information**).

Round Trip: When a passenger returns to the point of origin from a single destination within the same day (Note: All CapMetro Access trips are considered an individual trip so neither trip is dependent on the other).

Run: A Vehicle Operator’s daily work assignment. One or more runs can work a single Block. Runs can also work on multiple blocks. A Vehicle Operator’s schedule is primarily determined for each sign-up period through the run-cut process where bus schedules are integrated with driver assignments.

Run-cutting: The process of generating daily Vehicle Operator assignments in a cost-efficient manner to meet all contract requirements negotiated between the union and the employer.

Run Dispatcher: Synonymous with Window Dispatcher and Duty Dispatcher. An individual responsible for monitoring the duties performed at the dispatch window as operators report to work. They also manage work assignments, and vehicle assignments. They assign open or unfilled work consistent with the collective bargaining agreement (CBA).

Safety Management System. Safety Management System (SMS) refers to a systematic approach to managing safety by organizational goals, policy, structure, planning, accountability, and safe standard operating procedures. SMS is implemented, monitored, and controlled for continuous improvement, achievement, and sustainability in maintaining the standard by managing the risks associated with the organization.

Scheduled Revenue Service. Service scheduled to be provided for transporting passengers.

Scope of Services: A section of the Contract consisting of written descriptions of services to be performed or the technical requirements to be fulfilled. Commonly referred to “**Exhibit F**” throughout this document.

Security Incident: An occurrence of a Bomb Threat, bombing, arson, hijacking, sabotage, cyber security event, assault, robbery, rape, burglary, suicide, attempted suicide, larceny, theft, vandalism, homicide, fare evasion, trespassing, nonviolent civil disturbance, or CBR (chemical/biological/radiological) or nuclear release.

Service Animal: An animal that is specifically trained to perform tasks for a person with a disability.

Service Coordinator: An agent of CapMetro who provides pre-day and same-day trip scheduling and Run management as well as serving as the primary dispatcher for the Contractor.

Service Interruption: An unplanned event (e.g., Accident, Incident, Mechanical, Detour/Blockage, Pull Out – Shortage of Operators/Vehicles) that results in the loss of service or change out of a vehicle.

Shall: This term will be used throughout this Scope of Services interchangeably to mean “has a duty to”, or “is required to” perform a particular function or task.

SharePoint: A web-based, collaborative platform that integrates with Microsoft Office and primarily uses document management and storage system. This platform will be the way to house and share documentation between the Contractor and CapMetro.

South Base Demand Response (SBD R): A common nomenclature for the southern facility location that Demand Response Pickup & MetroAccess services operate out of.

Staffing & Personnel Plan: This plan is a deliverable provided by the Contractor during the RFP process for this contract. This plan must consider the scope of services within this project **(to include what is outlined in the Section Titled Key & General Personnel Overview)**, and provide a plan that outlines the organizational chart, the required staff/positions, and the management structure of those positions to perform the scope of services. The Staffing & Personnel Plan must align with the agreed upon language within the current collective bargaining agreement (CBA). The Staffing & Personnel plan can be iterated and/or modified by CapMetro at any time during the lifecycle of the contract. Any changes that incur additional costs will be considered.

Standard Facility Repair: Standard facility repairs shall be defined as any required corrective action based on a preventative maintenance work order to repair the facility and/or the facility equipment/machinery that is typical maintenance for a standard technician.

Sustainability: Sustainability is about meeting today's needs without compromising the ability of future generations to meet their needs. CapMetro's vision for sustainability is to build and operate sustainable transit infrastructure that keeps communities connected, protects, and restores our natural systems and environment, and helps grow a vibrant economy.

Sustainability Vision Plan: CapMetro's road map to define and outline overall environmental sustainability action and guiding principles.

Tablet Failure: Any tablet that fails during service is classified as a tablet failure. A tablet failure can be caused by, but not limited to charger malfunction, software updates, hardware damage, and misuse by the Operator. A tablet failure will cause “lost service” until it is resolved.

Total Miles: Total miles recorded on the vehicle including vehicle service hours, miles incurred during breaks, fueling, scheduled and unscheduled maintenance periods, and training.

Trip: The transportation of a passenger from a point of origin to a single destination. Each registered passenger counts as a single trip. Additionally, according to NTD, a personal care attendant and/or companion are counted as separate trips. For example, if there is one (1) passenger, one (1) personal care attendant, and one (1) grandchild (companion) on the vehicle, then that counts as three trips.

Unreported Vehicle Damage: Any damage found to a vehicle that was not reported in an accident report by the Contractor.

Vandalism: The willful or malicious destruction or defacement of transit property or vehicles.

Vehicle Service Miles (VSM): Vehicle Service Miles. The mileage from the time a vehicle leaves the gate to the time the vehicle returns to the gate less miles incurred during breaks, fueling, and scheduled and unscheduled maintenance periods.

Vehicle Breakdown: Anytime a mechanical failure occurs during revenue service.

Vehicle Operator: Synonymous with driver. Direct-hire employees of the Contractor with whom CapMetro contracts service to operate vehicles transporting passengers.

Vehicle Service Hours (VSH): The time a vehicle leaves the gate to the time it arrives at the gate after the last

scheduled event. Not included as part of VSH are pre-trip inspection time and scheduled or unscheduled maintenance periods (vehicle breakdowns).

Window Dispatcher: Synonymous with Run Dispatcher and Duty Dispatcher. An individual responsible for monitoring the duties performed at the dispatch window as operators report to work. They also manage work assignments, and vehicle assignments. They assign open or unfilled work consistent with the collective bargaining agreement (CBA).

3. OVERVIEW OF SCOPE

3.1 Services. The services provided in this Contract are for CapMetro Demand Response services. The Contractor shall deliver CapMetro a fully functional Demand Response Operation that meets the service requirements of both CapMetro Access and Pickup services as outlined in this scope of services. Unless explicitly stated as a CapMetro responsibility, the Contractor is responsible for all equipment, supplies, staff, effort, and management services necessary to operate a high-quality Public Transportation service. The Contractor shall provide all personnel necessary to perform the Scope of Services as outlined herein.

3.1.1 Labor Management. The Contractor shall provide the direct management of all Frontline Personnel. CapMetro staff will establish the strategies and tactics needed to ensure excellent service daily. The Contractor shall employ and manage an engaged workforce of Frontline Personnel and ensure a positive and effective relationship with ATU Local 1091. The Contractor shall establish and maintain the employment, labor relations functions and human resource processes to provide exemplary transit services and create an exemplary workplace environment. The Contractor shall employ and manage represented employees and provide the personnel management services for those positions.

3.1.2 Contractor/CapMetro Responsibilities. The Contractor shall provide personnel management of employees associated with providing transit functions for all frontline operations, direct support functions and their supervision functions. ~~CapMetro oversees and directs the work plans associated with providing the transit functions for all frontline operations.~~ This contract does not include the staff functions beyond those associated with personnel employee management except where otherwise explicitly outlined within this scope. Employees of the Contractor are required to follow all established standard operating policies and procedures as developed and established by CapMetro.

The Contractor shall provide all supplies required to support staff engaged in the personnel management of employees. ~~The fleet, support vehicles, fuel tanks, bus wash, lift equipment, and operations facilities are owned by CapMetro and will remain available to the Contractor for the sole use of the CapMetro transit system.~~

3.1.3 CapMetro Responsibilities. CapMetro oversees and directs the work plans associated with providing the transit functions for all frontline operations. CapMetro will provide the facilities, the vehicles, parts/inventory, subcontracted services, and hardware/software unless otherwise explicitly outlined within this scope. The fleet, support vehicles, fuel tanks, bus wash, lift equipment, and operations facilities are owned by CapMetro and will remain available to the Contractor for the sole use of the CapMetro transit system.

3.2 Customer Service. CapMetro passengers are the core of the service; therefore, customer service is of paramount importance. The Contractor shall transport passengers within a safe, comfortable, clean, and secure environment during all phases of their trips. The Contractor shall provide the systematic approach necessary to provide reliable service with compassion and understanding, and provide the support services in maintenance, operations, and administration to meet passenger needs. The Contractor shall ensure that its employees respond to passenger inquiries and requests in a positive, prompt, and appropriate manner.

3.3 Cooperation. CapMetro will consistently refine the service delivery process to ensure that the highest possible quality of service is provided. Given the nature of this project, CapMetro requires a Contractor that brings a positive

attitude and significant transit management expertise to the program. The project may undergo revisions and modifications to operating and administrative requirements as it is implemented and developed. CapMetro requires a Contractor that will work cooperatively with CapMetro on these changes. The Contractor shall make recommendations to CapMetro management about operational or process changes as they become apparent. The Contractor shall be open to change, development, and flexibility to achieve an integrated, smoothly operating transportation service. The Contractor's resistance to suggestions for change or modification of their procedures is not acceptable.

3.4 CapMetro Access Operations. The Contractor shall schedule operators to duties the day before service is provided and update any changes on the day of service. CapMetro will schedule and provide trips to the Contractor on the day of service through the operations software platform. The Contractor shall coordinate with Demand Response Control Center to provide service on the street throughout the CapMetro ADA service area **(As described in the most current Attachment 5, ADA & Pickup Service Areas)**.

3.5 Pickup Operations. The Contractor shall schedule operators to pre-established shifts the day before service is provided and update any changes on the day of service. The Contractor shall coordinate with Demand Response Control Center to provide on-demand services in the zones as required. The Contractor shall send out Pickup-branded vehicles driven by fully trained Vehicle Operators, unless otherwise authorized by DRCC to send out non-Pickup-branded vehicles. Zone parameters are established and maintained by CapMetro.

3.6 CapMetro Access Hours and Service Areas. CapMetro Access provides transportation comparable to standard fixed-route service in terms of geography and hours of service. Transportation is currently provided seven (7) days a week and twenty-four (24) hours a day, but the service area will expand, and contract based on the amount of fixed-route bus service on the street at any given time. The Contractor shall provide service during all hours of service. While most trips are routinely provided between the hours of 4 AM and 1 AM, the Contractor must be prepared to accommodate trips outside this timeframe when requested by customers. CapMetro expects comparable levels of performance across all hours of service. The Contractor shall ensure that, even on weekends and holidays, qualified, capable, and experienced staff and supervision are available to ensure the delivery of safe, professional, and high-quality service.

3.7 Pickup Hours and Service Areas. Pickup provides on-demand services comparable to Rideshare companies like Uber and Lyft. CapMetro designates these services by geofenced zones in the Central Texas region. Pickup hours are established specifically to the zones they serve and are subject to change based on the needs of service. Core hours for service are generally 7 AM to 7 PM (5) days a week. Some zones operate (6) to (7) days a week with expanded hours. All zones and hours are determined by CapMetro and at CapMetro's discretion to change. CapMetro expects comparable levels of performance across all hours of service. The Contractor shall ensure that, even on weekends and holidays, qualified, capable, and experienced staff and supervision are available to ensure the delivery of safe, professional, and high-quality service.

3.8 Adjustment to Service. CapMetro reserves the right to adjust CapMetro Access and Pickup services at any time. Modifications to services include, but are not limited to holiday modified schedules, extending, deleting, or adding routes, or parts of routes, and expanding or decreasing scheduled service hours. Scheduled service hours are determined by CapMetro. CapMetro may make changes to facilitate additional service or reductions in service. Those changes will be provided to the Contractor with advanced notice as determined by CapMetro to meet obligations for the selection of work.

3.9 Vehicles and Technology. CapMetro will provide all revenue vehicles required to operate Demand Response Services. CapMetro will also provide non-revenue vehicles. The Contractor shall take possession of CapMetro vehicles in accordance with the terms and conditions outlined in this scope. The Contractor shall perform maintenance on CapMetro fleet vehicles and on-board vehicle equipment to CapMetro standards. CapMetro will provide in-vehicle GPS enabled tablets tied into the CapMetro scheduling and operations systems. The vehicle and technology requirements are further described herein this contract.

3.10 Amalgamated Transit Union (ATU). The Contractor shall employ and manage an engaged workforce of Frontline Personnel and ensure a positive and effective relationship with ATU Local 1091.

3.11 Special Event Services. The Contractor from time to time shall provide special event service requested by CapMetro. These services vary from year to year. When special event services are operated, adequate field supervision and dispatch services shall be assigned to support the additional service. Transportation Supervisors must be on duty and ready to support operations for the entire duration of the special event services.

3.12 Financial Responsibilities. The Contractor is responsible for the entire cost of ATU represented personnel provided by their company, inclusive of all compensation, fringe benefit costs, labor relations, employment grievances, arbitrations, penalties, compromise settlements and related costs. These costs will be reimbursed by CapMetro based on certified payroll information with special emphasis on payment only for fulfilled positions. CapMetro shall have access to the Contractor's payroll system for verification and audit purposes.

3.12.1 Prohibited Reimbursements. CapMetro will not reimburse any expenses related to payment for labor fines, penalties or settlements that arise from missed deadlines or labor code infractions.

3.12.2 Pricing Proposal. The general liability costs, worker compensation costs, automobile liability costs, errors and omission costs, professional liability costs, and umbrella costs are itemized in the risk management section of the price proposal.

The costs of non-bargaining unit personnel that are provided by the Contractor are itemized in the staff section of the price proposal. The other costs for general and administrative costs are itemized in the administrative section of the price proposal. These eligible costs will be compensated by CapMetro on a fixed price per month basis.

4. DEMAND RESPONSE SERVICES BACKGROUND

4.1 CapMetro Access (ADA Paratransit) Background. CapMetro is a public agency responsible for providing mass transit service within the City of Austin and the surrounding communities of Leander, Lago Vista, Jonestown, Manor, San Leanna, and Point Venture, as well as the unincorporated area of Travis County within Precinct 2 and the Anderson Mill area of Williamson County.

CapMetro provides ADA paratransit service branded "CapMetro Access." The CapMetro Access ADA Paratransit Program is for persons who have a disability or medical condition which limits or prevents them from independently using accessible bus service some or all the time. Passengers with eligibility under this program may ride CapMetro Access within $\frac{3}{4}$ mile of CapMetro's non-commuter fixed route bus service and local light rail service on the same days and during the same hours. Paratransit service may be offered to passengers outside of the ADA service area **(As described in the most current Attachment 5, ADA & Pickup Service Areas)** on a limited basis.

4.2 Pickup (On-Demand) Background. Demand Response provides same-day App-based public transit service called "Pickup" within specific geo-fenced zones. More information about this service and the zones may be found at: www.capmetro.org/pickup

5. DEMAND RESPONSE ADMINISTRATION AND OPERATIONS OVERVIEW

5.1 Demand Response Administration. Demand Response internal employees oversee ADA Paratransit and Pickup Operations. This team is responsible for all other duties required to successfully operate these public transit programs including, but not limited to budgeting, analytics, annual reporting, public outreach, service planning, regional coordination, inventory control, customer management, contract compliance, safety oversight, and federal compliance. The Contractor is required to partner with the Demand Response Administration team to ensure ADA Paratransit and Pickup Operations are performed as required according to the Contract and according to the public's expectations of these services.

5.1.1 Eligibility, Customer Service, and Mobility Training Department. Demand Response operates this department that is responsible for determining eligibility for ADA paratransit service, determining passenger

service levels, providing travel training, overseeing customer service, and maintaining the integrity of passenger account information. This department also provides oversight of all training and training materials for Demand Response, including oversight of the Contractor training.

5.1.2 Demand Response Control Center (DRCC). The Demand Response Control Center is comprised of internal Reservations, Scheduling and Dispatch staff for all services within Demand Response to include (but not limited to) CapMetro Access and Pickup services.

5.1.2.1 The DRCC is responsible for receiving all requests for customer trips, and then coordinating with the Contractor to manage service on the street. The DRCC adjusts customer trips as needed and coordinates with the Contractor's operations team for all service-related issues on the day of service. The DRCC will routinely provide directions to Contractor's Vehicle Operators, Dispatchers and Transportation Supervisors.

5.1.2.2 The DRCC oversees the Pickup operation software and works with Vehicle Operators and the rest of the Contractor's operations team to ensure all service-related issues are responded to and resolved within expected timeframes within each zone.

5.1.2.3 The DRCC is responsible for building and adjusting run cuts for the operator markup, which typically takes place three times per year.

5.1.3 Demand Response Contract Oversight. CapMetro internal contract oversight staff functions include (but are not limited to) administration of contract monitoring plans, execution of contract modifications, operations, and vehicle maintenance quality assurance audits (remote, records and in-service), preparing observation reports to document contract compliance, assessing incentives, penalties, PDC's and reviewing Contractor invoices to accurately compensate for work performed.

6. TYPES OF SERVICES PROVIDED

6.1 ADA CapMetro Access Trips. The Contractor shall transport CapMetro Access eligible passengers in accordance with CapMetro approved CapMetro Access policies and in the safest, most courteous, and efficient manner possible.

6.2 Eligibility Evaluation Trips. Applicants who wish to be considered for CapMetro Access service must attend an in-person interview and possible functional assessment conducted by the CapMetro Eligibility department. These round trips are provided at no cost to the applicant. These trips may not always be within the ADA service area.

6.3 Transfer Trips. CapMetro is one of many transportation providers in the greater Austin area. Therefore, regular travel between other transportation service areas in the region may occur, requiring transfer between the various providers. In addition, CapMetro has established "transfer points" at several transit center locations in the CapMetro service area, where passengers are transported to transfer onto other transit vehicles to consolidate transportation demand. When passengers are to be dropped off at a transfer point, but the receiving transfer vehicle has not arrived, the Vehicle Operator must notify the CapMetro Control Center and wait with the passenger until the other transfer vehicle arrives or as otherwise directed.

6.4 Feeder-to-Fixed Route Trips. Passengers who have barriers getting to the fixed route service but can successfully ride fixed route service upon reaching an accessible zone or station may receive "feeder-to-fixed-route" service. CapMetro Access vehicles will provide service to the passenger at either end of their fixed route trip, when required.

6.5 Open Return Trips. Trips offered by CapMetro Access provide additional flexibility to passengers who may not know the exact time of when their return trip will be needed. The trips shall be scheduled with an estimated time before the day of service but may be rescheduled by the CapMetro Control Center throughout the day of service according to the passenger's request. These schedule changes shall be updated and sent directly to the Contractor's mobile data device.

6.6 Standby Trips. Trips provided on the same day as requested. CapMetro Access will provide standby trips only when excess capacity exists at the time of the request, when an error occurs in service that is no fault of the passenger, or when a passenger is stranded at a location other than their home. CapMetro reserves the right to grant other kinds of standby trips on a case-by-case basis.

6.7 Auto-Dispatched On-Demand Trips. This type of trip represents a range of innovative Demand Response services provided by CapMetro to ADA paratransit and non-paratransit eligible passengers. These trips can be booked through an application, or over the phone. These trips are directly assigned to the route in real time as the trip is requested with minimal Dispatcher intervention.

6.8 Emergency Trips. On occasion Demand Response may be required to provide trips for emergency and non-emergency operations for the public. These trips include (but are not limited to) medical transport, food/water deliveries, mobile Wi-Fi hot spots, bus or rail support, and evacuations.

7. TECHNOLOGY, OFFICE EQUIPMENT, AND COMMUNICATIONS

7.1 Technologies Overview. ~~The Contractor is required to utilize, support, and help maintain CapMetro technologies, office equipment, and communication equipment throughout the Contract lifecycle. CapMetro relies on technology to facilitate the operation of a quality transportation system. All requirements within this section are subject to change as new technologies are embraced by CapMetro.~~

7.1.1 Contractor Cooperation. ~~The Contractor shall cooperate with CapMetro and technology vendors to coordinate upgrades, future installations and implementation of the technology systems and train all appropriate personnel. This includes testing and providing feedback throughout the deployment of new systems and major system upgrades.~~

7.1.2 Loss, Theft, and Damage. ~~If CapMetro hardware, software, office equipment, and/or communications equipment is lost, stolen, or damaged beyond repair while in the Contractor's care, CapMetro may elect to charge the Contractor the fair market value of the equipment.~~

7.1.3 Train the Trainer. ~~If there is a new training subject required by CapMetro during the Contract lifecycle, CapMetro will coordinate with the Contractor to provide "train the trainer" resources and materials.~~

7.1.4 Data Management Requirements. ~~The Contractor shall comply with CapMetro policies and directives related to data management and retention.~~

7.1.5 Data Integrity & Reconciliation. ~~The Contractor shall ensure the reliable transmission of real-time trip information into CapMetro operations and scheduling software systems where that content is in the care of the Contractor (i.e., through a mobile data device). When real-time trip information is not transmitted or contains errors, the Contractor shall perform data reconciliation to ensure timely and accurate reporting and invoicing (See the Reporting section of this document for more information).~~

7.1.6 CapMetro Consent. ~~The Contractor shall not install hardware, software, cabling, servers, routers, or other technology elements at CapMetro facilities or in data proximity to CapMetro networks, including internet-accessed networks, without the prior consent of CapMetro. Planned upgrades or changes to such shall be communicated by advance written correspondence to CapMetro. This will allow CapMetro to perform risk assessment, testing, and conflict resolution where necessary. The Contractor grants CapMetro the right to access, modify, move, or remove any such hardware, software, cabling, servers, routers, or other technology elements installed by the Contractor as necessary to fulfill its obligations to network security and stability.~~

7.1.7 Contractor Requested Technology. ~~Should the Contractor desire any additional technology (not explicitly described in this Contract as being provided by CapMetro), that technology shall be acquired, implemented, maintained, and decommissioned at the Contractor's expense unless by written pre-arrangement with CapMetro.~~

7.1.8 Exclusivity. ~~Software and equipment distributed by CapMetro under this contract shall be for the exclusive use of this contract. The Contractor shall protect the software and equipment from unlawful copying, duplication, and theft.~~

7.1.9 User Security. ~~The Contractor's staff be provided access to CapMetro networks, equipment, and software to take part in mandatory CapMetro End User Security Awareness Training on an annual basis. Additionally, each Contractor employee working on CapMetro networks, equipment or software must agree in writing to abide by all applicable CapMetro Security policies and procedures prior to being allowed to access (either on-site or remotely) CapMetro facilities, networks, equipment, or software.~~

7.1.10 Employee Terminations (Access). ~~The Contractor shall notify CapMetro of separated employees and file a CapMetro IT access termination request form within 24 hours of that employee's separation. Failure to do so shall result in a \$100 PDC per calendar day until the request is properly submitted. In the event of a contentious separation, the Contractor shall immediately contact the IT Help Desk by phone to request termination, as well as filling out the form.~~

7.1.11 Dedicated IT Staff. ~~The Contractor shall have a staff member dedicated to technology management. This role will act as the Contractor's subject matter expert, advocate, and primary liaison to CapMetro for all things technology. This may include needs assessment, scope development, documentation, testing, training, aid to IT in troubleshooting escalated or chronic issues, change management, rights audits, and support for corporate software solutions not provided by CapMetro. This role will further support CapMetro's goal of systemwide accessibility by reporting remediation needs identified in customer or staff technology interfaces. (See the Section Titled Logistics Technology Technician Transit Technologies Specialist for additional details on this position).~~

7.1.12 Onboarding Staff. ~~The Contractor shall use CapMetro's IT access request solution (currently ServiceNow) to request technology access for all new employees.~~

7.1.13 Cyber Security Training. ~~The Contractor's staff will be provided access to CapMetro networks, equipment, and software to take part in mandatory CapMetro End User Security Awareness (Cyber Security) Training on an annual basis. Additionally, each Contractor employee working on CapMetro networks, equipment or software must agree in writing to abide by all applicable CapMetro Security policies and procedures prior to being allowed to access (either on-site or remotely) CapMetro facilities, networks, equipment, or software.~~

7.1.14 CapMetro IT Escalation Plan. ~~The Contractor must follow CapMetro's IT Escalation Plan as required (See Attachment CapMetro IT Escalation Plan).~~

7.1.15 Office Staff Computers & Peripherals. ~~CapMetro will provide and set up office workstations with 1 monitor (depending on size, dispatchers may be assigned more than one), a laptop docking station, mouse, and keyboard. These stations will be set in existing office spaces in provided facilities. A laptop with bag, mouse, and headset will be assigned to applicable Contractor administrative staff members allowing for movement between desks or remote work when necessary.~~

7.1.16 Computers & Printers for Maintenance. ~~Maintenance workstations (vehicle maintenance and facility maintenance) will be set up with a computer, monitor, mouse, and keyboard at both North and South base locations by CapMetro. North and South bases will also be assigned a printer for maintenance purposes by CapMetro.~~

7.1.17 Inspection Computers. ~~North and South bases will each be granted one vehicle inspection computer with appropriate internet connection (typically through a POTS line).~~

7.1.18 On Campus Security Cameras & Monitoring Stations. ~~North and South base campuses will be video monitored. Access to video will be made available to management. CapMetro facilities are outfitted with security monitoring workstations operated by CapMetro security staff and contractors.~~

7.1.19 Reader Board Monitors. ~~North and South bases will be granted a minimum of 3 big screen TVs, as~~

well as one or more controlling PC, mouse, keyboard combos to control content displayed thereon. Two of these TVs are intended for the dispatch office to monitor real time operations dashboards, while the third is for the operator breakroom to display Timepoint TV and other operations content.

7.1.20 Print/Copy/Scan. CapMetro will assign North and South bases with a minimum of 1 multifunction service copier to be in or near each primary administrative office.

7.1.21 Access Control Systems. North and South base campuses will be outfitted with a card-access system, managing ingress and egress around the facilities. These will be monitored by CapMetro security staff and contractors.

7.1.22 Network Active Directory Accounts. All staff with access to CapMetro systems (including email) will be assigned a CapMetro network login. This will allow them access to manage passwords and access other CapMetro provided technology solutions and allow CapMetro IT to manage user access from employee onboard to separation.

7.1.23 Multifactor Authentication & Single Sign On. CapMetro currently uses a combination of Duo, Proof Point, and Windows Authenticator to validate a user's identity when attempting to access CapMetro systems.

7.1.24 VPN. CapMetro currently uses Cisco AnyConnect to facilitate VPN access to its networks when users are off campus.

7.1.25 Office 365. CapMetro will provide Office 365 (Word, Excel, PowerPoint, Teams, Outlook, OneDrive) to Contractor's office staff.

7.1.26 E-learning Software. CapMetro has the option to provide e-learning software to the Contractor should it provide or sponsor such initiatives. If the Contractor opts to provide its own e-learning software solution, it should be web-based so staff may access it using their CapMetro computers.

7.1.27 Contractor Corporate Use Software. The Contractor shall provide their own software for corporate functions such as Human Resources, Payroll, Finance, etc. The Contractor shall furnish CapMetro with a data feed of payroll data associated with this contract. Methodology shall be determined after the contract has been awarded.

7.1.28 VIA Software. Pickup by CapMetro uses the VIA platform to schedule and dispatch trips and direct operators in the performance of their daily work. The Contractor must ensure all staff accessing the system are thoroughly trained on the software.

7.1.29 Spare Labs. CapMetro Access uses the Spare platform to manage eligibility, schedule and dispatch trips, and direct operators in the performance of their daily work. The Contractor must ensure all staff accessing the system are thoroughly trained on the software.

7.1.30 Customer Relationship Management (CRM). CapMetro uses Salesforce to track communications with its customers including complaints and compliments. The Contractor must use this system to review and respond to relevant contacts. The Contractor must ensure all staff accessing the system are thoroughly trained on the software.

7.1.31 Enterprise Asset Mgmt. (EAM). The Contractor shall use Capmetro's provided EAM System to operate fleet and facility maintenance activities. If desired, CapMetro may be able to accommodate a data feed to the Contractor's own asset management platform at the Contractor's cost.

7.2 Technology Deliverables.

7.2.1 IT Systems Continuity Plan. The Contractor shall submit an IT Systems Continuity Plan. This plan shall address all major technology systems used by the Contractor in support of daily local operations (whether provided by CapMetro or the Contractor). Plans should be tailored to each site from which local

staff operate including, but not limited to, in the field, in vehicles, at bases, and at remote work sites. It shall include: (1) how to reach support services (including escalation paths), (2) procedures for system recovery, (3) interim work arounds to ensure business continuity, (4) post-issue return to business procedures, and (5) post-mortem issue analysis/lessons learned.

7.2.2 Change Management Plan. The Contractor is allowed to utilize hardware and software technologies to perform their internal operations. The Contractor's Change Management Plan will be reviewed and approved by CapMetro IT department prior to being official.

7.2.3 Change Management Log. A date stamped Change Management Log (**Attached**) shall be kept for documenting major and moderate hardware and software changes and upgrades and shall be stored in SharePoint.

7.2.4 Change Management Meetings. The Contractor's Technology liaison (i.e., Transit Technology Specialist) shall attend regular Change Management meetings held by the CapMetro IT Department to learn about and raise any technology issues which may affect both entities and daily operations.

7.2.5 Information Technology Systems (ITS) Plan. The Contractor shall provide their ITS plan that identifies the following:

- Knowledge and experience in using specified technologies in the **Section Titled Communication and Data Sharing Technology.**
- Effective use and maintenance of CapMetro's current technology systems.
- Ability to support the implementation of new ITS products to be provided by CapMetro (or the Contractor as applicable).
- How system updates will be managed in partnership with CapMetro, and third-party support will be obtained as required.

7.3 Internet Technology.

7.3.1 Internet Connectivity & Landline. North and South bases will each be outfitted with landline and Wi-Fi internet for work use as well as a guest Wi-Fi connection.

7.3.2 Internet Hotspots. If the Contractor requires internet hotspots, a request with justification may be submitted to CapMetro IT through ServiceNow. CapMetro IT will provide as needed.

7.4 Communication & Data Sharing Technology.

7.4.1 Radio System Requirements.

7.4.1.1 Radio System. CapMetro will furnish the Contractor with a radio system equal to or compatible with CapMetro's current radio system. The radio system is currently provided to CapMetro by LCRA. The Contractor shall support the ongoing maintenance of the radio system when LCRA is onsite. All radio equipment provided under this Contract shall remain the property of CapMetro and returned in working condition to CapMetro at the end of the Contract term.

7.4.1.2 Radio Assignments. One mobile radio will be assigned per revenue vehicle and one per supervisor vehicle. Mobile/handheld radios will be provided for supervisors and managers. CapMetro shall provide a limited number of spares to ensure communication reliability. Radio consoles will be provided for Contractor use at a location determined by CapMetro.

7.4.1.3 Radio Ancillary Equipment. Replacement batteries, clips, microphones, receivers, and other ancillary equipment required or desired for use under the Contract will be procured from LCRA by CapMetro. The Contractor is responsible for these items.

7.4.1.3.1 Lost/Damaged/Stolen Equipment. The Contractor is responsible for the cost of

replacing any CapMetro Radio equipment that is lost, stolen, or damaged beyond repair while in the Contractor's possession.

7.4.1.4 Radio Maintenance. CapMetro will provide all routine maintenance (and associated costs) of the radio system. Installing or repairing (i.e., RF Deck, Control, Head, Portable Radios, etc.) of radio components will be performed by LCRA.

7.4.1.4.1 Initial Installs/Ongoing Maintenance. LCRA will perform the initial (new) radio installations to revenue and support vehicles and ongoing maintenance of radio systems. The Contractor shall support CapMetro and LCRA with the initial radio installations and ongoing maintenance of the radio system. This includes, but is not limited to, coordination with LCRA for the servicing of radios and verifying with CapMetro the services LCRA performs on the radios when onsite.

7.4.1.4.2 Radio Transfers & Temporary Removals. Once the new radios have been initially installed by LCRA, any necessary transfers for radios (e.g., retiring a vehicle, vehicle OOS long term, etc.) shall be performed by the Contractor.

7.4.1.5 Radio Reliability. The Contractor shall ensure that radio communications are operational for all Vehicle Operators in revenue service, all Transportation Supervisors on duty, and for the Contractor's Radio Dispatch.

7.4.1.6 Radio Airtime. CapMetro will provide the airtime required for the radio system to operate at CapMetro's expense.

7.4.2 Telephone & Recording.

7.4.2.1 VOIP Phones & Recordings. Each base (North and South) will have landline phones in common areas for general staff use provided by CapMetro. Office workers will be assigned an individual telephone extension accessible (soft phone) through their computer (as opposed to a landline). Customer-facing extensions can be voice and/or computer screen recorded with access granted to management. Voicemail is available for individual users or can be shared among a group. Dispatch (others configured upon request) will have access to log in and receive inbound calls through sorted skillsets (e.g., driver line, dispatch line, etc.). Calls received through skillsets can be tallied for performance reporting made available to management. CapMetro currently uses Avaya phones and recording.

7.4.2.2 Remote Access Telephone System. CapMetro may, at its discretion, provide the Contractor with access to a remote telephone system.

7.4.2.3 POTS (analog phones). North and South base dispatch offices will each be assigned an analog "plain ordinary telephone" line (POTS) as a backup communication method should VOIP phones go down for any reason. Note that POTS phones are not currently recorded.

7.4.3 Cell Phones. The Contractor shall provide its own cellular phones, as deemed appropriate. Key staff members shall provide their cell phone numbers to CapMetro to ensure CapMetro staff can make contact in priority situations. The Contractor shall maintain an up-to-date telephone list that will be housed on a shared site with CapMetro.

7.4.4 Email Addresses. All staff (including operators and maintenance workers) will be granted a CapMetro email address. This will allow for access to various CapMetro technology solutions (e.g., Spare, VIA).

7.4.5 Email Distribution Lists. North and South base will each have their own set of distribution lists created and maintained by CapMetro including leadership, dispatch, and safety. The Contractor shall routinely ensure these lists are up to date with current employees.

7.4.6 Microsoft Teams. CapMetro uses Microsoft Teams to hold most remote meetings. The Contractor can

join such meeting invites as guests with no special installation, email domain, or membership requirements.

7.4.7 SharePoint. The Contractor will be assigned a SharePoint site external to CapMetro's network through which documents can be shared with CapMetro. Only documents and audio recordings can be posted here. Corporate or personal documents shall not be stored by the Contractor on external SharePoint drive as files will be subject to public information requests.

7.4.8 Video Storage. Video provided to CapMetro will be loaded to CapMetro's "K Drive" (a folder inside CapMetro's network that is accessible through Citrix). Only videos requested by CapMetro may reside here. CapMetro will move videos related to legal or public information requests to separate agency storage. All other videos are removed after 90 days. The Contractor must make other storage arrangements for any other videos they wish to retain. The Contractor shall keep CapMetro informed of any contractual agreements made with the bargaining unit (ATU) regarding employee relations that may require video storage retention period changes.

7.4.9 Citrix. CapMetro currently uses Citrix to securely grant access to on premise solutions such as Exacom, Network Drives, etc.

7.4.10 2-Factor Authentication. Accessing CapMetro software outside of the network (any time a person is not at a main CapMetro office) requires two factor authentication. Each Contractor user must provide a unique telephone number (preferably a cell phone) through which they can receive an SMS text or call to confirm their identity. Numbers provided for this solution will not be shared for other purposes.

7.4.11 Braille. CapMetro has on-site Braille services and can accommodate needs upon request.

7.4.12 Data Warehouse & Data Connections. CapMetro currently uses Snowflake to gather content from various databases, making it available in one location for those needing to query CapMetro systems. At present, data is refreshed once a night. This data shall be provided to the Contractor as needed.

7.5 In-Vehicle Technology.

7.5.1 Tablets & Device Maintenance System. North and South bases will each be assigned sufficient tablets for daily operation and a spare ratio for backup. Tablets will be maintained through CapMetro's device maintenance solution. If manual intervention is needed, CapMetro IT will coordinate with the technology liaison. The Contractor shall establish a pre/post trip equipment evaluation and a hot swap procedure to ensure that this essential technology is quickly replaced in the event of issues during the operating day. CapMetro currently uses Samsung Galaxy Tablets (android) with a cellular connection.

7.5.2 Fare Validation on CapMetro Access. CapMetro Access vehicles are not fitted with digital fare validation equipment as of the startup of this contract. Fare collection technology will continuously evolve and be implemented in the future. Currently, paper and digital fare media must be visually validated by the Operator. Customers also have the option of using a credit card to automatically pay for trips as they are taken. No cash is accepted.

7.5.3 Fare Validation on Pickup. Pickup vehicles are outfitted with fare validators allowing tickets and passes to be scanned. Cash is also accepted through dummy fareboxes. Cash payments and smart phone passes must be visually verified by the Operator.

7.5.4 Onboard Camera Systems.

7.5.4.1 Camera Equipment. CapMetro will fit revenue service vehicles with continuous record camera equipment provided by CapMetro. The Contractor shall install, swap, or decommission the camera equipment as necessary and shall perform camera equipment maintenance. Currently CapMetro is utilizing Luminator technologies for the onboard camera systems, but the systems are subject to change over the contract lifecycle. Continuous record cameras will capture content while the vehicle is in service and retain up to forty (40) hours of recordings before overwriting. The onboard

camera system will capture the interior of the vehicle and front windshield views.

7.5.4.2 Camera System Software and uploads. CapMetro will provide access to onboard camera software solutions. CapMetro and the Contractor will have access to upload videos. CapMetro will store video recordings on a share drive that will be made accessible to the Contractor.

7.5.4.3 SMS Camera Requirements. The Contractor's SMS Plan shall define how data from the inertia-based camera system will be used to improve safety performance (**See the Section Titled Safety Management System**).

7.5.5 Headway Signs. CapMetro will provide headway signs for Pickup vehicles. The Contractor shall maintain these Contractor with contents pre-determined by CapMetro.

7.5.6 Onboard Cellular Internet Routers. Revenue vehicles may be fitted with cellular routers to facilitate operation of headway signs, fare validators, security camera systems, and other operations technologies.

7.6 CapMetro IT Support Services.

7.6.1 Service Desk. The CapMetro Service Desk is staffed during weekdays, daytime business hours of 7 AM to 5 PM. After hours support for emergencies is available at **512-389-7570**.

