



CONTRACT NO. 500314
(RFP 813406)
INSURANCE MANAGEMENT SERVICES

CONTRACTOR:

ARTHUR J GALLAGHER RISK MANAGEMENT SERVICES, LLC
5847 SAN FELIPE, SUITE 1600
HOUSTON, 77057
Phone: (713) 775-8032

AWARD DATE: **March 6, 2026**

CONTRACT TERM: **Three (3) years from April 1, 2026**
(April 1, 2026 THRU March 31, 2029)

PRICE: **\$312,000.00**

SBE GOAL: **3.98%**

PROJECT MANAGER: **Fay Milligan**
Telephone # 512-389-7538
Email Address fay.milligan@capmetro.org

CONTRACT ADMINISTRATOR: **Deborah Knutson**
Telephone # 512-369-6512
Email Address deborah.knutson@capmetro.org

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



**CONTRACT 500314
(RFP 813406)
INSURANCE MANAGEMENT SERVICES**

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TAB 1

Award/Contract form

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY
AUSTIN, TEXAS

AWARD/CONTRACT

1. SOLICITATION NO:		2. CONTRACT NO.:		3. EFFECTIVE DATE:	
813406		500314		Upon Execution	
4. BUYER					
NAME: Deborah Knutson			PHONE: (512) 369-6512		
5. SHIP TO ADDRESS:			6. DELIVERY TERMS:		
Capital Metro 2910 East 5 th Street Austin, Texas 78702			FOB Destination		
			7. DISCOUNTS FOR PROMPT PAYMENT: None		
8. CONTRACTOR NAME & ADDRESS:			9. REMITTANCE ADDRESS: (If different from Item 8)		
Arthur J. Gallagher Risk Management Services 5847 San Felipe, Suite 1600 Houston, TX 77057					
PHONE: (713) 775-8032					
FAX: N/A					
10. SBE GOAL: 3.98%					
CONTRACT EXECUTION					
CAUTION: A false statement in any bid or proposal submitted to CapMetro may be a criminal offense in violation of Section 37.10 of the Texas Penal Code.					
☒	NEGOTIATED AGREEMENT: (Contractor is required to sign below and return an original document to the Contracting Officer within five (5) calendar days of receipt.)				
Contractor agrees to furnish and deliver all items or perform all the services set forth or otherwise identified below and on any continuation sheets for the consideration stated herein. 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.					
SIGNATURE OF CONTRACTOR:					
Name/Title: <u>Thomas A Evans, V.P.</u> Signature: <u>[Signature]</u> Date: <u>2-27-26</u>					
☒	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 shall have the same force and effect as an original document.					
ALTERATIONS IN CONTRACT:					
Refer to <u>Exhibit E, Contractual Terms and Conditions</u> . Exhibit E, Contractual Terms and Conditions has been replaced in its entirety with <u>Exhibit E – Revised-1, Contractual Terms and Conditions</u> , attached hereto and made a part hereof for all pertinent purposes.					
ACCEPTED AS TO: Exhibit A, Pricing Schedule, dated January 29, 2026, Section 7.A, Items 1 through 3, Section 7.B, Items 1 through 3, and Section 7.C, Items 1 through 3 for a total Not-to-Exceed Contract amount of \$312,000.00.					
SIGNATURE OF CONTRACTING OFFICER:					
Typed Name: Anita Deibert, C.P.S.M., Contracting Officer		E-SIGNED by Anita Deibert Signature: <u>on 2026-03-25 15:46:33 CDT</u> Date: <u>March 25, 2026</u>			

TAB 2

Exhibit A,

Pricing Schedule

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

EXHIBIT A PRICING SCHEDULE RFP 813406

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)	Arthur J Gallagher Risk Management Services		
Address	5847 San Felipe, Suite 1600		
City, State, Zip	Houston, TX, 77057		
Phone, Fax, Email	713-775-8032		Thomas_Evans@ajg.com
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)	Thomas Evans		
Signature and Date			1-28-26

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 GOAL (TO BE COMPLETED UPON AWARD BY CAPITAL METRO)

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

3.98%	%
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5. CAPMETRO'S ACCEPTANCE (TO BE COMPLETED UPON AWARD BY CAPITAL METRO)

CapMetro hereby accepts this offer.

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

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

6. DOCUMENTS ENCLOSED WITH THE PROPOSAL

Proposals shall be submitted electronically via CapMetro's PB System™ by PlanetBids ("PlanetBids"). See Exhibit C, Solicitation Instructions and Conditions, Section 4, PROPOSAL PREPARATION and Section 8. SUBMISSION OF PROPOSALS, for instructions on registering with, and submitting proposals on, PlanetBids.

Mark X each box below, to indicate that the submittals have been included in the offer. See Exhibit C, Solicitation Instructions and Conditions, Section 4, PROPOSAL PREPARATION for a description of the required proposal format.

- ☒ Exhibit A – Pricing Schedule
- ☒ Exhibit B – Representations and Certifications
- ☒ Exhibit C-1 - Exceptions and Assumptions Form (if applicable)
- ☒ Exhibit D – Schedule C of Subcontractor Participation & Intent to Perform
- ☒ Firm Financial Data, as described in Exhibit C, Contents of Proposal

Note: Failure to submit the required submittals along with the offer may result in rejection of the offer.

Remainder of page left blank intentionally

Signature of Authorized Agent:



Date:

1-28-26

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7. PRICING

Price is firm-fixed and should be fully burdened to include all necessary elements such as but not limited to labor, materials, travel, overhead and fee/profit needed to perform all of the services described under this solicitation. CapMetro reserves the right to reject offers that are materially unbalanced.

NOTE: Claims Auditing Services and Actuarial Work will be requested on an as needed basis and paid for upon completion of the service during the term of the contract.

NO SALES TAXES. THE OFFEROR MUST NOT INCLUDE ANY SALES TAX IN THE PROPOSED PRICING BECAUSE CAPMETRO IS EXEMPT FROM TAXES.

7.A. BASE PERIOD ONE (1) - ONE (1) YEAR FROM NOTICE TO PROCEED (CONTRACT YEAR ONE (1))

ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	ESTIMATED EXTENDED PRICE (A x B)
1	Insurance Management Services, Policy Placement, Projections and other services per Exhibit F, Scope of Services.	Month	12	\$8,000.00	\$ 96,000.00
2	Claims Auditing Services	Year	1	\$4,000.00	\$ 4,000.00
3	Actuarial Work	Year	1	\$4,000.00	\$ 4,000.00
4	TOTAL 7.A. (ITEMS 1 - 3 INCLUSIVE) Not-to-Exceed:				\$ 104,000.00

7.B. BASE PERIOD TWO (2) - (CONTRACT YEAR TWO (2))

ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	ESTIMATED EXTENDED PRICE (A x B)
1	Insurance Management Services, Policy Placement, Projections and other services per Exhibit F, Scope of Services.	Month	12	\$8,000.00	\$ 96,000.00
2	Claims Auditing Services	Year	1	\$4,000.00	\$ 4,000.00
3	Actuarial Work	Year	1	\$4,000.00	\$ 4,000.00
4	TOTAL 7.B. (ITEMS 1 - 3 INCLUSIVE) Not-to-Exceed:				\$ 104,000.00

Signature of Authorized Agent: _____

Date: 1-29-26

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7.C. BASE PERIOD THREE (3) - (CONTRACT YEAR THREE (3))

ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	ESTIMATED EXTENDED PRICE (A x B)
1	Insurance Management Services, Policy Placement, Projections and other services per Exhibit F, Scope of Services.	Month	12	\$8,000.00	\$ 96,000.00
2	Claims Auditing Services	Year	1	\$4,000.00	\$ 4,000.00
3	Actuarial Work	Year	1	\$4,000.00	\$ 4,000.00
4	TOTAL 7.C. (ITEMS 1 - 3 INCLUSIVE) Not-to-Exceed:				\$ 104,000.00

7.D. OPTION PERIOD ONE (1) - (CONTRACT YEAR FOUR (4))

ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	ESTIMATED EXTENDED PRICE (A x B)
1	Insurance Management Services, Policy Placement, Projections and other services per Exhibit F, Scope of Services.	Month	12	\$8,000.00	\$ 96,000.00
2	Claims Auditing Services	Year	1	\$4,000.00	\$ 4,000.00
3	Actuarial Work	Year	1	\$4,000.00	\$ 4,000.00
4	TOTAL 7.D. (ITEMS 1 - 3 INCLUSIVE) Not-to-Exceed:				\$ 104,000.00

7.E. OPTION PERIOD TWO (2) - (CONTRACT YEAR FIVE (5))

ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	ESTIMATED EXTENDED PRICE (A x B)
1	Insurance Management Services, Policy Placement, Projections and other services per Exhibit F, Scope of Services.	Month	12	\$8,000.00	\$ 96,000.00
2	Claims Auditing Services	Year	1	\$4,000.00	\$ 4,000.00
3	Actuarial Work	Year	1	\$4,000.00	\$ 4,000.00
4	TOTAL 7.E. (ITEMS 1 - 3 INCLUSIVE) Not-to-Exceed:				\$ 104,000.00

Signature of Authorized Agent: _____

Date: 1-25-26

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Exhibit A

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7.F. OPTION PERIOD THREE (3) - (CONTRACT YEAR SIX (6))

ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	ESTIMATED EXTENDED PRICE (A x B)
1	Insurance Management Services, Policy Placement, Projections and other services per Exhibit F, Scope of Services.	Month	12	\$7,000.00	\$ 84,000.00
2	Claims Auditing Services	Year	1	\$4,000.00	\$ 4,000.00
3	Actuarial Work	Year	1	\$4,000.00	\$ 4,000.00
4	TOTAL 7.F. (ITEMS 1 - 3 INCLUSIVE) Not-to-Exceed:				\$ 92,000.00

7.G. OPTION PERIOD FOUR (4) - (CONTRACT YEAR SEVEN (7))

ITEM	DESCRIPTION	UNIT OF MEASURE	ESTIMATED QUANTITY (A)	UNIT PRICE (B)	ESTIMATED EXTENDED PRICE (A x B)
1	Insurance Management Services, Policy Placement, Projections and other services per Exhibit F, Scope of Services.	Month	12	\$7,000.00	\$ 84,000.00
2	Claims Auditing Services	Year	1	\$4,000.00	\$ 4,000.00
3	Actuarial Work	Year	1	\$4,000.00	\$ 4,000.00
4	TOTAL 7.G. (ITEMS 1 - 3 INCLUSIVE) Not-to-Exceed:				\$ 92,000.00

8. GRAND TOTALS

ITEM	DESCRIPTION	ESTIMATED EXTENDED PRICE
1	Base Period One (1), Total 7.A.	\$ 104,000.00
2	Base Period Two (2), Total 7.B.	\$ 104,000.00
3	Base Period Three (3), Total 7.C.	\$ 104,000.00
4	Option Period One (1), Total 7.D.	\$ 104,000.00
5	Option Period Two (2), Total 7.E.	\$ 104,000.00
6	Option Period Three (3), Total 7.F.	\$ 92,000.00
7	Option Period Four (4), Total 7.G.	\$ 92,000.00
8	GRAND TOTAL (BASE AND OPTION PERIODS) ITEMS 7.A., 7.B., 7.C., 7.D., 7.E., 7.F., & 7.G. INCLUSIVE (Not-to-Exceed):	\$ 704,000.00

Signature of Authorized Agent: _____

Date: 1-28-26

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Exhibit A

TAB 3

Exhibit B,

**Representations and
Certifications**

EXHIBIT B

REPRESENTATIONS AND CERTIFICATIONS

(LOCALLY FUNDED SUPPLY/SERVICE/CONSTRUCTION CONTRACTS)

MUST BE RETURNED WITH THE OFFER

1. TYPE OF BUSINESS

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

- ☐ An individual
☐ A partnership
☐ A sole proprietor
☒ A corporation
☐ Another entity _____

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

IL.

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 dominant 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:

36-2102482

(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. CERTIFICATION OF PROPOSED PRICING

The Offeror certifies that the pricing offered in Exhibit A - Pricing Schedule, as amended, is exclusive of any sales tax.

5. DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

(a) The Offeror certifies to the best of the Offeror's knowledge and belief, that it and its principals:

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

(2) have not within a three (3) year period preceding this offer been convicted of or had a civil judgment rendered against them for the commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

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(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 this offer.

(c) For any subcontract at any tier expected to equal or exceed \$25,000:

(1) In accordance with the provisions of 2 C.F.R. part 180, the prospective lower tier subcontractor certifies, by submission of this offer, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to the statement, above, 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 CapMetro upon request.

6. COMMUNICATIONS

(a) All oral and written communications with CapMetro 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 CapMetro's procurement system. If competition cannot be resolved through normal communication channels, CapMetro'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 CapMetro employee or other representative of CapMetro's (including Board Members, CapMetro contractors or consultants), except as described below:

Individual's Name	Date/Subject of Communication

(Attach continuation form, if necessary.)

7. 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):

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- ☐ 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.

8. CODE OF ETHICS- CAPMETRO POLICY

(a) Statement of Purpose

The brand and reputation of CapMetro is determined in large part by the actions or ethics of representatives of the agency. CapMetro is committed to a strong ethical culture and to ethical behavior by all individuals serving CapMetro as employees, members of the Board of Directors or volunteers. Individuals serving CapMetro 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 CapMetro's Standards of Ethical Conduct and policies for Ethical Business Transactions. Compliance with the Code will help protect CapMetro's reputation for honesty and integrity. The Code attempts to provide clear principles for CapMetro's expectations for behavior in conducting CapMetro business. We have a duty to read, understand and comply with the letter and spirit of the Code and CapMetro policies. You are encouraged to inquire if any aspect of the Code needs clarification.

(b) Applicability

The Code applies to CapMetro 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 CapMetro'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 CapMetro 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 CapMetro business effectively and efficiently and act in good faith to protect CapMetro's assets from waste, abuse, theft or damage.
- (8) Be good stewards of CapMetro'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 CapMetro 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 CapMetro and disclose any potential conflicts.

(12) Encourage ethical behavior and report all known unethical or wrongful conduct to the CapMetro 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 CapMetro management to model appropriate conduct at all times and promote an ethical culture. Seek guidance if you are uncertain what to do.

It is CapMetro'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, CapMetro provides the following resources:

(1) Anonymous Fraud Hotline – Internal Audit

(2) Anonymous Online Ethics Reporting System

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

(4) Safety Hotline

The CapMetro 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.

CapMetro 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.

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(2) No Board Member or employee shall:

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

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

(iii) Use his or her official position or employment, or CapMetro'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 CapMetro policies.

(v) Use CapMetro'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 CapMetro for a period of one (1) year after leaving employment on any contract with CapMetro.

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

Section 2. Employment and Representation

A Board Member or employee must disclose to his or her supervisor, appropriate CapMetro 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 CapMetro 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 CapMetro 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 CapMetro Contract or transaction if the

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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 CapMetro 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 CapMetro, 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 CapMetro 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 CapMetro's business or while attending a seminar or conference in connection with CapMetro 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 CapMetro 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 CapMetro policies and may damage the reputation of CapMetro in the community and the industry.

Section 5. Confidential Information

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

No Board Member or employee shall:

(1) Disclose, use or allow others to use nonpublic or confidential information that CapMetro 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 CapMetro 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

CapMetro'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 CapMetro'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 CapMetro 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 CapMetro 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, Tex. Govt. Code § 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 CapMetro, 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 CapMetro or seeking to do business with CapMetro 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 CapMetro 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 CapMetro 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 CapMetro 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 CapMetro 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 CapMetro contracts terminated and may be excluded from future business with CapMetro 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, CapMetro 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.

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(2) Within sixty (60) days of the effective date for the adoption of this Code each Board Member and employee of CapMetro will receive a copy of the Code and sign a statement acknowledging that they have read, understand and will comply with CapMetro'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. SMALL BUSINESS ENTERPRISE (SBE) 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, SBE and non-SBE) and an executed Intent to Perform as a SBE Subcontractor form for each SBE 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 "Small Business Enterprise Program" and will meet the goal as established in any ensuing contract.

9. TEXAS ETHICS COMMISSION CERTIFICATION

In accordance with Section 2252.908, Texas Government Code, upon request of CapMetro, 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 CapMetro with the original signed and notarized document prior to the time CapMetro 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.

10. TEXAS LABOR CODE CERTIFICATION (CONSTRUCTION ONLY)

Contractor certifies that Contractor will provide workers' compensation insurance coverage on every employee of the Contractor employed on the Project. Contractor shall require that each Subcontractor employed on the Project provide workers' compensation insurance coverage on every employee of the Subcontractor employed on the Project and certify coverage to Contractor as required by Section 406.96 of the Texas Labor Code and submit the Subcontractor's certificate to CapMetro prior to the time the Subcontractor performs any work on the Project.

11. 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.

12. 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.

13. 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.

14. BOYCOTT OF ENERGY COMPANIES PROHIBITED

Pursuant to Chapter 2276 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 2276.002 of the Texas Government Code, or

(b) the verification required by Section 2276.002 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 CapMetro.

15. CRITICAL INFRASTRUCTURE PROHIBITION

Pursuant to Chapter 2275 of Texas Government Code, Contractor certifies that, if this Contract or any contract between Contractor and CapMetro relates to critical infrastructure, as defined in Chapter 2275 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.

16. CERTIFICATION OF PRIME CONTRACTOR PARTICIPATION

(a) The Prime Contractor certifies that it shall perform no less than thirty percent (30%) of the work with his 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, articles, and the arrangement and titles of the project drawings shall not control the Prime Contractor in dividing the work among subcontractors or in establishing the extent of the work to be performed by any trade.

17. 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 (C.F.R.) 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 CapMetro in the performance of any contract, subcontract 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.

(c) *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—

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(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.