7.6.2 Technology Issue Resolution (Service Now). The Contractor shall file a Service Now ticket for all issues to ensure their occurrence and resolution are tracked. If the issue is an emergency, the Contractor should call the Service Desk to get priority assistance. Tickets should include who is impacted, what is occurring, where it is happening, when did it started, why (if it is an emergency), and how to replicate or navigate to it. Screenshots recommended.

7.6.3 Password Self Service. Self Service allows staff to change their network passwords without needing assistance from the Service Desk. This is especially helpful during a password lock out.

7. TECHNOLOGY

7.1 Technologies Overview. All essential technology will be provided by CapMetro in this contract. The ~~Service Provider~~ Contractor is required to utilize, support, and help maintain CapMetro technologies assigned to its care throughout the Contract lifecycle. All requirements within this section are subject to change as new technologies are embraced by CapMetro. ~~Service Provider~~ Contractor shall adhere to the most current **Attachment 41 - Metro Access & Pickup Technology List – FY23**.

7.1.1 ~~Service Provider~~ Contractor Cooperation. The ~~Service Provider~~ Contractor shall cooperate with CapMetro and technology vendors to coordinate upgrades, future installations and implementation of the technology systems and train all appropriate personnel. This includes testing and providing feedback throughout the deployment of new systems and major system upgrades.

7.1.2 Exclusivity. Software and equipment distributed by CapMetro under this contract shall be for the exclusive use of this contract. The ~~Service Provider~~ Contractor shall protect the software and equipment from unlawful copying, duplication, and theft.

7.1.3 Loss, Theft, and Damage. If CapMetro technology equipment (including software) is lost, stolen, or damaged beyond repair while in the ~~Service Provider's~~ Contractor's care, CapMetro may elect to charge the ~~Service Provider~~ Contractor the fair market value of the equipment.

7.1.4 CapMetro Consent. The ~~Service Provider~~ Contractor shall not install hardware, software, cabling, servers, routers, or other technology elements at CapMetro facilities or in data proximity to CapMetro networks, including internet-accessed networks, without the prior consent of CapMetro. Planned upgrades or changes to such shall be communicated by advance written correspondence to CapMetro. This will allow

CapMetro to perform risk assessment, testing, and conflict resolution where necessary. The ~~Service Provider~~ Contractor grants CapMetro the right to access, modify, move, or remove any such hardware, software, cabling, servers, routers, or other technology elements installed by the ~~Service Provider~~ Contractor as necessary to fulfill its obligations to network security and stability.

7.1.5 Data Integrity & Reconciliation. The ~~Service Provider~~ Contractor shall ensure the reliable transmission of real-time trip information into CapMetro operations and scheduling software systems where that content is in the care of the ~~Service Provider~~ Contractor (i.e., through a mobile data device). When real-time trip information is not transmitted or contains errors, the ~~Service Provider~~ Contractor shall perform data reconciliation to ensure timely and accurate reporting and invoicing (**See the Reporting section of this document for more information**).

7.1.6 ~~Service Provider~~ Contractor Requested Technology. Should the ~~Service Provider~~ Contractor desire any additional technology (not explicitly described in this Contract as being provided by CapMetro), that technology shall be acquired, implemented, maintained, and decommissioned at the ~~Service Provider's~~ Contractor's expense unless by written pre-arrangement with CapMetro. Requests for consideration should be routed to the Contracting Officer.

7.1.7 Abiding by IT Policies. ~~Service Provider~~ Contractor employees must agree in writing to abide by all applicable CapMetro Security policies and procedures prior to being allowed to access (either on-site or remotely) CapMetro networks, equipment, or software. ~~Service Provider~~ Contractor shall adhere to the most current **Attachment 57 - Technology Assignment and Acquisition Policy**.

7.1.8 Onboarding Staff. The ~~Service Provider~~ Contractor shall use CapMetro's IT access request solution (currently ServiceNow) to request technology access for all new employees.

7.1.9 Employee Terminations (Access). The ~~Service Provider~~ Contractor shall notify CapMetro of separated employees and file a CapMetro IT access termination request ticket within 24 hours of that employee's separation. Failure to do so shall result in a **\$100 PDC** per calendar day until the request is properly submitted. In the event of a contentious separation, the ~~Service Provider~~ Contractor shall immediately contact the IT Service Desk by phone to request termination, as well as filing the ticket.

7.1.10 Train the Trainer. If there is a new training subject required by CapMetro during the Contract lifecycle, CapMetro will coordinate with the ~~Service Provider~~ Contractor to provide "train the trainer" resources and materials.

7.1.11 Dedicated IT Staff. The ~~Service Provider~~ Contractor shall have a staff member dedicated to technology management. This role will act as the ~~Service Provider's~~ Contractor's subject matter expert, advocate, and primary liaison to CapMetro for all things technology. This may include needs assessment, scope development, documentation, testing, training, aid to IT in troubleshooting escalated or chronic issues, change management, rights audits, and support for corporate software solutions not provided by CapMetro. This role will further support CapMetro's goal of systemwide accessibility by reporting remediation needs identified in customer or staff technology interfaces. (**See the Section Titled Transit Technologies Specialist for additional details on this position**).

7.1.12 Cyber Security. Cyber Security Training is mandatory for all staff with access to CapMetro systems on an annual basis. CapMetro will provide training materials and equipment to facilitate completion of this requirement. Failure to complete mandatory training may result in suspension of a user's CapMetro IT access rights.

7.2 Technology Deliverables.

7.2.1 IT Systems Continuity Plan. The ~~Service Provider~~ Contractor shall submit an IT Systems Continuity Plan. This plan shall address all major technology systems used by the ~~Service Provider~~ Contractor in support of daily local operations (whether provided by CapMetro or the ~~Service Provider~~ Contractor). Plans should be tailored to each site from which local staff operate including, but not limited to, in the field, in vehicles, at

bases, and at remote work sites. It shall include: (1) how to reach support services (including escalation paths), (2) procedures for system recovery, (3) interim work arounds to ensure business continuity, (4) post-issue return to business procedures, and (5) post-mortem issue analysis/lessons learned.

7.2.2 Change Management Plan. The ~~Service Provider~~ Contractor shall submit an IT Change Management Plan outlining its end-to-end procedures for accommodating a change in IT policy, procedure, systems, or equipment. The plan should consider that a change may originate from either CapMetro or the ~~Service Provider's~~ Contractor's side of the equation. The ~~Service Provider's~~ Contractor's Change Management Plan will be reviewed and approved by CapMetro IT department prior to being official.

7.2.3 Change Management Log. A date stamped Change Management Log (**Attached**) shall be kept for documenting major and moderate hardware and software changes and upgrades and shall be stored in the ~~Service Provider's~~ Contractor's assigned SharePoint site.

7.2.4 Change Management Meetings. The ~~Service Provider's~~ Contractor's Technology liaison (i.e., Transit Technology Specialist) shall attend regular Change Management meetings held by the CapMetro IT Department to learn about and raise any technology issues which may affect both entities and daily operations.

7.3 Office Technologies.

7.3.1 Office Staff Computers & Peripherals. CapMetro will provide and set up office workstations with 1 monitor (depending on size, dispatchers may be assigned more than one), a laptop docking station or desktop computer, mouse, and keyboard. These stations will be set in existing office spaces in provided facilities. A laptop with bag, mouse, and headset will be assigned to applicable ~~Service Provider~~ Contractor administrative staff members allowing for movement between desks or remote work when necessary.

7.3.2 Computers & Printers for Maintenance. CapMetro will provide vehicle and facilities maintenance workstations with a computer, monitor, mouse, and keyboard at North and South base locations (additional locations at CapMetro's discretion). One maintenance printer will also be assigned per location.

7.3.3 Inspection Computers. CapMetro will provide North and South bases with one vehicle inspection computer each, with appropriate internet connection (typically through a POTS line).

7.3.4 Reader Board Monitors. North and South bases will be granted a minimum of 3 big screen TVs, as well as one or more controlling PC, mouse, keyboard combos to control content displayed thereon. Two of these TVs are intended for the dispatch office to monitor real time operations dashboards, while the third is for the operator breakroom to display Timepoint TV and other operations content.

7.3.5 Print/Copy/Scan. CapMetro will assign North and South bases a minimum of 1 multifunction service copier to be in or near each primary administrative office.

7.3.6 Network Active Directory Accounts. All staff with access to CapMetro systems (including email) will be assigned a CapMetro network login. This will allow them access to manage passwords and access other CapMetro provided technology solutions and allow CapMetro IT to manage user access from employee onboard to separation.

7.3.7 Multifactor Authentication & Single Sign On. CapMetro currently uses a combination of Duo, Proof Point, and Windows Authenticator to validate a user's identity when attempting to access CapMetro systems.

7.3.8 VPN. CapMetro currently uses Cisco AnyConnect to facilitate VPN access to its networks when users are off campus.

7.3.9 Office 365. CapMetro will provide Office 365 (Word, Excel, PowerPoint, Teams, Outlook, OneDrive) to ~~Service Provider's~~ Contractor's office staff.

7.3.10 Email Addresses. All staff (including operators and maintenance workers) will be granted a CapMetro email address. This will allow for access to various CapMetro technology solutions (e.g., Spare, VIA).

7.3.11 Email Distribution Lists. North and South base will each have their own set of distribution lists created and maintained by CapMetro including leadership, dispatch, and safety. The ~~Service Provider~~ Contractor shall routinely ensure these lists are up to date with current employees.

7.3.12 SharePoint. The ~~Service Provider~~ Contractor will be assigned a SharePoint site external to CapMetro's network through which documents can be shared with CapMetro. Only documents and audio recordings can be posted here. Corporate or personal documents shall not be stored by the ~~Service Provider~~ Contractor on external SharePoint drive as files will be subject to public information requests.

7.3.13 E-learning Software. CapMetro has the option to provide e-learning software to the ~~Service Provider~~ Contractor should it provide or sponsor such initiatives. If the ~~Service Provider~~ Contractor opts to provide its own e-learning software solution, it should be web-based so staff may access it using their CapMetro computers.

7.3.14 VIA Software. Pickup by CapMetro uses the VIA platform to schedule and dispatch trips and direct operators in the performance of their daily work.

7.3.15 Spare Labs. CapMetro Access uses the Spare platform to manage eligibility, schedule and dispatch trips, and direct operators in the performance of their daily work.

7.3.16 Customer Relationship Management (CRM). CapMetro uses Salesforce to track communications with its customers including complaints and compliments. The ~~Service Provider~~ Contractor must use this system to review and respond to relevant contacts.

7.3.17 Enterprise Asset Mgmt. (EAM). The ~~Service Provider~~ Contractor shall use CapMetro's provided EAM system to operate fleet and facility maintenance activities.

7.3.18 Video Storage. Video provided to CapMetro will be loaded to CapMetro's "K Drive" (a folder inside CapMetro's network that is accessible through Citrix). Only videos requested by CapMetro may reside here. CapMetro will move videos related to legal or public information requests to separate agency storage. All other videos are removed after 90 days. The ~~Service Provider~~ Contractor must make other storage arrangements for any other videos they wish to retain. The ~~Service Provider~~ Contractor shall keep CapMetro informed of any contractual agreements made with the bargaining unit (ATU) regarding employee relations that may require video storage retention period changes.

7.3.19 Citrix. CapMetro currently uses Citrix to securely grant access to on premise solutions such as Exacom, Network Drives, etc.

7.3.20 Braille. CapMetro has on-site Braille services and can accommodate needs upon request.

7.3.21 Data Warehouse & Data Connections. CapMetro currently uses Snowflake to gather content from various databases, making it available in one location for those needing to query CapMetro systems. At present, data is refreshed once a night. This data shall be provided to the ~~Service Provider~~ Contractor as needed.

7.3.22 ~~Service Provider~~ Contractor Corporate Use Software. The ~~Service Provider~~ Contractor shall provide their own software for corporate functions such as Human Resources, Payroll, Finance, etc. The ~~Service Provider~~ Contractor shall furnish CapMetro with a data feed of payroll data associated with this contract. Methodology shall be determined after the contract has been awarded.

7.4 Internet Technology.

7.4.1 Internet Connectivity & Landline. North and South bases will each be outfitted with landline and Wi-

Fi internet for work use as well as a guest Wi-Fi connection.

7.4.2 Internet Hotspots. If the ~~Service Provider~~ Contractor requires internet hotspots, a request with justification may be submitted to CapMetro IT through ServiceNow. CapMetro IT will provide as needed.

7.5 Radio Communications & Recording

7.5.1 Radio System. CapMetro will provide access to a radio system (currently LCRA). The ~~Service Provider~~ Contractor shall support the ongoing maintenance of the radio system when LCRA is onsite. All radio equipment provided under this Contract shall remain the property of CapMetro and be returned in working condition to CapMetro at the end of the Contract term.

7.5.2 Radio Assignments. One mobile radio will be assigned per revenue vehicle and one per supervisor vehicle. Mobile/handheld radios will be provided for supervisors and managers. CapMetro shall provide a limited number of spares to ensure communication reliability. Radio consoles will be provided for ~~Service Provider~~ Contractor use at a location determined by CapMetro.

7.5.3 Radio Ancillary Equipment. Replacement batteries, clips, microphones, receivers, and other ancillary equipment required or desired for use under the Contract will be procured from LCRA by CapMetro. The ~~Service Provider~~ Contractor is responsible for these items.

7.5.4 Lost/Damaged/Stolen Equipment. The ~~Service Provider~~ Contractor is responsible for the cost of replacing any CapMetro Radio equipment that is lost, stolen, or damaged beyond repair while in the ~~Service Provider's~~ Contractor's possession.

7.5.5 Radio Maintenance. CapMetro will cover the cost of all routine maintenance (and associated costs) of the radio system. Installing or repairing (e.g., RF Deck, Control, Head, Portable Radios, etc.) of radio components will be performed by LCRA.

7.5.6 Initial Installs/Ongoing Maintenance. At CapMetro's direction, LCRA will perform the initial (new) radio installations to revenue and support vehicles and ongoing maintenance of radio systems. The ~~Service Provider~~ Contractor shall support these efforts by coordinating servicing of radios and verifying with CapMetro the services LCRA performs on the radios when onsite.

7.5.7 Radio Transfers & Temporary Removals. Once the new radios have been initially installed by LCRA, any necessary transfers for radios (e.g., retiring a vehicle, vehicle out of service long-term, etc.) shall be performed by the ~~Service Provider~~ Contractor.

7.5.8 Radio Reliability. The ~~Service Provider~~ Contractor shall ensure that radio communications are operational for all Vehicle Operators in revenue service, all Transportation Supervisors on duty, and for the ~~Service Provider's~~ Contractor's Radio Dispatch.

7.5.9 Radio Airtime. CapMetro will provide the airtime required for the radio system to operate at CapMetro's expense.

7.5.10 Exacom. Radio traffic is recorded using Exacom software with access granted to management.

7.6 Telephone & Recording.

7.6.1 VOIP Phones & Recordings. Office workers will be assigned an individual telephone extension accessible (soft phone) through their computer (as opposed to a landline) by CapMetro. Customer-facing extensions can be voice and/or computer screen recorded with access granted to management. Voicemail is available for individual users or can be shared among a group. Dispatch (others configured upon request) will have access to log in and receive inbound calls through sorted skillsets (e.g., driver line, dispatch line, etc.). Calls received through skillsets can be tallied for performance reporting made available to management. CapMetro currently uses Avaya phones and recording.

7.6.3 POTS (analog phones). North and South base dispatch offices will each be assigned an analog “plain ordinary telephone” line (POTS) as a backup communication method should VOIP phones go down for any reason. Note that POTS phones are not currently recorded. Other POTS lines may be provided at the bases if it is deemed necessary for operations.

7.6.4 Cell Phones. The ~~Service Provider~~ Contractor shall provide its own cellular phones, as deemed appropriate. Key staff members shall provide their cell phone numbers to CapMetro to ensure CapMetro staff can make contact in priority situations. The ~~Service Provider~~ Contractor shall maintain an up-to-date telephone list that will be housed on a shared site with CapMetro.

7.7 Facility Security Technology

7.7.1 Access Control Systems. North and South base campuses will be outfitted with a card-access system, managing ingress and egress around the facilities. These will be monitored by CapMetro security staff and ~~Service Providers~~ Contractor.

7.7.2 Facility Camera Systems. North and South base campuses will be outfitted with a security camera system. These will be monitored by CapMetro security staff and ~~Service Providers~~ Contractor.

7.8 In-Vehicle Technology.

7.8.1 Tablets & Device Maintenance System. North and South bases will each be assigned sufficient tablets for daily operation and a spare ratio for backup. Tablets will be maintained through CapMetro’s device maintenance solution. If manual intervention is needed, CapMetro IT will coordinate with the technology liaison. The ~~Service Provider~~ Contractor shall establish a pre/post trip equipment evaluation and a hot swap procedure to ensure that this essential technology is quickly replaced in the event of issues during the operating day. CapMetro currently uses Samsung Galaxy Tablets (android) with a cellular connection.

7.8.2 Fare Validation on CapMetro Access. CapMetro Access vehicles are not fitted with digital fare validation equipment as of the startup of this contract. Fare collection technology will continuously evolve and be implemented in the future. Currently, paper, and digital fare media must be visually validated by the Operator. Customers also have the option of using a credit card to automatically pay for trips as they are taken. No cash is accepted.

7.8.3 Fare Validation on Pickup. Pickup vehicles are outfitted with fare validators allowing tickets and passes to be scanned. Cash is also accepted through dummy fareboxes. Cash payments and smart phone passes must be visually verified by the Operator.

7.8.4 Onboard Camera Systems.

7.8.4.1 Camera Equipment. CapMetro will fit revenue service vehicles with continuous record and inertia-based camera equipment. The ~~Service Provider~~ Contractor shall install, swap, or decommission the camera equipment as necessary and shall perform camera equipment maintenance. Currently CapMetro is utilizing Luminator technologies for the onboard camera systems, but the systems are subject to change over the contract lifecycle. Continuous record cameras will capture content while the vehicle is in service and retain up to forty (40) hours of recordings before overwriting.

7.8.4.2 Camera System Software and uploads. CapMetro will provide access to onboard camera software solutions. CapMetro and the ~~Service Provider~~ Contractor will have access to upload videos. CapMetro will store video recordings on a share drive that will be made accessible to the ~~Service Provider~~ Contractor.

7.8.4.3 SMS Camera Requirements. The ~~Service Provider’s~~ Contractor’s SMS Plan shall define how data from the inertia-based camera system will be used to improve safety performance (**See the Section Titled Safety Management System**).

7.8.5 Headway Signs. CapMetro will provide headway signs for Pickup vehicles. The ~~Service Provider~~

Contractor shall maintain these with contents pre-determined by CapMetro.

7.8.6 Onboard Cellular Internet Routers. Revenue vehicles may be fitted with cellular routers to facilitate operation of headway signs, fare validators, security camera systems, and other operations technologies.

7.9 CapMetro IT Support Services.

7.9.1 Service Desk. The CapMetro Service Desk is staffed during weekdays, daytime business hours of 7 AM to 5 PM. After-hours support for emergencies is available as needed. Call: **512-389-7570**.

7.9.2 Technology Issue Resolution (Service Now). The ~~Service Provider~~ Contractor shall file a Service Now ticket for all issues to ensure their occurrence and resolution are tracked. If the issue is an emergency, the ~~Service Provider~~ Contractor should call the Service Desk to get priority assistance. Tickets should include who is impacted, what is occurring, where it is happening, when it started, why (if it is an emergency), and how to replicate or navigate to it. Screenshots recommended.

7.9.3 Password Self Service. Self Service allows staff to change their network passwords without needing assistance from the Service Desk. This is especially helpful during a password lock out after hours.

8. KEY & GENERAL PERSONNEL

8.1 Key Personnel Requirements. Key Personnel are the positions hired by the Contractor to manage key operational components of the Contract. Key positions are non-unionized roles and typically are filled by no more than one (1) person per base. CapMetro will recruit Demand Response front line staff. The Contractor shall hire and recruit key personnel. The Contractor shall select the key personnel staffing required to meet the Contract scope requirements. **The Contractor shall provide the positions outlined in the Section Titled Key Personnel Staff Overview at a minimum.** The Key Personnel must have at least four (4) years of recent [within the past eight (8) years] experience in the field of expertise they are managing for the Contract, unless otherwise directed below. They must have experience in an operation of similar (or greater) size, scope, and complexity of this contract.

8.2 Key Personnel Readiness. All Key Personnel must be selected and in place within ninety (90) days of the Contract start date. Additionally, the General Manager must be accepted by CapMetro prior to the contract award. The Contractor may propose additional Key Personnel.

8.3 Key Personnel Staff Overview. The following positions are required at each location (North Base and South Base). Unless otherwise specified, the Contractor shall provide at least one (1) of each of the following positions during the contract term, including option years.

8.3.1 General Manager. One position to oversee all locations. The General Manager is a required non-unionized position and the most senior person in charge of the following functional areas: Service Operations, Human Resources, Safety and Training, Vehicle and Building Maintenance, and Information Technology. The General Manager shall be the Contractor's representative for the administration of the contract, supporting documents (e.g., attachments), and the supervision of the work. CapMetro will only accept commitments and instructions of the Contractor from the General Manager, or a duly authorized representative of the General Manager as designated in writing. All other Key Personnel outlined within in this section will report to the General Manager.

8.3.1.1 General Manager Representation. The General Manager is the principal position of the Contract. The Contractor will pay CapMetro fifteen thousand dollars (\$15,000) PDC for every time the General Manager is replaced within the first twenty-four (24) months of the Contract. Any replacement General Manager shall be interviewed by CapMetro prior to selection.

8.3.1.2 GM/CapMetro Partnership. The General Manager will have direct communications with several departments within CapMetro to coordinate various operational services. For the organizational purposes, the General Manager will report to the COTR for all scope deliverables within the Contract.

8.3.2 Assistant General Manager. One for North Base and one for South Base. The Assistant General Managers are required non-unionized positions and the most senior person at each base in charge for the following functional areas: Service Operations, Human Resources, Safety and Training, Vehicle and Building Maintenance, and Information Technology. This position is responsible for ensuring all functions at their locations operate at peak performance levels with high levels of employee satisfaction. For organizational purposes, this position shall dually report to the Contractor's General Manager and CapMetro Demand Response leadership.

8.3.3 Operations Manager. One for North Base and one for South Base. The Operations Managers are non-unionized positions located at each base and shall be responsible for the day-to-day operations. This shall include, but not be limited to, planning, scheduling, dispatching, and monitoring quality assurance throughout all CapMetro Access and Pickup operations. Proper management of these functions require a consistent and effective partnership between the Operations Manager and the Demand Response Control Center (DRCC) management team. The Operations Manager shall be directly responsible for fulfillment of the requirements outlined in the **Sections Titled Dispatch Operations, Employee Notification System and Scheduling & Reservations**. Additionally, operations management is a cross-departmental functional and shall support any function of scope within the Contract related to daily operations. For organizational purposes, this position shall dually report to the Contractor's General Manager and CapMetro DRCC leadership for scope deliverables within the Contract.

8.3.4 Safety Manager. One for North Base and one for South Base. One position is to oversee safety across all locations. The Safety Managers are a required non-unionized position to coordinate all Safety requirements set forth within this Contract. This is key shall ensure the highest level of safety management is being conducted throughout all the operations and in accordance with the Contract scope. The **Section Titled Safety** outlines key responsibilities of this role. Additionally, Safety is the foundation of all services within the Contract and this Manager shall be continually maintaining, controlling, and improving these areas to provide services effectively within the Contract. For organizational purposes, will dually report to the COTR and the Contractor's General Manager to provide Contract deliverables.

8.3.5 Training Manager. One position to oversee training across all locations. The Training Manager is in a non-unionized position to coordinate all training requirements set forth within this Contract. This key position shall ensure the highest level of training management is being conducted throughout all the operations for all staff, and in accordance with the scope within this Contract. The **Section Titled Staff Training** outlines key responsibilities of this role. Proper training management is critical to equipping all Contractor staff with the appropriate knowledge to perform their roles and responsibilities within this Contract and to the public. Any Training Supervisors/Instructors proposed by the Contractor in the Staffing Management plan will report to the Training Manager. All Contractor trainers will be supervised by this position and these trainers will be located at each location. For organizational purposes, the Training Manager will dually report to the COTR and Demand Response Training & Eligibility Department for providing Contract deliverables.

8.3.6 Assistant General Manager of Maintenance. One position to oversee maintenance across all locations. The Vehicle and Facilities Maintenance AGM position is a required non-unionized position dedicated to all locations for Demand Response. This position must coordinate with CapMetro Vehicle Maintenance and Facility Maintenance departments on all contractual requirements as outlined in the **Sections Titled Facilities, Vehicles, Vehicle Maintenance, and Maintenance Oversight** of the Contract. This position shall also coordinate directly with each base's Fleet and Facilities Manager to oversee those functions. This key position ensures that the Contractor will adequately provide vehicle & facility maintenance expertise for CapMetro's fleet, facilities, and supporting equipment. The Contractor shall operate within and assist with coordinating maintenance resources. For organizational purposes, this position will report to the Contractor's GM, the COTR, the CapMetro Vehicle Maintenance leadership, and the CapMetro's Facility Maintenance leadership for providing Contract deliverables.

8.3.7 Transit Technology Manager. One position to oversee technology across all locations. The Transit Technology Manager is dedicated to coordinating all elements of transit technology including in-vehicle, yard technology, mobile, and in-office technology. This is a member of management who is the

liaison between CapMetro and the Contractor. This role ensures stability, integrity and availability of all network resources, computers, applications, installations, and other systems in use by the Contractor or provided by CapMetro. This required position will fulfill the requirements within the **Section Titled Technology, Office Equipment, and Communications** of the Contract. For organizational purposes, this position will partner with CapMetro Demand Response's leadership and report to the Contractor's General Manager.

8.3.8 Facility Maintenance Manager Supervisor. One between One position to oversee all locations.

The Facility Maintenance Manager is a required non-unionized position for coordinating with CapMetro Facility Maintenance department on all requirements outlined in the **Section Titled Facilities** of this Contract. This position shall report to the Contractor's Assistant General Manager of Maintenance and Facilities. This key position requires the Contractor to adequately provide facility expertise for the facilities the Contractor is operating within, and to assist with coordinating facility resources to include but not be limited to, Building Maintenance Technicians, Parts Clerks, Facility Foreman, facility maintenance equipment/tools, and parts/inventory. For organizational purposes, this position will dually report to the COTR and the CapMetro Facilities Maintenance Superintendent for providing Contract deliverables.

8.3.8.1 Facility Maintenance Management. Employees in place at the time of the Contract award shall be offered the same positions with the new contract when possible. The Contractor shall staff and direct the building and equipment maintenance technician(s) to assure that assigned buildings are properly maintained and available for service every day, as directed by CapMetro personnel.

8.3.8.2 Facility Maintenance Oversight. The Contractor shall manage building maintenance employees and shall monitor the work productivity, performance, and status of technicians, along with appropriate supervisors to maintain the assigned buildings. All facility maintenance services shall be performed in accordance with State of Good Repair guidelines.

8.3.8.3 Facility Preventative Maintenance. CapMetro will provide preventative maintenance schedules to be used by the Contractor which meet OEM requirements. The preventive maintenance inspections are designed to facilitate documentation of all repairs made and all components tested or inspected.

8.3.8.4 Facility Maintenance Work Plans. CapMetro will develop work plans for building maintenance technicians to maximize reliability and prevent any unsafe equipment condition from existing in any assigned building. CapMetro will manage the staffing levels required based on business needs.

8.3.8.5 Facility Parts/Inventory. CapMetro will purchase and distribute facility parts.

8.3.9 Vehicle Maintenance Manager Supervisor. One for North Base and one for South Base. The Vehicle Maintenance Manager is a required non-unionized position for coordinating with CapMetro Vehicle Maintenance department on contractual requirements outlined in the **Sections Titled Vehicles and Vehicle Maintenance** of this Contract. This position shall report to the Contractor's Assistant General Manager of Maintenance and Facilities. This key position requires the Contractor to adequately provide vehicle expertise for the fleet the Contractor is operating utilizing, and to assist with coordinating vehicle resources to include but not be limited to, Vehicle Maintenance Technicians, Parts Clerks, Maintenance Foreman, vehicle maintenance equipment/tools, and parts/inventory. For organizational purposes, this position will dually report to the COTR and the CapMetro Vehicle Maintenance Super Intendent for providing Contract deliverables.

8.3.9.1 Vehicle Maintenance Oversight. The Contractor shall manage the staff for the vehicle maintenance department which includes running repair and heavy repair mechanics, electronics and body shop technicians, servicer writers, parts clerks, fleet fuelers and cleaners, vehicle wranglers, utility workers, non-revenue vehicle mechanics, and other vehicle servicing functions along with supervisors for all these positions. CapMetro will determine staffing levels for maintenance and first-

level supervisory functions to assure that there is a sufficient supply of safe, reliable, and clean vehicles for service every day.

8.3.9.2 Vehicle Maintenance Management. The Contractor shall manage maintenance employees, including supervision and monitoring of productivity, performance, engagement communication, and employee status.

8.3.9.3 Vehicle Maintenance Program. CapMetro will provide the maintenance program to be used by the Contractor which includes all aspects of maintenance including preventative maintenance schedules, maintenance standards, repair standards, campaigns, recalls, configuration changes.

8.3.9.4 Vehicle Maintenance Parts/Inventory. CapMetro is responsible for parts inventory levels, ordering and the purchase of parts and materials required for vehicle maintenance. The Contractor's parts clerks will receive, put away, issue and return parts from the parts rooms, including distribution of parts from the central warehouse.

8.4 Key Personnel Vacancy. Following the first ninety (90) days of the contract, key personnel will remain in place during the contract term. If vacancies occur, the Contractor must replace key personnel with a qualified person within sixty (60) days of the vacancy. **The Contractor shall provide CapMetro a PDC equal to the daily cost of the salary and benefits for the position for every day that the position is vacant.** An additional PDC shall be assessed for key positions that remain vacant for more than sixty (60) days. Beginning on day sixty-one (61) a **\$1,000 per day PDC** shall be assessed for a vacant General Manager position and a **\$500 per day PDC** shall be assessed for any other Key Personnel position that remains vacant. Unreasonable delays with filling key position vacancies caused solely by CapMetro will not be counted against the Contractor.

8.5 Temporary Absences. In the temporary absence of one (1) day or longer of the General Manager or other Key Personnel, the Contractor shall ensure that other designated supervisory personnel shall be assigned responsibility for proper operation of the service as set forth in this Contract. The Contractor shall notify CapMetro whenever the General Manager or key personnel are temporarily unavailable and identify the staff member who will be serving as backup. The Contractor shall ensure that the General Manager or the designated supervisory personnel shall be available during all hours of service to make decisions and provide coordination as necessary. CapMetro reserves the right to receive rebates equal to the wages and benefits for extended (2 weeks or longer) General Manager or Key Personnel absences.

8.6 Leadership Expectations. Key Personnel set the stage for all the Contractor staff and their performance. In all aspects of managing this service, the Contractor shall ensure that the Key Personnel exhibit a customer service focus and continuous commitment to improving the delivery of the service. The Contractor shall ensure that the Key Personnel exemplify a positive attitude and a team approach, fostering good communication with all parties involved with the use and delivery of CapMetro Access and Pickup services. At least one member of the Contractor's leadership at each base shall be reachable on any day at any time. The services rendered within this contract require 24/7 operational oversight so at least one leader at each base shall be on call and available any day of the week (including holidays).

8.7 Board Meetings. A member of the Contractor's Key Personnel team shall attend periodic meetings, such as the monthly Operations Committee of the Board of Directors, the monthly Board of Directors general meeting, monthly Access Advisory Committee meetings and others as requested by CapMetro. The Contractor representative at these meetings shall have knowledge about current operations and be able to speak to any public and/or Board items as they are presented.

8.8 Payroll/Benefits Administration. The Contractor's ability to accurately calculate and timely deliver paychecks & benefits to its employees is crucial to retaining an engaged workforce. Documented issues of incomplete benefits provision and/or payment (defined as not received by an employee by the close of business on the regularly scheduled payment date) to an employee caused by the actions or omissions of the Contractor will result in a **PDC of \$250** per incident.

8.9 General Personnel. General Personnel are defined as positions that are staffed at higher levels than key personnel to ensure the frontline operations are conducted effectively as outlined within the scope within the Contract. In addition, unless otherwise specified, these are unionized positions within the collective bargaining agreement (CBA).

8.9.1 Vehicle Operators. The Contractor's Vehicle Operators are a unionized position. CapMetro recognizes that the success of its transportation program, service delivery and overall customer experience is built upon the strength of its Vehicle Operators. The Contractor shall field qualified, highly skilled, and well-trained Vehicle Operators with a primary focus on Safety and excellent Customer Service.

8.9.1.1 In addition to the qualifications listed in the "Personnel Assignments" Exhibit E, Vehicle Operators shall meet the following pre-employment requirements:

1. Possess a valid State of Texas Driver's License appropriate for the class of vehicle to be operated. Vehicle Operators must have maintained a valid driver's license for three (3) years.
2. Demonstrate English language competency (reading, writing, and speaking). CapMetro encourages bilingual (English/Spanish) hiring practices.
3. Have good oral and written communication skills as demonstrated in pre-employment testing.
4. Be sensitive to passengers' needs and empathetically handle complaints and problems as required.
5. Pass a biennial Federal Department of Transportation (DOT) physical examination and a comprehensive drug screen as detailed by 49 CFR 391.41.
6. Demonstrate the physical agility to perform the requirements of this position, including but not limited to, the ability to assist a passenger in a manual wheelchair move up or down ADA ramps and be physically able to fold and store a manual mobility device if necessary.

8.9.2 Duty Dispatchers. The Contractor's Duty Dispatchers are a unionized position (**See the Section Titled Dispatch Partner Overview for the Contractor's Dispatching staff roles and responsibilities**).

8.9.3 Transportation Supervisors. The Contractor's Transportation Supervisors are a unionized position (**See the Section Titled Transportation Supervisors for the Contractor's Transportation Supervisors roles and responsibilities**).

8.9.4 Vehicle Maintenance Technicians. The Contractor's Vehicle Maintenance Technicians are a unionized position and perform scheduled and unscheduled vehicle maintenance repairs and service to satisfy compliance with vehicle warranties and assist with maintaining Company or Client fleet as required. The Vehicle Maintenance Technician Class I is responsible for assisting with facility clean-up and organization, and for communicating the status of repairs and parts needed in a computerized Maintenance management system. This position has correlating responsibilities to the scope of the Contract as outlined in the **Sections Titled Vehicles, Vehicle Maintenance and Maintenance Oversight**. For operational purposes, this position reports to the Contractor's Maintenance Manager (and any other Vehicle Maintenance supervision the Contractor may propose during the proposal process of the Contract).

8.9.6 Building Maintenance Technicians. The Contractor's Building Maintenance Technicians are a unionized position. The Contractor's Building Maintenance Technicians shall assist the CapMetro Facilities Maintenance department with the scheduled and unscheduled maintenance with primary responsibilities being custodial duties of the facilities and grounds. All work assignments will be tracked in a computerized maintenance management system to include notes and completion status. This position has correlating responsibilities to the scope of the Contract as outlined in the **Section Titled Facilities**. For organizational purposes, the Building Maintenance Technicians report to the Contractor's Facilities Supervisor.

8.9.7 Parts Clerks. The Contractor's Parts Clerks are a unionized position and are responsible for the day-to-day functions of inventory. The Parts Clerks shall perform duties in a timely manner and advise higher level management of any potential issues that could affect the overall accountability of the fleet. This position has correlating responsibilities to the scope of the Contract as outlined in the **Sections Titled Facilities, Vehicles, Vehicle Maintenance, and Maintenance Oversight**. For operational purposes, this position reports to the Contractor's Facility Maintenance Manager and the Maintenance Manager.

8.9.8 Logistics Technology Technician. The Contractor's Logistics Technology Technician is a ~~non-~~ unionized position and performs ongoing maintenance, upgrades, and installation of logistics technology of the CapMetro facility and vehicles where applicable. **This position is essentially a Mechanic specialized in technology hardware & software.** Logistics Technology Technician provides hands-on support, maintenance, performance monitoring, and optimization of all infrastructure components in support of the products utilized by CapMetro and the Contractor to manage the technological operations within the Contract. This position is responsible for the scope outlined within the **Section Titled Technology, Office Equipment, and Communications** of the Contract. For organizational purposes, the Logistics Technology Technician dually reports to the Demand Response IT department and the Contractor's General Manager (**See the Section Titled Dedicated IT Staff**).

8.9.9 Utility/Service Island Staff. The Contractor's Utility/Service Island staff are unionized. The Utility (Service Island) staff fuel and shuttle fleet vehicles, assist in servicing fleet vehicles daily operations and can work in various weather elements outdoors. This position has correlating responsibilities to the scope of the Contract as outlined in the **Sections Titled Facilities, Vehicles, Vehicle Maintenance, and Maintenance Oversight**. For organizational purposes, this position reports to the Maintenance Manager (and any other Vehicle Maintenance supervision the Contractor may propose during the proposal process of the Contract).

8.9.10 Transit Resolution Specialist. The Transit Resolution Specialist is a required unionized position for supporting expedited and effective resolution of customer service concerns/complaints occurring during CapMetro Access & Pickup services. Customer Service is a key pillar of CapMetro and top tier customer service response from the Contractor and is essential to meeting the public's needs. This position shall fulfill the requirements within the **Section Titled Customer Service and Complaints**. This position requires a minimum of two (2) years of experience related to the field of customer service/consumer experience and must demonstrate a passion for the customer and responding to their needs. For organizational purposes, this position reports to the Contractor's Operations Manager and communicates frequently with the Demand Response Customer Service team as needed to properly resolve customer concerns/complaints.

~~**8.9.11 Technology Service Specialist.** The Technology Service Specialist is a required unionized position. The Contractor shall have one Technology Service Specialist dedicated to technology support and maintenance management. This role ensures stability, integrity and availability of all network resources, computers, applications, installations, and other systems in use by the Contractor or provided to CapMetro. This position shall support the fulfillment of the scope requirements within the **Section Titled Communication & Data Sharing Technology**. This position has been redacted. It is redundant to the Logistics Technology Technician (ref. Section 8.9.8).~~

8.10 Unrepresented Positions. In accordance with the **Section Titled Key Personnel Staff**, the Contractor has the authority to propose positions in the staffing management plan to accommodate all functions required to perform services outlined within the Contract. Although it has not been specifically outlined in the Contract, CapMetro anticipates the Contractor will require auxiliary positions to support payroll, office supply, human resources, etc.

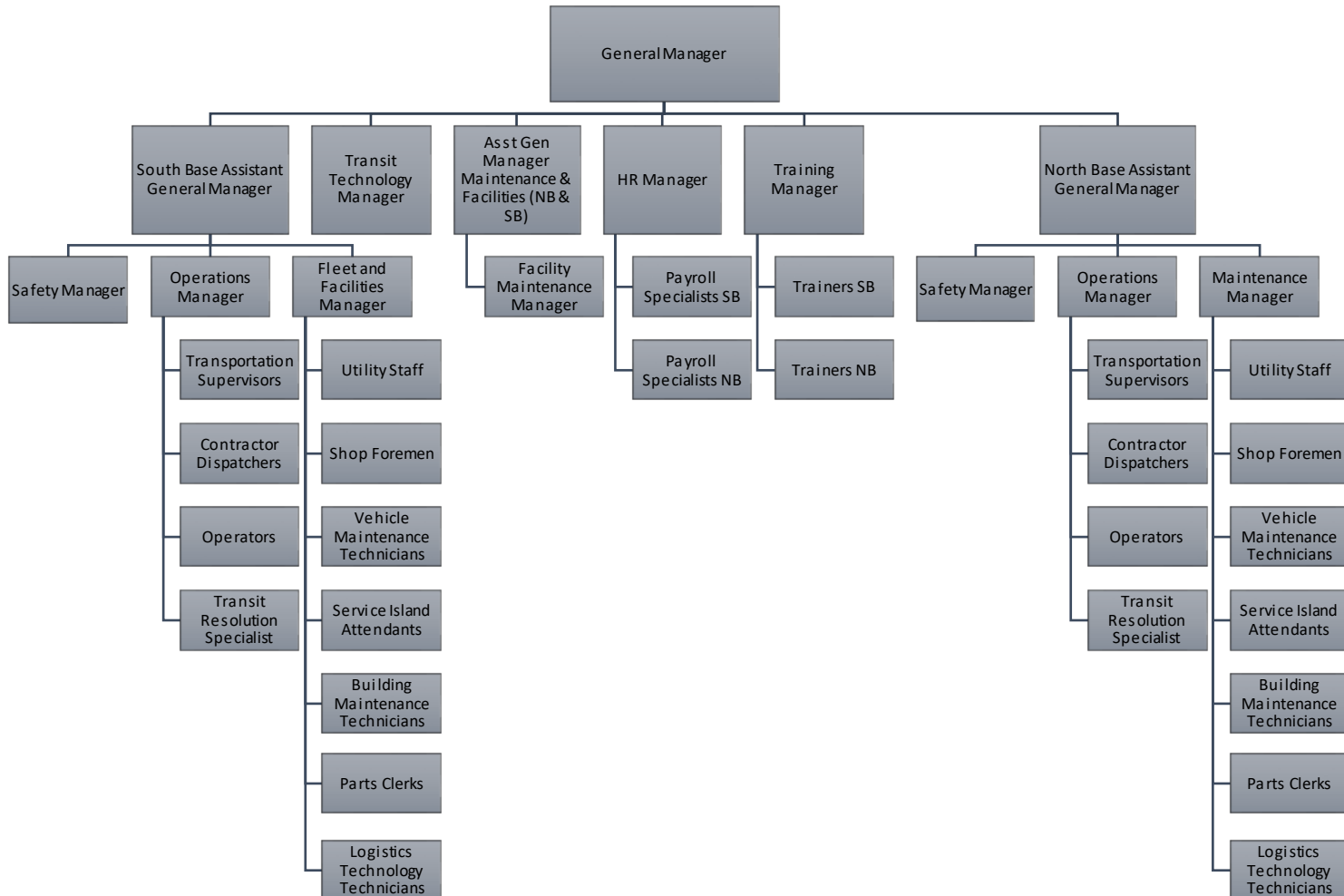
~~**8.11 Safety Supervisors. One for North base and one for South base.** These positions are required non-unionized positions for coordinating day to day safety requirements set forth within this Contract. This must ensure the highest level of safety management is being conducted throughout all the operations and in accordance with the scope within this Contract. Additionally, Safety is the foundation of all services within the Contract and this Manager shall be continually maintaining, controlling, and improving these areas to provide services effectively within the Contract. For organizational purposes, this position will dually report to the COTR and the Contractor's Safety Manager for scope deliverables within the Contract.~~

9. ORGANIZATION AND PERSONNEL REQUIREMENTS

9.1 Organizational Chart. The Contractor shall submit an Organizational Chart to CapMetro. The organizational chart proposed by the Contractor shall include lines of authority, responsibility, and communication for all positions. This information shall be incorporated into the Mobilization Plan (**See the Section Titled Mobilization Schedule &**

Plan). Below is a **sample** organizational chart representing the **minimal** key and general personnel positions and how the reporting structure should look. The Contractor is encouraged to provide their perspective on the final organizational structure that they will provide to fulfill the Contract.

For demonstration purpose only



9.2 Workforce Requirements & Staffing Plan

9.2.1 General Personnel Staffing Levels/Salaries. CapMetro is accountable for determining the general personnel (Operators, Dispatchers, Maintenance Technicians, Parts Clerks, etc. See the **Section Titled General Personnel**) staffing levels and salaries required to deliver Pickup and CapMetro Access services. Staffing levels shall be adequate to reflect service levels throughout the Contract term. The Contractor shall collaborate with CapMetro in analyzing service level changes and staffing numbers required to adequately meet upcoming service levels.

9.2.2 Key Personnel Staff. The Contractor shall determine the appropriate assignments, staff levels, and salaries of Key Personnel Staff (**See Section Titled Key Personnel Staff Overview**) to successfully implement the requirements of this Contract and to meet the current service levels of CapMetro Access and Pickup Services. The Contractor shall ensure that sufficient key personnel are hired and retained to meet this Contract's service requirement and remain in compliance with applicable CapMetro policies/procedures, and all local, State, and Federal laws throughout the term of the Contract.

9.2.3 Staffing Management Plan. The Contractor shall provide a staffing management plan in accordance with the Key & General Personnel (**See Section Titled Key & General Personnel**) of this Contract. The staffing management plan at shall include the following at a minimum:

- An organizational chart.
- How the Contractor will handle direct hire staffing (for nonunion positions).
- How the Contractor will handle contract staffing (for nonunion positions).
- Outline why the staffing is needed and how staff will be utilized.
- Describe job summaries and required qualifications.
- Establish budget considerations for the key personnel positions.
- ~~Outline talent acquisition strategies around all staff types (e.g., Operators, Vehicle Mechanics, Key Personnel)~~
- Describe onboarding program and orientation plan.
- ~~Plan for handling replacements for Key Personnel as needed, and handling Operator staff shortages.~~
- Plan for how the Contractor will engage employee to support retention.

9.2.4 Contractor Staffing Management. The requirements of the **Section Titled Key & General Personnel** shall **NOT**:

1. Restrict the Contractor's authority to determine that more than the minimum number of employees identified are needed to perform the work.
2. Impose a mandatory staffing level throughout the Contract term (other than required key personnel outlined in the **Section Titled Key Personnel Staff Overview**)
3. Limit the Contractor's ability to manage the number of positions and size of workforce it determines to be necessary to perform the work, consistent with its Staffing and Personnel Plan, as vacancies occur or as services are adjusted, during the Contract term.
4. Restrict the Contractor's ability to dismiss employees for cause during the Contract term.

9.2.5 Hiring. It is the Service Provider's responsibility to hire all key and general staff required to support the services outlined within this contract. This includes job description development, recruiting/marketing efforts, initial drug testing, background checks, physicals, and any other necessary hiring support services to ensure all contract scope requirements are being met throughout the contract life cycle.

9.2.5.1 Hiring Support. The Contractor shall have an Applicant Tracking System (ATS) with attached job board and background check provider Accessibility. The Contractor shall provide access to report in the ATS and provide training for CapMetro in the ATS.

9.2.5.2 Talent Pipelines. CapMetro will partner with the Service Provider in developing and maintaining talent pipelines, to proactively address present and future hiring needs.

9.2.5.3 Diversity & Inclusion Initiatives. CapMetro will collaborate with the Service Provider on the development of strategies to attract a diverse pool of candidates and foster an inclusive hiring environment, in line with the organization's diversity & inclusion goals.

9.2.5.4 Hiring Unification. CapMetro will partner with the Service Provider to create a seamless recruiting experience that attracts, engages with, and secures the best talent for the transit services.

9.3 Criminal History, Driving Records, and Motor Vehicle Requirements. The requirements for all personnel including Vehicle Operators are in the "Personnel Assignments" section of **Exhibit E**.

9.3.1 Driver's License. In accordance with the terms and conditions within **Exhibit E**, the Contractor shall check Vehicle Operator's driving licenses before every shift. If the license has expired, the Contractor must prohibit the Operator from service until documentation of a renewed DL can be provided and documented. If the DL is near expiring, the Contractor shall note the expiration date, and inform the Vehicle Operator of their duty to obtain a renewed driver's license before the expiration date.

9.3.2 Motor Vehicle Report & Background Check. The Contractor shall ensure Motor Vehicle Reports are completed, verified, and logged for record. No new Contractor employee will be allowed to operate any CapMetro branded vehicle before a clear Motor Vehicle Report and background check has been completed and verified. Employees utilizing CapMetro branded vehicles are required to have their Motor Vehicle Report verified annually that they are in approved standing to operate the vehicles (**See Exhibit E for more information**).

9.4 Staff Conduct

9.4.1 Professional Conduct. The Contractor (including all staff and subcontractors) shall conduct themselves in a professional manner at all times with all internal and external staff, and especially when transporting or communicating with a passenger. The Contractor staff shall be polite and courteous in their speech and manner, including exercising patience and self-control even when others do not. When confronted with a disruptive or unruly passenger or situation, staff and subcontractors shall follow the procedures and training as outlined in the Contractor's proposed ADA sensitivity training, and any other instruction provided by the Contractor or relayed by CapMetro.

9.4.2 Unprofessional Conduct. There are several behaviors that are unprofessional of an employee. These behaviors will require investigation and coaching by the Contractor but may not immediately require removal from service. These include, but are not limited to, the following behaviors:

- Misconduct towards a Customer or other person on the Service Property, including discriminatory, argumentative, or demeaning behavior
- Negligent performance of the Contract Services
- Use or possession of firearms or other weapons
- Dishonesty, including without limitation 1) Theft, and 2) the willful failure to accurately complete required reports/documentation
- Disorderly Conduct
- Fighting
- Insubordination
- Vandalism or other intentional damage to Property or Third-Party property
- Failure to make proper and/or required announcements

9.4.3. Prohibited Conduct. There are certain employee infractions that CapMetro may require the Contractor to immediately remove an employee from service pending investigation, and potential requirement for termination. These include, but are not limited to, the following behaviors:

- Committing unsafe or inappropriate acts while providing service
- Misconduct towards a Customer or other person on the Service Property, including abusive, hostile, or harassing behavior
- Failure to follow CapMetro policies and procedures
- Use or possession of illegal drugs or alcohol.
- Cell phone/Electronic device usage while operating CapMetro vehicle, including texting, video watching, and use of Bluetooth devices
- Criminal Activity
- Conviction of any felony criminal offense (**See Exhibit E for details**)
- Not in the approved uniform
- Failure to follow safety rules and regulations
- Failure to follow security policies, guidelines, and procedures
- Notification of an active warrant from any law enforcement or judicial agency
- Sleep or appear to sleep while performing duties assigned

9.4.4. Staff Investigations/Corrective Measures. The Contractor shall promptly investigate all reports of unprofessional or prohibited conduct and institute appropriate corrective measures. All steps must be taken to ensure similar instances do not occur in the future with the investigated employee. Any experiences should be utilized as coaching opportunities to prevent unprofessional or prohibited conduct from occurring with all other staff in the future.

9.4.4.1 Restricted Property. Employees that have been designated for termination by the Contractor and/or CapMetro will not be allowed on to Service Property. The Contractor is required to enforce this restriction.

9.4.4.2 Employee Coaching. Any employee who has been determined by investigation by CapMetro and/or Contractor to have violated employee conduct requirements shall be provided documented and signed paperwork outlining what event caused the coaching, and what was coached to the employee. The Contractor is required to provide this coaching to the employee and maintain the documentation. These coaching documents must be retained in the employee training records and made available to CapMetro oversight staff upon request.

9.4.5 Badges . All Contractor staff performing services under this Contract must wear a CapMetro-issued photo identification badge while on duty. This badge must be clearly visible and front-facing. Any staff member who has not yet received a CapMetro Contractor badge or misplaces it must be provided a temporary ID by the Contractor that clearly identifies the employee's name and job title and reported to CapMetro Security. Replacement of lost ID badges will result in a **\$50** chargeback on the monthly invoice per instance (**See the Section Titled Security and Exhibit E, the Section Titled Badges and Access Control Devices for more details on Badge requirements**).

9.4.6 Badges upon Termination. The Contractor shall return employee badges to CapMetro Security within 7 calendar days of an employee's termination. Badges not returned within this timeframe will be considered lost and shall result in a **\$50 PDC**. Badges that are not turned in after an employee termination are considered a security risk even if the badge was deactivated.

9.4.7 Employee Removal. Upon the request of CapMetro, the Contractor shall promptly remove from work any employee who CapMetro considers unsuitable or who has displayed any act of discourtesy, rudeness, use of profanity, or any other act deemed unacceptable by CapMetro.

9.5 Staff Feedback. The Contractor shall establish mechanisms for receiving and responding to feedback from all its staff. Such processes must include a system for documenting the content and timelines for both the feedback and response. Documentation should be kept in such a way that feedback may be analyzed by topic, employee, respondent, and, when applicable, route, vehicle, and location data. Such documentation shall be shared with CapMetro as requested.

9.5.1 Front Line Feedback. Section Titled Employee Notification System references “Front Line Feedback” which is an employee reporting mechanism utilized during field operations with the DR Control Center for awareness with current operational situations. This mechanism can be used concurrently with a master staff feedback system from the Contractor but does not replace the requirement for such documentation. The Contractor shall promote use and educate staff on the “Front Line Feedback” reporting mechanism to ensure all feedback is submitted.

9.6 Employee Auditing. The Contractor shall develop and implement an audit plan and reporting protocols that target employee conduct and appearance. The plan and the protocols must be submitted for CapMetro approval no later than 60 days after Contract Notice to Proceed.

10. STAFF TRAINING

10.1 Overall Training Program Requirement. The Contractor shall propose a staff training program that must be reviewed and approved by CapMetro. Demand Response leadership will partner with the Contractor to ensure the best staff training program is developed, implemented, and always maintained during the contract lifecycle. The staff training program must include new/incumbent staff training plan, refresher training plan, and remedial training plan for all Vehicle Operators and operations staff members, including but not limited to, Transportation Supervisors, Dispatchers, Vehicle Maintenance, Electronics Technicians, Facility Technicians, Customer Service Specialists, HR Coordinators, and any other staff working with CapMetro assets and/or customers.

10.1.1 Training Program Curriculum. The training program shall include curriculum/topics, frequency, and measurements of effectiveness. The curriculum/topics must be reviewed and approved by CapMetro.

10.1.1.1 Training Program Updates. The Contractor shall provide CapMetro with a revised training program annually based on any additions or changes made to the program over the past year. All major training curriculum updates or major revisions must be approved by CapMetro before they are implemented.

10.1.2 Training Program QA/QC. CapMetro staff may attend and audit the training program, training sessions, and documentation at any time. CapMetro reserves the right to add/remove, or request revision of any training aspects within the Contractor's training program.

10.1.2.1 CapMetro Training Instructor. Demand Response will staff a dedicated Training Instructor who will continually partner with the Contractor in conceptualizing, developing, and implementing training the Contractor staff requires to perform the services within the Contract at the highest level of quality.

10.1.2.1.1 Training Partnership. The Contractor is considered the expert and originator of the standard training concepts and training plans for their staff. CapMetro's internal Training Instructor will partner with the Contractor's training team in auditing/reviewing training material and classes to assist with any fine tuning of training tools, information, methods, etc. CapMetro's Training Instructor will also assist in the development of specific non-standard training content for the Contractor's staff as required to educate staff on knowledge gaps, safety issues, etc. that are discovered over the Contract lifecycle.

10.1.3 Contractor Training Instructors. Training Instructors must be fully qualified to educate operational staff on topics within training program curriculum. The Contractor's training program must outline hiring requirements for Training Instructors and list qualifications that will be necessary to be employed in this role. Training instructors may be assessed by CapMetro as needed to verify their mastery of the training program curriculum.

10.1.4 Driving Instructors. Vehicle Operators require behind-the-wheel training. This training can be designated by the Contractor to another Vehicle Operator or Transportation Supervisor as a “qualified

instructor.” This individual must have a record of safe driving, at least two (2) years of professional driving experience, and a demonstrated ability to provide high-quality customer service. Driving instructors may be assessed by CapMetro as needed to verify their mastery of the training program curriculum.

10.1.5 CapMetro Access Training. The Contractor’s training program must include CapMetro Access (ADA Paratransit) services. Transportation Supervisors, Dispatchers, and Vehicle Operators shall be trained on the following at minimum:

- ADA compliance and assistance to persons with disabilities
- Mental Health First Aid
- De-escalation techniques
- Mobility devices, securements, and lift devices
- CapMetro Access policies/procedures **(As described in the most current Attachment 39, MetroAccess Riders Guide).**
- **Operations Software)**
- Professional radio communications
- Frontline Feedback process
- Cybersecurity

10.1.6 Pickup Services Training. The Contractor’s training program must include Pickup services. Pickup services require nuanced training for Dispatchers, Vehicle Operators, and Transportation Supervisors. The Contractor shall work with CapMetro to develop, implement, and maintain a formal new hire training, refresher training, and remedial training program that addresses the specific requirements of Pickup service. Transportation Supervisors and Vehicle Operators shall have at least eight (8) hours of Pickup specific training, and Dispatchers working Pickup shall have at least ~~four~~ thirty-two (32)(4) hours Pickup specific training. The training shall include the following at a minimum:

- Zone Parameters/landmarks
- Pickup application usage
- Pickup fare handling
- Pickup scheduling
- Deadhead routes to zones

The Vehicle Operator Training Attachment Pickup provides an approved and established training regimen. The Contractor shall utilize this approved curriculum as the basis for their Pickup training plan.

The Vehicle Operator Training Attachment MetroAccess provides approved and established training regimen. The Contractor shall utilize this approved curriculum as the basis for their CapMetro Access training plan.

10.2 Sole Responsibility. The Contractor must ensure that each employee is fully knowledgeable of his/her duties/responsibilities and can perform their work in a safe and professional manner.

10.3 CapMetro Training Modules. CapMetro will, at its discretion, develop content for training modules (e.g., customer service training, etc.). When such content is developed, CapMetro will provide “train the trainer” sessions to orient the Contractor to the objectives of the module, content and intended delivery mechanism. The Contractor must ensure that an adequate number of staff participate in these sessions to ensure that the content is only delivered by a trained trainer.

10.4 Contractor Training Initiatives. The Contractor shall consistently assess training needs and provide additional training if the training requirements outlined in this contract are deemed insufficient in providing safe and professional services regarding any facet of operations. Any additional training identified must be approved by CapMetro before implementation and added to the Contractor’s Training Program formally after approval.

10.5 New Hire Training. All new operations staff members **(See the Section Titled Overall Training Program**

Requirement) shall have a detailed training plan proposed by the Contractor and approved by CapMetro. The training plan must demonstrate how all new staff will be fully trained and fully ready for operations at the start of the service.

10.6 Incumbent Training. All incumbent training shall take place and be completed before the first day of service. All incumbent staff members shall have a detailed training plan proposed by the Contractor and approved by CapMetro. The training plan must demonstrate how all new staff will be fully trained and fully ready for operations at the start of the service. Incumbent staff may have had appropriate training prior to this contract. Any previous training must be verified, approved, and documented in the staff member's training record by the Contractor.

10.7 Training Documentation. All forms of training are required to be documented by the Contractor for each employee. Types of training requiring documentation, can include, but not limited to, new hire course, classroom training, verbal coaching/counseling, virtual training, training blitzes/campaigns, and messaging/bulletins.

10.8 Monthly Training. The Contractor must establish within the training program a monthly meeting schedule that continuously educates and refreshes operators, mechanics, and front-line supervisory personnel on safety concerns and training requirements. Each month shall focus on a different training topic to ensure all pertinent topics are covered on an annual basis. This monthly training platform will be a key training format for any refresher and remedial training topics needed based on the current operational environment. All Vehicle Operators, Dispatchers, and Transportation Supervisors must attend one of the available monthly meetings at a minimum. Attendance and lack of attendance must be documented.

10.9 Refresher Training. To comply with the contractual requirements and meet the professional service expectations of CapMetro, the Contractor shall ensure that its Vehicle Operators, Dispatchers, and Transportation Supervisors receive refresher training at a minimum of fourteen (14) hours annually. A Refresher Training plan should be written into the Contractor's training program with a plan for each position and must be approved by CapMetro. The refresher training plans for all three positions shall include the following at a minimum:

- ADA compliance and assistance to persons with disabilities.
- Customer Service.
- Vehicle/Passenger Incident/Accident Response.
- Communication procedures between Vehicle Operators, Dispatch, DRCC, and Supervisors.
- Strategy when employees are on leave of absence for an extended period.
- Any changes to CapMetro Access and Pickup policies, procedures, equipment, or vehicle types.
- Training on scheduling/navigational tools e.g., Trapeze, DriversMate, Via Operations Center (VOC) (or any other current software being utilized for scheduling and vehicle navigation).

The fourteen (14) minimum refresher hours do not include monthly training requirements (**See the Section Titled New Hire Training**). Refresher training will be supplementary to the required monthly training.

10.10 Remedial Training. To comply with the contractual requirements and meet the professional service expectations of CapMetro, the Contractor shall ensure that all staff within all roles and responsibilities receive remedial training as needed to ensure safe and successful operations while and in service and out of service.

CapMetro reserves the right to require the Contractor to provide remedial training to any employee on any topic at any time before the employee can return to working within their job function.

Remedial training is required, but not limited to when employees:

- Perform unsafe behaviors with persons or property.
- Incorrectly follow CapMetro or Contractor's processes/procedures/policies.
- Conduct themselves unprofessionally with customers and coworkers.
- Have a valid complaint filed against them.
- Have a preventable event with a customer or vehicle.

10.11 OSHA Training. All Contractor staff who will be performing internal audits on assigned Facilities are required to be OSHA 10 trained at a minimum. OSHA 30 is the recommended level of training to properly audit Facilities.

10.12 Personal Safety Training. The monthly training program (**See Section Titled Monthly Training**) must periodically include training on personal safety, to include, but not be limited to, theft/robbery prevention, self-defense, violence in the workplace, assault prevention, and information regarding operator responsibilities included in the FTA's Transit Watch program.

10.13 Customer Service Training. The Contractor must incorporate customer service training into its new hire and ongoing (monthly/refreshers/remedial) training program that includes at minimum the American Public Transportation Association's (APTA) best practices for customer service training. CapMetro may require the Contractor to adjust customer service training as improvement opportunities are identified.

10.14 Diversity Training. All employees shall receive Diversity training upon being hired, and as part of the refresher training referenced in **Section Titled Refresher Training**. This training must develop skills and increase an understanding of people with varying disabilities and of varying ages, regardless of ethical/national origin, color, race, religion, sex, gender, or orientation.

10.15 Vehicle Operators Training. Below is the minimum training schedule and curriculum requirements for Operators:

<u>New Hire Training</u>	<u>Monthly Training</u>	<u>Annual Refresher Training</u>	<u>Biennial Training</u>	<u>Remedial Training</u>
64 hours classroom	Attend 1 safety/training meeting	14 hours	4 hours defensive driving	As deemed necessary
40 hours behind the wheel				
56 hours 1:1 with Trainer in Revenue Service				
32 hours training specific to Pick up services				

This training plan shall include, but not be limited to, the following:

- Training on CapMetro Access policies and procedures according to **the most current Attachment 39, MetroAccess Riders Guide.**
- Training on Pickup policies and procedures according to CapMetro **Pickup Policies and Procedures.**
- Passenger Assistance Technique (P.A.T.) certification or an equivalent course (e.g., PASS from CTAA) which shall be approved by CapMetro.
- Passenger identification and the use of tactile tools for deaf/blind passengers.
- Vehicle breakdown, accident, adverse weather, and other emergency procedures including emergency vehicle evacuation.
- Proper response to emergencies used in ADA paratransit and on-demand services, including handling biohazards.
- Operation of vehicles assigned to the Contractor and all equipment installed in the vehicle or required to be carried in all vehicles pursuant to the requirements of this contract.
- Location evaluation and hazard reporting.
- Navigation (map reading, digital tools, following verbal & written instructions, etc.), route planning, common location, and landmark familiarity.

- Familiarity with how trips are scheduled.
- Familiarity with the completion of necessary paperwork, paper manifests or run/trip sheets, accident reports, incident reports, etc.
- Introduction to the Americans with Disabilities Act and the role of ADA paratransit.
- Sensitivity Training, including, but not limited to, sensitivity towards persons with disabilities, sexual harassment, violence in the workplace, diverse individuals, mental health awareness (NAMI or similar) and strategies for handling compassion fatigue.
- Customer Service, including dealing with difficult people.
- Provision for Customer Service re-training as necessary.
- Communication, conflict management, de-escalation tactics, and emergency response.
- Mobility device securement, lift/ramp operation, and assisting mobility limited passengers.
- Use of safety/emergency equipment.
- Behind-the-wheel training (BTW) which includes assignments to locations within service area.
- Effects of fatigue on vehicle operation and work performance with strategies for managing fatigue while working irregular shifts.

10.15.2 Defensive Driving. Vehicle Operators are required to complete a qualified defensive driving course every two (2) years, such as a National Safety Council (NSC) course, or an equivalent course pre-approved by CapMetro. Defensive Driving training does not qualify as part of the fourteen (14) refresher training hours required according to the **Section Titled Contractor Training Instructors**.

10.15.3 Continual Evaluations. A qualified Instructor or Supervisor will evaluate each Vehicle Operator employed under the contract at least once every six (6) months, which includes documented in-service evaluations, license checks, and medical certificate checks.

10.16 Training Exceptions. CapMetro must approve all exceptions to the required minimum training standards within this Contract and approved training program. Exception requests must be in writing with adequate reasoning as to why any portion of training cannot be completed by the employee.

10.17 Maintenance Training Requirement. No maintenance employee will be allowed to perform repairs or inspections for which they have not been fully trained as required by CapMetro. The Contractor Shop Supervisors are required to ensure that all work assignments comply with this requirement.

11. VEHICLE OPERATOR EXPECTATIONS, CONDUCT, & DRESS

11.1 Pre-Employment Requirements. In addition to the qualifications listed in the "Personnel Assignments" section of **Exhibit E**, Vehicle Operators shall meet the following pre-employment requirements:

- Possess a valid State of Texas Driver's License appropriate for the class of vehicle to be operated. Vehicle Operators must have maintained a valid driver's license for three (3) years.
- Demonstrate English language competency (reading, writing, and speaking). CapMetro encourages bilingual (English/Spanish) hiring practices.
- Have good oral and written communication skills as demonstrated in pre-employment testing.
- Vehicle Operators must be sensitive to passengers' needs and can handle complaints and problems as required.
- Any personnel who may operate a CapMetro revenue vehicle shall pass a biennial Federal Department of Transportation (DOT) physical examination and a comprehensive drug screen as detailed by **49 CFR 391.41**.
- Demonstrate the physical agility to perform the requirements of this position, including but not limited to, the ability to assist a passenger in a manual wheelchair move up or down ADA ramps and be physically able to fold and store a manual mobility device if necessary.

11.2 Vehicle Operator Expectations. CapMetro recognizes that the success of its transportation program, service delivery and overall customer experience is built upon the strength of its Vehicle Operators. The Contractor shall field qualified, highly skilled, and well-trained Vehicle Operators with a primary focus on safety and excellent customer service. The Contractor's Vehicle Operators shall at a minimum meet the following requirements:

11.2.1 Working Knowledge. Having a working knowledge of driving times and the service area(s).

11.2.2 Early Pickups. If the Vehicle Operator arrives at pick-up location early and the passenger is prepared and willing to depart early, the Vehicle Operator may do so.

11.2.3 30-min Operating Window. Working within the thirty (30) minute operating window for pick-ups. The Operator shall not pressure a passenger to leave before the operating window. If the Operator is not going to make the pick-up within the operating window or will be at pick-up location more than thirty (30) minutes earlier than scheduled operating window, they must notify DRCC for assistance. Trips may be removed or added to ensure the Vehicle Operator's run is optimized.

11.2.4 Priority Items. Checking vehicles after drop-off to ensure customer's items are not left in the vehicle **(As described in the most current Attachment 35, Lost & Found Procedures)**.

11.2.5 Trip Compliance. Complying with trips provided by DRCC. DRCC is solely responsible for removing, reordering, or adding trips to a run.

11.2.6 Customer Cancellations/No Shows/Not Ready. Notifying DRCC dispatch in the event of a cancel at the door, passenger not ready, or passenger no show **(As described in the most current Attachment 43, No Show Procedure)**. Notifications to DRCC for CapMetro Access no shows are 5 minutes after arrival, and 2 minutes after arrival for Pickup service.

11.2.7 Safety Vest. Wearing ANSI Class 3 (or similar) reflective safety vests while providing service outside the vehicle.

11.2.8 Safety Cones/Triangles. Setting out safety cones/triangles as needed for each stop where the vehicle may obstruct traffic, will be parked for an extended period, and each time the wheelchair lift, or ramp will be deployed.

11.2.9 Schedule Deviations. Deviations from the schedule including unscheduled breaks are not permitted unless the Vehicle Operator receives authorization from the CapMetro Control Center, law enforcement, a Transportation Supervisor, or other authorized persons in charge.

11.2.10 Schedule Delays. Vehicle Operators shall not intentionally operate their vehicle behind schedule or take unauthorized/excessive breaks. If delay is unavoidable, the Vehicle Operator shall report the cause for the delay to the DRCC.

11.2.11 Slack Time. Vehicle Operators shall make themselves available for additional assignments whenever there are thirty (30) minutes or more between trips.

11.2.12 Pre-Trips/Post Trips Inspections. Vehicle Operators must perform inspections on their vehicles before they pull out and after they pull-in after every shift. The Contractor shall track the inspections on a monthly Log and submit the log to CapMetro monthly, by the first week of the following month **(Also See the Section Titled Pre-Trip / Post-Trip Requirement)**.

11.2.13 Pullouts. Operators must complete their pre-trip and pull the vehicle no later than the scheduled time. The Contractor will be penalized for a below 98% on time pull out ratio **(See the Section Titled Service Quality and Performance Indicators)**.

11.2.14 Pickup Zone Availability. It is critical that Vehicle Operators are in their scheduled zone on time and do not leave the zone earlier than scheduled. Operators must inform the DRCC when they arrive and depart the zone.

11.2.15 Pickup Deadhead. Operators are required to follow specific directions to zones from the yard to minimize deadhead (**As described in the most current Attachments 47 and 48, Pickup Deadhead Zones**).

11.2.16 Radio Etiquette. It is essential that Operators are communicating and responsive to DRCC and Contractor Dispatch in a clear, timely and curious manner. Below are situations where Operator communication is required:

- Whenever DRCC or Contractor Dispatch is trying to reach the Vehicle Operator.
- When Operators conduct their vehicle pre-trip they are required to do a radio check.
- When there is a customer dispute (fares, request to exit vehicle/Pickup zone, pickup/drop off conflict, etc.).
- When the Operator cannot locate the customer.
- When customers want to add an extra unscheduled rider (for accountability, and capacity checking).
- Requesting a break, and when returning from break.
- When there is an accident to the vehicle or accident that obstructs the Operator from continuing the trip.
- When there is a near miss.
- When the vehicle is experiencing issues.
- When a vehicle change out is required and again when the Operator receives the new vehicle.
- When Dispatch contacts the Operator, they shall respond.

11.3 Prohibited Conduct. Cause for Removal from Service.

11.3.1 Unsafe/Inappropriate Acts. The Contractor shall immediately remove any Vehicle Operator from service if found to commit unsafe or inappropriate acts while providing service under this Contract. The Contractor shall notify CapMetro if a Vehicle Operator will be removed from service for this reason and submit a written report within 24 hours outlining the situation and the response plan.

11.3.2 Removal Examples. CapMetro may require the Contractor to immediately remove any Vehicle Operator from CapMetro service (pending investigation) for any of, but not limited to, the following:

- Committing unsafe, inappropriate, or criminal acts while providing service.
- Failure to follow CapMetro policies and procedures.
- Failure to carry a valid Vehicle Operator's license while providing service.
- Cell phone use while operating CapMetro vehicle, including texting and use of wireless headphones or devices.
- Revocation, suspension, or non-renewal of a valid Texas Driver's License.
- Use of any tobacco product on CapMetro vehicle or property, in accordance with the Tobacco Free policies of CapMetro.
- Failure to follow Safety rules and regulations.
- Failure to follow security policies, guidelines, and procedures.
- Arrests for any reason
- Notification of an active warrant from any law enforcement or judicial agency.
- Failure to meet Vehicle Operator employment requirements in Exhibit E or F.

11.4 Vehicle Operator Dress Code and Personal Appearance Standards.

11.4.1 Uniform and Appearance Standards. The Contractor shall ensure that its staff that are required to wear uniforms (Dispatchers, Operators, Transportation Supervisors) conform to professional appearance standards consistent with the contractual guidelines set forth in the **most current Attachment 08, Uniform and Appearance Standards**. These guidelines shall ensure a standard appearance that is consistent with the high standards CapMetro's professionals must meet every day. When providing service under this

Contract, uniform required staff shall present a neat and clean appearance and wear only the CapMetro authorized uniform. Each incident of Contractor uniform required staff not wearing the approved uniform in service shall result in a **PDC of \$200** per instance.

11.4.2 Contractor Supervision. The Contractor shall ensure its staff observe professional standards regarding personal appearance when reporting for duty and while on duty, including training assignments that require operation of CapMetro branded equipment. The Contractor is authorized to allow their Vehicle Operators reporting for non-driving training or duties to wear casual clothing that is appropriate for the workplace. The Contractor shall ensure that all clothing worn by its employees fit well, be clean, wrinkle-free and in good repair.

11.4.3 Uniform Provisions. CapMetro will provide uniforms for those employees required to wear a uniform. Uniform costs will be managed as a pass through from the Contractor to CapMetro based on the uniform allowance rates and pay cycles according to the bargaining agreement.

11.4.3.1 Maintenance Uniforms. CapMetro will cover uniform costs for maintenance employees based on the terms set for in the ATU bargaining agreement. Costs will be billed as a pass through with employee wages by the Contractor.

12. DISPATCH OPERATIONS

12.1 Dispatch Partnership Overview.

12.1.1 Combined Efforts. Daily service shall be managed through the combined efforts of the Demand Response Control Center (DRCC) Dispatch in coordination with the Contractor's on-site dispatch.

12.1.2 Transportation/Road Supervisor Support. Vehicle Operators and Dispatchers shall be supported by Transportation Supervisors in the field.

12.1.3 Operator Manifests/Schedules. Vehicle Operator manifests and run schedules shall be developed and provided to the Contractor by the DRCC as outlined in the **Section Titled Run Cuts and Service Scheduling**.

12.2 Demand Response Control Center (DRCC). DRCC is responsible for managing passenger trips on the day of service. DRCC shall adjust, move, re-assign or cancel trips, as necessary. Their primary obligation is to provide safe, excellent service to customers by attending to on-time performance, productivity, same-day service and operator requests for manifest adjustments. DRCC is responsible for adjusting manifests throughout the service day via the computer-aided scheduling and dispatch system (CASD) and sending them to the electronic tablet located in the vehicle. The Contractor's dispatch team shall not adjust manifests without prior permission from DRCC. DRCC will also have direct radio voice communication with the Vehicle Operator. DRCC will maintain communication with the Contractor's on-site dispatch operation as needed to coordinate driver availability, service disruptions and other operational issues. DRCC shall receive notification from the Vehicle Operators when a passenger cancels at the door or the passenger "no shows" the trip, to reroute and break requests.

12.2.1 Cancel at the Door. Is when the Vehicle Operator arrives within the defined operating window and is informed by the passenger that the passenger does not wish to travel. The Vehicle Operator will log this occurrence with the DRCC and provide details of the occurrence before continuing the run.

12.2.2 CapMetro Access No Show. Is when the Vehicle Operator arrives within the defined operating window and the passenger does not board the vehicle within five (5) minutes of the vehicle's arrival. The Vehicle Operator will log this occurrence with DRCC and provide details of the occurrence before continuing the run.

12.2.3 Pickup No Show. Is when the Vehicle Operator arrives at the location requested on the app and the customer is not at the vehicle within two (2) minutes. The Pickup Vehicle Operator must notify DRCC. DRCC

will make attempts to match both parties together before a “No Show” is established.