18. 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 CapMetro may have, CapMetro may terminate the contract for default and/or recommend that the Offeror be debarred or suspended from doing business with CapMetro in the future.

(b) The Offeror shall provide immediate written notice to CapMetro 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) A false statement in any offer submitted to CapMetro may be a criminal offense in violation of Section 37.10 of the Texas Penal Code.

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

Name of Offeror:

Arthur J Gallagher

Type/Print Name of Signatory:

Thomas Evans

Signature:

Thomas Evans

Date:

1-28-26

TAB 4

Exhibit D, Small Business
Enterprise (SBE) Program,
Schedule C and Intent to
Perform

EXHIBIT D
SMALL BUSINESS ENTERPRISE (SBE) PROGRAM
FOR LOCALLY FUNDED SOLICITATIONS

1. PROGRAM BACKGROUND

CapMetro's Small Business Enterprise (SBE) Program, in accordance with Texas Transportation Code, Title 6, Subtitle K, Chapter 451, Subchapter A, Subchapter F, Section 451.251 – 451.253 is designed to enhance SBE participation in locally funded procurements. The SBE Program seeks to provide full and fair opportunities for equal participation by all small businesses to compete for CapMetro prime contracts and associated subcontracts. The SBE Program provides specific thresholds to create opportunities, promote competitiveness, and assist SBEs in overcoming potential barriers to participating in CapMetro's contracting opportunities. CapMetro has established, in connection with this contract, an SBE goal as specified in the solicitation for the utilization of firms certified as SBEs. The SBE goal remains in effect for the duration of the contract/life of the project. If the SBE goal is zero, the contractor should make an effort to identify and use SBEs.

2. DEFINITION

(a) CapMetro defines small business as any business whose annual gross income averaged over the past three (3) years does not exceed the Small Business Administration's (SBA) size standards as set forth in 13 C.F.R., Part 121. A size standard is the largest that a firm can be and still qualify as a small business.

(b) Any Small Business that is certified as a Small Business Enterprise (SBE), which includes Minority Business Enterprise (MBE), Women Business Enterprise (WBE), or Historically Underutilized Business (HUB) meeting the SBA size requirement will be accepted as meeting the CapMetro SBE requirements.

3. SUBMISSION OF SBE FORMS

(a) Offerors shall submit with their offer a completed Schedule C of Subcontractor Participation form (listing all proposed subcontractors,) and an executed Intent to Perform as a SBE Subcontractor form for each SBE subcontractor listed on the Schedule C. As required in Section 5 of this Exhibit, complete Good Faith Effort (GFE) documentation (if necessary) must be submitted at this same time. The listing of a SBE by an Offeror shall constitute a representation by the Offeror to CapMetro that it believes such SBE firm to be technically and financially qualified and available to perform the work. It shall also represent a commitment by the Offeror that if it is awarded the Contract it will enter into a subcontract with such SBE for the work described and at the price set forth in both the Schedule C of Subcontractor Participation and the Intent to Perform as a SBE Subcontractor forms. If the price changes after the forms have been submitted but prior to award of the contract, the Offeror will immediately notify CapMetro's Procurement Department of the changed amount and the reason(s) for the change. No substitutions of SBE firms may be effected without CapMetro's prior written approval. If an offeror is a SBE and wishes to count its participation on the project towards the goal, it is required to perform that portion with its own work force.

4. CREDIT TOWARDS GOALS

(a) No credit toward meeting SBE goals will be allowed unless the SBE is determined to be eligible by CapMetro's Small Business Programs & Compliance (SBPC) Department. Offerors are strongly encouraged to contact CapMetro's SBPC Department well in advance of the date set for receipt of offers in order to enable review of the proposed SBEs eligibility to participate in CapMetro's SBE Program. The dollar value of work performed under a contract with a firm after it has graduated from the SBE program cannot count toward a contract goal. Participation of a SBE subcontractor cannot count toward the prime contractor's SBE achievements until the amount being counted has been paid to the SBE.

(b) Only expenditures to SBEs that perform a Commercially Useful Function (CUF) may be counted towards goals. A SBE performs a CUF when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the SBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. If a SBE does

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not perform or exercise responsibility for at least thirty (30%) percent of the total cost of its contract with its own work force, or the SBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it is not performing a CUF.

(c) The Contractor may count only the value of the work actually performed by the SBE toward SBE goals. Count the entire amount of that portion of a construction contract that is performed by a SBE's own forces. Include the cost of supplies and materials obtained by the SBE for the work of the contract, including supplies purchased or equipment leased by the SBE (except supplies and equipment the SBE subcontractor purchases or leases from the prime contractor or its affiliate). Count the entire amount of fees or commissions charged by a SBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, toward SBE goals, provided the fee is reasonable and not excessive as compared with fees customarily allowed for similar services. When a SBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward SBE goals only if the SBE's subcontractor is itself an SBE. Work that a SBE subcontracts to a non-SBE firm does not count toward SBE goals.

(d) The Contractor may credit towards the SBE goal only sixty (60%) percent of the total dollar cost for material and supplies purchased from SBEs that are regular dealers and not manufacturers. A regular dealer is an established firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone, or asphalt without owning, operating, or maintaining a place of business if the person both owns and operates distribution equipment for the products. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers.

(e) A Contractor may count toward its SBE goals the following expenditures to SBE firms that are not manufacturers or regular dealers.

(1) The fees or commissions charged for bona fide services such as professional, technical, consultant, or managerial services and assistance in the procurement of essential personnel, facilities, equipment materials or supplies required for performance of the contract, provided that the fee is determined to be reasonable and not excessive as compared with fees customarily allowed for similar services.

(2) The fees charges for delivery of materials and supplies required on a job site (but not the cost of the materials and supplies themselves) when the hauler, trucker, or delivery service is not also the manufacturer of or a regular dealer in, the materials and supplies.

(3) The fees charged for providing any bonds or insurance specifically required for the performance of the contract.

(4) The fees charged for assistance in the procurement of the materials and supplies provided that the fees are reasonable and not excessive as compared with fees customarily allowed for similar services.

5. SBE GOAL AND SUBCONTRACTING OPPORTUNITIES

(a) The SBE goal for this solicitation is **2%**.

(b) Possible subcontracting opportunities include but are not limited to the following. An offeror can use SBEs certified in other codes to meet the contract goal, so long as the SBE will perform a CUF and it is certified to perform that North American Industry Classification System (NAICS) code scope of work:

<u>6-digit NAICS Code</u>	<u>Industry Description</u>
524292	Third Party Admin of Insurance Management Risk Consulting & Claims Audits
541211	Actuarial & Financial Auditing Support

6. DEMONSTRATION OF AND DOCUMENTATION OF GOOD FAITH EFFORTS (GFE)

(a) If the Contractor does not meet the SBE goal, it shall nevertheless be eligible for award of the Contract if it can demonstrate to the satisfaction of CapMetro that it has made GFE to meet the SBE goal. In evaluating a contractor's GFE submission, CapMetro will only consider those documented efforts that occurred prior to receipt of competitive sealed bids (IFB) or competitive sealed proposals (RFP).

(b) In the event that a firm submitted by the Contractor is not able to become SBE certified by the execution of the Contract, the contractor will be notified and given an opportunity to substitute that firm with another SBE. The Contractor will be given a deadline to accomplish the substitution. If the contractor is to substitute an SBE, it must submit documentation to the SBPC Department.

(c) To determine whether the Contractor has made GFE to meet the SBE goal, CapMetro shall consider, among other things it deems relevant, the criteria set forth below. The Contractor shall furnish specific documentation concerning the steps it has taken to obtain SBE participation. Please refer to *Appendix A to Part 26 – Guidance Concerning Good Faith Efforts*, as amended, for illustrations:

(1) Whether the Contractor conducted market research to identify small business contractors and suppliers and solicited through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified SBEs who have the capability to perform the work of the Contract. The Contractor must solicit this interest early in the acquisition process within sufficient time to allow the SBEs to respond to the solicitation. The contractor must determine with certainty if the SBEs are interested by taking appropriate steps to follow up on initial solicitations.

(2) Whether the Contractor selected portions of the work to be performed by SBEs in order to increase the likelihood that the SBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate SBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

(3) Whether the Contractor provided interested SBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

(4) Whether the Contractor negotiated in good faith with interested SBEs. It is the Contractor's responsibility to make a portion of the work available to SBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available SBE subcontractors and suppliers, so as to facilitate SBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of SBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for SBEs to perform the work.

(5) A contractor using good business judgment would consider a number of factors in negotiating with subcontractors, including SBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using SBEs is not in itself sufficient reason for a contractor's failure to meet the contract SBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the contractor of the responsibility to make GFE. A contractor is not, however, required to accept high quotes from SBEs if the price difference is excessive or unreasonable.

(6) Whether the Contractor rejected SBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The Contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the SBE goal.

(7) Whether the Contractor rejected the SBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the Contractor to accept unreasonable quotes in order to satisfy the contract goal.