12.2.4 CapMetro Access Operating Window. If a vehicle operator arrives at a pickup location early and the customer is prepared and willing to depart early, the vehicle may do so. The vehicle operator is never allowed to coerce a passenger to leave before the defined operating window opens. If the vehicle operator is running one (1) minute behind schedule or is more than thirty (30) minutes ahead of schedule, they shall notify DRCC.

12.2.5 Trip Management. Trips may only be removed, reordered, or added by DRCC.

12.3 Contractor Dispatch.

12.3.1 Contractor Base NBDR/SBDR Dispatch. The Contractor shall maintain a dispatch function at ~~its base~~ the North & South bases (NBDR/SBDR locations) to manage daily deployment and return of vehicles and Vehicle Operators. The Contractor's ~~Base~~ base Dispatch team shall be on duty at all hours while the Contractor's Vehicle Operators are in service. The Contractor's ~~Base~~ base Dispatch team shall be available as backup to the ~~On-site~~ DRCC Dispatch team as appropriate.

12.3.2 Contractor Radio (DRCC) Dispatch. The Contractor's Radio (DRCC) Dispatch is located at the Demand Response Control Center (DRCC). The Contractor's DRCC Dispatch shall be responsible for communicating directly with Vehicle Operators regarding most operational issues including routing, location questions, lost Vehicle Operators, building issues, gate codes, passenger disruptions, close calls/near misses, accidents, incidents, mechanical issues, and any other situation that does not fall under the responsibility of the DRCC. The Contractor DRCC Dispatch shall also communicate directly with the DRCC regarding vehicle availability, run slack and productivity, schedule adherence, and any other operational issues that impact service (**As described in the most current Attachment 16, Dispatch & Service Provider Roles and Responsibilities**).

12.3.3 Contractor Dispatch as Backup to DRCC. The Contractor's Dispatch shall serve as a backup to the DRCC during emergencies or upon request of the DRCC. A comprehensive explanation of the Contractor On-Site Dispatch and the DRCC Dispatch duties are in **the most current Attachment 17, Dispatch Responsibility Matrix**.

12.3.4 Run Dispatch. The Contractor shall appoint qualified individuals to serve as Run Dispatchers. These Run dispatchers shall assign operators to maintain attendance for assigned work and assign available operators for open work. Run Dispatch personnel shall be on duty when services are scheduled to operate. Run Dispatchers shall assign operators to vacant runs as required. Run Dispatchers shall at minimum receive calls from operators calling in as absent, assign open work, operate scheduling software (currently Spare), receive, and validate accident reports, log in, maintain, and gather items turned in as Lost and Found, assign work as needed for required mandated testing and screening.

12.3.5 Dispatcher Uniforms. All Contractor Dispatchers (Radio & Run Dispatchers) shall wear CapMetro approved uniforms as described in **the most current Attachment 08, CapMetro Uniform & Appearance Standards**.

12.4 Manifest Reconciliation. When vital trip information (i.e., odometer readings, pick up and drop off / pull-in and pull-out times, fare collected, assigned driver/vehicle, passenger count, etc.), and add-on trip information (including passenger name and pick up/drop off street addresses) is not reliably or accurately being recorded by the mobile data device, the Vehicle Operator shall communicate this information in detail for manifest reconciliation by the Contractor. The Contractor is responsible for reconciling all missing or incorrect data into scheduling and operations systems. The manifest reconciliation shall be done on the day of service, if possible, but shall be complete within two (2) calendar days after the service is performed. Failure to reconcile all missing or incorrect data into the system within three (3) calendar days after the conclusion of the month will result in a **\$100 PDC** per day.

12.5 Accident/Incident Response. In the event of a vehicle accident or incident, or safety/ security, the Vehicle Operator shall contact the Contractor dispatch immediately, and the Contractor dispatch shall notify DRCC immediately. The DRCC will contact the proper authorities, the passenger's emergency contact, and coordinate

response activities with the Contractor. The Contractor shall have at least one key personnel member available at all times to coordinate activities to respond properly to any given accident or incident. The Contractor Transportation Supervisors shall respond to the scene of every accident or incident by the procedures outlined in the corresponding section of the Contract. The Contractor shall strictly adhere to **the most current Attachment 03, Accident and Incident Protocols**. DRCC will coordinate the transfer of passenger trips or activate additional runs as needed (**As described in the most current Attachment 24, Front Line Feedback Process and Procedure**). In addition, **the most current Attachment 21, Emergency Notification Procedure**, and **Attachment 22, EN Quick Reference Guide** shall be followed to properly handle Demand Response emergencies from start to finish.

12.6 Transportation Supervisors. The Contractor's Transportation/Road Supervisors are the first line of response for all operational issues and work under the daily direction of the DRCC. It is vital to the success of the Contractor to have adequate staff available to perform all the duties required for this position. The Contractor shall provide continuous daily street supervision of CapMetro Access & Pickup services according to the scope of the Contract.

12.6.1 Transportation Supervisor Minimum Responsibilities. Responsibilities include monitoring of schedule adherence, on-street operation, and passenger assistance compliance. Transportation Supervisors will be on duty during scheduled service times as established by CapMetro. Any necessary tablet or mobile computer used by the Transportation Supervisor for monitoring CAD/AVL, and other service applications will be provided to the Transportation Supervisor by CapMetro. Transportation Supervisor specific responsibilities include, but are not limited to the following:

1. Monitoring vehicle pullouts including pre-trip compliance and proper procedures to leave the lot.
2. Responding to customer disturbances, service disruptions, or any other abnormal occurrence that may occur in the field.
3. Conducting in-field observations to ensure operator adherence to procedures (e.g., fare collection, ADA compliance, and passenger relations).
4. Evaluating passenger mobility aids.
5. Locating lost passengers.
6. Responding to investigation of incidents and accidents as directed by DRCC and providing appropriate event documentation.
7. Conducting site evaluations.
8. Serving as a subject matter expert of CapMetro Access and Pickup policies, rules, and procedures.
9. Other duties as assigned.

12.6.2 CapMetro Road Supervision Rights. CapMetro reserves the right to independently conduct similar investigations and adherence checks of its own without notice to ensure compliance with terms of the Contract.

12.6.3 Service Partners Response. A Transportation Supervisor shall respond to an emergency involving a different Contractor or CapMetro property at the request of CapMetro.

12.6.4 Transportation Supervisors Uniforms. Transportation Supervisors shall wear CapMetro approved uniforms as described in **the most current Attachment 08, CapMetro Uniform and Appearance Standards**.

12.6.5 Transportation Supervisor Ad Hoc Support. Transportation Supervisors shall provide ad hoc support to CapMetro, including the management of CapMetro Access passengers attending public meetings, assisting with public outreach activities, etc.

12.7 Site Evaluations. See Location Evaluation Procedures and Template. This is a survey taken of a given location to determine the safe access (entry and exit) of the CapMetro Access or Pickup vehicle utilized at that location. The DRCC shall formally request site evaluations to be conducted as needed. The Contractor can conduct site evaluations on their own without DRCC direction but shall inform the DRCC. For site evaluation workflow **See CapMetro Access Site Evaluation Flow Chart**.

The Contractors Transportation Supervisors will be the staff conducting the requested site evaluation. The Contractor shall ensure its Transportation Supervisors are fully trained in the site evaluation process, and their non-revenue vehicles are equipped with the proper tools to do so. Failure to submit a Location Evaluation within four (4) calendar days shall result in a **PDC of \$200** per day. The Contractor shall initiate site evaluations on their own whenever the following issues are encountered during service:

- a) Unsafe backing or maneuvering necessary to access a location.
- b) A vehicle accident occurs due to clearance issues.
- c) A passenger accident occurs due to irregular pathway.
- d) The Vehicle Operator loses line-of-sight to the vehicle while assisting a passenger.
- e) The Contractor is made aware of service disruptions due to vehicle access at a passenger's origin or destination.
- f) Any other situation identified by CapMetro.

12.8 Vehicle and Operator Availability. The Contractor shall manage the daily availability of vehicles and Operators. The Contractor is required to facilitate the speedy restoration of service in the event of a service disruption with necessary vehicles and Operators. The Contractor shall analyze operator and vehicle supply and demand based on CapMetro provided service needs and daily inform DRCC of vehicle and operator availability.

13. EMPLOYEE NOTIFICATION SYSTEM

13.1 Employee Notification System. DRCC makes use of an employee notification system (currently Everbridge) to send voice, email, or text messages to CapMetro employees and the Contractor about such events as emergencies, accident/incidents, building evacuations, active shooter events, etc., occur in the field and within CapMetro facilities. Additionally, this system is utilized to notify operational staff of front-line concerns coming from Vehicle Operators (called Frontline Feedback).

13.1.1 EN Enrollment. All core operations staff (Leadership, Transportation Supervisors, and Dispatchers) must enroll in this system. All other on-site staff and Vehicle Operators may select the notification system as desired. However, Vehicle Operators on duty will receive their primary notifications through radio or dispatch.

13.1.2 EN Utilization. The Contractor core management and dispatch staff shall utilize the notification system for accident/incident events, facility events, front line concerns, and any other event that requires communication to the agency and the Contractor. "Train the Trainer" resources will be provided by CapMetro. The Contractor shall maintain training records of users of the notification system to ensure quality output of notifications in appropriate format.

13.1.3 EN Quick Reference Guide. DRCC will provide an EN quick reference guide (**See EN Quick Reference Guide**) that outlines proper notification procedures for the Contractor. This guide must be posted in the Contractor's dispatch station for use. DRCC will provide updates to the guide as procedures change.

13.1.4 EN Categories. Notifications are currently split into four categories, but they are subject to change:

- Facility Notifications – All staff, including Contractor operators and mechanics, are required to sign up for Facility notifications. These include such notifications as fire alarm, active shooter, and tornado alerts.
- Emergency Notifications – Dispatchers, supervisors, safety, and leadership staff will have accounts to manage and receive notification on a variety of operations issues from missed service to accidents.
- Frontline Feedback – This module of Everbridge allows front line workers such as operators and mechanics to report concerns to CapMetro and to receive a timely response.
- IT Notifications – Core operations staff are required to sign up for IT notifications. These include system failures, outages, connectivity issues, patch updates, reboots, etc.

14. SCHEDULING & RESERVATIONS

14.1 Run Cuts and Service Scheduling.

14.1.1 Run Cuts. DRCC conducts the run cut and establishes the start and end times. The Contractor shall provide adequate staffing and vehicles to avoid any service delay on the day of service.

14.1.2 Flexing the Runs. The DRCC may flex the run start and end times up to 60-minutes if the total run service hours do not change. The DRCC will communicate with the Contractor by 6 PM prior to the day of service, if run times are to be flexed. This applies to CapMetro Access Pickup Service requires structured in zone service times for on demand service.

14.1.3 Run Changes. DRCC reserves the right to consolidate runs, expand runs, or release a Vehicle Operator early on the day of service to meet customer demand. The Contractor shall ensure that its work assignments allow for variability. The Contractor shall ensure that sufficient flexibility is built into its staffing plans to adjust to the scheduling requirements on a day-to-day basis.

14.1.4 Incomplete Run. In the event a scheduled run cannot be completed in its entirety, the DRCC is responsible for reassigning the scheduled run trips to another run.

14.1.5 Schedule Review. The DRCC shall review schedules with the goal of optimizing productivity, managing on-time performance, checking for mobility aid conflicts, adjusting trip order, and improving customer satisfaction.

14.1.6 Accurate Information. The Contractor shall ensure that all vehicle and Vehicle Operator information is accurately updated in the operations and scheduling system and any other applicable software as soon as possible, but no later than the time at which the vehicle leaves the yard.

14.1.7 Service Changes. The DRCC is responsible for preparing service changes. Service changes are typically conducted in spring, fall, and winter or as customer demand warrants. The DRCC service change package includes all run start and end times by day of the week. The Contractor shall ~~create the runs, blocks, and Vehicle Operator shifts from the run times provided~~ assign Operators and vehicles to the scheduled run (aka duty). The DRCC shall provide a summary of the service change to include new runs, deleted runs, vehicle types, vehicle capacity, start/end times. DRCC shall provide the service change run information at least 6 weeks prior to the Vehicle Operator run bid. The Contractor shall review the service change package and provide feedback and suggested changes within 5 days of receiving.

14.2 Service Hours.

14.2.1 CapMetro Access Service Hours. Service hours are the basic measure for service levels and variable unit of compensation in the Contract. Service hours cover the time from when a transit vehicle starts (pull-out time) from a garage (or other storage location) to go into service to the time it returns to the garage (pull-in time) after completing its service. Vehicle service hours do not include time for pre-trip or post trip inspections, maintenance, fueling, vehicle replacement, employee drug testing, and other non-Revenue service-related times are not included in compensated service hours to the Contractor.

14.2.1.1 Pickup Service Hours. CapMetro's Access and Pickup service hours schedule can differ. Pickup service hours are also measured from the time a vehicle leaves the base to the time the vehicle returns to the base.

14.2.1.2 Pre-Trip/Maintenance Impacts. Pre-trip inspection time as well as scheduled and unscheduled maintenance periods are not included as part of vehicle service hours.

14.2.2 Service Increase/Decrease. Demand for service may increase or decrease over the term of the Contract. A reasonable effort is made to establish service level estimates to meet service. The Contractor is not guaranteed a minimum or maximum number of service hours during the term of this Contract.

14.2.3 Employee Work Times. The Contractor shall comply with all applicable laws and regulations related to employee work times. CapMetro will use the scheduling and operations system data to verify these records.

14.2.4 Holiday Service. Holiday Service offers a reduced level of trips in a smaller service area over a corresponding reduced fixed route service area. The number of runs to be operated is determined three (3) weeks prior to the Holiday service. CapMetro Access and Pickup services may differ in how holiday service is observed **(As described in the most current Attachment 29, Holidays Observed by CapMetro).**

14.2.5 Projected Ten-Year Service Hours. The following table contains the projected vehicle service hours for the Contractor. These are projections/estimates for a maximum of ten (10) years, and do not constitute a guaranteed number of vehicle service hours, or the exercise of all contract options. Distribution of service among the Contractor is subject to change during the life of the Contract.

	BASE YEAR 1	BASE YEAR 2	BASE YEAR 3	BASE YEAR 4	BASE YEAR 5	OPTION 1 YEAR 1	OPTION 1 YEAR 2	OPTION 1 YEAR 3	OPTION 2 YEAR 1	OPTION 3 YEAR 1
CapMetro Access Hours	383,819	395,334	407,194	419,410	431,992	444,952	458,300	472,049	486,211	500,797
Pickup Hours	110,134	115,641	119,110	122,684	126,364	130,155	134,060	138,081	142,224	146,491
TOTAL VEHICLE SERVICE HOURS (VSH)	493,953	510,975	526,304	542,094	558,356	575,107	592,360	610,130	628,435	647,288

14.3 Daily Operations (Scheduling based) PDCs. The Contractor shall ensure runs are completed as scheduled and completed without any lost time. By the Contractor providing a high-quality maintenance standard on the vehicles and effective management of staff all runs scheduled by the DRCC, the runs should be successfully completed as planned. This Section outlines PDCs that will be evaluated as appropriate.

14.3.1 Completely Unfulfilled Runs. The Contractor shall provide Operator staff and Vehicles for a specific number of runs and Vehicle Service Hours as identified and scheduled by the DRCC. A run is “completely unfulfilled” when there is no Operator and/or vehicle available to be assigned to a scheduled run. Failure to fulfill a scheduled run at all (no Operator and/or vehicle provided) will result in **\$200 PDC** per run completely unfulfilled.

14.3.1.1 Partially Unfulfilled Runs. Some scheduled runs may initially have an assigned Operator and vehicle by the Contractor but will lose the Operator or vehicle during service. The Contractor will have sixty (60) minutes to replace the Operator and/or vehicle from the reported time that the Operator or vehicle was lost. If the Operator and/or vehicle is not replaced within sixty (60) minutes by the Contractor, a **\$50 PDC** per sixty (60) minutes shall be assessed until the run is back in service [up to (4) four (60) sixty-minute increments i.e., **\$200 PDC**. If the Operator and/or vehicle cannot be replaced, the run will be cancelled, and a **\$200 PDC** per partially unfulfilled run will be assessed for the cancellation.

Partially unfulfilled runs can be caused by, but not limited to the following:

- **Operator Not Responding.** If the Operator does not respond after thirty (30) minutes the DRCC will notify the Contractor that either the Operator must respond, or the Contractor must replace the run with another Operator and vehicle immediately.

Scenario – An Operator requests a fifteen (15) minute break and does not respond within

thirty (30) minutes of the scheduled break start time. The Contractor will be notified by the DRCC they have sixty (60) more minutes from the notification to replace the Operator and vehicle or get the Operator back in service. Any time spent trying to relocate the Operator will be considered lost service time and will be deducted from the billable service hours in that invoice period.

- **Vehicle OOS.** If a vehicle placed out of service, the Contractor shall follow the road call change out process as outlined in **the Section Titled Change Out Requirement**. The Contractor has thirty (30) minutes to mobilize towards the vehicle for pickup/repair. If the vehicle they bring to replace does not put the scheduled run back in service within sixty (60) minutes, a **\$100 PDC** per sixty (60) minutes will be assessed until the run is back in service.
- **Customer Interruption.** In accordance with **the Section Titled Customer Interruptions**, if a Customer is being disorderly the Contractor must assign a new vehicle and Operator within sixty (60) minutes of the reported disruption.

14.3.2 Cancelled Runs. If the DRCC must cancel scheduled runs due to the Contractor having a shortage of Operators and/or ready vehicles, a **\$200 PDC** per run will be assessed. The Contractor shall notify the DRCC of all runs requiring cancellation by the Contractor prior to the day of service (Example, notifying at 7 PM the night before is acceptable, notifying at 7 AM the day of is not acceptable). Runs cancelled by the Contractor on the day of service will be considered “unfulfilled runs” and will follow **the Section Titled Completely Unfulfilled Runs** above.

14.3.3 Missed Service. Missed Service will be synonymous with “Lost Time” and/or “Lost Service” for the purpose of the Contract. The Contractor must provide a specific number of runs and Vehicle Service Hours as identified by the DRCC. Any portion of a run not covered by the Contractor will result in the time being deducted from the overall vehicle service hours billable during the invoicing period.

Missed service can be caused by, but not limited to the following:

- Equipment failure (that is maintained by the Contractor).
- Operator not responding to Dispatch.
- Late pullouts.
- Operator Behavior (e.g., disorderly conduct, not following proper procedures, etc.).
- Operators late returning from break(s).
- Operator not in zone during scheduled time (Pickup service specific).
- Operator assigned to wrong vehicle.
- Operator logs into the wrong tablet.

14.3.3.1 Customer Interruptions. Customer interruptions (e.g., sick, disruptive, etc.) can be considered lost service if the Contractor does not cover the remaining portion of the run with a replacement Operator and/or vehicle within sixty (60) minutes of the reported interruption. Any lost service time after the sixty (60) minute window shall be deducted from the total vehicle service time in the invoicing period.

14.3.4 Missed Trips. A **PDC of \$200** will be assessed on the monthly invoices in the event of a missed trip. The Contractor must maintain a missed trip percentage of less than .05% of all trips. The Contractor will be subject to corrective action if the missed trip percentage is more than .05% of all trips.

A missed trip is defined as:

- A trip where the Contractor arrives one hour or later after the closing of the operating window.
- A trip where the Contractor fails to notify the DRCC that the work cannot be performed until after the operating window has begun, thus causing another Operator to arrive one hour or later after the close of the operating window.

- A trip that is not completed in its entirety.
- Transporting the wrong passenger.
- A trip for which the passenger is dropped off at an incorrect or unauthorized drop off location.
- Pickup Service Only – A trip where the operator drops off the passenger at an unauthorized location outside of zone.

14.3.5 Scheduling PDC Exceptions. The COTR will consider exception requests (**See the Section Titled Performance Exceptions/Extensions**) to any potential scheduling PDCs that CapMetro is responsible for (e.g., if too many vehicles are down due to parts shortages).

15. CUSTOMER SERVICE & COMPLAINTS

15.1 Customer Service Focus. Providing excellent customer service is a key element in CapMetro's strategic plan. The Contractor shall provide all public transportation services with a focus on ensuring a positive experience for the customer. The Contractor must work cooperatively with staff in CapMetro's customer service call center and DR Eligibility department to provide information and service to our customers.

15.2 Continuous Improvement. The Contractor shall manage its business in ways that maximize the customer experience. The Contractor must work to continuously improve its processes and procedures for the benefit of the customer experience.

15.3 Customer Assistance. The Contractor must comply with requests for customer assistance to include, but not be limited to, dispatching a supervisor to the scene, communicating with CapMetro security, or providing courtesy transportation to a stranded customer.

15.4 CapMetro Access Rider Guide. Demand Response provides the public a continuously updated Rider Guide outlining all CapMetro Access (ADA) customer services and engagement to include eligibility, service levels, schedules, fare-handling, trip reservations, trip expectations, operator responsibilities, customer policies, service suspension protocols, and other services offered by CapMetro Access. The Contractor shall fully comprehend the Rider Guide, understanding which components of the Rider Guide correspond to Contractor's responsibilities, and must support Demand Response ensuring that the Contractor's staff follow the policies/procedures within the Rider Guide (**See CapMetro Access Rider Guide**).

15.5 Customer Service Training. Customer service is an essential deliverable within this contract. It is essential that the Contractor is consistently training customer-facing employees on appropriate customer service techniques and strategies to deliver optimal service to our clients. For details on Customer Service Training requirements (**See the Section Titled Staff Training**).

15.6 Complaints, Concerns, & Commendations.

15.6.1 Customer Response. In general, most complaints, concerns, and commendations are reported directly to CapMetro. The Contractor is required to resolve complaints assigned to them. The Contractor shall follow **the most current Attachment 12, Customer Call Report (CCR) Management**. This requires the Contractor investigate and resolve passenger complaints and comments regarding the service. The Contractor shall contact each complainant by telephone and follow up with written correspondence when necessary. All telephone contact with customers shall originate from a recorded line and calls must be retained for no less than a period of forty-five (45) calendar days. The Contractor shall take initiative to resolve all customer concerns satisfactorily with little direction from CapMetro.

15.6.2 Employee Misconduct. The Contractor shall notify CapMetro immediately of any complaint alleging employee or passenger misconduct such as inappropriate conversation, touching, assault (physical or verbal) and serious safety violations. The Contractor shall cooperate fully with all law-enforcement and social protective service entities in the investigation and resolution of any allegation of misconduct.

15.6.3 CCR Access. CapMetro will provide Contractor with customer service software (currently Salesforce). CapMetro will provide the Contractor with instructions and training on the software used to collect and report passenger comments. The Contractor shall designate a Transit Resolution Specialist (**See the Section Titled Transit Resolution Specialist**) or a CapMetro pre-approved specific staff member to manage CCR responses within the customer service software. The Contractor must also provide a backup to ensure there are no delays in the CCR response.

15.6.4 CCR Response Time. The ideal response time to a CCR is within 24 hours of receipt. This demonstrates to the customer CapMetro's commitment to our clients. "Response" can be defined as reaching out to the customer and initiating communication over the concern/complaint or leaving a voicemail demonstrating to the customer the Contractor's intent to communicate with the customer. The Contractor must resolve the CCR within four (4) calendar days. "Closes out" can be defined as determining the appropriate strategy to the customer's complaint/concern and acting with the customer, employee, or property involved to solve the issue entirely. If the CCR is not resolved by the fifth (5) calendar day, a **\$100 PDC** per day per occurrence will be assessed until the CCR is resolved. This PDC will be considered for exception by Demand Response if the resolution delay is due to factors outside of the Contractor's control (e.g., Customer is not responding to the Transit Resolution Specialist) – Any exceptions will require documentation demonstrating all attempts were made to properly resolve the customer complaint.

15.6.4.1 Complaint Resolution Reporting. Any unresolved customer complaints that are three (3) calendar days old or older must be reported to CapMetro each month. The monthly report must include how many days out of compliance each complaint was/is during the month period.

15.6.4.2 Complaint Investigations. Some customer complaints may be complex in nature and require investigation techniques to resolve properly. These complaints may require the gathering of witness reports, staff reports, videos, photos, etc. for CapMetro or other local authorities. The Contractor must comply with and support these investigations until the complaint is resolved effectively. The four (4) calendar day deadline for CCR resolutions by the Contractor may be granted an extension during these investigations by the approval of the COTR. The Contractor must notify the informant via telephone or written correspondence regarding the results of the investigation.

15.6.4.3 Resolution Documentation. The Contractor shall document customer complaint resolutions for each complaint in the customer service software (currently Salesforce).

15.6.5 Notifying Customer Service. CapMetro's Customer Service operates a call center for intake of all customer complaints. When the Contractor receives a phone call or written passenger complaint directly, details regarding the complaint must be forwarded to the CapMetro Customer Service Representatives for inclusion into the CapMetro database.

15.6.6 Other Concerns. The Contractor shall respond to requests by CapMetro for any information to assist in the investigation and resolution of not only complaints, but also for any other service disruption, to include eligibility matters. When requested, the Contractor shall conduct their own internal investigation and provide CapMetro with their written findings.

15.6.7 Complaint Rate. The complaint rate is a key performance indicator (KPI) for this contract. The Contractor will earn an incentive or disincentive monthly based on complaint rate performance (**See the Section Titled Complaint Rate for complaint rate table**).

15.7 Customer Service Surveys. The Contractor shall provide CapMetro with monthly customer satisfaction survey results conducted by an independent third-party surveyor. The surveyor must conduct a survey of both Pickup and CapMetro Access customers. This will be accomplished by completing a minimum of sixty (60) surveys per mode of service (i.e., CapMetro Access/Pickup) per month. The Contractor shall provide the independent surveyor with a random sample of current customers from both the CapMetro Access and Pickup customer pool to conduct their surveys. The Surveyor will contact the customers via telephone, email, or online. The methodology and questions within the survey must be approved by CapMetro prior to implementation at onset of the Contract period. CapMetro will review and agree upon the finalized questions and overall process to ensure an independently validated

methodology. Results will be submitted directly from the third-party provider to CapMetro and the Contractor simultaneously (**As described in the most current Attachment 14, Customer Service Example**).

15.8 Pickup 2-Star Ratings and below. Demand Response Pickup services provides customers with a star rating system via the app (currently VIA). Star Ratings are a KPI within this contract (**See the Section Titled Pickup Customer Average 5-Star Rating**). The Contractor shall assess the star ratings to ensure any two (2) star ratings & below are responded to and resolved with the customer when possible. Two (2) star and below ratings are customer complaints regarding the Pickup service, and will follow the same resolution process, timeline, and PDC process as outlined in the **Section Titled CCR Response Time** above. Pickup 2-Star Ratings will not be factored into the KPI - CCR Rate referenced in the **Section Titled Complaint Rate**.

16. SAFETY

16.1 Safety Management System. The Contractor shall implement a safety program that adopts the Safety Management System (SMS) approach defined by the FTA and shall submit a comprehensive SMS Plan to CapMetro for approval. CapMetro will establish an “umbrella” SMS plan. The Contractor’s SMS must comply with the agency-wide plan. An approved SMS plan is required prior to the start of services.

This SMS plan shall include the following:

- Vehicle Operator procedures for handling emergencies and incidents (medical, fire, safety, fuel, and other fluid spills)
- Accident Investigation Training
- Hazard Identification (as defined in SMS Plan)
- Assault Prevention & Awareness
- Handling potential blood borne pathogens
- Accident Response Plan
- Accident review process and trend analysis
- Process for determination of accidents as preventable or non-preventable, using National Safety Council guidelines
- Employee retraining (remedial) provisions
- Fatigue management for bus operators and other shift-work staff, including processes for ensuring limitations to the hours of service for these staff
- Use of an inertia-based camera system for capturing near-accidents and analyzing triggered events, including retraining employees on unsafe driving behaviors, and analyzing data regarding near-misses
- Facility and yard safety
- Shop safety
- Maintenance practices to promote safe function of the vehicles
- Programs and methods to be used in promoting safety awareness, including administrative functions

16.2 CapMetro Safety Meetings. The Contractor shall ensure that Safety and Operations Managers participate in monthly System Safety meetings with CapMetro staff.

16.3 Emergency Readiness. The Contractor shall conduct periodic emergency readiness training and drills. The Contractor shall also participate in such drills at the direction of CapMetro.

16.4 Transit Safety and Security Program (TSSP). The Contractor’s Safety Manager shall obtain DOT Transit Safety and Security Program (TSSP) certification within two (2) years of being assigned to safety management duties within this contract.

16.5 Post Accident Training. The Contractor shall provide to its applicable employees a program for post-accident training.

16.6 Parking. The Contractor shall organize and direct vehicle fleet in provided facility lot(s) in a manner that promotes safety and considers all necessary precautions.

16.7 Enterprise Risk Management Program. CapMetro has a program and processes for managing risks and pursuing opportunities. The Contractor must have similar processes in place. As part of this program, it is understood that some risks must be accepted to achieve goals and conduct business, while other risks are unacceptable. CapMetro and the Contractor shall work together to manage the unacceptable risks, while ensuring that service delivery standards are maintained.

16.8 Safety Equipment.

16.8.1 Supervisor Vehicle Equipment. CapMetro shall have biohazard clean-up and first aid kits in all supervisor vehicles. The Contractor shall ensure that these kits comply with OSHA and any other applicable regulatory standards. The Contractor shall make disposable gloves and anti-microbial wipes available to all Vehicle Operators.

16.8.2 All Vehicles. The Contractor shall ensure that all vehicles have properly operating safety equipment, fire extinguishers, and reflectors. CapMetro will provide the safety equipment. Any equipment lost by the Contractor's staff will be replaced by CapMetro but will be reimbursed by the Contractor.

16.8.3 Facility Equipment. The Contractor shall ensure that all necessary safety equipment is installed, in working order and utilized in the Facility or Facilities utilized for contract purposes.

16.9 Accident and Incident Procedures

16.9.1 Emergency Notifications. The Contractor must comply with emergency notification procedures set forth in the **Section Titled Employee Notification System** of this contract, **Emergency Notification Procedure**, and **EN Quick Reference Guide**.

16.9.2 Vehicle & Passenger Accidents. Contractor must comply with the responsibilities related to accidents and incidents set forth in **Accident & Incident Scene Responsibilities** and **Accident/Incident Protocols**.

16.9.3 Accident & Incident Reporting. The Contractor's reporting shall comply with Federal, State and CapMetro requirements (**See Accident Definitions & Criteria for Monthly Reporting**). Accident reports shall be legible and include information as described in CapMetro policies and procedures (**See Accident/Incident Report Templates**).

16.9.3.1 Accident/Incident Supporting Documentation and Timeline.

16.9.3.1.1 Notification of Event. The Contractor shall provide a written notification (typically email) that includes a summary within twenty (24) hours of any vehicle/passenger accident, incident, or physical damage, and/or personal loss from any accident or incident on or near CapMetro's facilities or property.

16.9.3.1.2 Operator & Supervisor Reports. The Contractor shall provide CapMetro with the Operator and Supervisor reports, color photos, and courtesy cards within two (2) business days of the event. These documents must be uploaded onto a share drive location provided by CapMetro.

16.9.3.1.3 Rulings, Videos, and No Damage Notifications. The Contractor must upload their preventability ruling, applicable videos, and no damage notifications (if applicable) to a designated server location by CapMetro within five (5) business days.

16.9.3.1.4 Cost Maintenance Reports (CMRS). Cost Maintenance Reports for damage to CapMetro vehicles must be completed along with a copy of the work order or invoice from

the appropriate repair facility and will be placed onto a share drive location provided by CapMetro within thirty (30) calendar days. Extensions to this deadline due to extenuating circumstances (e.g., extensive repairs, backed up repair facility, etc.) can be considered and approved by the COTR.

16.9.3.1.5 Accident/Incident Reporting PDC. If any of the deliverables outlined in this section (**also see the Section Titled Accident/Incident Supporting Documentation and Timeline**) are not provided based on the timelines requested, a **\$100 PDC** per instance per calendar day will be assessed until the deliverable is provided to CapMetro.

16.9.4 Accident Investigation. The Contractor's designated accident investigation staff shall respond immediately in person to the above-described incidents or accidents and complete an accident investigation. Once identified, previously unreported/discovered vehicle damage shall be reported in the same manner as described in the **Section Titled Accident & Incident Reporting**. The Contractor shall make every effort to investigate the cause and preventability of unreported damage using **Preventability Checklist for Unreported Damage**.

16.9.5 Accident Details. Details of every vehicle and Passenger accident or incident, including vehicle number, damage estimates to CapMetro vehicles (**See Cost Maintenance Report Example**), preventability claims, severity category, elapsed hours between the prior workday and time of accident, and hours worked in the previous seven calendar days shall be reported to CapMetro in the format detailed in **Monthly Accident/Incident Log** by the fifth (5th) Business Day of the following month. The Contractor shall also submit a Quarterly Accident Claims log due by 10th Business Day after quarter ends (**See Quarterly Accident Claims Log**).

16.9.6 Preventability Standards. Accident preventability shall be based on the National Safety Council's (NSC) "Guide to Determine Motor Vehicle Collision Preventability." Whenever preventability determinations are in question, the Contractor's safety staff shall consult with CapMetro to reach a resolution. CapMetro will make the final determination of preventability on all accidents and incidents. The Contractor's personnel determining rulings shall have the training necessary to determine rulings according to NSC guidelines.

16.9.7 Biological Hazard (Biohazard) Operating Procedure Plan. The Contractor shall provide an outlined plan on how to address and resolve a reported biohazard on a vehicle.

16.10 Safety in the Workplace

16.10.1 Federal, State, and Local Laws. The Contractor shall comply with all applicable Federal, State, and local laws, ordinances, and regulations during the performance of this Contract. The Contractor shall comply with additional safety requirements when applicable. Such additional requirements shall be provided to the Contractor in writing.

16.10.2 Safety Rules. The Contractor shall implement safety rules and procedures in accordance with transit industry best practices and CapMetro procedures.

These include but are not limited to the following:

- Furnish and enforce the use of all personal protective equipment needed to complete the tasks required by this Contract.
- Provide employees special safety training prior to working with hazardous materials or operations.
- Provide warning signs, barricades and verbal warnings as required by OSHA.
- Have a formal manual for emergency/evacuation policies and procedures available on site and shall inform its employees of emergency procedures.
- Develop yard/lot safety policies for the operating facility and submit them to CapMetro for approval.
- Manage issues of employee fatigue, including processes to institute limits to the hours of service of Vehicle Operators.

16.10.3 Safety Program. The Contractor shall document its Safety Program in its Safety Management System (SMS) plan that includes the elements, components and key activities of SMS, and an **Emergency Response Plan** (Reference Exhibit F, Section 24.3.1) as listed in the **Section Titled Delivery Requirements with Proposal and during 90-day Mobilization** for review and approval by the COTR.

16.10.4 CapMetro Safety System. The Contractor shall coordinate its safety efforts with CapMetro in the interest of ensuring a seamless approach to the safety of CapMetro's system. This includes all efforts to fully implement Safety Management Systems (SMS) as described in the FTA's National Public Transportation safety plan.

16.10.5 Employee Reporting System. See the **Section Titled EN Categories** regarding Front Line Feedback. The Contractor shall promote and support employee reporting to support field operations, close calls, and other employee safety hazards or concerns. The Contractor shall not implement competing systems that will degrade the effectiveness and universality of these agency-wide systems. Demand Response's Front Line Feedback notification process (**as outlined in the Section Titled Employee Notification System**) is the current method for the Employees to report these items to the Contractor and CapMetro.

16.10.6 OSHA 300. The Contractor shall submit an OSHA 300 log detailing industrial injuries to CTMA monthly. Submission of previous month log should be no later than the 10th calendar day of every month.

16.10.7 Mobile Devices & Electronics. CapMetro procedures restrict the use of mobile phones and other personal electronic devices while on duty. CapMetro requires a zero-tolerance policy for violations of this procedure (**As described in the most current Attachment 20, Electronic Device Policy**).

16.10.8 Contractor Safety Meeting Plan. To properly execute all the safety requirements outlined in the **Section Titled Safety** of the Contract, the Contractor shall maintain a schedule and agenda for hosting routine safety meetings with their staff. These safety meetings are essential to promoting the FTA's Safety Management System (SMS), educating staff on all aspects of workplace safety, and working with staff to resolve any hazards and risks that may occur. The Contractor must provide CapMetro with their Safety Meeting Plan with their proposal and periodically throughout the contract lifecycle upon request.

The Safety Meeting Plan shall include the following at a minimum:

- Schedule for meetings on a month-to-month basis.
- Plan to ensure all necessary staff are always up to date with relevant safety topics.
- Actions the Contractor will take to campaign safety topics as needed.
- Ways to identify from staff current safety concerns, hazards, and/or risks.
- Strategy to resolve safety concerns/hazards/risks as they are identified.

17. SECURITY

17.1 Security Force. CapMetro provides on-site security personnel to patrol the facility grounds and monitor building access. All Contractor employees shall visibly wear a CapMetro issued badge while on CapMetro grounds and inside all CapMetro buildings. All Contractor employees shall comply with directions given by security department personnel including producing issued access control badges upon demand. Visitors must enter through the main entrance of the Facility and sign in with security. Visitors are required to be escorted while on CapMetro grounds or inside CapMetro buildings.

17.2 CapMetro Law Enforcement. CapMetro staffs sworn police officers to provide police assistance for incidents that occur during daily operations. CapMetro expects Contractor's Radio Dispatch to utilize available internal police force for incidents which include but are not limited to; disorderly conduct, passenger intoxication, criminal trespass, theft of services, use of drugs, smoking on a bus or on CapMetro controlled property, vandalism, suspicious activity, suspicious packages, and vehicle towing.

17.3 Imminent Harm or Danger. Major incidents where passengers, operators or the public are in imminent harm or danger must be called into 911. After reporting to 911, CapMetro police will also be dispatched. Major incidents include but are not limited to passenger, operator or public need of medical assistance, assault, fighting on bus or on CapMetro controlled facility, display and/or use of weapons, Bomb Threats, or threats against the public.

18. DATA AND REPORTING

18.1 Contractor Data Plan. The Contractor shall establish a plan of data analytics for operations, customer service, safety, and maintenance. **The Section Titled Data and Reporting** provides the base requirements of this plan from CapMetro. The Contractor shall use data analytics to draw conclusions about the information contained in the data for the purpose of continuous improvement of processes and procedures. As necessary, Contractor shall collect specific data requested by CapMetro to help determine root causes of performance issues and to assist in determining solutions.

18.2 Data Submissions. The Contractor shall submit operating data and related information to the specification and satisfaction of CapMetro. Reports shall be provided in the format requested by CapMetro to include, but not limited to MS Word, MS Excel, and PDF.

18.3 Record Ownership. All records maintained by the Contractor during the term of the contract shall become the property of and be furnished to CapMetro at the end of the Contract term.

18.4 Data Adaptability. As CapMetro's requirements for data changes from time to time, the Contractor shall cooperate and assist CapMetro in implementing revised data collection procedures and methods as established through new technology.

18.5 Submission Timeliness & Quality. The Contractor shall provide accurate and timely completion of any requested forms at given time intervals. All data collected and/or reports generated must be prepared legibly and be typed or developed utilizing an MS Word or MS Excel (version 2010 or later) format, unless otherwise specified or agreed to in writing by CapMetro. All submissions must be able to be submitted electronically.

18.6 Record Retention. The Contractor shall maintain all project records as requested by CapMetro. CapMetro retains the right to add or delete any report which is needed to help maintain the reliability of the fleet and ensure quality and efficiency of the services provided. Reports and their source documentation (computer files, vehicle operator logs, etc.) shall be retained by the Contractor throughout the term of this contract and for a period of six (6) years after the end of the contract.

18.7 Reporting Schedules. The Contractor shall strictly adhere to required and agreed upon reporting schedules. Reports, contents, and frequency of reporting will be subject to change with business needs and practices.

18.8 Critical Reports. The integrity and accuracy of certain reporting by the Contractor is critical. A **PDC of \$200** will be assessed for each incident in which the Contractor has failed to report or inaccurately reports mileage, late/missed trips, or mechanical road calls.

18.9 Daily Information & Reporting. The Contractor shall capture the following minimum information daily and must be able to provide a report to CapMetro monthly, or on-demand on any day of service.

- Vehicle road calls.
- Passenger related disruptions.
- Number of late and missed pullouts, including on-time pullout %.
- Number of late, missed, and total trips.
- Number of vehicle/passenger accidents.
- Number of late to zone/unauthorized early departures by Operators (Pickup service only)
- Detailed incident log.

- Operators removed from Service and reasoning (Example, expired driver's license, not fit-for-duty, etc.)
- Total available vs. unavailable Operators categorized by reasoning for unavailability.
- Total available vs. unavailable Vehicles categorized by reasoning for unavailability.
- A list of the specific vehicles and operators scheduled in Pickup service zones for the next day's service.
- Accident Review Board (ARB) results after each ARB session.
- Worker's compensation Incidents.

18.9.1 Monthly Summary. The Contractor shall provide a summary of the daily reporting requirements (**See the Section Titled Daily Information & Reporting**) to Demand Response by the (fifth) 5th calendar day of the following month.

18.10 Unique Reports. In addition to daily reporting data and information above, there are other reports that are required based on specific time frames. These are listed below.

18.10.1 Invoices. The Contractor shall bill CapMetro monthly after the end of the prior month. CapMetro will provide the Contractor with an invoice template with sections detailing the billing lines, PDCs, and incentives/disincentives outlined within this contract (**See Invoice Template**). CapMetro will also provide the Contractor with an Invoice Cover Memo template (**See Invoice Cover Memo**) that summarizes what is within the invoice and verifies through signature CapMetro and the Contractor both approve the invoice (prior to submittal for payment). The memo is the formal agreement between CapMetro and the Contractor that the invoice is complete and accurate.

18.10.1.1 Invoice Requirements. See Exhibit E for details.

18.10.1.1 Invoice Preparation. The Contractor must provide a comprehensive invoice with all calculations considered prior to submittal to CapMetro. To the best of their ability, the invoice must be complete and accurate at the time of submittal to CapMetro. The invoice submittal must have all supporting documentation to include backups for all costs and metrics. For timely processing of payment, the Contractor shall provide the invoice and backup by the close of the fifteenth (15th) calendar day of each month. Invoices with the cover memo must be submitted to the COTR who will verify the information and submit to CapMetro's Accounts Payable for payment processing.

18.10.1.2 Invoice Payment Cycle.

1. The Contractor shall provide the complete and accurate invoice with the cover memo and backup documentation for the previous month's services by the fifteenth (15th) calendar day of each month.
2. The COTR will review the invoice, invoice cover memo, and backup documentation. If the documentation is not found to be complete and/or accurate, the Contractor shall update their invoice submittal until it is ready to send to Accounts Payable.
3. Once the invoice and backup documentation are approved, the COTR will sign the invoice cover memo. Then the COTR will submit the invoice, backup documentation, and cover memo to AP to begin processing for payment.
4. AP will process the invoice and submit payment to the Contractor.
5. The timeline to pay the Contractor does not start until the invoice is verified by the COTR as being complete and accurate.

18.10.2 NTD Reporting. The Contractor shall provide data, forms, and assist CapMetro in reporting for the National Transit Database (**See the Section Titled National Transit Database Requirements for full details on NTD reporting requirements**).

18.10.3 Staff Reporting. The Contractor must provide a staff report listing all current staff by name and title. Employee ID and hire date are also required in this report. This report is due by the tenth (10th) calendar day of the month.

18.10.4 Attrition Reporting. Demand Response will provide the Contractor a template to fill out and return monthly that demonstrates attrition rates of positions within Demand Response services. The Contractor shall provide this report by the tenth (10th) calendar day of the month.

18.10.5 Leading/Lagging Safety Indicator Report. Part of the FTA Safety Management System (SMS) Plan (**See the Section Titled Safety Management System**) is identifying safety leading/lagging indicators in transit. A leading indicator is a measure preceding or indicating a future event used to drive and measure activities carried out to prevent and control injury or damage. Lagging indicators measure past accident/incident statistics. Demand Response will provide a template to fill out and return monthly that demonstrates the Contractor's lagging/leading indicators. The Contractor shall provide an overall summary report outlining how management of these indicators is leading to improvements to Contractor's Safety Management System. The Contractor shall provide this report by the tenth (10th) calendar day of the month.

18.10.6 Odometer Reporting. CapMetro utilizes mileage readings to assist with analysis of vehicle accident rates, and fuel usage. Mileage will be tracked from the Transportation Management Software (TMS), but there may be times when the Contractor is required to provide Odometer reports at CapMetro's request.

18.10.7 Vehicle Cleanliness Inspection Reports (See the Section Titled Cleanliness Inspections). The Contractor shall provide a log representing the vehicle cleanliness inspections that are being conducted on a month-to-month basis. This log is required by the tenth (10th) calendar of the following month.

18.10.8 Other Reports. Other reports may be required by the Contractor based on service needs temporarily or on a permanent basis. CapMetro will inform the Contractor when these reports are required, the time frames, and the duration of time the reports will be required.

18.10.9 Operator Staff Recommendation Report. The Contractor shall maintain and provide CapMetro, on a **weekly** basis, with a recommended Vehicle Operator staffing number. This is the number of Vehicle Operator staff at each base that is required to be considered fully staffed. This Vehicle Operator staffing number shall consider the appropriate number of Operators needed to cover all duties, staff extra board, PTO, long term leave, light duty, and all other considerations.

18.11 Enterprise Data Analytics Platform (EDAP). CapMetro has an internal Enterprise Data Analytics Platform (EDAP), currently running on Snowflake. The Contractor shall provide operations and related datasets to be integrated into EDAP for internal analysis. All data provided will remain the property of CapMetro.

18.12 Human Resource & Labor Reporting. The Contractor shall report out the below information by the fifth (5th) business day of the following month.

- (1) Grievance status.
- (2) Payroll & Payroll discrepancies.
- (3) Leave of absence report.
- (4) FMLA.
- (5) Worker's compensation.
- (6) Current Employee Roster.
- (7) Number of Termed Employees (including Term Reasons).

18.12.1 Drivers Time & Payroll. Driver time and payroll shall be accurately recorded in the Contractor's accounting system and provided to Demand Response by the fifth (5th) business day of the following month. This report will be utilized for determining pass through costs to the Contractor each month for labor and benefits.

18.13 Late Reporting PDC. Failure to meet any of the above specified deadlines for reporting outlined in this section (**Section Titled Data and Reporting**) shall incur a **\$100 per day PDC** for each report submitted past its deadline. **The Section Titled Critical Reports** is not included in this requirement as it outlines critical reporting requirements that warrant a higher PDC.

19. FACILITIES

19.1 Facilities Overview. The Contractor shall operate from two facilities within this contract. The facility requirements are detailed in the **Section Titled Facilities**. These facilities will house revenue vehicles, non-revenue vehicles, administration, on-site staff, vehicle maintenance, and any other resources needed to deliver Demand Response services in the safest, most courteous, and efficient manner possible.

19.1.1 North Base Facility. The North Austin Facility will be leased and provided by CapMetro until a new CapMetro owned facility is built. CapMetro will pay all costs for this lease. CapMetro is building a new North Austin Facility planned for service in the 2026 calendar year timeframe. Once the North Austin Facility provided by CapMetro is ready, CapMetro will terminate the lease and will coordinate with the Contractor to mobilize into the new facility. The mobilization of staff, equipment, inventory, and vehicles will be the responsibility of the Contractor to perform. CapMetro IT, Facilities, Vehicle staff will support the mobilization as appropriate.

19.1.2 South Base Facility. CapMetro will provide the South Austin Facility located at 509 Thompson Lane, Austin, TX, 78742. CapMetro is in early planning to build a new South Austin facility in calendar year 2030. Any scope or cost changes impacting the Contractor when this Facility transition occurs will be negotiated prior to the mobilization into the new facility and will be managed through a contract modification.

19.1.2.1 South Base Flood Warning. CapMetro's current south base location (509 Thompson Lane, Austin TX, 78742) is flood prone. The property has flooded in the past, affecting the back (southeast side) of the parking lot and usually subsides within a few hours. The flooding can possibly displace 10-20 revenue vehicles that must be temporarily relocated whenever heavy rain is forecast. CapMetro will assist in finding alternative locations to stage affected vehicle(s) when necessary. The Contractor shall direct staff and vehicles in this effort to avoid any unnecessary damage to property or people (**As described in the most current Attachment 26, High Wind and Flooding Plan**).

19.1.2.2 South Base Flood Liabilities. CapMetro is not liable for any damage caused to an employee's personal vehicle due to flood damage. The Contractor shall Service Provider will be liable for any damage caused to CapMetro's transit vehicles and/or non-revenue vehicles not moved in time after a flood warning is in effect.

19.1.3 Fleet Overflow Location. During the interim period of CapMetro building the new North Base Facility (**See the Section Titled North Base Facility**), CapMetro will provide an overflow location for vehicles that will require pullout/pull-in operations. This location is required due to not having enough lot space at the current North and South base locations for CapMetro Access and Pickup services entire fleet at the start of the contract. The location of this facility is currently 4811 E 7th St, Austin, Texas. This location is subject to change during the contract's lifecycle. Any changes impacting scope will be assessed in a contract modification.

19.1.3.1 Contractor Requirements at Overflow Location. The overflow location will stage up to eighty (80) Demand Response vehicles that will need pull out from this lot. The Contractor shall have space and necessary amenities to properly park and pullout vehicles from this location. The Contractor shall collaborate with CapMetro on operational requirements to successfully operate out of the overflow location.

19.1.3.2 Fleet Overflow Location Maintenance. Due to 4811 E 7th St location not being near 509 Thompson Lane location, CapMetro will permit light maintenance to be conducted at this location. CapMetro will provide all maintenance equipment. Maintenance such as repairing tires, balancing tires, tire changes, minor repairs, fluid refills, pre/post inspection minor repairs (such as lights, wipers, etc.) will be possible at this location. 509 Thompson Lane has the heavier equipment and tools available for higher level maintenance needs.

19.1.4 Meeting Space. The Contractor will have access to shared meeting space (conference rooms, etc.) within CapMetro facilities on a reservation basis.

19.1.5 Furniture. Basic office furniture will be provided at the South Base facility and may be in a used condition. The Contractor shall replace this furniture as needed. The furniture will remain CapMetro's property after contract termination. The Contractor shall provide furniture for North Base facility during the lease period as outlined in the **Section Titled North Base Facility** above. CapMetro will provide all necessary furniture for the new North Base facility. The Contractor may move their previously purchased furniture from the leased facility on a case-by-case basis. After the Contractor is established in the new North Base facility, any replacement furniture needed shall be replaced by the Contractor.

19.1.6 Vending Machines. CapMetro owned facilities may have vending machines. All vending machines are owned and operated by CapMetro. The Contractor may not install vending machines at any facility within this contract. If the Contractor would like a vending machine installed at a location, they will request this with the COTR, and the request will be evaluated on a case-by-case basis.

19.1.7 Utilities. CapMetro will provide water, sewer, and electrical utilities at all CapMetro owned facilities as well as facilities directly leased by CapMetro. The Contractor must ensure utilities are covered for any facilities they directly lease from a third party.

19.1.8 Facility Modifications. The Contractor may not modify CapMetro owned or leased buildings or make alterations or changes to the function of any space without the prior written approval of CapMetro. The Contractor shall bear costs for modifications, alterations or function changes initiated by the Contractor.

19.1.9 Facility Equipment. CapMetro will provide the facilities with some large & midsize capital equipment required to power the facility, and to maintain vehicles such as bus lifts, portable bus lifts, jack stands, portable fans, specialized test equipment, A/C servicing machines, grinders, drill press, floor scrubbers, etc. For a full list, **See the most current Attachment 07, Building Assets 509 Thompson Lane.** Equipment provided by CapMetro shall be maintained by the Contractor according to the OEM specifications and as detailed in the **Section Titled Facilities.** The Contractor shall bear all costs associated with repairing or replacing facility equipment damaged by the Contractor's staff due to negligence or misuse.

19.1.10 Facility Equipment Damage Disputes. Any disputes over cause and responsibility of damages will be investigated and decided upon by the COTR. If COTR's decision is appealed by the Contractor, the dispute may be addressed in accordance with Exhibit E, General Terms and Conditions.

19.2 Facility Maintenance.

19.2.1 Building and Equipment Maintenance Overview. The Contractor shall provide ongoing routine and preventive maintenance of the facility buildings and equipment. The Contractor is responsible for entirety of the buildings outlined in the **Section Titled Facilities Overview** to include, but not limited to the parking lot(s), gates, fencing, yard lights, emergency generator, all structures, equipment and machines, trees/vegetation, and all regulatory, environmental, and waste streams. The Contractor is responsible for the entire site, except where otherwise identified in the Scope of Services. The Contractor shall not be responsible for any facility repairs, environmental issues, or releases of hazardous materials that exist prior to their occupancy of the Authority's facilities.

19.2.2 Facility Maintenance Plan. The Contractor shall provide a Facility Maintenance Plan for CapMetro approval no later than 60 days after receiving a NTP. The Facility Maintenance Plan shall be developed based on the requirements of this contract. CapMetro Facilities Maintenance department will collaborate with the Contractor on an adequate facility maintenance plan.

19.2.3 Facility Maintenance Parts & Inventory. CapMetro will pay for any parts and materials required for repair and preventative maintenance required to the facilities as a direct cost pass through to the Contractor. CapMetro is responsible for procuring these parts and materials as needed in accordance with the facilities preventative maintenance plan within CapMetro's asset management system and/or due to unexpected equipment failures.

19.2.4 Facility Maintenance Labor. The Contractor shall provide technicians to maintain and repair the facility and the facility equipment.

19.2.5 Standard Facility Repairs. Standard repairs are any required corrective action based on a preventative maintenance work order to repair the facility and/or the facility equipment/machinery that is typical maintenance for a standard technician. The Contractor shall provide standard facility repairs (**See the Section Titled Meeting Space**). If the Contractor cannot perform a standard repair, the repair may be outsourced to a third-party contractor by CapMetro. CapMetro will deduct the third-party contractor's fee from the Contractor's monthly invoice. The Contractor shall cooperate with CapMetro contractors to complete the maintenance/repairs. If the Contractor is unable to perform a standard repair, and a third-party contractor is provided by CapMetro, the Contractor must provide an action plan to CapMetro on how they will handle the standard repair going forward for the subject equipment.

19.2.5.1 Standard Repair Disputes. As the definition of a "standard repair" can be wide ranging and subjective, if there is a dispute between CapMetro Facilities and Contractor's facility management over what is considered "standard repair," then the COTR will determine if that type of repair will be CapMetro's or the Contractor's responsibility going forward.

19.2.6 Major/Complex Facility Repairs. Major/complex facility repairs is any required repair to the facility and/or facility equipment/machinery that is outside the standard repairs of a preventative maintenance work order and is time consuming or overly challenging to repair. Typically, major/complex repairs are costly and require at least one technical expert to resolve. Any major and/or complex facility equipment repairs requiring the services of a third-party contractor will be paid for and managed by CapMetro. The Contractor shall assist with coordinating, tracking, and logging the repairs through the Asset Management system with CapMetro and CapMetro's contractor until the repair is complete. Major/complex repairs requiring third party services can be, but are not limited to underground storage tanks, separators, piping, roofing, foundations, concrete, portable bus lifts, HVAC, plumbing, and electrical wiring up to the breaker panels.

19.2.7 Equipment Failure. The Contractor shall provide facility technicians and perform minor repairs to the equipment as needed. In the case of equipment failure that requires replacement parts, CapMetro will provide the parts to the Contractor. If the equipment failure is beyond the skill of the Contractor's staff, CapMetro will identify and assign a third-party vendor who will repair the equipment.

19.2.7.1 Equipment Failure Exception. If an equipment failure is caused due to the Contractor's actions, abuse, misuse, or neglect, the situation will be investigated. If the investigation determines the Contractor is at fault for the costs incurred to repair the equipment, the Contractor shall pay for the repair expenses in full. The investigation will be conducted by CapMetro Facility Maintenance department in partnership with the Contractor's Facility Maintenance management. If there is a dispute of responsibility over the costs, the COTR will make a determination based on the findings on whether CapMetro or the Contractor will pay for the repairs.

19.2.8 Additional Equipment. If the Contractor determines that additional equipment is necessary to fulfill contractual obligations outside of what is provided by CapMetro, the Contractor shall provide and maintain the additional equipment at the Contractor's own expense and at no additional cost to CapMetro. CapMetro must approve additional equipment prior to acquisition and installation by the Contractor.

19.2.9 Building Preventative Maintenance. The Contractor shall provide preventative maintenance on all the building systems and the shop and garage equipment for all Facilities listed in the **Section Titled Facilities Overview**. CapMetro will identify the preventative maintenance inspections required for the facilities. The Contractor shall have full responsibility for the maintenance, proper use, and handling of the shop, major shop equipment, air handling equipment, vehicle lifts, heaters, water piping, wash bay, air compressors, oil and grease delivery systems, fences, gates, motor controllers, barricades, storm water drain inlets, or any such equipment provided by CapMetro or brought in by the Contractor. It is estimated that all equipment provided will last through the term of this Contract (or end of planned lifecycle) with proper care and maintenance by the Contractor, or until replaced by CapMetro.

19.2.9.1 Preventative Maintenance Inspections. The Contractor shall provide Preventative Maintenance Inspections for the facility systems and equipment which are scheduled within the EAM system. A **\$100 PDC** per calendar day will be assessed for past due inspections until the inspection is performed to the satisfaction of CapMetro.

19.2.9.2 Preventative Maintenance Management. The Contractor shall review, complete, and close all preventative maintenance work via the Asset Management system provided by CapMetro.

19.2.9.3 Critical Regulatory or Environmental Preventative Maintenance. CapMetro will provide priority ratings for this type of preventative maintenance in the Asset Management system and the Contractor shall resolve them in accordance with their priority.

19.2.10 Equipment List. The Contractor shall care for and maintain all equipment and tools furnished by CapMetro according to CapMetro's Equipment List.

19.2.11 Tool Care. The Contractor shall maintain all tools provided until either the end of the tool's life cycle or until the end of the contract. CapMetro will decide when and which tools shall be replaced and will procure new tools for the Contractor to use as appropriate.

19.2.11.1 Tool Damages. If any tools are damaged or broken due to the Contractor's misuse or negligence, the Contractor shall pay for the replacement tool. If there is a dispute between CapMetro Facilities and Contractor Facilities team on whether the tool was damaged due to misuse/neglect or outside of the Contractor's control, the COTR will investigate and make the final determination on who will pay for the replacement tool.

19.2.12 Fuel System Maintenance. The Contractor shall perform maintenance of the fuel delivery system, including pumps, dispensers, valves, piping monitor and fuel management. CapMetro will maintain the fuel management software and back-end systems. The Contractor shall learn and understand the fuel management software as it pertains to preventative maintenance and repairs.

19.2.13 Enterprise Asset Management (EAM) System for Facilities. CapMetro will provide the EAM system and training on the EAM system to the Contractor. The Contractor shall use the system to document routine, and preventative maintenance work.

19.2.13.1 EAM Priorities. The EAM will track the performance dates and produce a monthly report. The Contractor shall follow the priority rating list and dates of issue.

19.2.14 Random Inspections. CapMetro will perform random inspections of the Facility and equipment. If there are findings requiring corrective action due to the Contractor's negligence to the facility or equipment or lack of proper maintenance, the Contractor will have five (5) business days to complete the corrective action or a **\$100 PDC** per calendar day will be assessed until the corrective action is completed. If due to uncontrollable circumstances the Contractor needs more than five (5) days to complete, they may file an exception request to the COTR for review.

19.2.15 Urgent Corrective Actions. In certain cases, critical equipment shall require urgent corrective work to bring the equipment back into service. The Contractor shall make these urgent corrective actions a top priority until they are resolved.

19.2.16 Environmental Sustainability Management System (ESMS). ~~The Contractor shall make every effort to reduce waste, recycle waste, and reduce carbon footprints before disposal. CapMetro reserves the right to require the Contractor to comply with any environmental sustainability management procedures in CapMetro's ESMS program as developed.~~ The Service Provider shall maintain an ESMS to assure environmental regulatory compliance and reduce the environmental impact of operations; and coordinate its ESMS efforts with CapMetro in the interest of ensuring a seamless approach to environmental and sustainability performance. The ESMS shall be structured to be consistent with ISO14001 and FTA ESMS Guidance and Best Practices; and appropriate records and documentation should be maintained. The

Service Provider shall make every effort to conserve water and energy, reduce and recycle waste, and reduce the carbon footprint of their operations. CapMetro reserves the right to require the Service Provider to comply with any environmental sustainability management procedures in CapMetro's ESMS program as developed. The Service Provider must ensure there is a point of contact assigned for all ESMS and recycling activities throughout the contract lifecycle.

19.2.16.1 Environmental Regulatory and ESMS Assistance and Guidance. CapMetro will periodically conduct on-site reviews of environmental regulatory and ESMS implementation activities and provide written feedback for continuous improvement. The Service Provider shall provide a responsible point of contact to enhance two-way feedback and share best practices.

19.2.16.2 Recycling, Landfill, and Organics Collection/Program. The Service Provider shall maintain efforts to separate recyclables, organic materials, and landfill waste in accordance with the recycling program and guidance to be provided by CapMetro. CapMetro will provide collection bins, signage, and necessary equipment.

19.2.16.3 ESMS Plan. In accordance with 19.2.16, the Service Provider shall provide a written plan on how environmental regulatory compliance will be maintained throughout the lifecycle of the contract. This plan will be required no later than 60 calendar days after award.

19.2.17 Housekeeping. The Contractor shall provide good housekeeping (e.g., general cleanup, properly putting away items, throwing out loose trash, etc.) to all areas of CapMetro's property used by the Contractor, including the parking lots. Oil spots shall be treated and cleaned following local laws. All areas shall be kept clean of trash and all drums, containers, etc. shall be maintained in orderly fashion (**See "Housekeeping" definition in the Section Titled Definitions for more information**).

19.2.18 Janitorial. CapMetro will provide janitorial services for the CapMetro owned facilities. As the Contractor will be the primary user of the facilities, the Contractor shall help coordinate Janitors as necessary for cleanup. The Contractor must inform the janitorial contractor of janitorial issues that may be negligent such as dirty restrooms, dirty hallways, dirty carpets, dirty windows, etc.

19.2.19 Pest Control. CapMetro will provide Pest Control services. The Contractor shall help coordinate Pest Control treatments on premises.

19.2.20 Facility HVAC. CapMetro will provide HVAC services to maintain HVAC systems at the facilities. The Contractor shall help navigate HVAC contractor(s) when on site.

19.2.21 Fire Systems. The Contractor shall maintain all protective fire systems. CapMetro will provide fire panel annual inspections under a separate contract. The Contractor shall provide the CapMetro's contractor access when on premises. The Contractor shall maintain fire risers and annual fire riser inspections. If such inspections require repairs or changes, the Contractor shall obtain written approval from CapMetro before performing the repairs. The Contractor shall maintain all fire extinguishers, annual inspections and have all routine maintenance provided (re- charging, testing etc.). This includes all backflow devices listed with the City of Austin, fire hydrant annual testing or other devices as required by City codes, State codes or Federal codes. Fire suppression systems shall be inspected annually according to regulations if applicable.

19.2.22 Waste Sludge. The Contractor shall maintain waste sludge. Waste sludge shall be treated using approved biological treatment and must be tested after treatment and before disposal. Sludge water shall be treated until it does not show any oil sheen, tested, and disposed of in a sanitary sewer in accordance with local laws. Once tested, sludge must be approved by the landfill, manifested and copies of all documents shall be provided to CapMetro in the biannual report. CapMetro reserves the right to approve the process used by the Contractor.

19.2.23 Lighting. The Contractor shall maintain all lighting including, but not limited to, shop lights, parking lot lighting, exit signs. Replacement parts shall be kept on hand to avoid long down times. CapMetro will pay for parts as a pass through.

19.2.24 Lot Restriping. CapMetro is responsible for restriping the lots at CapMetro owned facilities (including cost). The Contractor shall assist in coordinating the CapMetro's contractor with CapMetro Facilities team.

19.2.25 Spill Stations. The Contractor shall maintain spill stations for sound environmental safety. A spill station is defined as a central location allowing easy access for emergency cleanup.

19.2.26 Exiting Signage. The Contractor shall maintain all exiting signage and replace when needed due to wear or damage. The Contractor shall create name plates and room numbers.

19.2.27 Safety Data Sheet (SDS). The Contractor shall provide access to the Safety Data Sheet (SDS) on all chemicals stored or used by them. The Contractor shall follow all Local, Federal, and State requirements on storing and using chemicals, products, or waste.

19.2.28 Subcontracted Repairs. As stated in the **Section Titled Standard Facility Repairs and the Section Titled Major/Complex Facility Repairs**, CapMetro will identify and procure any contractors required to provide corrective maintenance services on standard and major/complex facility repairs. CapMetro will receive the contractor billing and pay the contractors directly as applicable. The Contractor is required to facilitate the contractor(s) while on site to ensure the services are provided appropriately for the corrective maintenance and shall provide updates to CapMetro as needed. At times, the Contractor may be required to assist CapMetro in identifying an appropriate contractor for CapMetro to contract to perform corrective repairs.

20. VEHICLES

20.1 Vehicle Use and Responsibilities. The Contractor must not use or permit the use of CapMetro vehicles in a negligent or improper manner or in violation of any law, or to void any insurance covering the vehicles, or permit the vehicles to become subject to any lien, charge, or encumbrance. The Contractor shall defend and hold CapMetro harmless from all fines, forfeitures or penalties for traffic or parking violations or for the violation of any other statute, law, ordinance, rule, or regulation of any duly constituted public authority.

20.2 Vehicle Damages/Loss. The Contractor shall bear all risks of damage or loss of the vehicles, or any portions of the vehicles, not covered by insurance. All replacements, repairs or substitutions of parts or equipment shall be at the cost and expense of the Contractor and shall be accessions to the vehicles. The Contractor shall keep the vehicles in good working order, condition, and repair, with allowable wear and tear at the Contractor's expense. The Contractor shall cause its employees and agents to take all reasonable steps to safeguard the vehicles and to cooperate with CapMetro in effecting recovery from any person or persons liable for loss or damage to any Vehicle.

20.3 Fleet Composition. CapMetro shall provide a vehicle mix of accessible cutaway vans, transit buses, and other vans to be operated by the Contractor for both Revenue and non-revenue services. A detailed list of the current fleet is in **the most current Attachments 55 and 56, Revenue Inventory (North and South Base)**. CapMetro reserves the right to change the composition of the fleet at any time.

20.4 Support Vehicles (non-revenue). CapMetro will provide non-revenue vehicles to be utilized by the Contractor for various operational purposes (e.g., road supervision, mobile mechanic support, parts pickup, badge drop off, etc.)

20.5 Public Information on Vehicles. The Contractor shall display and make available CapMetro provided public information materials. The Contractor may be required to ensure at least one CapMetro provided Braille document is on board vehicles when directed by CapMetro.

20.6 Emerging Technology Vehicles. CapMetro is pursuing the implementation of battery electric vehicles and the testing/implementation of other emerging technologies such as autonomous and semi-autonomous vehicles, fast charge battery systems, on route charging of battery electric vehicles, hydrogen range extenders, and so on. The Contractor shall facilitate the adoption of emerging technologies by actively participating in programs designed to ensure the success of these new kinds of buses, to include for example: basic and specialized training, the formation of dedicated maintenance teams, the collection and reporting performance data, the participation in routine meetings,

and the development and implementation of new procedures, processes, and protocols necessary to ensure the safety and reliability of the new technology vehicles. These changes to the fleet will directly and indirectly affect all areas of the operation, maintenance, and servicing of CapMetro's fleet. In advance of such implementations, CapMetro will work with the Contractor to develop the scope for such efforts. Pricing for staff training and necessary support equipment shall be negotiated at that time, using the pricing details provided in Exhibit A as the basis of calculating the incremental cost increase for these items.

20.7 Non-Revenue Vehicles (NRV). Non-revenue vehicles will be provided by CapMetro.

20.7.1 NRV Repairs. The Contractor shall maintain and repair non-revenue vehicles and ensure that they are kept safe, reliable, and clean. CapMetro reserves the right to review maintenance and safety records and practices of all support vehicles and to remove them from service as determined necessary by CapMetro.

20.7.2 NRV Extraordinary Services. Non-revenue vehicles must not be used for regular service but may be used for extraordinary service to transport passengers.

20.7.3 NRV Utilization. The Contractor must utilize all NRV's for street supervision, Vehicle Operator relief, maintenance service calls, staff transport, and other use by Contractor's staff. Non-revenue vehicles shall not be utilized for revenue service.

20.7.4 Contractor Branding. A logo identifying the Contractor is allowed on non-revenue vehicles, but the design must be approved in advance by CapMetro. All costs associated with installing and replacement of logos will be at the expense of the Contractor even if the removal was required by CapMetro for changes in vehicle branding.

20.7.5 Community Owned/Operated NRVs. CapMetro occasionally donates retired or other smaller vehicles to community partners for them to own and operate on their own to transport passengers with disabilities or other similar needs. Routine maintenance is the responsibility of the external community partners; however, these vehicles will occasionally need to be serviced by the Contractor on an as-needed basis for issues that require expertise. These kinds of services are estimated to occur once per month or less.

20.8 Revenue Vehicles

20.8.1 Revenue Vehicle Usage. CapMetro Access and Pickup branded revenue vehicles shall only be used for the transportation of CapMetro customers, unless specifically directed to do so otherwise by CapMetro.

20.8.2 Fleet Provisioning and Spare Ratio. The Contractor will be provided CapMetro Access and Pickup revenue vehicles. An adequate number of vehicles should be made available to the Contractor to assure a **twenty percent (20%) spare ratio (+/- two percent)**. The Contractor shall use the vehicles supplied by CapMetro as required under this Contract and consistent with the terms and conditions outlined in this Contract.

20.8.3 Repossession of Revenue Vehicles. CapMetro may demand redelivery of all CapMetro vehicles, or any number thereof, at any time prior to the expiration of this Contract by giving ten (10) days written notice to the Contractor of CapMetro's intention to resume possession of the vehicles.

20.8.4 Vehicle Staging. The Contractor shall ensure that vehicles used under this Contract are stored in an enclosed building or a lighted, fenced, and secured parking lot while not in service unless otherwise directed by CapMetro.

20.8.5 Retired/Replaced Vehicles. The Contractor shall retire vehicles at the end of vehicle life at the direction of CapMetro. This includes removing and returning equipment from the vehicles which has not reached the end of equipment life, including but not limited to Radio, Camera System, CAD/AVL, APC, OBV, Farebox, Bike Rack, S-1 Gard, Literature Rack, Message Board, Passenger Wi-Fi, Cellular Router, and Event Data Recorder to CapMetro. This requirement includes removing CapMetro logos from the interior and exterior of the retired vehicle, completing a disposal assessment form, and transporting the vehicle to the

designated off-site disposal parking area **(As described in the most current Attachment 52, Procedure for Retiring a Vehicle Asset)**. Retiring vehicles must have tires with minimum legal tread depth.

20.8.6 AM/FM Radios. The Contractor shall ensure vehicle AM/FM radios are disabled on all revenue vehicles used for Demand Response revenue service.

20.8.7 Fleet Replacement Schedule. All CapMetro Access and Pickup vehicles are kept for seven (7) years. The exact window for replacement is one (1) year. For example, a vehicle can be replaced between when it is seven (7) years and one (1) day old and when it is seven (7) years and three hundred and sixty-four (364) days old.

20.9 Vehicle Warranty. The Contractor acknowledges that the vehicles are provided to the Contractor on an “as is” basis and that CapMetro makes no warranties regarding past vehicle maintenance or the vehicles, including without limitation the body, engine, transmission, drive train, other mechanical parts, electrical systems, and any accessories/options on the vehicles.

20.10 Vehicle in Processing Responsibility. The Contractor shall receive and process vehicles, whether at the commencement of the Contract or as assigned during the Contract, prior to putting the vehicle(s) in revenue service. Receiving and processing tasks include, but are not limited to, transfer or installation of onboard fare collection equipment, re-keying of fare collection equipment, transfer or installation of CAD/AVL system and radios, performing in-service Preventive Maintenance, installation of gate transponder, installation of inertia-based camera system, changing advertising placards, and completing other make ready tasks. The vehicles must be made ready at a rate of five (5) per week minimum (if vehicles are available).

20.11 Vehicle Return Responsibility. Upon expiration of the vehicle lifecycle, or the earlier termination of this Contract, or as required by CapMetro, the Contractor shall deliver the vehicles to CapMetro by releasing the vehicles to CapMetro (or CapMetro's agent) by shipping/transporting the vehicles as CapMetro directs.

20.12 Vehicle Out Processing Responsibility (See the Section Titled Retired/Replaced Vehicles above).

21. VEHICLE MAINTENANCE

21.1 Vehicle Maintenance Responsibility. The Contractor shall perform all CapMetro-directed maintenance and repair of all vehicles and all on board equipment systems (revenue and non-revenue), to ensure they are kept in a safe, reliable, and clean condition. Maintenance shall be performed to original equipment (OEM) standards and CapMetro's written instructions or specifications. Vehicle maintenance shall be performed in a timely manner. The Contractor shall maintain records of all work performed. CapMetro shall direct and closely oversee all maintenance activities.

21.2 Timely Maintenance. The Contractor shall perform all maintenance in a timely fashion. The Contractor shall maintain the fleet so that no repair requires the vehicle to be out of service for more than thirty (30) days. If any vehicle will require more than thirty (30) days down time, the Contractor's maintenance team must keep CapMetro's vehicle maintenance leadership informed of the delay and the reason/cause for the delay as soon as the Contractor is aware of the need for a time extension. CapMetro Vehicle maintenance leadership and the Contractor's maintenance leadership will collaborate on a solution to place the vehicle back in service as soon as feasibly possible.

21.3 Maintenance Staff Qualifications. The Contractor shall perform all or part of the work using the Contractor's personnel. If third-party work is necessary to facilitate repairs, such work will be managed by CapMetro.

21.4 Vehicle Registration and State Inspection.

21.4.1 CapMetro Responsibility. CapMetro will manage vehicle registration/license plate renewals, including application for registration and license plate renewal, retrieval of registration stickers and license plates from the Tax Office.

21.4.2 Contractor Responsibility. The Contractor shall perform timely completion of State Inspections, and installation of registration stickers and license plates. No vehicle shall be allowed in service with an expired registration or past due for annual safety inspection.

21.5 Storeroom and Parts Inventory. CapMetro will manage the storeroom including the procurement and stocking of replacement parts, supplies, and specialized tools, for the fleets assigned under the contract. The Contractor's parts clerks shall manage distribution of inventory using CapMetro's EAM.

21.6 Shipping and Receiving. The Contractor's part clerks shall manage the receiving dock, including the administration of shipping, and receiving tasks for CapMetro. The receiving dock is the main delivery point for CapMetro business.

21.7 Maintenance Campaigns. The Contractor shall perform maintenance campaigns as directed by CapMetro to satisfy OEM vendor bulletins, recalls, OEM vehicle upgrades, and to satisfy the recommendations of the Contractor's and CapMetro's predictive maintenance.

21.8 Shop Cleanliness. The Contractor shall keep all work areas clean and free of clutter, dirt, and grease. After each repair, the technician must ensure the general work area they have been occupying including the floor and worktables are clean of debris, oil, grease, shop supplies, and tools. The service island floor and work areas should also be clean and be without any debris, oil, grease, shop supplies, and tools after each major fueling cycle. More information on shop/facility cleanliness is addressed in the **Section Titled Facilities**.