(8) A contractor's inability to find a replacement SBE at the original price is not alone sufficient to support a finding that GFE have been made to replace the original SBE. The fact that the contractor has the ability and/or desire

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to perform the contract work with its own forces does not relieve the Contractor of the obligation to make GFEs to find a replacement SBE, and it is not a sound basis for rejecting a prospective replacement SBE's reasonable quote.

(9) Whether the Contractor made efforts to assist interested SBEs in obtaining bonding, lines of credit, or insurance as required by CapMetro or the contractor.

(10) Whether the Contractor made efforts to assist interested SBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

(11) Whether the Contractor effectively used the services of available minority/women community organizations, minority/women contractors' groups, local, state, and Federal minority/women business assistance offices, and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of SBEs.

(d) In determining whether a contractor has made GFEs, CapMetro will scrutinize its documented efforts. At a minimum, Authority will review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, CapMetro may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal but meets or exceeds the average SBE participation obtained by other bidders, CapMetro may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made GFE.

(e) In determining whether the Contractor has demonstrated good faith, CapMetro will look not only at the different kinds of efforts that the contractor has made, but also the quantity and intensity of those efforts. Efforts that are mere pro forma are not GFE to meet the goal (even if they are sincerely motivated) if, given all relevant circumstances, the Contractor's efforts could not reasonably be expected to produce a level of SBE participation sufficient to meet the goal.

(f) A promise to use SBEs after contract award is not considered to be responsive to the Contract solicitation or to constitute GFEs.

7. GOOD FAITH EFFORTS (GFE) RECONSIDERATION

(a) If the Contractor does not meet the SBE goal or make adequate GFE to do so, CapMetro will notify the Contractor in writing. The Contractor must request reconsideration within five (5) business days of the date of the notice of decision by filing a written request for reconsideration. As part of this request for reconsideration, the Contractor has the opportunity to provide written documentation or an argument concerning the issue of whether it met the goal or made adequate GFE to do so. The reconsideration will be made by the SBE Reconsideration Officer, an individual who did not take part in the original determination that the contractor failed to meet the goal or make adequate GFE to do so. The Contractor will have the opportunity to meet with the SBE Reconsideration Officer to discuss the issue of whether it met the goal or made adequate GFE to do so. The result of the reconsideration process is final. Requests for reconsideration will be submitted to:

Brad Bowman
SBE Reconsideration Officer
Capital Metropolitan Transportation Authority
2910 East 5th St.
Austin, TX 78702
Email: brad.bowman@capmetro.org

8. CERTIFICATION OF SBEs

(a) The City of Austin will serve as the certifying agency for the Austin region, which includes the counties of Bastrop, Caldwell, Hays, Travis and Williamson County. All prospective SBEs must submit appropriate forms, available through the City of Austin Certification Department, to prove actual ownership and control by SBEs. All such firms shall cooperate in supplying additional information as requested by the City of Austin DSMBR Certification Department, which will determine the certification of eligible SBEs. Blank forms may be obtained by contacting the City of Austin Certification Department, 4201 Ed Bluestein Blvd., (512) 974-7645, fax: (512) 974-7609. The firm may also contact CapMetro at (512) 389-7512 to obtain information.

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

(b) In the event CapMetro determines that a firm identified by the Offeror as a potential SBE does not qualify as a SBE, the Offeror shall be informed and will be provided with an opportunity to substitute firms meeting the certifying agency's SBE eligibility criteria for CapMetro's consideration. The SBE firm added as a substitution must have been communicated with prior to the bid submission deadline.

(c) CapMetro will accept Small Business Certification from any government agency that certifies Small Business Enterprises or an organization that has an MOA with a government agency to certify on their behalf.

(d) Information concerning SBEs currently certified can be obtained by contacting the SBPC Department at SBPC@capmetro.org. Offerors may search for SBE using the following directories:

(1) **City of Austin Certified Directory** (***ONLY select MBE and WBE when conducting a search***)
https://financeonline.austintexas.gov/afo/account_services/search/vendors/certvendor.cfm

(2) **Texas Comptroller CMBL/HUB Directory**
<https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>

(3) **TxDOT's TUCP Directory** (***ONLY select SBE Certification when conducting a search***)

(e) Offerors are reminded that only SBEs may participate in CapMetro contracts in such capacities. If an offeror proposes using a SBE from another state, the firm must produce a certification as evidence that it is SBE certified in the state in which the business is headquartered.

9. SUBCONTRACTOR'S OBLIGATION

(a) Each subcontract the Contractor signs with a subcontractor must include the following assurance:

(1) "The subcontractor 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 in the award and administration of the contract. Failure by the subcontractor to carry out these requirements is a material breach of this contract, which may result in the termination of this Contract or such other remedy as CapMetro deems appropriate."

10. PROMPT PAYMENT & RETURN OF RETAINAGE

(a) The Contractor must pay all subcontractors for satisfactory performance of their contracts no later than ten (10) days from receipt of each payment CapMetro makes to the contractor. In addition, each contract the Contractor signs with a subcontractor must include a clause to require the Contractor to pay the subcontractor for satisfactory performance under the contract no later than ten (10) days from receipt of each payment CapMetro makes to the prime contractor.

(b) CapMetro will ensure prompt and full payment of retainage from the contractor to the subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed. CapMetro will use one of the following methods to ensure compliance with this requirement:

(1) CapMetro may decline to hold retainage from the contractors and prohibit the contractor from holding retainage from subcontractors;

(2) CapMetro may decline to hold retainage from the contractor and require a contract clause obligating the contractor to make prompt and full payment of any retainage kept by the contractor to the subcontractor within ten (10) days after the subcontractor's work is satisfactorily completed; or

(3) CapMetro may hold retainage from the contractor and provide for prompt and regular incremental acceptance of portions of the prime contract, pay retainage to the contractor based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within ten (10) days after CapMetro's payment to the contractor.

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by CapMetro. When CapMetro has accepted an incremental portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed. Any delay or postponement of payment among the parties may take place only for good cause, with CapMetro's prior written approval.

(d) CapMetro may require any or all of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires the contractor to include language in their subcontract providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms as outlined in the Payment Disputes section of this Exhibit to resolve payment disputes;

(2) A contract clause providing that the contractor will not be reimbursed for any work performed unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed; or

(3) Other mechanisms, consistent with this Part and applicable state and local law, to ensure that SBEs and other contractors are fully and promptly paid.

11. SBE PROGRAM KICK-OFF MEETING

(a) CapMetro may require a meeting to discuss SBE contractual requirements with the contractor and all SBE subcontractors. This conference will be held before the Notice to Proceed has been issued. Attendees will include CapMetro personnel from different points of service that will be involved with the satisfactory performance and completion of the contract. External attendees of both the contractor and subcontractors should include, but not be limited to, designated representatives, points of contact and/or contract compliance officers.

The conference will cover the following:

1. CapMetro staff and role on contract;
2. CapMetro's SBE program's requirements, guidelines, and regulations;
3. The Contractor and subcontractors' roles and responsibilities;
4. Introduction and use of B2Gnow vendor management system, user set-up, vendor payments, auditing requirements, and contract reporting; and,
5. CapMetro's requirements and procedures for monitoring and enforcement of SBE contracts.

12. TERMINATION OR SUBSTITUTION OF SBE SUBCONTRACTOR

(a) The Contractor must notify CapMetro's SBPC Department at SBPC@capmetro.org immediately if there is an intent to substitute or terminate a SBE or non-SBE Subcontractor. The contractor must obtain express written approval from the SBPC Department before terminating or substituting an SBE or making any change to the SBE participation listed on the Schedule C.

(1) At no time will the contractor invoice CapMetro for amounts pertaining to subcontractors terminated or substituted without prior approval of CapMetro.

(b) The Contractor may not terminate a listed SBE subcontractor (or approved substitute), replace a subcontractor previously listed, permit a subcontract to be assigned or transferred, or allow that portion of the work to be performed by anyone, including its own company or affiliate, other than the listed subcontractor without the prior written consent of CapMetro. For termination of a SBE subcontractor, prior written consent will only be provided where there is a "good cause" for termination. Good cause includes the following circumstances:

- (1) The listed SBE fails or refuses to execute a written contract.

CAPITAL METROPOLITAN TRANSPORTATION AUTHORITY

(2) The listed SBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards; provided, however, that good cause does not exist if the failure or refusal of the SBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the contractor.

(3) The listed SBE subcontractor fails or refuses to meet the Contractor's reasonable, nondiscriminatory bond requirements.

(4) The listed SBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.

(5) The listed SBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1200 or applicable state law.

(6) CapMetro has determined that the listed SBE subcontractor is not a responsible contractor.

(7) The listed SBE subcontractor voluntarily withdraws from the project and provides the prime contractor written notice of its withdrawal.

(8) The listed SBE is ineligible to receive SBE credit for the type of work required.

(9) A SBE owner dies or becomes disabled with the result that the listed SBE contractor is unable to complete its work on the contract.

(10) Other documented good cause that CapMetro determines compels the termination of the SBE subcontractor, provided that good cause does not exist if the contractor seeks to terminate a SBE it relied upon to obtain the contract so that the contractor can self-perform the work for which the SBE contractor was engaged or so that the Contractor can substitute another SBE or non-SBE contractor after contract award.

(c) Before transmitting its request to terminate and/or substitute to CapMetro, the Contractor must give the SBE subcontractor written notice of its intent to terminate with a copy to CapMetro at SBPC@capmetro.org, of the Contractor's intent to request to terminate and/or substitute, and the reason for the request. The SBE subcontractor shall have five business days to respond to the Contractor's notice and advise CapMetro and the contractor of the reasons, if any, why it objects to the proposed termination of its subcontract and why CapMetro should not approve the contractor's action. If required in a particular case as a matter of public necessity (e.g., safety), CapMetro may allow for a response period shorter than five (5) business days.

(d) When a SBE subcontractor is terminated or fails to complete its work on the contract for any reason, the Contractor must make GFE find another SBE subcontractor to substitute for the original SBE. These GFE shall be directed at finding another certified SBE to perform at least the same amount of work under the contract as the SBE that was terminated, to the extent needed to meet the Contract goal. Documentation of GFE must be maintained and provided to CapMetro within seven (7) days of a request, which may be extended for an additional seven (7) days, if necessary, at the request of the Contractor. CapMetro will provide a written determination to the contractor stating whether or not GFE have been demonstrated.

Any SBE that has been approved by CapMetro to be substituted has the right to appeal the decision directly to CapMetro's SBE Reconsideration Officer. The Reconsideration Officer's decision shall be final. Appeals must be sent to:

Brad Bowman
SBE Reconsideration Officer
Capital Metropolitan Transportation Authority
2910 East 5th St.
Austin, TX 78702
Email: brad.bowman@capmetro.org

(e) Failure of the Contractor to carry out the requirements of this part shall constitute a material breach of the Contract and may result in the termination of the contract as set forth in Exhibit D or such other remedies, including an order stopping all or part of payment/work until satisfactory action has been taken.

13. PAYMENT DOCUMENTATION AND PAYMENT DISPUTES

(a) CapMetro will track and monitor every contract on which SBE participation is claimed to ensure that the work is actually performed by the SBEs to which the work was committed. CapMetro must have written certification that it has reviewed contracting records and monitored work sites located in Texas. CapMetro utilizes the B2Gnow compliance monitoring program to ensure that it has developed a monitoring process to comply with this regulation.

(b) For each subcontract, the Contractor must update payment and payment information on each subcontractor, including non-SBE subcontractors, or vendor monthly in B2Gnow to document its compliance with the SBE participation and prompt payment requirements. The Contractor is required to report, monitor and maintain its subcontractor participation through monthly contract audits that require confirmation from the subcontractor representative in the B2Gnow program. Subcontractors are also required to confirm payments reported by the Contractor.

(c) If a payment dispute arises between the Contractor and any subcontractor or supplier related to the contract, the Contractor shall provide a written response to the subcontractor or supplier, with a copy to the SBPC Department, specifically addressing any disputed amounts. The Contractor shall resolve all disputed invoices at the earliest time to avoid a delay in the submission of required subcontractor/supplier payment certifications that could delay payment to the SBE. If the Contractor cannot resolve a subcontractor or supplier disputed invoice, it shall bring the matter to the attention of the SBPC Department at the time of submitting the Contractor's invoice for payment. The SBPC Department will investigate the situation and determine whether the Contractor's invoice should be processed for payment without the required subcontractor or supplier certification. The SBPC Department will not mediate the dispute between the Contractor and any subcontractor or supplier in the resolution of disputed invoices. At no time shall the contractor invoice CapMetro for amounts in dispute without prior notification to the SBPC Department.

14. SANCTIONS FOR NONCOMPLIANCE WITH CAPMETRO'S SBE PROGRAM REQUIREMENTS

(a) Failure by the Contractor to carry out CapMetro's SBE Program Requirements or the terms of this Exhibit shall be deemed to be a material breach of the contract, which may result in the termination of the Contract or such other remedy as CapMetro deems appropriate.

If legal remedies are deemed necessary, the SBPC Department shall notify the Contractor of the findings and justification for the applied sanctions in writing. If the contractor believes the sanction(s) is not justified, the Contractor will be allowed a five-day appeal period from the time of the notification to submit a written appeal with supporting documents to the SBE Reconsideration Officer. The Reconsideration Officer's decision shall be final. Appeals must be sent to:

Brad Bowman
SBE Reconsideration Officer
Capital Metropolitan Transportation Authority
2910 East 5th St.
Austin, TX 78702
brad.bowman@capmetro.org

(b) The willful making of false statements or providing incorrect information shall be referred to the appropriate officials for legal action.

15. SBE FINAL REPORT

(a) The Contractor will complete and submit the SBE Final Report prior to contract closeout to show final SBE goal attainment under the Contract, whether the contract SBE goal was attained or not attained, and justification if the SBE contract goal was not attained.

REQUIRED SUBMITTAL IF SUBCONTRACTORS ARE UTILIZED

CAPITAL METRO

Schedule C, Subcontractor Participation (Local Funds)

Instructions: The Offeror shall complete this form by listing 1) Names of all proposed subcontractors. 2) Contact information, 3) Description of work to be performed/product to be provided, 4) Age of the firm, 5) Number of employees, 6) % or \$ amount of Total Contract.

NOTE: AS DEFINED BY THE SMALL BUSINESS ADMINISTRATION, A SMALL BUSINESS IS ANY BUSINESS WHOSE ANNUAL GROSS INCOME AVERAGED OVER THE PAST THREE (3) YEARS DOES NOT EXCEED THE SMALL BUSINESS ADMINISTRATION'S (SBA) SIZE STANDARDS AS SET FORTH IN 13 C.F.R., PART 121.

Size Standards for principal NAICS Sectors: Construction General building and heavy construction contractors: \$33.5 million Special trade construction contractors: \$14 million Land subdivision: \$7 million Dredging: \$20 million Services Most common: \$7 million Computer programming, data processing and systems design: \$25.5 million The highest annual-receipts size standard in any service industry: \$35.5 million Manufacturing About 75 percent of the manufacturing industries: 500 employees A small number of industries: 1,500 employees The balance: either 750 or 1,000 employees **All Other Types of Small Business** Less than 500 employees or three years of gross receipts under \$10 Million.

Name of Prime Contractor (Offeror): Arthur J. Gallagher Risk Management Services

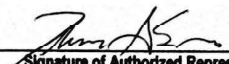
Project Name: Insurance Management Services

RFP Number: 813406

1) Name of Subcontractor	2) Address, Telephone # of Sub Firm (Including name of contact person)	3) Description of Work, Services Provided. Where applicable, specify "supply" or "install" or both.	4) SBE or non-SBE	5) Age of Firm	6) Number of employees	7) Sub % or \$ amount of Total Contract
National Risk Control	115 Federal St. FL8 Boston, MA. 02110 Corrine Ginny 860-682-2442	Actuanal Study	NON	20 yrs	300	28,000
J Archer Insurance Group	5252 Westchester St. Ste. 260 Houston TX 77005 J Archer 281-501-8331	TPA Audit	SBE	17	15	28,000

This form must be completed as instructed above and include every subcontractor proposed on this project.

The undersigned will enter into a formal agreement with Subcontractors for work listed in this form upon execution of a contract with Capital Metro.



Signature of Authorized Representative of Offeror

1-26-26

Date Signed

REQUIRED SUBMITTAL

CAPITAL METRO

(Local) Intent to Perform as a SBE Contractor/SBE Subcontractor
RFP # 813406

1. TO: (name of Offeror/Prime Contractor) Arthur J. Gallagher Risk Management Services, Inc.
2. The undersigned is either currently certified as a SBE or will be at the time this solicitation is due.
The undersigned is prepared to perform the following described work with their own workforce and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both) TPA Audit

and at the following price \$_____ and/or 2% of the total contract amount (should be the same \$ or % found on Schedule C).

With respect to the proposed subcontract described above, the undersigned SBE anticipates that 2 % of the dollar value of this subcontract will be sublet and/or awarded to other contractors. Any and all subcontractors that a SBE subcontractor uses must be listed in Schedule C and must also be SBE certified. (The SBE subcontractor should complete this section only if the SBE is subcontracting any portion of its subcontract.)