21.9 OEM Configuration. The Contractor shall maintain all vehicles in original configuration as delivered from the original equipment manufacturer (OEM) and with modifications as specified by CapMetro. Only OEM or better replacement parts shall be used. Any change from OEM configuration or use of non-OEM part will require prior written approval from CapMetro before being implemented. CapMetro may direct the Contractor to make configuration changes to the vehicles, and CapMetro will reimburse the Contractor for actual labor at the agreed upon rate in **Exhibit-A** for configuration changes.

21.10 Cannibalization. No vehicle shall be cannibalized for parts without prior written approval by CapMetro. No vehicle shall be repaired using parts taken from another vehicle without prior written approval by CapMetro.

21.11 Failure to Maintain. Failure by the Contractor to maintain CapMetro furnished vehicles as defined by the manufacturer's technical manual and CapMetro written instructions will result in the vehicles being repaired by a CapMetro selected third party at Contractor's expense. Such an action does not relieve the Contractor's obligation to provide a service under the terms of the Contract.

21.12 Warranties. CapMetro will administer vehicle warranties and shall receive all monies and credits. The Contractor shall support warranty recovery and shall not put into peril any warranties that exist on a vehicle/component from the OEM or after-market supplier. If a warranty is lost due to negligence, the Contractor shall purchase or compensate CapMetro for the remainder of the warranty from the OEM.

21.13 Advertising Requirements. The Contractor shall allow advertising vendors, contracted by CapMetro or its contractors, access to all vehicles to install and remove advertising material on the interior and exterior of the vehicles. The Contractor shall make vehicles available, cleaning the vehicle in preparation for installation, and, in cases of inclement weather providing a bay for the advertising contractor to work. The Contractor shall inspect the vehicle prior to installation and after removal of advertising to report any damage. CapMetro is responsible for determining if repairs are needed and when authorized will assume the cost of those repairs. The Contractor shall replace advertising material damaged in vehicle accidents. The Contractor shall not install any advertising that is not authorized by CapMetro.

21.14 Preventative Maintenance Inspections (PMI) and Preventative Maintenance Repetitives (PMR)

21.14.1 PMI and PMR Overview. The PMI and PMR form the backbone of CapMetro's Maintenance Program. The scope of the preventative maintenance program for CapMetro vehicles is extensive and thorough. It shall not be compromised or reduced, as it is essential for the continued service life of the vehicles, and to provide safe and reliable service. It is to be considered as the minimum amount of effort

required for vehicles at their present age and mileage. No modifications, adjustments, or missions to the PMI or PMR are to be made without written approval from CapMetro.

21.14.2 PMI Timeliness. Revenue vehicles shall not be placed in revenue service if they are past due for a PM inspection.

21.14.3 PMI Repairs Schedule. All repairs required from the PMI are to be completed prior to the vehicle being returned to revenue service. Any exceptions must be approved in advance by CapMetro and cannot affect safety and reliability. Failure to adhere to this schedule shall result in a vehicle being removed from service by CapMetro. Such action does not relieve Contractor's obligation provider service under the terms of the Contract.

21.14.4 Component Cleaning. The Contractor shall provide and utilize the appropriate equipment to apply soap and pressure wash engines and transmissions to remove accumulated dirt and debris. The Contractor shall provide and utilize the appropriate equipment to clean radiators and condensers. Each time a revenue vehicle enters a shop for a PMI, the engine, transmission, radiator, and condensers must be thoroughly cleaned of accumulated dirt and debris.

21.14.5 Oil Analysis. The Contractor shall perform the sampling of engine and transmission oil as directed by CapMetro.

21.14.6 OEM Severe Service Requirement. The Contractor shall know, understand, and follow the OEM's maintenance requirements with consideration to the duty cycle that the vehicle is operated. Where a manufacturer identifies maintenance intervals specific for "severe service" that "severe service" is to be used. This applies to both new and existing vehicles in the Contractor's fleet.

21.14.7 Records Accuracy. The Contractor shall maintain accurate records and proof of inspection and repetitive tasks performed, including inspection measurements taken, defects found, and the corrective repairs performed within CapMetro's provided EAM system.

21.15 Mobile Technology Systems & Maintenance. (See the Section Titled Technology, Office Equipment, and Communications for more information on Technologies). This section is focused on maintenance requirements around stated technologies below.

21.15.1 Mobile Technology Systems. The Contractor shall perform routine inspections and maintenance of all on board equipment installed on the vehicle by OEM or as added by CapMetro.

21.15.2 Mobile Technology Maintenance. The Contractor shall inspect and maintain on board equipment in accordance with OEM's recommendations and as directed by CapMetro. CapMetro shall provide on-board equipment spares and testing devices to Contractor. The Contractor shall maintain testing devices and equipment spares as supplied and directed by CapMetro.

21.15.3 Patches. The Contractor shall participate in testing patches and fixes of the system to ensure continued operability and reliability of the technology system.

21.15.4 Warranty and Return Material Authorization (RMA) Process. CapMetro will provide a limited warranty for technology systems such as, but not limited to, CAD/AVL system major components, passenger Wi-Fi router, and cellular router. The Contractor shall utilize the Return Material Authorization (RMA) process, as established by CapMetro, for repair of these components. CapMetro is responsible for maintenance costs of all other systems and system components that are not under a CapMetro-provided warranty.

21.15.5 New Technology. As CapMetro implements new technology and upgrades existing systems, Contractor shall perform as an active partner in supporting the procurement, testing, configuring, implementing, and maintaining these systems. This activity includes but is not limited to document review, meeting attendance, and providing appropriate resources in a timely manner to meet project schedules. Such requirements apply to systems including, but not limited to, CAD/AVL, Transit Scheduling System (currently

Spare), and EAM. The Contractor shall provide quality assurance and quality control of any vehicle configuration changes, including work performed by third parties.

21.15.6 Electronics Training. The Contractor shall provide technicians to repair the on-board electronic systems. The technicians shall complete established training hours through CapMetro's Operations Training Academy.

21.15.7 Technology Equipment. The current equipment and systems are listed below and CapMetro reserves the right to remove or add to the list, as new systems or technology become available:

- Destination Sign System (Pickup Vehicles)
- CAD/AVL System
- Passenger Displays
- Annunciator System
- Automatic Passenger Counters
- Revenue Collection Systems
- Mobile Ticketing Systems
- Customer Wi-Fi Router System
- Cellular Communication System
- Telemetry System
- Camera System
- Radio System
- Video Telematics System

21.15.8 Optional Technology Changes. If directed by CapMetro, the Contractor shall add, delete, upgrade, or otherwise change mobile technology equipment installed on vehicles. Should CapMetro decide to issue such a directive, CapMetro will collaborate with Contractor to develop the scope for such an effort. Price for the effort will be negotiated at the time, using the pricing details provided in the most current Exhibit A as the basis of calculating the incremental cost increase for the directed change.

21.16 Tires.

21.16.1 Tire Lease. CapMetro will supply tires on a mileage lease basis during the term of the Contract.

21.16.2 Replacement Tires. Replacement tires will be OEM quality or a grade better and will be supplied by CapMetro. Recaps or retreads will not be permitted. The Contractor shall remove and install tires.

21.16.3 Contractor Vehicle Tires. CapMetro will procure and supply replacement tires for the approved Contractor fleet as needed in addition to the CapMetro owned vehicle fleet. The Contractor and CapMetro will collaborate on required inventory and tire specifications for the Contractor's vehicles.

21.16.3 Tire Maintenance. The Contractor shall maintain tires, as directed by CapMetro. Tire tread depth shall be maintained to at least 4/32" for all tires at all times. Tire air pressure shall be maintained to values specific for each bus type and a tire with an air pressure that is more than ten (10) psi below the specification shall be considered as a flat. Tires that do not meet the above criteria will cause the vehicle to be removed from service until tire(s) meet above criteria.

21.16.4 New Vehicles Tires. CapMetro shall provide tires for new OEM vehicle builds and shall assume responsibility for tire supply for any vehicle assigned to the Contractor.

21.17 Road Calls.

21.17.1 Road Call Definition. A road call is a mechanical failure of a vehicle in service that causes a delay which necessitates removing the vehicle from service until repairs are made. In these instances, a repair

person is dispatched to attend to the vehicle. A road call exists whether the vehicle is returned to the shop for repair, a mechanic is sent to the vehicle for repair, or the vehicle is towed back to the shop for repair.

The following criteria must be considered when determining if an incident is categorized as a road call –

- i. It is **NOT** a road call if the failure occurs in the yard (lot where the vehicle is stationed)
- ii. It **IS** a road call if the failure occurs after the vehicle has left the yard to perform transit service (this includes **EVEN** if the vehicle is deadheading)
- iii. As stated in the **Section Titled Road Call Definition**, if the vehicle (that has left the yard) is out-of-service, needs a mechanic to repair, or needs to be towed back to the shop, it **IS** a road call.
- iv. If anyone other than a mechanic is sent to repair a vehicle, that individual is acting in the role of a mechanic, and it **IS** still considered a road call.
- v. If anyone responds to a vehicle to investigate an Operator complaint (regarding the vehicle), and finds no repair is necessary, it is **NOT** a road call. Non-mechanical personnel shall not be allowed to diagnose critical systems on the vehicle, such as, but not limited to, brakes, steering, and fire suppression systems.
- vi. If the Mechanic (licensed Mechanic, not acting) cannot duplicate the failure after troubleshooting, and no repair is needed, it is **NOT** a road call.
- vii. Loss of Service time is not factored when making road call determinations.

21.17.2 Road Call Categories. Road calls fall into three (3) categories: Mechanical, Non-Mechanical, and Other-Mechanical. All road calls shall be reported in an approved format as required by CapMetro.

21.17.2.1 Mechanical Road Calls. Mechanical road calls result from a failure of components or systems that are essential to the core function of the vehicle. The purpose of identifying mechanical road calls is to identify those failures that are the direct responsibility of the Contractor's maintenance department and best reflect their quality control for the failure. These failures drive the MBRC metric (See the Section Titled Miles Between Road Calls (MBRC) below).

Such systems include (but are not limited to) –

- Engine
- Transmission
- Brakes
- Electrical
- Doors/Body
- Steering & Suspension
- Wipers/Accessories
- Wheelchair ramp/lift
- HVAC

21.17.2.2 Non-Mechanical Road Calls. Non-Mechanical Road calls result from failures of components or systems that are essential to the core function of the vehicle but are **NOT** a direct reflection of the quality of the maintenance being performed by the Contractor's maintenance department. Non-Mechanical Road calls are **NOT** included in the MBRC metric.

Such systems include (but are not limited to) –

- Tire punctures
- Accidents
- Vehicle Operator error(s)
- Soiled interior
- Vandalism

21.17.2.3 Other-Mechanical Road Calls. Other-Mechanical Road calls result from failure of components or systems that are considered outside the core function of the vehicle. Failures of these systems will **NOT** be part of the MBRC metric.

Such systems include (but are not limited to) –

- Communication Systems
- Surveillance Systems
- Revenue Collection Systems

21.17.2.4 Road Call Classification. Due to the complex nature of classifying road calls appropriately, CapMetro Vehicle Maintenance will work with the Contractor monthly to properly categorize all the vehicle failures that occurred in and outside the yard during the previous month period to determine 1) if they are considered a road call, and 2) which category the road call is (Mechanical, Non-Mechanical, Other-Mechanical). The Contracting Officer's Technical Representative (COTR) will resolve any disputes as required.

21.17.3 Miles Between Road Calls (MBRC). CapMetro measures Miles Between Road Calls (MBRC) as a Key Performance Indicator (KPI) to characterize the customer experience when reporting to the Board of Directors (BOD). CapMetro also utilizes MBRC to gauge the Contractor's maintenance shops impact on the customer experience. The MBRC KPI is the basis of vehicle performance reporting, and it is also used to calculate incentives and disincentives to the Contractor (**See the Section Titled Miles Between Road Calls**). The calculation of this metric only considers Mechanical Road calls (**See the Section Titled Mechanical Road Calls**).

21.17.4 Road Call Logging. The Contractor's maintenance department shall comprehensively track and log all vehicle failures that could potentially be categorized as road calls. This includes any failures while the vehicle is in the yard or out of the yard. This log is the basis for all determinations made between CapMetro and the Contractor regarding if a vehicle failure is considered a road call or not, and if considered a road call, which road call category it is.

21.17.4.1 Unreported Road Calls. Any road call discovered by CapMetro that is not logged and reported by the Contractor will result in the assessment of a **\$500 PDC** per unreported event (**See the Section Titled Critical Reports for more information**).

21.17.5 Repeat Road Calls. If a vehicle experiences a road call for the same reported issue three (3) times in a forty-five (45) calendar day period, the vehicle must be removed and held from service until a thorough investigation on root cause is completed. Prior to returning the vehicle to service, the Contractor and CapMetro must agree on the root cause failure and associated repairs required. Any repairs required must be completed prior to the vehicle going back into service.

21.18 Serviceable Requirements and Vehicle Change Outs

21.18.1 Serviceable Condition Overview. CapMetro has stringent condition requirements that a vehicle must meet to be considered serviceable and used in revenue service. The Contractor shall ensure that no vehicle that has an out of service condition is allowed in service, and that no vehicle is allowed to remain in service if an out of service condition occurs. Should an out of service condition occur while the vehicle is in service, the Contractor shall arrange for a change out of the vehicle.

21.18.2 Out of Service Conditions. The following list contains example conditions that cause a bus to be taken out of service. CapMetro reserves the right to remove any vehicle from service for any condition that CapMetro deems as not safe, not reliable, or not clean. Out of Service conditions include but are not limited to the following:

- Malfunctioning MDT or CAD/AVL system.

- Inoperable two-way radio.
- Class 3 fluid leak.
- Class 2 or 3 coolant leak.
- Any class of fuel leak.
- Brakes slack, inoperative, weak, slow.
- Exhaust smoke.
- Malfunctioning horn.
- Malfunctioning turn signal or brake lights.
- Malfunctioning high or low beam headlights.
- HVAC is not capable of attaining interior temperature to 72 degrees cooling, or 68 degrees heating.
- Malfunctioning door latches or locks.
- Tire low air pressure (5 psi or more).
- Tire tread under 4/32" for all tires.
- Vehicle Operator's seat unable to maintain position (height or slide).
- Vehicle Operator's seat belt inoperative.
- Crack windshield glass in the Vehicle Operator's field of vision.
- Cracked passenger window glass.
- Transmission slipping, or not shifting.
- Engine lack of power.
- Engine no start.
- Check engine light.
- Stop engine light.
- Engine shuts down.
- Malfunctioning Defroster.
- Malfunctioning doors, entrance, lift, or emergency exit doors.
- Body Damage.
- Biohazard.
- Malfunctioning windshield wipers or washer.
- Loose outside mirrors.
- Malfunctioning wheelchair lift or ramp.
- Malfunctioning wheelchair restraints.
- Malfunctioning flip seats.
- Exhaust, fuel fumes, or smoke in the vehicle.
- Malfunctioning power steering system.
- Malfunctioning suspension system.
- Graffiti or offensive nature.
- Malfunctioning onboard fare collection equipment, if equipped.
- Malfunctioning or damaged destination sign, if equipped.
- Any condition that directly or indirectly compromises safety.

21.18.3 Conditions Allowable for Vehicle to Finish Current Service. No revenue vehicle shall be placed into service with any out of service condition; however, if the following systems are fully functional when the vehicle is placed in service, but become out of service while the vehicle is in service, the vehicle is allowed to complete its scheduled revenue service (if safety is not compromised) –

- Passenger seats or seatbelts.
- Surveillance Systems.
- Graffiti and etched window glass.

21.18.3.1 Proper Approval of Allowable Conditions. The Contractor's Safety Manager and Vehicle Maintenance Manager must decide if a vehicle in revenue service that has an out of service under these conditions will complete its service or be repaired prior to continuing service. If they are

not available to decide, the Contractor shall remove the vehicle from service and have it changed out with another vehicle. This step is to ensure safe operations are always conducted for Operators and passengers.

21.18.4 Change Out Requirement. When an out of service condition occurs, the vehicle shall be changed out and returned to the garage in an expeditious manner. The Mechanic in charge of the change out shall depart the yard in not more than thirty (30) minutes, and the out of service vehicle shall be mobilized back to the yard or repair shop within two (2) hours of the reported out of service condition. A **PDC of \$250** per event can be assessed by CapMetro if the vehicle has not been mobilized to a repair shop or yard within the two (2) hour timeframe – unless there is a reasonable explanation (e.g., emergency services on scene requiring more than two (2) hours to resolve the situation).

21.18.5 Change Out Pre-Trip Inspection. Prior to departing the yard, the change out of vehicle shall have a complete pre-trip inspection performed to ensure that the vehicle is ready for service. Change out vehicles may be pre-tripped and staged ready to deploy for a changeout without a second pre-trip inspection.

21.18.6 Street Repairs. Simple vehicle failures that require less than fifteen (15) minutes to complete are allowed to be made on the street provided the action does not place a technician, operator, passenger, or the public in a hazardous environment. When such repairs occur, whether performed by a technician or supervisor, a technician is required to review the repaired system when the vehicle returns to property and prior to the vehicle returning to service the next day. This review shall be documented on a work order in the EAM system.

21.18.7 Open Road Call Work Orders. No revenue vehicle shall be placed into revenue service with an open road call work order.

21.19 Vehicle Servicing and Cleanliness.

21.19.1 Vehicle Servicing Overview. The Contractor shall maintain a clean appearance on the exterior and the interior of the vehicle that the vehicle is in service at all times. The Contractor shall ensure that all revenue vehicles are serviced daily. The vehicles shall be fueled, fluid levels checked, tires inspected, and the interior cleaned. The exteriors shall be cleaned and in compliance with **the Exterior Cleaning Requirements Section below**, considering any water conservation efforts.

21.19.2 Fueling Requirements. All vehicles that have been used in service must be fueled prior to being placed into service the next day.

21.19.3 Fluid Requirements. The Contractor shall check vehicle fluid levels daily, including engine oil, coolant, and diesel exhaust fluid (DEF) if applicable, and bring to correct levels as needed. Information regarding fluids and daily consumption will be tracked by the Contractor on a Fluid Level Log and will be submitted to CapMetro's Vehicle Maintenance monthly, during the first week of the following month. Any vehicle that uses more than the following number of fluids must be checked by the Contractor and repaired as needed. All excess fluid consumption related work must be recorded on a work order associated with the vehicle serviced. The amount / rate of consumption are as follows:

- Engine oil – 1 quart per 100 miles.
- Transmission oil – 1 quart per day.
- Coolant – 1 quart per day.

21.19.4 Tire Requirements. The Contractor shall visually inspect tires for damage, indication of low air, and missing or damaged lugs.

21.19.5 Interior Cleaning Requirements. The Contractor shall clean vehicle interiors daily. This includes removing trash, sweeping, and mopping the floor, cleaning the windows, windshield, stanchions, grab handles, steering wheel, dashboard, door handles, and the forward bulkhead. The passenger and driver

seats shall be inspected and cleaned of spills and stains. Vehicles shall be disinfected as required by CapMetro.

21.19.6 Graffiti Removal Requirements. The Contractor shall inspect vehicle interiors and exteriors for graffiti daily. The Contractor shall remove graffiti prior to placing the vehicle in service.

21.19.7 Exterior Cleaning Requirements. The Contractor shall wash vehicle exteriors a minimum of three (3) times per week, after precipitation, after other events which cause the vehicle(s) to look dirty, or as directed by CapMetro. Vehicle rims shall be hand scrubbed when the exterior of the vehicle is washed, or when maintenance activity has soiled the rims.

21.19.8 Windshield Wiper Fluid. The Contractor shall check windshield washer fluid three (3) times per week and bring to full level as required.

21.19.9 Cleanliness Inspections. The Contractor shall conduct routine inspections to ensure that the vehicles are clean. The Contractor shall track cleanliness inspections on a monthly log and submit them to CapMetro Vehicle Maintenance Team monthly by the tenth (10th) calendar day of the following month (**See Section Titled Vehicle Cleanliness Inspection Reports for more information**).

21.19.10 CapMetro Supplied Fuel. CapMetro shall provide onsite fueling capability for the fleet. CapMetro shall provide a fuel supplier and pay for fuel delivered for revenue and non-revenue vehicles. CapMetro shall not provide fuel for non-revenue vehicles designated for private use by staff. The Contractor shall provide fuel monitoring, ordering, receiving, dispensing, documenting, and reconciling as outlined in **the most current Attachment 27, Fuel Ordering, Delivery, Receiving, Dispensing, Inventory Reconciliation, Leak detection, and Spill Cleanup** and as directed by CapMetro.

21.19.11 Non-Fuel Fluids. CapMetro will provide all non-fuel fluids and lubricants, including any fluids necessary to support the emission reduction systems, such as diesel exhaust fluid. Only CapMetro approved fluids, coolant, oils, and lubricants are used.

21.19.12 North Base (817 W Howard Lane) Vehicle Washing. The Contractor shall be responsible to provide contracted labor to clean the interior and exterior of the revenue and non-revenue vehicles at the North Base facility. The bargaining unit is not currently responsible for the wash services at Howard Lane. There is not a wash bay currently at the North Base. The vehicles are taken offsite for exterior washing and the interior is typically cleaned in the North Base Bay. Once the CapMetro owned new North Base facility is built in 2026–2027-time frame, this scope will be renegotiated as the new location will have all the equipment & machinery required to wash the fleet onsite.

21.20 Vehicle Operator Pre-Trip and Post-Trip Inspections

21.20.1 Pre-Trip/ Post-Trip Requirement. The Contractor's Operator shall perform a pre-trip and post-trip inspection each time the vehicle is used in service. The Contractor shall have a documented process that prescribes how the Operators will perform and document their pre-trip and post-trip inspections and how the issues and discovered are documented.

21.20.2 Defect Repair Timeliness. The Contractor shall ensure that all Operator complaints and reported vehicle defects are addressed prior to the next time the vehicle is placed in service.

21.20.3 Pre / Post-trip Requirements. The Contractor's pre-trip and post-trip inspections shall include a thorough review of the following items to ensure safety, functionality, and roadworthiness:

- Directional signals and flashers.
- Brake lights and taillights.
- Headlights.
- Windshield wipers/washers.

- Interior lights.
- Exterior and interior mirrors.
- Horn.
- Service and parking brakes.
- Door operation.
- Wheelchair lift / ramp.
- Fire extinguishers, fire suppression system.
- Climate control systems.
- Tires and wheel lugs.
- Fluid leaks.
- Communication systems.
- Surveillance systems.
- Revenue Collection systems.
- Destination and interior digital signs.
- Body damage including dents, scrapes, broken lenses, or windows.
- Interior condition including seats.
- Lap/shoulder belts and extensions.
- Mobility device securement equipment and floor/wall anchors, including folding seats.
- Warning Triangles.
- Pedestrian deflector at rear wheel.

21.21 Enterprise Asset Management (EAM) System for Vehicle Maintenance.

21.21.1 System Usage Requirement. The Contractor shall utilize CapMetro's EAM to record maintenance activities. CapMetro shall provide the software, hardware, printers, cabling, etc. to enable full functionality. CapMetro shall provide training to the Contractor on the use of the system. The maintenance system software is designed to be a permanent record of maintenance, to forecast and track preventative and corrective maintenance, and to assist in distributing work requests to appropriate staff. The Contractor shall ensure all maintenance employees are using the system appropriately, ensuring data integrity, and shall utilize the software on a real-time basis to the greatest extent possible.

21.21.2 Maintenance Record Requirements. The Contractor shall create a maintenance record for any maintenance activity requiring more than five (5) minutes of labor, or any material consumption. Maintenance records must contain adequate detail including the reason for the work order (the complaint), the procedure followed to understand and diagnose the problem (the cause), and the action undertaken to remediate the problem (the cure). Work orders must capture detailed cost of labor and materials as well as a description of work performed, including any work performed by a third party, such as body repair, engine rebuilds, etc., and all work must be properly documented with Vehicle Maintenance reporting standards (VMRS) codes. The EAM software work order data entry must be completed by the mechanic or technician that performs the maintenance work.

21.21.3 Maintenance Record Retention. All records maintained by the Contractor during the term of the Contract shall become property of and be furnished to CapMetro at the end of the Contract term. Any physical maintenance records, such as Preventative Maintenance Inspection forms, shall be kept for the life of the vehicle plus three (3) years. Any records that have not met this retention schedule by the end of the Contract term shall be given to CapMetro. Copies of the pre-trip and post-trip inspection records must be kept for one hundred and twenty (120) calendar days.

21.21.4 Maintenance Personnel Training. CapMetro will provide training and certification of maintenance personnel for all vehicles.

21.22 Vehicle Maintenance Plan. To fulfill the scope requirements within **Vehicle Maintenance Section** of the Contract, the Contractor shall provide a Vehicle Maintenance Plan. The plan shall outline the planned processes and procedures intended to ensure CapMetro's fleets remain in compliance and consistently operational to provide CapMetro Access and Pickup services.

22. MAINTENANCE OVERSIGHT

22.1 CapMetro Access Rights. CapMetro will have immediate and unrestricted access to all CapMetro, and Contractor supplied vehicles and equipment, all current or archived maintenance records for such, and will have access to all areas of the facility during planned or unannounced visits. This includes total access to any electronic program or system used in support of the Contract.

22.2 Oversight Audits & Inspections. CapMetro may conduct regular audits and inspections of vehicles, equipment, facilities, and any activities performed by the Contractor. The type of inspection or audit that CapMetro may perform include, but are not limited to:

- PMI and follow-up inspections.
- Fuel delivery and dispensing.
- Road call review.
- In-service inspections.
- Ready-line inspections.
- Work order quality.
- Tire pressure/condition.
- Existing body damage.
- Cleanness inspections.
- Random fleet inspections.

The Contractor shall make vehicles available for such inspections on suitable lifts or inspection pits. Examples of current Vehicle Maintenance Quality Assurance audit forms can be found in **the most current Attachment 54, Quality Assurance Overview**.

22.3 Monthly Joint Inspections. CapMetro may schedule Monthly Joint Vehicle Inspections with the Contractor's Maintenance Manager or their designee. If defective items are found that are not sufficient to cause the vehicle to be out of service, then the vehicle can continue to be used in revenue service. All defects shall be corrected within seven (7) calendar days of the joint inspection. At the end of the seven (7) calendar day period, CapMetro may schedule a follow up joint inspection to ensure that all items identified for repair were corrected. If repairs were not completed, CapMetro may assess a PDC in the amount of **\$100** per day, per vehicle, until all repairs are made and verified by the CapMetro inspector. Exceptions will be considered by CapMetro if the repairs require parts/services that take longer than seven (7) calendar days to acquire and/or repair.

22.4 Removing Vehicles from Service. CapMetro shall have at its sole discretion the authority to remove from service any vehicle that poses a safety, reliability, or appearance issue. Such an action does not relieve the Contractor's obligation to provide service under the terms of the Contract. For any item that is found that causes the vehicle to be taken out of service, the vehicle is to remain out of service until the repairs are completed. The Contractor must notify CapMetro when repairs are complete and CapMetro may require a re- inspection of the vehicle prior to allowing the vehicle back into service.

22.5 Negative Trends – Maintenance Corrective Action Plan. In cases where negative maintenance, out of service, and/or road call trends begin to occur, the Contractor shall provide CapMetro with a corrective action plan to bring these trends down to acceptable levels. CapMetro Vehicle Maintenance department will request a deadline to provide the Corrective action plan for review. If the plan is not provided by the requested deadline, a **\$100 PDC** per calendar will be assessed until the plan is provided for review by the Contractor. CapMetro Vehicle Maintenance department will collaborate with the Contractor on approving the plan with an agreed upon schedule for completing the tasks within the plan. If the tasks within the corrective action plan are not completed by the agreed upon schedule, a **\$100 PDC** per calendar day will be assessed until all tasks are completed. Exceptions can be granted based on CapMetro Vehicle Maintenance department if their reasonable justification on why either a) the corrective action plan took longer than the set deadline to develop and/or b) the actions within the action plan required longer than planned time to complete. If there is any dispute on exceptions the COTR will review and provide a final decision on the exception request(s) based on their investigation.

23. SYSTEM WIDE POLICIES AND PROCEDURES

23.1 Policies and Procedures. The Contractor shall comply with all CapMetro operations policies and procedures. A complete list of these policies and procedures can be found in the attachments to this Contract as well as on the CapMetro file sharing site for the duration of this Contract. CapMetro will periodically modify, update, or introduce policies and procedures. All current CapMetro Policies and Procedures and each attachment referenced in this exhibit are located: https://CapMetro.sharepoint.com/sites/EXT_MOSP. Updates and new policies and procedures shall be reviewed with Contractor Management prior to implementation. The Contractor shall distribute current and updated policies and procedures and ensure that assigned personnel are familiar with policies and procedures.

23.2 Lost & Found. The Contractor shall adhere to the CapMetro's **Lost & Found Policy**.

23.3 Tolls & Citations. CapMetro is responsible for the payment of any tolls incurred in the operation of these services. The Contractor shall pay any civil citations received associated with the operation of these services, including but not limited to speeding tickets, red light camera violations, and school bus stop arm camera violations. The Contractor's maintenance will install toll tracking devices as needed on the fleet.

23.4 Fare Handling & Reconciliation.

23.4.1 CapMetro Access Fares.

23.4.1.1 CapMetro Access Cash Fares. No cash fares are currently accepted for CapMetro Access service, but CapMetro reserves the right to introduce technology that may include cash as a fare medium.

23.4.1.2 CapMetro Access Ticket or Pass Fares. Fares in the form of a CapMetro Access ticket or monthly pass, or another media as approved by CapMetro shall be collected and processed for each:

- Eligible rider, nineteen (19) years of age and older

Fares will **not** be charged for:

- Personal Care Attendants (PCAs).
- Companions aged eighteen (18) and under.
- Service Animals.

23.4.1.3 CapMetro Access Fare Monthly Reporting. The Contractor shall provide a report each month by the fifth (5) calendar day of the succeeding month that shows the following:

- Each vehicle/run that collected fares with associated dates.
- Counted and totaled fares collected on each vehicle/run that collected fares.
- Subtotals of tickets, passes, and non-payments for total fares collected by date & vehicle/run.

23.4.2 Pickup Fares.

23.4.2.1 Pickup Cash Fares. Pickup customers can provide cash fares for Pickup Services.

23.4.2.2 Pickup Fare Collection. The Contractor must collect, record, handle, and reconcile cash fares in accordance with current CapMetro procedures.

23.4.2.3 Pickup Fare Monthly Reporting. The Contractor shall provide a report monthly by the fifth (5) calendar day of the following month that reports all received and reconciled cash for the previous month.

23.4.2.4 Pickup Fare Invoicing. The Contractor shall keep any petty cash received from Pickup cash fares. The total fare cost will be deducted from the monthly invoice prior to invoice payment.

23.4.2.5 Non-Validated Pickup Fares. During Pickup service, there are some instances when the fare media or bus pass that is purchased is not possible to be validated (**As described in the most current Attachment 44, Procedures for Non-Validated (Bus Pass) Fare Media on Pickup**).

23.4.3 Operator Fare Responsibility.

23.4.3.1 Fare Collection & Verification. The Contractor's Vehicle Operators shall collect and verify valid fare media from each passenger upon boarding. This includes verifying each pass for each passenger each time they ride (passengers may not share the same pass). Vehicle Operators must also check each passenger for a current CapMetro Access ID card when validating fare.

23.4.3.2 Fare Recording. The Contractor's Vehicle Operators shall record the fare presented by each passenger or companion, and any non-payments, directly onto the mobile data device and manifests. Vehicle Operators shall turn in all collected tickets at the end of each shift.

23.4.4 Fare Destruction. The Contractor shall securely destroy all fare media collected once it has been reconciled according to the CapMetro's **Fare Collection and Reconciliation Procedure**.

23.4.5 Potential Fare Technology. CapMetro may choose to install fare boxes or implement smart card technology or other alternative fare media at any time during this Contract at the cost of CapMetro. As with all new technology integrations that may occur under this Contract, the Contractor shall take a cooperative and active role with CapMetro in testing, validating, and training staff for new technologies at no additional cost to CapMetro.

24. EMERGENCIES AND SERVICE DISRUPTIONS

24.1 Emergency Program. The Contractor shall develop, implement, and maintain a service continuity program to respond to emergencies and routine problems that occur. Upon request, the Contractor shall draft such procedures for CapMetro approval. Procedures include, but are not limited to:

- Passenger injuries.
- Disturbances.
- Illness.
- Vehicle emergencies and equipment failures.
- Fluid spills and leaks.
- Facility and vehicle fires.
- Inclement weather.
- Accidents.
- Detours.
- Employee injuries.

24.2 Emergency Drills & Training. The Contractor must participate in periodic emergency readiness training and drills, at the direction of CapMetro.

24.3 Emergency Services. Regular service may be suspended in any area due to adverse weather, or other emergency conditions. CapMetro may also make other exceptions to service for events such as civil disruptions or natural disasters. During certain emergencies, the Contractor may be required to provide Vehicle Operators for emergency services such as (but not limited to) evacuations, transportations to shelters for adverse weather conditions, and medical transport. The Contractor shall follow **Inclement Weather/Emergency Conditions (Attached)** in such an event.

24.3.1 Adverse Weather/Emergency Conditions. Regular service may be suspended in any area due to adverse weather or other emergency conditions. CapMetro may also make other exceptions for events such as civil disruptions or natural disasters. When this occurs, the Contractor shall ensure that Vehicle Operators are available to meet emergency service needs and critical trips. The Contractor shall follow **Inclement**

Weather/Emergency Conditions (Attached). The Contractor shall develop, implement, and maintain an ~~Emergency Operations/Service Contingency~~ **Emergency Response Plan** to respond to emergencies and routine problems that may occur outside the scope of the existing CapMetro policies and procedures. Occurrences include, but are not limited to vehicle failures, unforeseen detours, and employee injuries.

24.4 Emergency Operations Center. The Contractor's operations staff (supervisors and managers) shall supplement CapMetro staff in the region's Emergency Operations Center (EOC) during regional emergencies.

25. SERVICE QUALITY AND PERFORMANCE INDICATORS

25.1 Performance Requirements. The Contractor shall meet or exceed the performance requirements as outlined in this Contract. When the Contractor's performance metrics do not meet Contract goals, the Contractor shall collaborate with CapMetro on improving performance metrics so that goals are met. Additionally, the Contractor shall help investigate and provide potential solutions when there are barriers inhibiting high service performance.

25.2 Performance Indicators Overview. Performance indicators are included in this Contract to provide the highest level of service possible. CapMetro will monitor the Contractor in its performance of the Contract to ensure adherence to all performance specifications at all times. Performance indicators are measured and tracked monthly (unless otherwise specified).

25.2.1 Performance Indicator Goal Adjustments. Due to unforeseen service changes, there may be times when performance indicator goals require adjustment. CapMetro will review data and collaborate with the Contractor if a performance indicator goal needs adjusting. CapMetro shall have the final say in the setting of the performance indicator goals. Any changes in performance indicators shall not impact how PDCs are measured without a modification to the Contract.

25.3 CapMetro Quality Assurance/Quality Control. QA/QC staff from CapMetro Facilities, CapMetro Vehicle Maintenance, and Demand Response shall periodically perform audits of the Contractor's performance throughout the term of this Contract. The audits will be based on all scopes of services required within the Contract. The results of these audits shall be rated and recorded via the Observation Report. Deficiencies noted via Observation Reports may result in an Action Plan (See below).

25.3.1 Corrective Action Plans. When deficiencies are found indicating the Contractor is failing to meet contractual performance requirements, the Contractor shall develop an action plan that addresses identified deficiencies and provides a resolution strategy to each deficiency. The Contractor shall submit an action plan for Demand Response approval based on the deadline given by the COTR. CapMetro will assess a **\$100 PDC** per calendar day for every day that the action plan does not meet the submittal deadline. Once the action plan is approved, the Contractor and COTR will determine a reasonable completion date to resolve the discrepancies outlined. If discrepancies are not completely resolved by the agreed upon completion date, a **\$100 PDC** per calendar day per unresolved action plan will be assessed. All exceptions must be based on clear reasoning from the Contractor as to why there are delays in submitting an action plan, and/or completing the action plan based on the timetable outlined in the **Section titled Corrective Action Plans**.

25.3.2 Corrective Action Plan - Invoice Withholding. Resolving performance deficiencies is critical to providing quality services to CapMetro customers. If a corrective action plan has been established with set dates to complete, the Contractor shall resolve those deficiencies within the dates set in the corrective action plan. If the deficiencies have not been resolved within thirty (30) calendar days of the dates set within the corrective action plan, CapMetro reserves the right to withhold twenty-five (25%) percent of the invoice payment(s) until deficiencies are resolved. Any withholdings will be paid to the Contractor once the corrective action plan has been resolved.

25.4 Contractor Quality Assurance/Quality Control. In addition to CapMetro's QA/QC program, the Contractor shall develop and submit a Performance Monitoring Plan that outlines their internal approach to QA/QC for the scope of services and identify the position responsible for monitoring each element. This plan shall include (at a minimum) details regarding how the Contractor will:

- Monitor daily operations to include (but not limited to) Vehicle Operator check-in, pull-out, productivity, safety, schedule adherence, pull-in, etc.
- Oversee Dispatch functions to optimize productivity and On-Time Performance (OTP).
- Measure new staff training/retraining/remedial training efforts, including accident and customer service training.
- Perform inspections for operations, vehicle maintenance, and facility maintenance, and the supervision of these functional areas.
- Manage customer service issues and customer complaint resolution workflow.
- Perform in-service (on board, shadow, etc.) audits, with focus on passenger boarding/alighting, mobility aid securement, service levels, safe operation, etc.
- Control and disseminate performance data and information that can be utilized to determine deficiencies, demonstrate improvement, and inform stakeholders on current performance.