J. Archer Insurance Group, LLC
(Name of SBE Firm)


(Signature of Authorized Representative)

281-501-8331
(Phone Number)

1/27/26
(Date Signed)

Arthur J. Gallagher Risk Management Services, Inc.
(Name of Offeror/Prime Contractor)


(Signature of Authorized Representative)

713-775-8023
(Phone Number)

1-27-26
(Date Signed)

TAB 5

Exhibit E – Revised-1
Contractual Terms
and Conditions

EXHIBIT E – REVISED-1
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 CapMetro, including without limitation “FCPA” or any applicable laws and regulations, including in the jurisdiction in which the Contractor operates and/or manufactures goods for CapMetro, relating to anti-corruption and bribery.
- (b) “Authority”, “Capital Metro”, “CapMetro”, “CMTA” means Capital Metropolitan Transportation Authority.
- (c) “CapMetro Data” means all data, content and information (i) submitted by or on behalf of CapMetro 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) “CapMetro Electronic Property” means (i) any websites controlled by CapMetro, (ii) any CapMetro mobile device apps, (iii) any application programming interfaces (API) to CapMetro’s information technology systems, (iv) any other kiosks, devices or properties for consumer interaction that are created, owned, or controlled by CapMetro, 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 CapMetro.
- (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 CapMetro.
- (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.
- (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 CapMetro. 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.

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- (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 CapMetro, 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, -CapMetro 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-delivery/indefinite-quantity. In particular:

(1) Definite-Quantity/Definite-Delivery. This contract provides for the delivery of specific Service during a time period that is fixed. The following items of Exhibit A – Pricing Schedule are definite quantity/definite delivery:

a. Item # 1 of Sections 7A, 7B, 7C, 7D, 7E, 7F, and 7G.

(2) Indefinite-Delivery/Indefinite-Quantity. The contract provides for the delivery of specific Services of an indefinite quantity/indefinite delivery. The quantity of Services specified are estimates only used as a basis for Contract Award and are, therefore, not hereby purchased by this Contract. There is no limit to the number of orders that may be placed under this Contract. The following items of Exhibit A – Pricing Schedule are indefinite quantity/indefinite delivery:

a. Items # 2 and # 3 of Sections 7A, 7B, 7C, 7D, 7E, 7F, and 7G.

(b) The Services that are indefinite quantity/indefinite delivery are subject to the following minimum/maximum paragraph:

- (1) Minimum order. CapMetro will order a minimum of \$1,000 for the Services and supplies under this Contract.
- (2) Maximum order. CapMetro will not order more than the maximum not-to-exceed dollar amount of this Contract.

3. TERM

The term of the Contract shall be **from April 1, 2026 through March 31, 2029**. ~~three (3) years from the Contract notice to proceed.~~ No Services shall be performed under this Contract prior to issuance of a Notice to Proceed.

4. OPTION TO EXTEND CONTRACT TERM

CapMetro shall have the unilateral right and option to extend the Contract for up to four (4) option periods for a twelve (12) month duration each at the option prices set forth in Exhibit A - Pricing Schedule upon written notice to the Contractor.

5. ADDITIONAL OPTION TO EXTEND CONTRACT PERFORMANCE

If the options granted in Paragraph 4 have been exercised in their entirety, CapMetro 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. CapMetro may exercise the option by written notice to the Contractor.

6. RESERVED

7. INVOICING AND PAYMENT

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

Accounts Payable
Capital Metropolitan Transportation Authority
2910 East 5th Street
Austin, Texas 78702

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

and shall conform to policies or regulations adopted from time to time by CapMetro. 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 CapMetro under the terms of the Contract;
- (4) evidence of the acceptance of the supplies or Services by CapMetro; and
- (5) any other information necessary to demonstrate entitlement to payment under the terms of the Contract.

(b) 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).

(c) Contractor should submit an invoice to CapMetro on a monthly basis, preferably no later than the 5th business day of each calendar month, for all work that was accepted during the preceding month. Each invoice must reference the applicable acceptance documentation and clearly identify the dates and scope of work performed. Failure to submit timely invoices may result in a delay of payment.

(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 CapMetro discovers that CapMetro has paid any invoices or charges not authorized under this Contract, CapMetro may offset the amount of such overpayment or unauthorized charges against any indebtedness owed by CapMetro to the Contractor, whether arising under this Contract or otherwise, including withholding payment of an invoice, in whole or in part, or CapMetro 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 CapMetro within thirty (30) calendar days of the date of the written notice of such overpayment or such other period as CapMetro may agree. CapMetro 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) **Release of Payment Claims by Contractor.** The final invoice submitted by Contractor shall be accompanied by a complete and legally effective release of CapMetro from all known and unknown payment claims relating to the Contract on a form provided by CapMetro. Contractor's acceptance of final payment constitutes a waiver of all known or unknown payment claims against CapMetro related to the Contract, other than those specifically excepted in the General Release of Claims Form.

8. RESERVED

9. RESERVED

10. INSURANCE

(a) The Contractor shall furnish proof of CapMetro-stipulated insurance requirements specified below.

(b) All insurance policies shall be primary and non-contributing with any other valid and collectible insurance or self-insurance available to CapMetro and shall contain a contract waiver of subrogation in favor of CapMetro.

(c) The Contractor shall furnish to CapMetro certificate(s) of insurance evidencing the required coverage and endorsement(s) and, upon request, a certified duplicate original of any of those policies.

(d) Prior to the expiration of a certificate of insurance, a new certificate of insurance shall be furnished to CapMetro showing continued coverage.

(e) Each policy shall be endorsed to provide thirty (30) days written notice of cancellation or non-renewal to CapMetro and CapMetro shall be named as an Additional Insured under each policy except Professional Liability insurance if required by this Contract.

(f) All insurance policies shall be written by reputable insurance company or companies acceptable to CapMetro with a current Best's Insurance Guide Rating of A+ and Class XIII or better. All insurance companies shall be authorized to transact business in the State of Texas.

(g) The Contractor shall notify CapMetro 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.

(h) The below requirements only represent the minimum coverage acceptable to CapMetro 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 CapMetro.

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

- (1) **Comprehensive General Liability Insurance**: 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 including Products Liability.
- (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 Dollars and No/100 Dollars (\$1,000,000).
- (4) **Other Insurance**: Professional Liability Insurance covering negligent acts, errors and omissions arising from the Contractor's work to pay damages for which the Contractor may become legally obligated. Minimum limits of liability shall be not less than One Million Dollars and No/100 Dollars (\$1,000,000) on an annual aggregate basis.

(5) All policies shall include Terrorism Coverage.

(j) 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.

(k) 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 CapMetro, its directors, officers, employees, agents, successors and assigns, and CapMetro'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 CapMetro premises or equipment under this Contract.

(l) 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 CapMetro by way of a Certificate of Insurance before any part of the Contract work is started.

(m) 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, CapMetro 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.

(n) 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 CapMetro 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.

(o) All insurance required to be maintained or provided by the Contractor shall be with companies and through policies approved by CapMetro. CapMetro 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.

(p) 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.

(q) The Contractor and its lower tier Subcontractors are required to cooperate with CapMetro and report all potential claims (workers' compensation, general liability and automobile liability) pertaining to this Contract to CapMetro's Risk Management Department at (512) 389-7549 within two (2) days of the incident.

11. 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 CapMetro determines that it would be to CapMetro'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 CapMetro.

12. REMOVAL OF ASSIGNED PERSONNEL

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

13. REPRESENTATIONS AND WARRANTIES

The Contractor represents and warrants to CapMetro, 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 CapMetro during the process of the work or within one (1) year after acceptance of the work by CapMetro, 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 CapMetro as a result of reliance by CapMetro on services failing to comply with the representations and warranties.

14. INDEPENDENT CONTRACTOR

The Contractor's relationship to CapMetro 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 CapMetro. 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 CapMetro 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 CapMetro in connection with the award of this Contract. Any substitution in such Subcontractors, associates, or consultants will be subject to the prior approval of CapMetro.

17. EQUITABLE ADJUSTMENTS

(a) If the Contractor's performance of the Services is increased or decreased by a Change Order that changes the scope, nature, or timing of the Services, the Contractor may be entitled to an equitable adjustment in the Contract Price, performance schedule, or both. Such adjustments shall be limited to the actual, reasonable, and necessary costs or time impacts directly attributable to CapMetro.

(b) The Contractor shall provide written notice to CapMetro Contracting Officer within thirty (30) calendar days after the Contractor first became aware, or reasonably should have become aware, of the event giving rise to the potential adjustment. The notice must describe the general nature of the change, the impact on performance, and the estimated amount of time involved. Failure to provide timely notice shall constitute a waiver of the Contractor's right to an equitable adjustment.

(c) Within sixty (60) calendar days after the date of notice under subsection (b), the Contractor shall submit a detailed written proposal, including: (i) a narrative of the facts supporting the request; (ii) the specific contract requirement affected; (iii) all costs and schedule impacts, supported by cost data, payroll records, equipment logs, and other relevant documentation; and (iv) a proposed adjustment amount and/or schedule. CapMetro may request additional documentation.

(d) Within fifteen (15) business days of CapMetro's receipt of a properly supported proposal, CapMetro and Contractor will meet to negotiate in good faith to determine an equitable adjustment.

(e) No adjustment shall be allowed for: (i) any cost or delay resulting from the Contractor's fault, negligence, or failure to perform in accordance with the Contract; (ii) changes or conditions that are the result of the Contractor's means, methods, or management of operations; (iii) foreseeable or ordinary fluctuations in labor, fuel, or material costs; (iv) events for which the Contractor has assumed risk under other provisions of this Contract.

(f) The execution of a written modification incorporating the equitable adjustment shall constitute the Contractor's full and final settlement of all claims, direct or indirect, arising from or related to the event or change giving rise to the adjustment.

18. RESERVED

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. CapMetro 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 CapMetro. CapMetro 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) 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 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. CapMetro 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 CapMetro 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	

CapMetro

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 CapMetro in accordance with subparagraph (d).

(d) The Contractor may request CapMetro perform an individual assessment of a candidate with a criminal conviction meeting one of the above categories. In conducting an individual assessment, CapMetro'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;

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- 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.

CapMetro 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 CapMetro if an employee has a subsequent arrest with pending disposition or conviction (or change in driving record, as applicable) that requires further review by CapMetro using the criterion set forth above. CapMetro 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 CapMetro'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 CapMetro. 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 CapMetro. 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.

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

21. CHANGES

(a) CapMetro 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, 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 CapMetro.

(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.

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

22. TERMINATION FOR DEFAULT

(a) CapMetro 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 of ten (10) days (or such longer period as CapMetro may authorize in writing) after receipt of notice from CapMetro specifying such failure.

(b) In the event CapMetro terminates this Contract in whole or in part as provided in subparagraph (a) of this paragraph, CapMetro may procure, upon such terms and in such manner as may deem appropriate, supplies or services similar to those so terminated, and the Contractor shall be liable to CapMetro 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 perform 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), CapMetro, in addition to any other rights provided in this subparagraph, may require the Contractor to transfer title and deliver to CapMetro in the manner and to the extent directed by CapMetro 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 CapMetro, protect and preserve property in possession of the Contractor in which CapMetro has an

interest. Payment for completed Manufacturing Materials delivered to and accepted by CapMetro shall be at the Contract price. CapMetro may withhold from amounts otherwise due the Contractor for such completed Manufacturing Materials such sum as CapMetro determines to be necessary to protect CapMetro 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 CapMetro 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.

(f) The rights and remedies of CapMetro 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) CapMetro may, whenever the interests of CapMetro so require, terminate this Contract, in whole or in part, from time to time, for the convenience of CapMetro. CapMetro shall give written notice of the termination to the Contractor specifying the extent of the Contract termination and when termination becomes effective.

(b) After receipt of the notice of termination, and except as directed by the Contracting Officer, the Contractor will immediately: (i) stop providing Services as specified in the notice; (ii) place no further subcontracts or orders for materials, services, or facilities, except as necessary to complete the continued portion of the Contract; (iii) terminate all subcontracts or orders to the extent they relate to the work terminated; (iv) assign to CapMetro, as directed by the Contracting Officer, all right, title, and interest of the Contractor under the subcontracts or orders terminated, in which case CapMetro shall have the right to settle or pay any termination settlement proposal arising out of those terminations; (v) complete any subcontracts or orders not terminated by the notice of termination and may incur such obligations as are necessary to do so.

(c) CapMetro may require the Contractor to transfer title and deliver to CapMetro in the manner and to the extent directed by CapMetro:

- (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 CapMetro, protect and preserve property in the possession of the Contractor in which CapMetro has an interest. If CapMetro does not exercise this right, the Contractor shall use its best efforts to sell such supplies and Manufacturing Materials.

(d) Notwithstanding anything herein to the contrary, CapMetro shall be liable for payments limited only to the portion of work CapMetro authorized in writing and which Contractor has completed, delivered to CapMetro, and which has been accepted by CapMetro. All such work shall have been completed, in accordance with Contract requirements, prior to the effective date of termination. CapMetro shall have no other liability, including no liability for any costs associated with the termination.

(e) CapMetro 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 CapMetro, 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 CapMetro. 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 CapMetro 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 CapMetro shall be entitled to obtain and hold in its own name all Intellectual Property Rights in and to the Works.

(b) The Contractor, upon request and without further consideration, shall perform any acts that may be deemed necessary or desirable by CapMetro to evidence more fully the transfer of ownership of all Works to CapMetro to the fullest extent possible, including but not limited to the execution, acknowledgement and delivery of such further documents in a form determined by CapMetro. In the event CapMetro 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 CapMetro 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 CapMetro 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 CapMetro'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 CapMetro of such pre-existing or third party rights or limitations, request CapMetro'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 CapMetro's written approval of such pre-existing or third-party rights and the limited use of same. The Contractor shall provide CapMetro 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 CapMetro 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 CapMetro either:

(i) exceeded the scope of the limited license that was previously obtained by the Contractor and agreed to by CapMetro, 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 CapMetro 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 CapMetro, 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 CapMetro 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 CapMetro'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 CapMetro'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 CapMetro, without requiring proof of irreparable injury as same should be presumed.

(g) Upon the request of CapMetro, but in any event upon termination of this Contract, the Contractor shall surrender to CapMetro 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 CapMetro to the Contractor, including all materials embodying the Works, any CapMetro 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 CapMetro 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 CapMetro 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 CapMetro's customers. To the extent any CapMetro 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 CapMetro Data in accordance with CapMetro'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 CapMetro Electronic Property and related CapMetro 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 CapMetro's Access and Use Agreement, which will be attached as an addendum to the Contract, as applicable.

(j) This Section 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 CapMetro 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 CapMetro 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 CapMetro covering the Services under this Contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to CapMetro during Contract performance and for as long afterwards and the Contract requires.

(c) CapMetro 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. CapMetro 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, CapMetro 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, CapMetro 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, CapMetro may (1) by contract or otherwise, perform the Services and charge to the Contractor any cost incurred by CapMetro that is directly related to the performance of such service or (2) terminate the Contract for default.

28. SUSPENSION OF SERVICES

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

(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 CapMetro in the administration of this Contract, or by CapMetro'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 CapMetro 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

Payments by contractors to subcontractors under this Contract or associated contracts are subject to the time periods established in the Texas Prompt Payment Act, Tex. Gov't Code § 2251.

30. FEDERAL, STATE AND LOCAL TAXES

CapMetro is exempt from taxes. Any taxes included in the Contract Sum and/or on any invoice received by CapMetro shall be deducted from the Contract Sum and/or the amount of the invoice for purposes of payment. Inclusion of taxes in the Contract Sum or any invoice or request for payment under this Contract shall constitute a material breach of this Contract.

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 CapMetro 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 CapMetro 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 CapMetro 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) CapMetro 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 CapMetro. 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 CapMetro.

(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 CapMetro's Contract Administrator.

33. GRATUITIES

CapMetro 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 CapMetro 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 CapMetro pursuant to this provision, CapMetro 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 CapMetro and its authorized agents except as otherwise provided by this Contract or after obtaining the prior written permission of CapMetro.

(b) This Contract, all data and other information developed pursuant to this Contract shall be subject to the Texas Public Information Act. CapMetro 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 CapMetro.

(d) The requirements of Subchapter J, Chapter 552, Government Code, may apply to this bid/contract and the Contractor agrees that this Contract can be terminated if the Contractor knowingly or intentionally fails to comply with a requirement of that subchapter.

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 CapMetro upon receipt.

(b) All documents, reports, data, graphics and other materials produced under this Contract shall become the sole possession of CapMetro 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 CapMetro 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 CapMetro's performance, nonperformance, or delay in performance of its obligations under this Contract, or CapMetro's termination of the Contract with or without cause, or CapMetro'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. The Contractor is advised that the legal requirements applicable to this Contract as set forth in federal and/or state 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.

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 CapMetro 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 CapMetro, 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 CapMetro.

(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 CapMetro prior to release.

43. INTEREST OF PUBLIC OFFICIALS

The Contractor represents and warrants that no employee, official, or member of the Board of CapMetro 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 CapMetro 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, CapMetro 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 CAPMETRO AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS AND REPRESENTATIVES (CAPMETRO 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 CAPMETRO;**

(3) **THE USE, CONDITION, OPERATION OR MAINTENANCE OF ANY PROPERTY, VEHICLE, FACILITY**

OR OTHER ASSET OF CAPMETRO 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 CapMetro 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, CapMetro 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 CapMetro 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 CapMetro 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 CapMetro has paid any invoices or charges not authorized under this Contract, CapMetro 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) CapMetro 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, CapMetro shall ascertain the facts and extent of the failure. If CapMetro 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 CapMetro 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 CapMetro 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 CapMetro as an employee of the Contractor or Subcontractor.