The plan shall include methods the Contractor will use to identify metrics and goals, the process to measure performance success, establish frequencies of QA/QC inspections, the process to establish steps to correct deficiencies in performance, and the plan to communicate findings to CapMetro.

25.5 Performance Exceptions/Extensions. From time to time, situations may arise wherein a factor outside of the control of the Contractor may impede performance of any scope of services within the contract. When such a situation arises, the Contractor may be eligible for an exception or extension, consistent with the provisions set forth in **Exhibit E, Contractual Terms and Conditions, Section Titled Excusable Delays.**

25.5.1 Exception/Extension Requirements. Whenever possible, the Contractor must request an exception or extension in advance. Such requests must be submitted in writing in accordance with CapMetro's **Contract Performance Exception Request policy** and must fully explain the circumstances; the specific contractual requirement or deadline for which an exception or extension is being requested; an explanation of efforts undertaken to mitigate the impacts of the exception or extension; and the specific relief being requested. The request must be submitted to the CapMetro department (e.g., Vehicle Maintenance, Facility Maintenance, Safety Department, Demand Response, etc.) responsible for the performance requirement as outlined in the Contract. If there is a dispute on whether the exception or extension shall be approved, the COTR will make the final determination.

25.5.1.1 Exception/Extension Dispute Escalation. Disputes will be addressed in accordance with Exhibit E, General Terms and Conditions. CapMetro has sole discretion in approving all exceptions or extensions.

25.6 Key Performance Indicators (KPIs) & Measurements. This section details all the KPIs that demonstrate if the Contractor is excelling, maintaining, or failing at the scope of services within this contract.

25.6.1 CapMetro Access On-Time Performance (OTP).

25.6.1.1 CapMetro Access Operating Window. "On time" is when a CapMetro Access passenger is picked up within the operating window. The operating window for CapMetro Access is thirty (30) minutes total; aligning fifteen (15) minutes before the scheduled pickup/drop off time, and (15) minutes after the scheduled pickup/drop off time. At the time of the initial trip request, the passenger (or individual requesting the trip) will be informed what the operating window is.

Example: A pick-up is scheduled on the vehicle manifest as 10:15, therefore the operating window is between 10:00 and 10:30. Vehicles arriving at or before 9:59 are early; vehicles arriving at or after 10:30 are late.

25.6.1.2 CapMetro Access OTP Goal. The Contractor must strive for the highest on-time performance possible every day of service. The Contractor's goal shall be 95% or higher OTP during any given month period.

25.6.1.3 CapMetro Access OTP Incentives/Disincentives. The Contractor can earn incentives or disincentives to the monthly payment based on OTP performance.

25.6.1.3.1 CapMetro Access OTP Incentive. CapMetro will pay the Contractor a **\$20,000** incentive when the Contractor maintains an OTP of **95%** or greater during a month period.

25.6.1.3.2 CapMetro Access OTP Disincentive. CapMetro will deduct a **\$20,000** disincentive when the Contractor fails to maintain an OTP of at least **90%** or greater during a monthly period.

25.6.2 Pickup On Time Performance (OTP).

25.6.2.1 “Pickup “On Time Pickup. “On time” is when an Operator arrives to pick up a passenger within fifteen (15) minutes of the scheduled pickup time (ETA) according to the scheduling App.

25.6.2.2 Pickup OTP Goal. The Contractor must strive for the highest on-time performance possible every day of service. The Contractor's goal is **92%** or higher OTP during any given month period.

25.6.2.3 Pickup OTP Requirements. The Contractor shall strive to maintain the highest levels of OTP in all active Pickup zones. Demand Response will monitor OTP in zones with the Contractor to ensure everything is being done to reach the highest levels of OTP possible for the given zone. If CapMetro determines the Contractor is not providing service on time adequately with all operational and logistical factors considered for a particular zone, CapMetro shall require a Corrective Action Plan (**See the Section Titled Corrective Action Plans**) to improve OTP for the specified zone.

25.6.3 On Time Lot Leave (Pullouts). Each Vehicle Operator shall leave the operating base no later than the daily scheduled pull-out time of the run. At least **98%** of all runs shall depart on time. Disincentives are outlined below, and percentages are based on a one-month period. Disincentive percentages are based on the total fixed and variable cost of the monthly invoice. Pass through costs, breakout costs, one-time payments, etc. will not be included when calculating the Disincentive. There are no potential incentives for On Time Lot Leave as this is a bare minimum service requirement to ensure Operators are starting the route on time.

On Time Lot Leave	Disincentive
96.00% and above	\$0
94.00% - 95.99%	-\$3,000
93.99% and below	-\$6,000

25.6.4 Pickup Zone Tardiness. The Contractor shall ensure that it has an adequate number of Vehicle Operators available to provide service according to the predetermined zones in the scheduled times that were agreed upon. Operators must be trained and managed by the Contractor to be consistently on time to the zone and to leave the zone when scheduled.

25.6.5 Pickup Zone Tardiness PDC. A \$50 PDC will be assessed for each operator that is late to zone (or not logged in on time in the zone) as scheduled. This \$50 PDC also applies for each operator who leaves a zone or logs out before the shift is over for their zone.

Example 1: A PDC of \$100 will be assessed in the event an Operator is late to a zone and then leaves the zone earlier than scheduled: \$50 for the first occurrence, and \$50 for the second occurrence totaling \$100

Example 2: A PDC of \$100 will be assessed in the event two Operators are both late to the same Pickup zone. \$50 for the first Operator being late, and \$50 for the second Operator being late totaling \$100.

25.6.6 Vehicle Performance - Miles Between Road Calls (MBRC). The Contractor shall properly maintain their vehicles to achieve a low number of mechanical road calls (**See Section Titled Mechanical Road Calls**). Incentives and PDC's are calculated per the 100,000 vehicle total miles between mechanical road calls (MBRCs) as outlined below. Incentives/Disincentives are outlined below, and percentages are based on a one-month period. Incentive/Disincentive percentages are based on the total fixed and variable cost of the monthly invoice. Pass through costs, breakout costs, one-time payments, etc. will not be included when calculating the Incentive or Disincentive.

MBRCs	Incentive/Disincentive
30,001 and above	\$15,000
20,001 - 30,000	0
12,001 - 20,000	-\$15,000
12,000 and below	-\$20,000

25.6.7 Preventable Vehicle Accident Rate.

25.6.7.1 Preventable Vehicle Rate. The rate for preventable vehicle collisions shall be no more than 1.20 per 100,000 total miles. The definition of a preventable vehicle accident will follow NSC's definition.

25.6.7.2 Preventable Vehicle Definition. CapMetro follows the **National Safety Council's Guide to Determine Motor Vehicle Collision Preventability** to evaluate and determine if a vehicle accident is preventable or unpreventable. The Contractor shall provide their ruling determination of each accident, but final determination of preventability is at the sole discretion of CapMetro.

25.6.7.3 Vehicle Accident Incentives/Disincentives. On each monthly invoice, the COTR and the Contractor shall evaluate total preventable vehicle accidents for the previous month (**As described in the most current Attachment 04, Accident Definitions & Criteria for Monthly Reporting**). Incentives or disincentives will be provided based on table below:

Vehicle Accident Rate	Incentive/Disincentive
0.60 and below	\$10,000
0.61 – 1.20	0
1.21 – 1.50	-\$15,000
1.51 and above	-\$20,000

25.6.8 Preventable Passenger Accident Rate.

25.6.8.1 Preventable Passenger Rate. The rate for preventable passenger accidents shall be no more than .25 per 10,000 passengers transported.

25.6.8.2 Preventable Passenger Accident Injury Definition. A preventable passenger accident injury is an injury that occurs to a passenger while in service that was caused by the revenue vehicle or Operator that could have been prevented (**As described in the most current Attachment 04, Accident Definitions & Criteria for Monthly Reporting**).

25.6.8.3 Passenger Accident Disincentives. Incentives/Disincentives based on table below:

Passenger Accident Rate	PDC
0.00 - 0.25	\$0
0.26 - 0.54	-\$18,000
0.55 and above	-\$25,000

25.6.9 Customer Complaints Performance.

25.6.9.1 Complaint Rate. The rate for complaints (CCR's minus compliments) are measured per 10,000 passengers transported. **See Section Titled Complaints, Concerns, & Commendations** for more information. Incentives/Disincentives are applied to the Contractor's monthly invoice as outlined below:

Complaint Rate	Incentive/Disincentive
11.99 and below	\$10,000
12.00 to 15.00	\$0
15.01 to 17.00	-\$5,000
17.01 and above	-\$10,000

25.6.9.2 CCR Response Time. The Contractor must resolve all CCRs by the fifth (5th) calendar day of receipt or a **\$100 PDC** will be assessed per day per occurrence. **See Section Titled CCR Response Time** for more information on CCR Response time performance requirements.

25.6.9.3 Pickup Customer Average 5-Star Rating. This rating is specific to Pick up services. With the Application, the customer can rate their ride. The rating average is based on how many 5-star ratings Contractor received out of all ratings received for the calendar month. Incentives/Disincentives are applied to Contractor's monthly invoice as outlined below:

Average Star Rating	Incentive/Disincentive
4.8 to 5 stars	\$10,000
4.5 to 4.7 stars	\$0
4.0 to 4.4 stars	-\$5,000
3.9 stars and below	-\$10,000

25.6.10 CapMetro Access & Pickup Productivity. Productivity is measured as a ratio of how many passengers there are per service hour. Productivity is driven by ridership demand, optimized scheduling software, vehicle readiness, and Operator/Dispatching performance.

Example: Ten (10) passengers in eight (8) service hours equals a **1.25** productivity ratio.

25.6.10.1 CapMetro Access & Pickup Productivity Goal. The Contractor shall partner with CapMetro to achieve the highest productivity possible. The Contractor must ensure their vehicles are ready, and Dispatching/Operator staff provide the highest quality service to keep productivity high. Due to productivity being driven primarily by ridership demand, there is no set goal for productivity. The Contractor shall work with CapMetro monthly to assess productivity trends, identify when productivity is underperforming based on ridership levels, and provide actionable ways to keep productivity high.

25.7 Other Performance Indicators. In addition to the KPIs listed in the **Section Titled Key Performance Indicators (KPIs) & Measurements**, there are and will be other data and performance measurements during the contract lifecycle that will be utilized in determining the performance of services required. The Contractor shall work with CapMetro to determine performance goals and ensure all goals are met. CapMetro and the Contractor shall determine suitable action plans to get performance back on track as needed (**See Section Titled CapMetro Quality Assurance/Quality Control**). Other performance indicators will include, but not limited to:

- Safety hazards identified and mitigated.
- Total operational audits performed by Contractor.
- Total site evaluations conducted, and pickup/drop off solutions determined.
- Discrepancies were found during CapMetro vehicle maintenance and facility maintenance audits.

- Drug and Alcohol testing.
- Total driving observations were conducted, and discrepancies found.
- Pickup zone ridership growth.
- Vehicle and Facility preventative, corrective, and follow-on work orders completed.
- Total workplace injuries.
- Total tablet failures.

25.8 Employee Survey. Periodically, CapMetro conducts surveys of employees (of both the Authority and its Contractors) to gain insight into overall management of CapMetro operations. The Contractor shall encourage participation in such surveys by all its employees and shall cooperate with and coordinate the administration of such surveys.

25.9 Service Data and Performance Monitoring Tools. Service is monitored and measured using a CAD/AVL system, Spare, Everbridge, Salesforce, Infor, and other system reports. These systems will be provided by CapMetro and are subject to change. The requirements and associated PDC's have been established to ensure accurate data are available to CapMetro and CapMetro customers.

25.10 KPI Evaluations for Invoicing. The incentives/disincentives outlined in the **Section Titled Key Performance Indicators (KPIs) & Measurements** shall be applied to the monthly invoice. The North base and South base key performance indicators will be combined and evaluated together as appropriate. For example, the final vehicle accident rate for the month will be based on the combined ratio from North and South base services.

Below is a chart outlining if the KPI will be measured against Pickup services, CapMetro Access services, or both for invoicing purposes:

<u>KPI</u>	<u>Applicable Service(s)</u>
CapMetro Access On Time Performance (OTP)	CapMetro Access Services
Pickup On Time Performance (OTP)	Pickup Services
On Time Lot Leave (OTLL)	CapMetro Access Services
Pickup Zone Tardiness	Pickup Services
Miles Between Road Calls (MBRCs)	CapMetro Access & Pickup Services
Vehicle Accident Rates	CapMetro Access & Pickup Services
Passenger Accident Rates	CapMetro Access & Pickup Services
Customer Complaint Rates	CapMetro Access & Pickup Services
5-Star Rating Average	Pickup Services

26. PDC SUMMARY

26.1 PDCs. See Texas Transportation Code Section 451.137 - Performance Deficiency Credits. PDCs are CapMetro's penalization methodology for contractual non-compliance. PDCs are outlined in their corresponding subsections of Exhibit F, and summarized in the table below:

PDC	Description	Cost	Unit of Measure	Exhibit F Section
Employee terminations not reported to CapMetro IT within twenty-four (24) hours	Employees terminated must be denied access to facilities and CapMetro systems. PDC assessed for any terminated employee not reported to	\$100	Per Incident	7.1.10

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

	CapMetro			
General Manager Changeover (within 24 months)	If the General Manager requires replacement within twenty-four (24) months of the contract start date	\$15,000	Per change in position	8.2.2
General Manager Changeover	If the General Manager requires replacement, in addition to the onetime \$15,000 PDC, the Contractor has sixty (60) days to replace the General Manager	\$1,000	Per calendar day (after 60 days window)	8.5
Other Key Personnel Changeover (Non-General Manager)	If any other key personnel (non-General Manager) positions are vacant, the Contractor has sixty (60) days to take the position.	\$500	Per calendar day (after 60 days window)	8.5
Inaccurate or tardy benefits provision and/or monetary payment to employee(s)	Any benefits and/or payment not received by an employee by close of business on the scheduled payment date caused by Contractor's actions	\$250	Per Incident	8.10
Lost Badges (or not returned badges after employee termination)	Any badge lost (or not turned in after employee termination) by the Contractor's staff. Contractor has seven (7) calendar days after an employee termination to return the badge to CapMetro security.	\$50	Per Incident	9.4.5 9.4.6
Operators not following uniform requirements	If any Operator is discovered by CapMetro not to be wearing the appropriate uniform as outlined in Exhibit F, Section 11	\$200	Per Incident	11.4.1
Manifest Reconciliation	Reconcile all missing/incorrect data into the system w/in 3 C-days after end of month	\$100	Per month	12.4

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

Completely Unfulfilled Run	Any scheduled run that is not fulfilled at all. As in no vehicle and/or Operator was provided by Contractor for a schedule run.	\$200	Per unfulfilled run (i.e., duty)	14.3.1
Partially Unfulfilled Run per sixty (60) minutes	If the Operator and/or vehicle cannot be replaced within sixty (60) minutes on a currently active run.	\$50	Per sixty (60) minutes until run is back in service. Maximum four (4) increments per run can be penalized.	14.3.1.1
Partially serviced Run not completed	If the Contractor cannot restaff or provide a new vehicle to an active run that was partially fulfilled and then lost an Operator and/or vehicle.	\$200	Per partially fulfilled run that can no longer be completed	14.3.1.1
Cancelled Runs (that were scheduled by DRCC)	If the Contractor informs the DRCC that they cannot provide Operators to a run scheduled and DRCC must cancel the runs planned. (Note - Deadline to notify DRCC is prior to the day of service otherwise the run will be defined as "completely unfulfilled.")	\$200	Per cancelled run	14.3.2
Missed Trip	See "Missed Trip" definitions in definition section of contract	\$200	Per trip	14.3.4
Late Resolution of a CCR (customer complaint report)	The Contractor has four (4) business days to resolve a CCR. PDC will initiate on the fifth (5) day and will be enacted daily until CCR is resolved.	\$100	Per business day per occurrence until CCR is resolved	15.6.4 / 25.6.9.2
Inaccurate or Unreported performance data	The Contractor is trusted to provide accurate and complete information regarding mileage, missed trips, and road calls. Any unreported or inaccurate information discovered by CapMetro will result in a PDC per discrepancy.	\$200	Per inaccurate or unreported finding	18.8
Late Report Submittals	Any reports with outlined deadlines in the Section	\$100	Per day per late report	18.13

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

	Titled Data Reporting that are not provided to CapMetro by specified date.		until submitted	
NTD Report Submissions	Need forms submitted by Nov 30 th for prior FY	\$200	Per day until submitted past deadline	20.4
NTD Report Submissions	If forms not submitted by Dec 15 th , PDC will change from \$500 per day to \$2000 per day	\$500	Per calendar day until submitted past deadline	20.4
Vehicle Change Out Requirements	Contractor is required to mobilize an out of service vehicle back to the yard or repair shop within two (2) hours from the reported OOS condition or a PDC may be assessed if there is not reasonable explanation for taking more than two (2) hours to mobilize.	\$250	Conditional per event	21.19.4
Monthly Joint Inspections	If repairs are not resolved within seven (7) calendar days after inspection per vehicle per day	\$100	Per vehicle, per day	22.3
Corrective Action Plan (Vehicle Maintenance Negative Trends) provided for review	If a corrective action plan is not provided by the Contractor for review by the deadline requested	\$100	Per calendar day until plan is provided for review	22.5
Corrective Action Plan (Vehicle Maintenance) – Completion of action items	If a corrective action plan that is approved is not completed by agreed upon dates between CapMetro & Contractor	\$100	Per calendar day until all action items in plan are completed	22.5
Corrective Action Plan (Performance Deficiencies) provided for review	If a corrective action plan is not provided by the Contractor for review by the deadline requested	\$100	Per calendar day until plan is provided for review	25.3.1
Corrective Action Plan (Performance Deficiencies) – Completion of action items	If a corrective action plan that is approved is not completed by agreed upon dates between CapMetro & Contractor	\$100	Per calendar day until all action items in plan are completed	25.3.1
Corrective Action Plan (Performance Deficiencies) – Completion of action items after thirty (30) calendar days past due	If a corrective action plan is late to be resolved more than thirty (30) calendar days past the agreed upon completion date	25% of Invoice Withholding	Per invoice until the action plan is resolved	25.3.2
Pickup Zone Tardiness	Assessed for any Operator late to a zone (or not logged in) at the start of the service window. This PDC also applies to any	\$50	Per event	25.6.4

	Operator who logs out or leaves a zone earlier than the service window ends.			
Discipline by Employer (CBA)	If the Contractor fails to abide by CBA language and the bargaining unit has grounds to forfeit a disciplinary action on an employee due to a technicality, Contractor will incur a \$1000 PDC per instance.	\$1000	Per event	31.18

27. ANNUAL BUS ROADEO

27.1 Annual Bus Rodeo. The annual Rodeo is typically held in the spring (late March/Early April) at a location within the CapMetro service area. Vehicle Operators and maintenance teams from CapMetro's Bus and Demand Response Contractors are eligible to participate. Staff from CapMetro and Contractors serve as judges. Local Rodeo winners (Vehicle Operator and Maintenance teams) are sent to the State's TTA Rodeo. State Rodeo winners are sent to the CTAA International Rodeo. CapMetro will reimburse the winner's employer for actual travel expenses associated with these trips for the competitors only, provided such travel complies within CapMetro's travel guidelines.

28. NATIONAL TRANSIT DATABASE (NTD) REQUIREMENTS

28.1 NTD Reporting. The Contractor shall provide data, forms, and assist CapMetro in reporting for the National Transit Database.

28.1.1 NTD CapMetro Responsibility. CapMetro provides and maintains the operations software platforms used that supply the data for NTD reporting. CapMetro will complete the S10 form(s) and will supply the independent auditor to conduct the annual NTD audit.

28.1.2 NTD Contractor Responsibility. The Contractor shall support CapMetro by reconciling the data for CapMetro reporting. The Contractor shall complete other annual NTD forms. Currently (subject to change) the forms to be filled out by the Contractor are A30 (assets), F30 (Financials), R20 (Technical Faults), and if any vehicles are provided by the Contractor, the Vehicle Depreciation form. The Contractor shall obtain all pertinent FTA NTD regulations and procedures (FTA Circular C2710.1A) to ensure that all required information is collected and reported in a timely and accurate fashion.

28.1.3 NTD Reporting Schedule. Monthly NTD data is required by the third (3rd) calendar day of the following month. The annual NTD submission is required by November 30th of each year. CapMetro fiscal year ends on September 30th.

28.1.4 NTD Reporting PDCs. NTD Reporting Data is important for CapMetro funding and Federal support. Unless otherwise notified (in writing), all NTD reporting information supplied by the Contractor shall be received by CapMetro no later than November 30th for the prior fiscal year (CapMetro fiscal years end on Sept 30th). A **PDC of \$200** per calendar day will be assessed for each day that the Contractor fails to submit complete and accurate NTD reports and data by the required timeline. Reports not received on or before December 15th shall result in the assessment of a **\$500 PDC** per calendar day until all required information is provided to CapMetro.

29. PUBLIC INFORMATION REQUESTS

~~**29.1 Right of Access.** CapMetro has a right of access to certain information created, collected, assembled, or maintained under the terms of this Contract.~~

~~**29.2 Texas Public Information Act.** The Contractor shall provide such information, including but not limited to, video recording and other media and information to CapMetro in accordance with the Texas Public Information Act (the "Act"), Texas Government Code, Chapter 552, by the required deadline.~~

~~**29.3 Disclosure Disputing.** The Contractor shall notify CapMetro prior to the required deadline if Contractor wishes to assert that the requested information is not subject to disclosure under the terms of the Contract and the Texas Public Information Act.~~

29. RESERVED

30. DRUG AND ALCOHOL REQUIREMENTS

30.1 Drug and Alcohol Program. The Contractor shall establish and implement a drug and alcohol testing program that complies with **49 CFR Part 655**, produce any documentation necessary to establish its compliance with **49 CFR Part 655, 49 CFR Part 40, and 49 CFR Part 29** and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of the State of Texas or CapMetro, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required **under 49 CFR Part 655, 49 CFR Part 40, and 49 CFR Part 29** and review the testing process.

30.2 Zero Tolerance Policy. The Contractor's Drug and Alcohol policy shall include zero tolerance for positive results. Employees with a confirmed positive drug or alcohol test shall not be used to perform work under this Contract. The Contractor shall certify annually its compliance with Part 655 before March 1st of every calendar year and to submit the Management Information System (MIS) reports before February 10th of every calendar year to CapMetro.

30.3 Substance Abuse Certification. To certify compliance, the Contractor shall sign a Substance Abuse Certification by October 1st of each year to certify compliance with Federal Transit Administration requirements governing substance abuse.

30.4 Policy/Drug & Alcohol Plan Review. The Contractor shall submit for review and approval before commencement of work a copy of its Policy Statement and Drug and Alcohol Plan developed to implement its drug and alcohol testing program.

30.5 Appropriate Screening Personnel. The Contractor shall consult with CapMetro at the initiation of the Contract and in the event of a service agent change related to the selection of a certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium.

30.6 Drug & Alcohol Costs. The Contractor shall bear all costs of establishing and maintaining (including costs of defending related claims and actions) the required drug and alcohol prevention program under this Contract. Such costs shall be included as part of this Contract.

30.7 CapMetro Quality Assurance. CapMetro Quality Assurance staff may audit the Contractor's Drug and Alcohol Program and any employee records at any time.

31. LABOR RELATIONS

31.1 Previous Terms & Conditions. Nothing in this Scope of Services shall be construed as requiring the Contractor to assume or otherwise be bound by the terms and conditions of any collective bargaining agreement or other labor

contract of CapMetro's prior contractor (the incumbent contractor). Although not required by Federal labor law or Section 13(c) (49 U.S.C. §5333(b)), the Contractor may voluntarily agree and commit to honor the collective bargaining agreement negotiated and agreed to by the incumbent contractor and Amalgamated Transit Union Local 1091. See Attachment: Incumbent Contractor's Current Collective Bargaining Agreement. The Contractor shall collaboratively work with Amalgamated Transit Union Local 1091 and CapMetro to facilitate a good working relationship to positively impact employees and demand response pickup Metro access services. The Contractor shall identify the processes, procedures and personnel who are critical to the success of this operation. The Contractor shall explain its understanding of, and approach to, team building, employee motivation and discipline, labor negotiations and grievance resolution. The Contractor shall explain the process that will be used to assure compliance with federal, state and local wage and labor regulations, including Section 5333(b) of title 49 (otherwise known as section 13(c) labor protection) and the Fair Labor Standards Act. The Contractor shall identify the primary labor negotiator for the team. As required by Exhibit C, the Contractor shall present evidence of any work stoppage experienced by the company in other operations. Nothing in this Scope of Services shall be construed as requiring the Contractor to assume or otherwise be bound by the terms and conditions of any collective bargaining agreement or other labor contract of CapMetro's prior Demand Response Contractor (incumbent). Although not required by Federal labor law or Section 13(c) (49 U.S.C. §5333(b)), the Contractor may voluntarily agree and commit to honor the collective bargaining agreement negotiated and agreed to by the incumbent contractor and Amalgamated Transit Union Local 1091. See Attachment: Incumbent Contractor's Current Collective Bargaining Agreement. The Contractor shall collaboratively work with Amalgamated Transit Union Local 1091 and CapMetro to facilitate a good working relationship to positively impact employees and fixed route services. The Contractor shall identify the processes, procedures and personnel who are critical to the success of this operation. The Contractor shall explain its understanding of, and approach to, team building, employee motivation and discipline, labor negotiations and grievance resolution. The Contractor shall explain the process that will be used to assure compliance with federal, state and local wage and labor regulations including Section 5333(b) of title 49 (otherwise known as section 13(c) labor protection) and the Fair Labor Standards Act. The Contractor shall identify the primary labor negotiator for the team. As required by Exhibit C, the Contractor shall present evidence of any work stoppage experienced by the company in other operations.

31.2 Collective Bargaining Agreement. The Contractor shall recognize any union selected by the employees or otherwise recognized in accordance with applicable law as the authorized representative, for purposes of collective bargaining. The Contractor shall commence collective bargaining negotiations as promptly as possible and shall negotiate in good faith with the goal of reaching a collective bargaining agreement with the union as soon as possible. Any such collective bargaining agreement shall include provisions addressing health benefits, retirement, grievance procedures, recognition of seniority, and related matters that are normally the subject of collective bargaining between management and labor in the private sector transportation industry. The Contractor shall establish initial terms and conditions of employment as a condition to hiring in accordance with the following requirements. ~~The Contractor shall recognize any union selected by the employees or otherwise recognize negotiate a collective bargaining agreement with any labor organization that is designated or selected, in accordance with applicable law, as the authorized representative, for purposes of collective bargaining representative of the Contractor's employees. The Contractor shall commence collective bargaining negotiations as promptly as possible and shall negotiate in good faith with the goal of reaching a collective bargaining agreement with the union as soon as possible. Any such collective bargaining agreement shall include provisions addressing health benefits, retirement, grievance procedures, recognition of seniority, and related matters that are normally the subject of collective bargaining between management and labor in the private sector transportation industry. Nothing in this provision, however, shall be construed to limit the ability of t~~The Contractor shall establish to set initial terms and conditions of employment as a condition to hiring in accordance with the following requirements consistent with applicable law.

31.2.1 Wages. At a minimum, the Contractor shall offer each employee a wage that is equivalent to the currently applicable hourly wage.

31.2.1 Seniority Rights. At a minimum, the Contractor shall recognize the seniority rights of represented employees in accordance with the existing seniority roster at the incumbent contractor. Seniority shall apply to those matters normally subject to seniority status under collective bargaining agreements in the transit industry, including layoffs, re-hiring/return from furlough, bidding on shifts and selection of vacation.

31.2.2 Grievances. ~~The Contractor shall establish a procedure for the consideration, appeal and resolution of grievances. Meeting Contractor's established grievance timelines is critical to maintaining positive labor relations. Documented incidents of failing to meet Contractor's established grievance timelines will result in a PDC of one hundred dollars (\$100) per incident.~~

31.2.2 Health and Welfare. At a minimum, the Contractor shall offer health, disability, dental, life and accidental death insurance for its employees that is substantially equivalent, in terms of type and scope of coverage, to the insurance coverage offered by the prior employer. The Contractor shall bargain collectively with the union regarding contributions to premiums, co-payments, deductibles and other economic matters relating to such insurance.

31.2.3 Discipline. ~~The Contractor shall establish a procedure for handling employee discharge and other discipline that allows for discharge or discipline if work is not satisfactory or for other just cause basis and that provides advance written notice to the employee, an opportunity for response before a proposed disciplinary action becomes final, and a process for appeal to a neutral party. Documented incidents of failing to meet Contractor's established disciplinary timelines will result in a PDC of one hundred dollars (\$100) per incident.~~

31.2.3 Retirement. The Contractor shall provide a retirement plan for its employees. The Contractor shall bargain collectively with the union regarding the terms and conditions of such retirement plan, including the levels or amounts of employee and employer contributions to the plan.

31.2.4 Accrued Leave. ~~The Contractor shall ensure that individual employee balances of accrued sick, vacation, and other Paid Time Off (Seniority Day, Birthday, Floating Holiday) with the incumbent contractor are established at the same levels which are in existence on the date of the employee's separation of employment with the incumbent contractor. This will include any vacation earned that has not been taken. The Contractor shall honor the vacation mark ups of the incumbent contractor.~~

31.2.4 Wages. At a minimum, the Contractor shall offer each employee a wage that is equivalent to the currently applicable hourly wage.

31.2.5 Terms & Conditions Precedence. ~~The terms and conditions specified above shall remain in effect as initial terms and conditions of employment until a collective bargaining agreement is reached with the union. The collective bargaining agreement between the Contractor and the union must contain (at a minimum) the terms, conditions and subjects specified above unless the Contractor and the union expressly agree to alternative terms.~~

31.2.5 Grievances. The Contractor shall establish a procedure for the consideration, appeal and resolution of grievances. Meeting Contractor's established grievance timelines is critical to maintaining positive labor relations. Documented incidents of failing to meet Contractor's established grievance timelines will result in a PDC of one hundred dollars (\$100) per incident.

31.2.6 Discipline. The Contractor shall establish a procedure for handling employee discharge and other discipline that allows for discharge or discipline if work is not satisfactory or for other just cause basis and that provides advance written notice to the employee, an opportunity for response before a proposed disciplinary action becomes final, and a process for appeal to a neutral party. Documented incidents of failing to meet Contractor's established disciplinary timelines will result in a PDC of one hundred dollars (\$100) per incident.

31.2.7 Accrued Leave. The Contractor shall ensure that individual employee balances of accrued sick, vacation, and other Paid Time Off (Seniority Day, Birthday, Floating Holiday) with the incumbent contractor are established at the same levels which are in existence on the date of the employee's separation of employment with the incumbent contractor. This will include any vacation earned that has not been taken. The Contractor shall honor the vacation mark ups of the incumbent contractor.

31.2.8 Terms & Conditions Precedence. The terms and conditions specified above shall remain in effect as initial terms and conditions of employment until a collective bargaining agreement is reached with the union. The collective bargaining agreement between the Contractor and the union must contain (at a minimum) the terms, conditions and subjects specified above unless the Contractor and the union expressly agree to alternative terms.

31.3 Length of Agreement. ~~The Contractor shall not enter into a collective bargaining agreement or other labor contract with the labor organization representing its workforce for a longer term than the base term of this Contract with CapMetro, or if any option is exercised, for longer than the term of that option. The Contractor shall negotiate in good faith as to the duration of a collective bargaining agreement or other labor contract with the labor organization representing its workforce. Any collective bargaining agreement that has a term or duration that extends beyond the then current term of this Contract shall not impose any obligations on, apply to, or otherwise affect CapMetro or any subsequent contractor~~

31.4 Shared Documentation. The Contractor shall provide CapMetro, throughout the Contract term, with copies of all collective bargaining agreements, side letters, and amendments entered into with any union representing the Contractor's employees.

31.5 Labor Relations Plan. ~~The Contractor shall propose a comprehensive Labor Relations Plan. The Labor Relations Plan should detail the Contractor's approach to labor relations, including efforts expected to avoid a work stoppage. Additionally, the Contractor shall certify that it has a plan for continuing to provide service in the event of a work stoppage.~~ The Contractor shall propose a comprehensive Labor Relations approach. The Labor Relations Plan should detail the Contractor's approach to labor relations, including efforts expected to avoid a work stoppage. Additionally, the Contractor's Plan shall specify its approach for continuing to provide service in the event of a work stoppage

31.6 CapMetro will be responsible for the accrued liability for accrued time off for all employees, including accrued vacation, sick time, other Paid Time Off (Seniority Day, Birthday, Floating Holiday) under the terms of any collective bargaining agreement between the Contractor and the union representing its employees or under the terms of any employment contract or agreement.

31.6.1 The Contractor must report the value of such accruals to CapMetro quarterly, including details about the type of leave accrued, the hours of leave accrued, forfeited, and the current rate of pay. Accrual information must be reported on an individual employee basis.

31.6.2 The Contractor must report the value of accrued leave paid out each month, including details about the type of leave taken, the hours of leave accrued, forfeited, and the current rate of pay on a quarterly basis. Payout information must be reported on an individual employee basis.

31.6.3 The Contractor must report pay rate changes each month on an individual employee basis. The value of that employee's accrued leave balance will be adjusted at the end of the month during which they receive a pay rate change.

31.6.4 The Contractor shall not have any liability for accrued leave at the end of the contract term.

31.6 Health & Welfare. ~~The Contractor shall offer health, disability, dental, life and accidental insurance for its employees that is substantially equivalent, in terms of type and scope of coverage, to the insurance coverage offered by the prior employer. The Contractor shall bargain collectively with ATU regarding contributions to premiums, co-payments, deductibles, and other economic matters relating to such insurance. The Contractor shall make all such payments at the end of the Contract term (or option period), and no additional compensation shall be provided by CapMetro for such accrued liabilities. The Contractor shall not have any obligation for the liabilities of the prior Contractor (incumbent) to its employees.~~

31.7 Retirement. ~~The Contractor shall provide a retirement plan for its employees. The Contractor shall bargain collectively with the ATU regarding the terms and conditions of such retirement plan, including the levels or amounts of employee and employer contributions to the plan.~~

31.8 Wages. ~~The Contractor shall pay each employee of the prior employer an hourly wage, at the outset of his or her employment with the Contractor, which is not less than the hourly wage in effect for such employee on the date of his or her separation from employment with prior employer.~~

31.9 Grievances. ~~The Contractor shall establish a procedure for the consideration, appeal, and resolution of grievances. Resolutions should be exclusively determined between ATU and Contractor, but CapMetro may intercede if an acceptable resolution cannot be met.~~

31.10 Discipline. ~~The Contractor shall establish a procedure for handling employee discharge and other discipline that allows for discharge or discipline if work is not satisfactory from an employee within the ATU. This procedure requires advance written notice to the employee, an opportunity for response before a proposed disciplinary action becomes final, and a process for appeal to a neutral party. See the Section Titled Staff Conduct for CapMetro policy on employee expectations.~~

31.11 Accrued Leave. ~~The Contractor shall coordinate with the prior employer to transfer financial liability for accrued leave through payment negotiated between the prior employer and Contractor. The Contractor must ensure that individual employee balances of accrued sick and vacation leave are established at the level which are in existence on the date of the employee's separation of employment with the prior employer. This includes any vacation earned that has not been taken. The Contractor shall honor the vacation markups of the prior employer.~~

31.12 Terms & Conditions Precedence. ~~The terms and conditions specified above shall remain in effect as initial terms and conditions of employment until a collective bargaining agreement is reached with the ATU. The collective bargaining agreement between the Contractor and the ATU must contain (at a minimum) the terms, conditions and subjects specified above unless the Contractor and the ATU expressly agree to alternative terms.~~

31.13 Seniority Rights. ~~The Contractor shall recognize the seniority rights of represented employees in accordance with the existing seniority roster at the prior employer. Seniority shall apply to those matters normally subject to seniority status under the collective bargaining agreement in the transit industry, including layoffs, re-hiring/return from furlough, bidding on shifts, and selection of vacation.~~

31.14 31.6 31.7 Priority Hires. ~~The Contractor shall recognize existing seniority of employees in the hiring process. The Contractor shall provide a priority of employment to all bargaining unit employees of CapMetro's incumbent contractor who are represented by the union and are employed by the incumbent contractor on the day prior to the commencement of services under this Contract and are in good standing. The Contractor shall also offer a priority of employment to non-represented employees of the incumbent contractor. The Contractor shall not be required to offer employment to any person who. The Contractor shall recognize existing seniority of employees in the hiring process. The Contractor shall provide a priority of offering employment to all bargaining unit employees of CapMetro's prior (incumbent) Contractor who are represented by the Union and are employed by the incumbent on the day prior to the commencement of services under this the cContract and are in good standing. The Contractor shall also offer a priority of employment to non-represented employees of the incumbent prior Contractor/employer. The Contractor shallis not required to offer employment to any person who:~~

- i. ~~Fails to successfully complete drug and alcohol testing.~~
- ii. ~~Fails to successfully complete a physical examination for the specific position involved.~~
- iii. ~~Fails the background or MVR checks conducted per Exhibit E - Revised-1, **Contractual Terms & Conditions.**~~
 - ~~Fails to successfully complete drug and alcohol testing.~~
 - ~~Fails to successfully complete a physical examination for the specific position involved.~~
 - ~~Fails the background or MVR checks conducted according to **Exhibit E-Revised-1, Contractual Terms & Conditions.**~~

~~The Contractor shall keep records of the hiring process conducted, employee interviews, hiring decisions made, and background checks and testing results, and share such records with CapMetro on request.~~

31.15 31.7 31.8 Healthcare Claims & Other Information. ~~If necessary, to assist in the transition of any services or employees to another entity, the Contractor must, upon request, provide identified health care claims information to CapMetro and any other non-proprietary and non-confidential information that would aid in ensuring that the cost of~~

coverage is fully understood. If necessary, to assist in the transition of any services or employees to another entity, the Contractor must, upon request, provide identified health care claims information to CapMetro. Any other non-proprietary and non-confidential information that would aid in ensuring that the cost of coverage is fully understood must also be provided upon request.