48. CONTRACTOR CONTACT/CAPMETRO DESIGNEE

The Contractor shall provide CapMetro with a telephone number to ensure immediate communication with a person (not a recording) anytime during Contract performance. Similarly, CapMetro shall designate a CapMetro 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 CapMetro. If work is deemed incomplete or unacceptable in any way, CapMetro 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 CapMetro's Contracting Officer for determination. All determinations, instructions, and clarifications of the Contracting Officer shall be final and conclusive unless the Contractor files with the CapMetro President/CEO within two (2) weeks after CapMetro 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 CapMetro 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. Award/Contract Form
2. Exhibit A – Pricing Schedule
3. Exhibit E – Contractual Terms and Conditions
4. Exhibit H – Authorization of Work Product
5. **Exhibit B – Representations and Certifications**
6. Exhibit D – Small Business Enterprise Program/SBE
7. Exhibit F – Scope of Services
8. 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 CapMetro to violate any such Anti-Corruption and Bribery Laws. The Contractor further represents and warrants that, in connection with supplies or Services provided to CapMetro or with any other business transaction involving CapMetro, 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, CapMetro 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 CapMetro to violate the Applicable Anti-Corruption and Bribery Laws. CapMetro 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. RESERVED

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 may arise in future competitive acquisitions.

(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 CapMetro 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 CapMetro 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 CapMetro: 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) 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.

(d) 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.

(e) 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.

(f) 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.

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

(h) 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.

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

(j) 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.

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

(l) 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.

(m) 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.

(n) 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.

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- (o) CapMetro is a governmental entity and nothing in this Contract shall be deemed a waiver of any rights or privileges under the law.
 - (p) Time is of the essence for all delivery, performance, submittal, and completion dates in this Contract.

57. RESERVED

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 CapMetro's Board of Directors.

59. COOPERATIVE CONTRACT

(a) CapMetro has entered into a master cooperative purchasing agreement with other governmental entities (with CapMetro, the "Cooperative Members") to form the Texas Interlocal Purchasing Cooperative, under which the Cooperative Members grant access and make available to one another certain contracts of the Cooperative Members, pursuant to the Interlocal Cooperation Act, Chapter 791 of the Texas Government Code and Chapter 271 of the Texas Local Government Code. The Contractor agrees to offer to other eligible Cooperative Members the goods and services provided under this Contract with the same prices, and under terms and conditions, of this Contract.'

(b) CapMetro does not accept any responsibility or liability arising from or related to a separate contract between another Cooperative Member and Contractor based on this Contract or for any purchases made thereunder.

(c) Cooperative Members shall not create participating cooperative contracts to procure professional services as defined by Texas Government Code Chapter 2254.

60. APPROVED SAFETY VEST AND PPE

The Contractor and each of the Contractor's employees, as well as each Subcontractor and any workers working on behalf of Subcontractor, shall wear ANSI Class 2 or 3 high-visibility safety vests at all times when on CapMetro's premises including but not limited to bus maintenance and operations facilities, rail maintenance and operations facilities, on or near a roadway exposed to vehicular traffic or while on or near rail right-of-way, construction sites, operations and maintenance facilities. Furthermore, within designated project areas such as construction sites and rail right-of-way, additional personal protective equipment (PPE) must be worn, including but not limited to ANSI Class 2 or 3 high-visibility safety vests, hard hats, safety glasses, and any other PPE deemed necessary based on the specific tasks or hazards present. Failure to comply with this requirement shall result in removal from the premises and may result in termination of the Contract.

TAB 6

Exhibit F

Scope of Services

EXHIBIT F
SCOPE OF SERVICES
INSURANCE MANAGEMENT SERVICES

1. BACKGROUND

Capital Metropolitan Transportation Authority ("Capital Metro" or "the Authority") 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 Commissioner Precinct 2 and the Anderson Mill area of Williamson County. CapMetro services include bus, rail, ride-share programs, special event services, and special transit services for the mobility impaired.

The Contractor shall provide Insurance Management consulting services including, but not limited to:

- (a) Solicitation and evaluation of quotes for insurance coverage listed on the Schedule of Insurance
- (b) Performance of annual actuarial projections of liability and/or workers' compensation claim costs; and
- (c) Annual audits of workers' compensation and liability claim files and reserve adequacy as well as other performance measures as requested.

Each element of the work is described below.

2. SOLICITATION AND EVALUATION OF QUOTES FOR INSURANCE COVERAGES

- (a) The Contractor shall write specifications for the coverages listed in the Schedule of Insurance and shall solicit quotes on CapMetro's behalf upon request.
- (b) The Contractor shall thoroughly review all existing coverages and make written recommendations to CapMetro regarding any changes in coverage as may be appropriate.
- (c) Quotes shall be solicited, at a minimum, from the potential markets written listed in the Contractor's proposal to CapMetro. Quotes obtained shall be exclusive to any and all commissions or rebates. In the event the Contractor receives any commission or rebate for any and all services such as but not limited to quotes or policies Contractor assisted in procuring or procured on behalf of CapMetro. Contractor shall pay such amounts to CapMetro within seven (7) days of receipt of such payment. Contractor shall disclose in writing any commission or rebate Contractor will receive on any transaction for CapMetro prior to entering into such a transaction.
- (d) The Contractor shall evaluate the quotes received and shall negotiate with the carriers submitting the most favorable quotes to maximize CapMetro's coverage and to minimize CapMetro's cost. The Contractor shall maintain complete records of the quote solicitation process and shall provide copies of such records to CapMetro.
- (e) The Contractor shall, based on its review of quotes and negotiations, recommend insurance placement to CapMetro's Risk Management Department. During specification recommendation and subsequent insurance negotiations, the Contractor shall protect CapMetro from gaps in coverage and duplication of coverage.
- (f) All coverage recommendations shall be made to CapMetro no later than sixty (60) days prior to the expiration of the existing coverage.
- (g) The Contractor shall make recommendations for the funding of CapMetro's self-insurance retention for rail liability and all other policies upon request.

3. PROJECTIONS OF LIABILITY AND WORKERS' COMPENSATION CLAIMS COST

The Contractor shall review existing liability claim data and actuarial studies available for workers' compensation. As the basis for annual claims cost projections, the Contractor may be asked to perform actuarial studies of workers' compensation exposures and/or a liability claims audit once a year.

- (a) At a minimum, the written reports should contain the following:
 - 1. Estimated funding requirements during the fiscal periods covered in this contract.
 - 2. Claim size distribution analysis.
 - 3. Present value analysis.
 - 4. Historical claim count development analysis.
 - 5. Projected ultimate average claim size.
- (b) The Contractor shall provide an oral presentation of the analysis to CapMetro upon request.
- (c) The Contractor shall offer ongoing technical assistance to address questions that may arise regarding the analysis.

4. AUDITS OF CLAIMS FILE

- (a) The Contractor may be asked to provide one (1) quality control audit per year of the claims handling processes utilized by CapMetro's insurer or third-party claim administrator(s) for workers' compensation and liability. Written reports on quality control audits should be provided upon request and with ninety (90) days of request.
- (b) The Contractor may be asked to perform one (1) audit on liability and workers' compensation claims during each contract year within ninety (90) days of request.
- (c) CapMetro reserves the right to request an additional Actuarial Report on any given year in place or in addition to the claim audit or vice versa.

5. ON-GOING INSURANCE CONSULTATION

- (a) The Contractor shall provide on-going insurance consultation services including, but not limited to:
 - 1. Response to questions and/or providing insurance requirements for CapMetro contracts within five (5) business days upon request.
 - 2. Response to verification of Certificate of Insurance approvals within five (5) business days.
 - 3. Assistance in evaluating and providing exposures to loss.

6. LICENSING

All services under this contract must be provided by persons and/or organizations properly licensed in the State of Texas to perform such work or services. These include, but are not limited to Local Recording Agents License, Risk Managers License, Claims Adjusters License, Actuarial Certification.

7. ON-SITE MEETINGS

The contractor may be required to periodically meet with CapMetro staff at offices located at 3100 E. 5th Street, Austin Texas, 78702 and other locations. The Contractor must respond to CapMetro's request within twenty-four (24) hours of notification and be on site within forty-eight (48) hours of the request. The estimated number of meetings per year is three (3).

Tab 7

Exhibit H,

Authorization of Work
Product

EXHIBIT H – AUTHORIZATION OF WORK PRODUCT

DESCRIPTION: Insurance Management Services
CONTRACT NO.: 500314

CapMetro's Contracting Officer (CO)

- A. The CO for administration of this Contract is Deborah Knutson
B. Phone: 512-369-6512
C. Email: deborah.knutson@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.

CapMetro's Project Manager (PM)

- A. The PM for this Contract is Fay Milligan
B. Phone: 512-389-7538
C. Email: fay.milligan@capmetro.org

CapMetro'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 CapMetro. The PM has full authority to act for CapMetro 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, CapMetro's PM may assist with development of Change Orders and Contract modifications with CapMetro's CO.

Field Change Orders (Construction Contracts Only) – CapMetro'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, CapMetro'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 CapMetro's CO, Contractor is not allowed to invoice for any additional cost or fee for services or goods under the Contract, nor is CapMetro liable for any payment for any unauthorized work.

SIGNED and DATED


Contractor

E-SIGNED by Fay Milligan
on 2026-03-25 13:13:24 CDT

CapMetro's Project Manager (PM)

E-SIGNED by Deborah Knutson
on 2026-03-25 13:12:34 CDT

CapMetro's Contracting Officer (CO)

3-9-26
Date

March 25, 2026

Date

March 25, 2026

Date