31.16 31.8 31.9 Employee Accounts. If services are to be transitioned at any time to a subsequent contractor, the Contractor must ensure that any former employee can access all contributed amounts in any Health Savings Account or other such flexible spending account. ~~If services are to be transitioned at any time to a subsequent Contractor, the Contractor must ensure that any former employee can access all contributed amounts in any Health Savings Account or other such flexible spending account.~~

31.17 31.9 31.10 Work Rules. CapMetro considers having an employee local rule book essential. An employee handbook can be the vehicle to help employers effectively disseminate the required information and fulfill these requirements in accordance with the collective bargaining agreement. Contractor is required to accomplish this task within 90 calendar days after the Contract Notice to Proceed. Major rules, regulations, and policy additions or addendums set for by CapMetro that impact external staffing require a work rule to be drafted or revised by the Contractor to be provided to the union. As applicable, Employee Handbooks, Safety Training Manuals, and other employee reference materials must be updated to include work rule changes and additions. If CapMetro's new or revised policies, rules, and/or regulations conflict with the current collective bargaining agreement, the Contractor will notify CapMetro within two (2) business days to strategize necessary adjustments as required. The Contractor shall ensure any new and/or revised work rules, regulations, or policies are developed and communicated with the bargaining agreement within four (4) calendar days of notification from CapMetro. The Contractor shall follow the collective bargaining agreement (CBA) on the communication and implementation schedule for work rules to take effect. Currently, the Contractor must inform the bargaining unit of new work rules thirty (30) days before they can take effect, and the Contractor must post and distribute the new work rules formally at least twenty (20) days before they can take effect (Note – These durations are subject to change if CBA is ratified).

31.18 Discipline by Employer. ~~There are several articles outlined in the CBA regarding agreed upon discipline, grievances, investigation, and arbitration processes and timelines. The Contractor must abide by the disciplinary procedures and timelines set forth in the CBA between the local bargaining unit and the Contractor. If the Contractor does not follow processes and/or timelines, the bargaining unit has grounds to dismiss any disciplinary action. If the Contractor does not follow the CBA's written procedures/timelines, and disciplinary action becomes forfeit due to this technicality, a \$1,000 PDC per instance will be assessed.~~

32. MARKETING & PUBLIC RELATIONS

32.1 Schedules & Printed Materials. CapMetro will furnish all schedules, and other printed materials required for marketing transit services.

32.2 Contractor Cooperation. The Contractor shall distribute CapMetro passenger notices, cooperate and participate in marketing, promotion, advertising, public relations, public education programs, and projects undertaken by CapMetro from time to time. This includes distribution of information on each vehicle.

32.3 Service Impacts. The Contractor shall post ad hoc postings related to detours, service changes, and other CapMetro events.

32.4 Marketing Exclusivity. CapMetro is the exclusive official public media contact in connection with transportation service. Under no circumstance shall the Contractor or its employees be permitted to distribute any confidential printed or written materials pertaining to CapMetro or other affiliates without permission from the CapMetro Program Manager, Director, Contract Oversight, or designee. The Contractor shall notify and consult with the Authority prior to making public statements or conducting media interviews in an official capacity.

33. INNOVATIVE BENEFIT PROGRAMS

33.1 CapMetro Benefits Overview. CapMetro and the current Contractor employees participate in two innovative

benefit programs – 1) The Wellness Program, and 2) The Childcare Center. Any costs associated with these two programs will be a pass through cost for employees from the Contractor to CapMetro.

33.1.1 Childcare. CapMetro operates a childcare center serving the needs of families with children from infant through pre-Kindergarten (age 5). CapMetro extends priority access to Contractor employees to gain a higher priority on the waiting list for enrollment. CapMetro has established a reduced tuition rate schedule for CapMetro employees. Should the Contractor wish to extend these reduced tuition rates to their employees as an additional benefit, CapMetro will facilitate such rate discounts as a credit to the amounts owed on the Contractor's monthly invoice. Federal and or State tax credits may be available to companies contributing to center-based childcare for their employees.

33.1.2 Wellness Program. CapMetro provides an award-winning wellness program. A description of the Wellness Program is provided in the **Wellness Program Description (Attached)**.

33.2 CapMetro Human Resource Programs. The Contractor's human resources team will collaborate closely with CapMetro's People & Culture and MarCom teams to implement, enhance, and celebrate key dates and events as determined. Programs are to include key areas: Service Awards, Employment Anniversaries, Safety and Engagement Survey participation.

33.2.1 Service Awards. For area of Service Awards, in collaboration with CapMetro, the Contractor shall design and administer a program to honor employees' dedication and contributions over specific periods of service, creating a culture of appreciation and loyalty. The Anniversary Recognition initiative will focus on celebrating personnel milestones within the company, recognizing employees' continued commitment with personalized acknowledgments and rewards.

33.2.2 Safety Recognition. For Safety Recognition, in collaboration with CapMetro, the Contractor shall develop and implement an **Employee Safety Recognition Program** to incentivize and motivate employees to perform at the highest level of safety. Employees should be recognized annually.

33.2.3 Employee Surveys. CapMetro conducts surveys of employees (of both the Authority and its Contractors) to gain insight into overall management of CapMetro operations. The Contractor shall encourage participation in such surveys by all its employees and to cooperate with and coordinate the administration of such surveys. The engagement survey endeavor will aim to systematically gather and analyze employee feedback on workplace satisfaction and engagement, using this data to drive continuous improvement in our mutual organizational cultures and employee experience.

34. FAILURE TO COMPLY

34.1 Failure to Comply. If any services performed hereunder or equipment provided hereunder do not conform with the requirements of the contract, CapMetro shall have the right to require the Contractor to immediately take all necessary steps to ensure future performance of the Services in conformity with the requirements of the Contract and reduce the contract price to reflect the reduced value of the actual vehicle hours performed. In the event the Contractor fails to promptly take necessary steps to ensure future performance of the Services is in conformity with the requirements of the Contract, CapMetro will have the right to terminate the Contract for default.

35. MOBILIZATION STARTUP AND PLAN SUBMISSION

35.1 Mobilization Schedule & Plan. The Contractor shall provide a ninety (90) day implementation/mobilization schedule necessary to perform the services including all the key elements and resources necessary to guarantee uninterrupted services on the date established for contracted services to begin (the Schedule shall be based on the anticipated contract award date). The Contractor shall provide the Mobilization Plan.

35.2 Prior Mobilization Training. All necessary personnel to conduct efficient operations according to contract scope must be trained and ready at the start of mobilization (**See the Section Titled Staffing Management Plan**).

35.2.1 Behind-The-Wheel Training (During Mobilization). Vehicle Operators will require behind-the-wheel experience of CapMetro's vehicles. During mobilization, CapMetro will make available to the Contractor two (2) vehicles for training during the weekday, and up to five (5) vehicles during the weekend for training purposes. During this period, CapMetro is responsible for servicing and maintenance of these vehicles. The Contractor is responsible for any damage and abuse arising out of the Contractor's training activities.

35.3 Transitioning Contractors. The incoming Contractor shall work with CapMetro and the outgoing Contractor to ensure a well-coordinated transition from existing services. The incoming Contractor shall provide demand response passengers with a seamless transition that aims to provide those passengers with high-quality and uninterrupted service throughout this process.

35.4 Adequate Staffing during Mobilization. The Contractor shall have adequate staff onsite before the startup of the Contract. The Contractor shall also maintain adequate staffing levels through the transition.

35.5 Communication/Training during Transition. The Contractor's mobilization plan shall detail the communication with incumbent employees and timelines for application, interview, training, etc. Should employees being transferred be required to undergo training, the Contractor shall work with the existing Contractor as to agreeable dates/times employees may be allowed to attend training session(s).

35.6 Plan Submittals. All plans referenced in the Scope of Services requested by CapMetro shall be submitted by the Contractor in accordance with the due dates outlined in the **Section Titled Contract Delivery Requirement List (CDRL)**. All plans require CapMetro approval before implementation.

35.7 Plan Submittal PDC. Failure to submit the required plans specific to this scope of services by the respective due date shall result in a **\$250 PDC** per day being assessed for each plan not submitted within the required time. The Contractor may not be allowed to begin service until all plans are submitted and approved by CapMetro.

35.8 Vital Services. The Contractor recognizes that the services under this Contract are vital to CapMetro and shall be continued without interruption and that upon Contract expiration, another entity, either CapMetro or another Contractor, may continue them. The Contractor shall exercise its best efforts and cooperation to ensure an orderly and efficient transition.

35.9 Drug & Alcohol Testing Personnel. The Contractor shall consult with CapMetro at the initiation of the Contract and in the event of a service agent change related to the selection of a certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium.

35.10 Delivery of CapMetro Vehicles to Contractor

35.10.1 "As Is" Basis. The Contractor acknowledges that the vehicles are provided to the Contractor on an "as is" basis and that CapMetro makes no warranties regarding the vehicles, including without limitation the body, engine, transmission, drive train, other mechanical parts, electrical systems, any accessories, and all options on the vehicles.

35.10.2 Inspections for Delivery. The Contractor shall receive each CapMetro vehicle after the vehicle has been thoroughly inspected by both CapMetro and the Contractor jointly. These joint inspections shall occur no more than 60 days prior to the date of vehicle delivery. The Contractor is required to sign off on inspection documentation for each vehicle. The Contractor shall take an initial photo inventory of the vehicles by supplying digital photographs for each vehicle inspected. CapMetro reserves the right to engage a third party to assist in the vehicle transition at the expense of CapMetro.

35.10.3 Delivery Criteria. Revenue vehicles provided will meet the following criteria:

- Shall have no body damage.

- Not to be out of service.
- Not be late for any scheduled maintenance activity.
- Have at least 500 miles from being due for a preventative maintenance inspection (PMI)
- Be fully fueled after its most recent operation in service.
- Vehicles shall be in “like-new” condition minus allowable wear and tear as described in **the most current Attachment 15, Definition of Like New Condition Minus Allowable Wear and Tear.**

35.11 Resolving Defects in Delivery. Any vehicle delivered that does not meet the above criteria as shown in the joint inspection report shall be repaired by the Contractor at CapMetro’s expense during the next scheduled PMI, not to exceed 120 days after delivery. CapMetro shall reimburse actual parts cost and labor rates as provided in Exhibit A, and actual cost of repairs performed by CapMetro approved vendors as needed. After the one hundred & twenty (120) day period, all vehicles shall be deemed accepted by the Contractor as delivered.

35.12 New Vehicles and Equipment. The Contractor shall receive new vehicles, transferring in- lifecycle equipment including but not limited to onboard fare collection equipment, CAD/AVL and radio equipment to the new vehicle from the old vehicle, performing an in-service PM prior to putting the vehicle into revenue service. The vehicles must be made ready within two (2) weeks of delivery, and at a rate of five (5) per week, a minimum if available.

35.13 Training Program. The Contractor shall propose training programs for Vehicle Operators, Transportation Supervisors, Training Instructors, Dispatchers, Vehicle Mechanics, Electrical/IT Technicians, and Facility Technicians which shall be incorporated into this Contract upon CapMetro’s approval. The training program shall include methods for measuring the effectiveness of the training in developing skills and improving performance. More information related to training requirements can be found in the **Section Titled Staff Training.**

36. IMPROVEMENTS TO REQUESTED SERVICES

36.2 Service or Technology Innovations. The Contractor shall support CapMetro in deploying future transit innovations, such as, but not limited to, electric buses, fully or partially automated vehicles, on-demand/flexible service delivery models, mobility as a service technology, innovative fare collection or other public transit innovations which may arise. Should CapMetro decide to launch such a project, CapMetro will work with Contractor to develop the scope for such services. Price for such service will be negotiated at the time, using the pricing details provided in Exhibit A as the basis of calculating the incremental cost increase for such pilot service.

37. DEMOBILIZATION

37.1 Return Delivery of CapMetro Vehicles to CapMetro.

37.1.1 Return Vehicles. On expiration of the term or the earlier termination of this Contract or as specified in the Contract, the Contractor shall deliver all CapMetro owned vehicles to CapMetro by releasing the vehicles to CapMetro or CapMetro’s agent or by transporting or shipping the vehicles as CapMetro may direct.

37.1.2 Inspections for Return. The Contractor shall return each CapMetro owned vehicle after the vehicle has been thoroughly inspected by both CapMetro and the Contractor jointly. These joint inspections shall occur no more than sixty (60) days prior to the date of the vehicle’s return. The Contractor shall sign off on inspection documentation for each vehicle. The Contractor shall take a final photo inventory of the vehicles by supplying digital photographs for each vehicle inspected. CapMetro reserves the right to engage a third party to assist in the vehicle inspection at the expense of CapMetro.

37.1.3 Resolving Defects for Return. The Contractor has until the scheduled date of return to repair any defects identified during the inspection. All repairs intended for each vehicle must be made concurrently. The Contractor shall immediately notify CapMetro when the repairs are performed, and the vehicle is ready for confirmation. CapMetro will confirm that the repair has been completed. Each vehicle may be presented to CapMetro for confirmation of completed repairs once. No more than five (5) vehicles may be presented for

confirmation on any given calendar day.

37.1.4 Return Criteria. The criteria for return of the vehicle:

- Shall have no body damage.
- Not to be out of service.
- Not be late for any scheduled maintenance activity.
- Have at least 500 miles from being due for a PMI.
- Be fully fueled after its most recent operation in service.
- Vehicles shall be in “like-new” condition minus allowable wear and tear as described in **the most current Attachment 15, Definition of Like New Condition Minus Allowable Wear and Tear.**

37.1.5 Return Criteria Not Met. Any vehicle returned that does not meet the above criteria shall be repaired by CapMetro at the Contractor’s expense.

37.2 ATU Liabilities. The Contractor shall pay any outstanding insurance, leave, and other liabilities to the ATU prior to the end of the Contract term. CapMetro will not be held liable for any financial commitments made to the ATU, and Contractor shall not leave any obligations for the next incumbent Contractor. The next Contractor will be provided the necessary documentation from the departing Contractor to make sure these transactions take place properly. **The Section Titled Labor Relations** outlines full requirements related to ATU Labor Relations.

37.3 Non-Proprietary & Non-Confidential Information. As outlined in the **Section Titled Labor Relations**, the Contractor may be requested to provide non-proprietary and non-confidential information before end of contract to assist with ensuring all cost of coverage is fully understood by CapMetro.

38. CONTRACT DELIVERY REQUIREMENTS LIST (CDRL)

38.1 Contract Delivery Requirements Overview. Throughout all contract exhibits, the Contractor shall provide various deliverables a) during the mobilization phase b) during various frequencies (as outlined below), or c) during the demobilization phase of the Contract. The table in the **Section Titled CDRL List** outlines all the deliverable requirements to assist both the Contractor and the COTR in managing the commitment and partnership to these deliverables.

38.2 CDRL List.

Key: Anything with an * indicates has a PDC associated with the deliverable.

38.2.1 Delivery Requirements with Proposal and during 90-day Mobilization.

Section	Contract Delivery Requirements List	Days from NTP	Category
7.2.2	Change Management Plan for Technology Systems	With proposal	Technology
8.3.1	General Manager Proposal	With proposal	Staffing
8.	Key Personnel Proposal	30 days NTP	Staffing
2- 9.1	Organization Chart	With proposal	Staffing
9.2.3	Staffing Management Plan	With proposal	Staffing
9.6	Employee Auditing Plan	60 days NTP	Staffing

16.10.8	Safety Meeting Plan	With proposal	Safety
10.1	Staff Training Program	With proposal	Safety
16.10.3	SMS Plan	With proposal	Safety
16.9.7	Biological Hazard Operating Procedure Plan	With proposal	Safety
16.10.3	Emergency Response Plan	With proposal	Safety
18.1	Data and Reporting Plan	With Proposal	Monitoring
7.4.5	Email Distribution List	With proposal	Technology
21.22	Vehicle Maintenance Plan	With proposal	Maintenance
24.3.1	Emergency Operations/Service Contingency Plan Emergency Response Plan	With proposal	Safety
30.1	Drug & Alcohol Testing Program	With proposal	Safety
31.5	Labor Relations Plan	With proposal	Staffing
35.1	Mobilization Plan	With proposal	Miscellaneous
19.2.16.3	Environmental Compliance & Environmental Sustainability (ESMS) Plan	60 Days NTP	Sustainability

38.2.2 Delivery Requirements during Contract Lifecycle.

Section	Report Type	Frequency	Category
7.2.1	IT Systems Continuity Failure Plan	Annually	Technology
7.2.3	Change Management Log	As requested	Technology
9.4.4.2	Vehicle Operator Prohibited Conduct Report	As requested	Staffing
10.1.1.1	Annual Training Plan	Annually	Staffing
11.2.12	Pre-trip/Post-trip Inspection Logs	Monthly	Monitoring
11.2.12	Pre-Trip/Post-Trip Inspection Report	As requested	Maintenance
12.4	*Manifest Reconciliation	As requested	Miscellaneous
12.7	*Location Evaluation	As requested	Maintenance
15.7	Monthly Customer Satisfaction Surveys	Monthly	Customer
16.9.3	*Accident Report	As necessary	Safety
16.9.5	*Accident/Incident Log	Monthly	Safety

16.10.6	*OSHA 300 Log	Quarterly	Safety
18.9	*Daily Reports	As requested	Financial
18.9.1	*Monthly Reports	Monthly	Financial
18.10.1	*Monthly Invoicing Report	By 10 th Day of the Month	Financial
28.	NTD Data Report	Monthly	Compliance
28.	*NTD Report	Annually (by Nov 30 th)	Compliance
19.2.2	Facility Maintenance Plan	Annually	Maintenance
20.8.5	Disposal Assessment Form	As requested	Maintenance
21.14.7	Preventative Maintenance Inspection/Repair Log	As requested	Maintenance
21.17	*Road Call Procedures	As necessary	Maintenance
21.19.3	Fluid Level Report	As requested	Maintenance
21.19.9	*Cleaning Report	As requested	Maintenance
23.4.1.3	CapMetro Access Monthly Fare Reporting	Monthly	Financial
23.4.2.3	Pickup Service Monthly Fare Reporting	Monthly	Financial
25.3	*Observation Report Response	As requested	Monitoring
25.3.1	*Corrective Action Plan	As requested	Monitoring
25.4	Performance Monitoring Plan	Annually	Monitoring
30.2	*MIS Report	Annually (by Feb 10 th)	Financial
30.3	Substance Abuse Certification	Annually (by Oct 1 st)	Staffing

3.8.23 Delivery requirements following issuance of Notice to Proceed

Section	Contract Data Requirements List	Days from NTP	Category
Exhibit E, Section 8	Proof of Required Insurance	5 NTP	Compliance
Exhibit E, Section 9	Performance Bond	10 NTP	Financial

3.8.24 Delivery requirements during contract lifecycle

Section	Report Type	Frequency	Category
9.3.2	Background Check	Annually	Staffing
Exhibit E, Section 41	Labor Dispute Notice	As requested	Staffing
Exhibit E, Section 47	Loss or Damage to Property	As requested	Maintenance
Exhibit E, Section 64	Receipts for CapMetro Property	As requested	Property
Exhibit E, Section 64	Statement of Discrepancies Incident to Shipment	As needed	Property
Exhibit E, Section 64	Loss, Damage, or Destruction of Property Report	As needed or requested	Property
Exhibit E, Section 64	Records of Material	As requested	Property
Exhibit E, Section 64	Total Acquisition Cost of CapMetro Property	Annually	Property
Exhibit E, Section 64	Results of Physical Inventories	No less than once every 2 years	Property
Exhibit E, Section 59	Sustainability Report	As requested	Miscellaneous

EXHIBIT H

IT PROPRIETARY RIGHTS AND DATA SECURITY ADDENDUM

Capital Metro Transportation Authority ("the Authority") has invested extensive time, money and specialized resources into developing, collecting and establishing its tangible and intangible proprietary assets. This Proprietary Rights and Data Security Addendum (this "Addendum") identifies and acknowledges the Authority's proprietary rights, establishes baseline commitments regarding data security and represents a set of standard terms applicable to service providers and business partners when they enter into contracts with the Authority. Capitalized terms used in this Addendum have the meanings set forth in the Agreement, unless differently defined in this Addendum. The Contractor is responsible for ensuring compliance with the terms of this Addendum by the Contractor's employees, agents and contractors and all of the restrictions and obligations in this Addendum that apply to the Contractor also apply to the Contractor's employees, agents and contractors. The term "including" or "includes" means including without limiting the generality of any description to which such term relates.

1. DEFINITIONS

The following terms will have the meanings described below in this Addendum.

(a) "Authority Data" means all data, content or information, in any form or format, including interim, Processed, compiled, summarized, or derivative versions of such data, content or information, and any insights that may be learned from such data, content or information, that may exist in any system, database, or record that is either

- (i) provided by or on behalf of the Authority or its customers to the Contractor, or
- (ii) is obtained, developed, produced or Processed by the Contractor or its systems, in each of (i) and (ii) in connection with the relationship or arrangements established by the Contract, but excluding any data or information that is expressly defined as owned by the Contractor in the Contract.

(b) "Authority Electronic Property" means:

- (i) any websites controlled by the Authority,
- (ii) any Authority mobile device apps,
- (iii) any application programming interfaces (API) to the Authority's information technology systems,
- (iv) any other kiosks, devices or properties for consumer interaction that are created, owned, or controlled by the Authority, and
- (v) versions and successors of the foregoing, any form or format now known or later developed, that may be used by customers obtaining products or services from the Authority.

(c) "Contract" means that certain contract for products and services entered into between the Contractor and Authority to which this Addendum is attached or incorporated by reference.

(d) "Data Law" means, as in effect from time to time, any law, rule, regulation, declaration, decree, directive, statute or other enactment, order, mandate or resolution, which is applicable to either the Contractor or the Authority, issued or enacted by any national, state, county, municipal, local, or other government or bureau, court, commission, board, authority, or agency, relating to data security, data protection and/or privacy. Data Laws also include ISO 27001 and ISO 27002, the most current Payment Card Industry Data Security Standard (the "PCI DSS", and other industry standard practices) and any financial standards or business requirements applicable to the Authority's business or the Authority Data and/or the Authority Electronic Property.

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

(e) "Personal Identifying Information" means any data that identifies or could be used to identify a natural person, including name, mailing address, phone number, fax number, email address, Social Security number, credit card or other payment data, date of birth, driver's license number, account number or user ID, PIN, or password.

(f) "Process" or "Processing" means, with respect to Authority Data, to collect, access, use, process, modify, copy, analyze, disclose, transmit, transfer, sell, rent, store, or retain or destroy such data in any form. For the avoidance of doubt, "Process" includes the compilation or correlation of Authority Data with information from other sources and the application of algorithmic analysis to create new or derivative data sets from Authority Data.

(g) "Remediation Efforts" means, with respect to any Security Incident, activities designed to remedy a Security Incident which may be required by a Data Law or by the Authority's or the Contractor's policies or procedures, or which may otherwise be necessary, reasonable or appropriate under the circumstances, commensurate with the nature of such Security Incident. Remediation Efforts may include:

- (i) development and delivery of legal notices to affected individuals or other third parties;
- (ii) establishment and operation of toll-free telephone numbers for affected individuals to receive specific information and assistance;
- (iii) procurement of credit monitoring, credit or identity repair services and identity theft insurance from third parties that provide such services for affected individuals;
- (iv) provision of identity theft insurance for affected individuals;
- (v) cooperation with and response to regulatory, government and/or law enforcement inquiries and other similar actions;
- (vi) undertaking of investigations (internal or in cooperation with a governmental body) of such Security Incident, including forensics;
- (vii) public relations and other crisis management services; and
- (viii) cooperation with and response to litigation with respect to such Security Incident (including, but not limited to, class action suits or similar proceedings); and in each case of examples (i) through (viii), payment of legal costs, disbursements, fines, settlements and damages.

(h) "Security Incident" means:

- (i) the loss or misuse of Authority Data and/or the Authority Electronic Property;
- (ii) the inadvertent, unauthorized, or unlawful processing, alteration, corruption, sale, rental, or destruction of the Authority Data and/or the Authority Electronic Property;
- (iii) unauthorized access to internal resources;
- (iv) programmatic manipulation of a system or network to attack a third party;
- (v) elevation of system privileges without authorization;
- (vi) unauthorized use of system resources;
- (vii) denial of service to a system or network; or
- (viii) any potential or confirmed exposure (which may stem from an act or omission to act) that would result in any of the events described in (i) through (viii).

(i) "Security Policies" means statements of direction for Security Requirements and mandating compliance with applicable Data Laws. Typically, Security Policies are high level instructions to management on how an organization is to be run with respect to Security Requirements.

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

(j) “Security Procedures” means statements of the step-by-step actions taken to achieve and maintain compliance with Security Requirements.

(k) “Security Requirements” means the security requirements set forth below in Section 7 of this Addendum and any security requirements requested by the Authority from time to time.

(l) “Security Technical Controls” means any specific hardware, software or administrative mechanisms necessary to implement, maintain, comply with and enforce the Security Requirements. Security Technical Controls specify technologies, methodologies, implementation procedures, and other detailed factors or other processes to be used to implement and maintain Security Policies and Procedures relevant to specific groups, individuals, or technologies.

2. FISMA COMPLIANCE

Both parties will comply with all federal and state regulations, statutes, and laws that govern this Agreement which includes, without limitation, the Federal Information Security Management Act, 2006 (FISMA) to the extent applicable to the Authority’s business or the products and services provided by the Contractor. The Contractor accepts ultimate responsibility and liability for the protection and preservation of all Authority Data and the Authority Electronic Property through a security operational plan (the “Security Plan”). The Contractor will make available a current copy of the Security Plan for review upon the Authority’s request. FISMA requires organizations to meet minimum security requirements by selecting the appropriate security controls as described by NIST Special Publication (SP) 800-53 revision 4, “*Security and Privacy Controls for Federal Information Systems and Organizations*.” Note that organizations must always reference the most current version of NIST SP 800-53 for the security control selection process. The Contractor should meet the minimum-security requirements detailed in FIPS Publication 200.

3. AUTHORITY DATA

As between the Contractor and the Authority (*i.e.*, without addressing rights of third parties), the Authority is the sole owner of all rights, title and interest in and to Authority Data and the Authority Electronic Property. Except as expressly authorized in the Agreement, the Contractor may not use, edit, modify, create derivatives, combinations, or compilations of, combine, associate, synthesize, re-identify, reverse engineer, reproduce, display, distribute, disclose, sell or Process any Authority Data or Authority Electronic Property. The Contractor will not use Authority Data or Authority Electronic Property in a manner that is harmful to the Authority.

4. PERSONAL IDENTIFYING INFORMATION

The Contractor will comply with any Data Laws relating to the use, safeguarding, or Processing of any Personal Identifying Information, including any requirement to give notice to or obtain consent of the individual. In Processing any Personal Identifying Information, the Contractor will at all times comply with any posted privacy policy or other representations made to the person to whom the information is identifiable, and to communicate any limitations required thereby to any authorized receiving party (including any modifications thereto) in compliance with all Data Laws. The Contractor will ensure that any such receiving party abides by any such limitations, in addition to the requirements of the Agreement. Notwithstanding the foregoing, the Contractor represents and warrants that Personal Identifying Information will not be Processed, transmitted, or stored outside of the United States. The Contractor shall take reasonable steps to maintain the confidentiality of and will not reveal or divulge to any person or entity any Personal Identifying Information that becomes known to it during the term of this Contract. The Contractor must maintain policies and programs that prohibit unauthorized disclosure of Personal Identifying Information by its employees and subcontractors and promote training and awareness of information security policies and practices. The Contractor must comply, and must cause its employees, representatives, agents, and subcontractors to comply, with such commercially and operationally reasonable directions as the Authority may make to promote the safeguarding or confidentiality of Personal Identifying Information. The Contractor must conduct background checks for employees or sub-Contractors that have access to Personal Identifying Information or systems Processing Personal Identifying Information. The Contractor must limit access to computers and networks that host Personal Identifying Information, including without limitation through user credentials and strong passwords, data encryption both during transmission and at rest, firewall rules, and network-based intrusion detection systems.

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

In addition to the foregoing, to the extent that any Personal Identifying Information qualifies as Protected Health Information that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA," found at Public Law 104-191), and certain privacy and security regulations promulgated by the U.S. Department of Health and Human Services to implement certain provisions of HIPAA and the Health Information Technology for Economic and Clinical Health Act (the "HITECH Act"), and its implementing regulations found in the Omnibus Final Rule (collectively the "HIPAA Regulations") found at 45 C.F.R. Parts 160, 162 and 164, the Contractor will execute and abide by the rights and obligations set forth in the Business Associate Agreement of the Authority.

5. NO IMPLIED RIGHTS

No right, license, permission, or ownership or other interest of any kind in or to any Authority Data or other intellectual property rights owned or licensed by the Authority is or is intended to be given or transferred to or acquired by the Contractor except as expressly stated in writing in the Agreement.

6. PROHIBITED INTERNET PRACTICES

The Contractor will not, and will not authorize or encourage any third party to, directly or indirectly:

- (a) use any automated, deceptive or fraudulent means to generate impressions, click-throughs, or any other actions in relation to advertisements or Internet promotions on Authority Electronic Property or in relation to advertisements or Internet promotions of the Authority (or its products or services) on third party websites; or
- (b) collect or Process data from an Authority Electronic Property other than as has been expressly authorized by the Authority in the Agreement or another written agreement with the Authority. Except as expressly allowed in the Agreement, the Contractor will not "screen-scrape" Authority Electronic Property or conduct any automated extraction of data from Authority Electronic Property or tracking of activity on Authority Electronic Property.

7. SECURITY REQUIREMENTS

The Contractor will apply reasonable physical, technical and administrative safeguards for Authority Data that is in the Contractor's possession or control in order to protect the same from unauthorized Processing, destruction, modification, or use that would violate the Agreement or any Data Law. The Contractor represents and warrants that the Security Policies, Security Procedures and Security Technical Controls as they pertain to the services being rendered to the Authority by the Contractor or its subcontractors and any Processing of Authority Data by the Contractor or its subcontractors will at all times be in material compliance with all Data Laws. In addition, the Contractor will require any of its employees, agents or contractors with access to Authority Data to adhere to any applicable Data Laws, and the Contractor represents and warrants that such employees, agents and contractors have not been involved in any violation of applicable Data Laws in the twenty-four months before the Effective Date. The Contractor will take into account the sensitivity of any Authority Data in the Contractor's possession in determining reasonable controls used to safeguard such Authority Data.

8. DATA SEGREGATION AND ACCESS

The Contractor will physically or logically segregate stored Authority Data from other data and will ensure that access to Authority Data is restricted to only authorized personnel through security measures. The Contractor will establish and maintain appropriate internal policies, procedures and systems that are reasonably designed to prevent the inappropriate use or disclosure of Authority Data.

9. PCI COMPLIANCE

If the Contractor Processes payment card data, cardholder data, or sensitive authentication data on behalf of the Authority or if the Contractor otherwise can impact the security of said data belonging to the Authority, the Contractor is responsible for the security of said data. The Contractor represents and warrants that it has performed an assessment to confirm that the material aspects of the Contractor's Security Policies, Security Procedures and Security Technical Controls (as they pertain to the services being rendered to the Authority by the Contractor or its subcontractors and any Processing of Authority Data by the Contractor or

its subcontractors) comply with the PCI DSS and the Contractor will repeat this assessment each year during the Term. The Contractor will provide certification of compliance with this requirement upon request from the Authority.

10. SECURITY REVIEWS AND AUDITS

The Contractor will, upon request, provide the Authority with reports of any audits performed on the Contractor's Security Policies, Security Procedures or Security Technical Controls. At a minimum, such reports will include any certifications of the Contractor's agents and contractors. Additionally, the Contractor will respond within a reasonable time period to any inquiries from the Authority relating to the Contractor's and its agents' and contractors' Security Policies, Security Procedures and Security Technical Controls. The Contractor will, upon the Authority's request, provide the Authority or its representatives access to the Contractor's and its agents' and contractors' systems, records, processes and practices that involve Processing of Authority Data so that an audit may be conducted. the Authority will not exercise such audit right more frequently than once per twelve (12) month period and the Authority will bear the full cost and expense of any such audit, unless such audit discloses a Security Incident or a breach of this Addendum or the Agreement, in which case the Contractor will bear the full cost and expense of such audit and a further audit may be conducted by the Authority or its representatives within the current twelve (12) month period.

11. SECURITY INCIDENTS

The Contractor will timely and promptly notify the Authority upon discovering or otherwise learning of a Security Incident involving the Authority Data or the Authority Electronic Property, to the extent within the Contractor's access, possession or control. Following any Security Incident, the Contractor will consult in good faith with the Authority regarding Remediation Efforts that may be necessary and reasonable. The Contractor will:

- (a) at the Authority's direction undertake Remediation Efforts at the Contractor's sole expense and reimburse the Authority for its reasonable costs and expenses in connection with any Remediation Efforts it elects to undertake,
- (b) ensure that such Remediation Efforts provide for, without limitation, prevention of the recurrence of the same type of Security Incident, and
- (c) reasonably cooperate with any Remediation Efforts undertaken by the Authority.
- (d) Without limiting the foregoing, the Contractor will:
 - (i) immediately undertake investigations (internal or in cooperation with a governmental body) of such Security Incident, including forensics,
 - (ii) timely share with the Authority any Security Incident-related information, reports, forensic evidence and due diligence obtained from the investigation into the Security Incident and cooperate with the Authority in response to regulatory, government and/or law enforcement inquiries and other similar actions, (iii) cooperate with the Authority with respect to any public relations and other crisis management services, and litigation with respect to such Security Incident (including, but not limited to, class action suits or similar proceedings); and in each instance of Security Incident, be liable and responsible for payment of legal costs, disbursements, fines, settlements and damages. To the extent that the Authority is bound to comply with any interlocal agreements pertaining to shared information (including the Authority Data), the Contractor agrees that it will comply with, and cooperate with the Authority in its compliance, with all rights and obligations pertaining to the Authority Data and/or the Authority Electronic Property under such interlocal agreements.

12. NOTICE TO THE AUTHORITY CUSTOMERS AND EMPLOYEES

Any notifications to any of the Authority's customers or employees regarding Security Incidents will be handled exclusively by the Authority and the Contractor may not under any circumstances contact the Authority's customers or employees relating to such Security Incident unless the Contractor is under a legal obligation to do so, in which event:

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

- (a) the Contractor must notify the Authority in writing promptly after concluding that the Contractor has the legal obligation to notify such customers or employees and explain in such notice to the Authority the basis for the legal obligation and
- (b) the Contractor will limit the notices to any of the Authority's customers and employees to those required by the legal obligation or as pre-approved by the Authority.
- (c) The Contractor will reasonably cooperate in connection with notices to the Authority's customers and employees regarding a Security Incident and the Contractor will assist with sending such notices if so requested by the Authority.

13. EQUITABLE RELIEF

The Contractor acknowledges that the Authority may have no adequate remedy at law if there is a breach or threatened breach of any of the obligations set forth in this Addendum and, accordingly, that the Authority may, in addition to any legal or other remedies available to the Authority, seek injunctive or other equitable relief to prevent or remedy such breach without requirement of a bond or notice. The Contractor will not object or defend against such action on the basis that monetary damages would provide an adequate remedy.

EXHIBIT I – AUTHORIZATION OF WORK PRODUCT

DESCRIPTION: Demand Response Pickup & MetroAccess Services
CONTRACT NO.: To be determined following contract award

Authority's Contracting Officer (CO)

- A. The CO for administration of this Contract is Terry Dudley.
B. Phone: 512-369-6225
C. Email: terry.dudley@capmetro.org

The Contracting Officer is responsible for the general administration of the Contract, negotiation of any changes, and issuance of written modifications, task order revisions, or Change Orders (as it pertains to Construction Contracts Only and results in a Contract modification – see below) to the Contract. If the parties desire to modify the Contract, or revise the Task Order of the Contract, in any way, only the Contracting Officer is authorized to issue a written modification for authorized signatures.

Authority's Project Manager (PM)

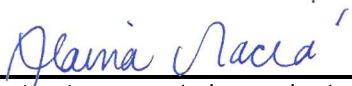
- A. The PM for this Contract is Chris Mojica
B. Phone: 760-696-5637
C. Email: chris.mojica@capmetro.org

The Authority's PM for this Contract is responsible for the overall management and coordination of this Contract and will act as the central point of contact for the Authority. The PM has full authority to act for the Authority in the performance of any project connected to the Contract. However, the PM cannot authorize, in writing or orally, to commence any work. The PM shall meet with Contractor's PM to discuss problems as they occur. Any changes, including changes pursuant to the Changes clause in the Contract, will be handled solely by the CO. As needed, the Authority's PM may assist with development of Change Orders and Contract modifications with the Authority's CO.

Field Change Orders (Construction Contracts Only) – The Authority's PM is permitted to authorize work when an event occurs in the field during construction which requires immediate action. Immediately, but no later than three (3) business days following such action, the Authority's PM must provide a signed Change Order to the CO along with any other required procurement documentation in order to memorialize the Change Order in a task order revision or Contract modification.

The Contractor understands that should Contractor perform any work prior to written authorization by the Authority's CO, Contractor is not allowed to invoice for any additional cost or fee for services or goods under the Contract, nor is the Authority liable for any payment for any unauthorized work.

SIGNED and DATED



Contractor – *must sign and return with Offer*

6/10/24

Date

E-SIGNED by Christopher Mojica
on 2024-08-06 07:23:36 AKDT

Authority's Project Manager (PM)

Date

E-SIGNED by Terry Dudley
on 2024-08-06 06:41:32 AKDT

Authority's Contracting Officer (CO)

Date