REQUEST FOR PROPOSALS

AND

SCOPE OF SERVICES

FOR

OPERATIONS AND MANAGEMENT
OF HOT SPRINGS INTRACITY TRANSIT

HOT SPRINGS, ARKANSAS

OCTOBER, 2021

CITY OF HOT SPRINGS, ARKANSAS
PURCHASING OFFICE
P O Box 6300, 71902; 324 Malvern Ave, 71901
Phone 501-321-6830 or 501-321-6822
Fax 501-321-6833
purchasing@cityhs.net
RFP: HOT SPRINGS
INTRACITY TRANSIT
MANAGEMENT/OPERATIONS

TABLE OF CONTENTS

TABLE OF CONTENTS .......................................................................................................................2

ACKNOWLEDGEMENT ...................................................................................................................3

I. INTRODUCTION ............................................................................................................................4

II. SCOPE OF SERVICES ..................................................................................................................5

III. PROPOSAL SUBMISSION ............................................................................................................7

IV. PROPOSAL REQUIREMENTS/EVALUATION ..............................................................................8

   A. ORGANIZATIONAL CAPABILITIES/QUALIFICATIONS
   B. PRIOR PERFORMANCE/EXPERIENCE
   C. TECHNICAL CAPACITY/APPROACH
   D. COST PROPOSAL
   E. DBE/WBE/MBE CERTIFICATION

V. CONTRACT PROVISIONS ..............................................................................................................11

VI. TERMS AND CONDITIONS .........................................................................................................17

   A. DEFINITIONS ...............................................................................................................................17
   B. INTERPRETATION OF RFP ........................................................................................................18
   C. EVALUATION CRITERIA .............................................................................................................20
   D. PROTEST PROCEDURES ..........................................................................................................21
   E. AWARD OF CONTRACT ............................................................................................................22

VII. STANDARD FORM OF AGREEMENT/CONTRACT .................................................................23

VIII. PROPOSER’S CHECKLIST .......................................................................................................24

IX. STATEMENT OF REQUIREMENTS ............................................................................................25

   APPENDIX I FTA REQUIRED CERTIFICATIONS
   APPENDIX II FTA REQUIRED CONTRACT CLAUSES
   APPENDIX III HSIT FINANCIAL/STATISTICAL/SYSTEM DATA
ACKNOWLEDGMENT

ACKNOWLEDGMENT OF THIS INVITATION TO BID (ITB)/REQUEST FOR PROPOSALS (RFP) MUST BE RECEIVED BY THE CITY IN ORDER FOR YOU TO RECEIVE ADDENDA (e.g., updates or changes to the bid packet).

PLEASE COMPLETE BELOW AND FAX TO 501-321-6833 or email purchasing@cityhs.net. UPON RECEIPT OF THIS PACKET so you will receive any changes or updates that may occur. If we do not receive this form from you, the City is not responsible for any updates or changes that you do not receive.

RFP: OPERATIONS AND MANAGEMENT OF HOT SPRINGS INTRACITY TRANSIT

DATE RECEIVED ________________

RECIPIENT: ___________________________________________ (NAME)

________________________________________ (ADDRESS)

________________________________________

________________________________________

________________________________________ (PHONE)

________________________________________ (FAX)

________________________________________ (EMAIL)

________________________________________

Printed Name

Signature
I. INTRODUCTION

Hot Springs Intracity Transit (HSIT) is the public transit system for the City of Hot Springs. HSIT provides fixed-route and Americans with Disability Act (ADA) complementary paratransit services within the Hot Springs service area.

HSIT is currently managed and operated by First Transit, Inc. as an independent contractor. HSIT operates under the direction of the City of Hot Springs City Manager or their designee. The City currently employs all transit personnel except the Resident Advisor, who is employed by First Transit, Inc. The current contract with First Transit, Inc. and the City of Hot Springs will expire on December 31, 2021.

If the City of Hot Springs selects a contractor other than its current contractor, it may require the new contractor to have its Resident Advisor on site prior to the termination of the existing contract (December 31, 2021) in order to provide continuity to the system operation and management. Transition and start-up cost shall be listed on the Cost Proposal Sheet. A detailed mobilization plan shall be provided detailing relevant contractor employees, duties, and milestones. If applicable, this plan shall be approved by the City of Hot Springs prior to start-up.

The City of Hot Springs wishes to engage a contractor to provide for the day-to-day management of the transit system using a Resident Advisor or management team (if applicable) under the direction of the City of Hot Springs. The operations and management services to be provided include, but are not limited to, those relating to transit planning, daily operations, equipment and facilities, utilization maintenance, security, routes, scheduling, service standards, budgeting, purchasing, safety, insurance, claims, employee selection/training, coordination with planning and paratransit agencies, technical support in working with FTA and ARDOT and such other management functions as needed in the operation of an urban transit system.

The Resident Advisor is to be supported by the corporate staff of the Contractor and any other individuals who may possess a technical expertise relevant to the effective operation of the transit system. In addition to the personnel to be assigned, the City of Hot Springs also seeks other services such as technical assistance, access to training services, etc. which will also be beneficial to the transit system.

HSIT is financed from federal, state, and local funding sources. The primary source is the FTA §5307 federal grant program and other FTA capital grants. Other sources include state funds, City funds, City in-kind services, farebox receipts and discount prepaid fare programs. City and federal funding is subject to an annual budgeting process. The City's general revenue fund provides the required cash flow for the HSIT operation and capital budgets. The contractor's management fee is paid from both federal and local funds.

HSIT is a direct recipient of FTA funds and by receipt of these funds obligates the City and, in turn, the contractor, to several federal requirements. The contractor will be subject to federal requirements and other standard FTA requirements applicable to third-party contracts. All federal clauses and regulations are included and made part of this procurement and specified in the contract agreement between the contractor and the City.
II. SCOPE OF SERVICES

The goal of this Scope of Services is to ensure that all participants are fully informed of all project requirements, deliverables and obligations. This document will be used as a portion of a contract for project planning and execution, and once approved, will indicate full acceptance of the Scope of Services.

City of Hot Springs is requesting sealed proposals from qualified companies for the provision of professional transit management and technical support services. The agreement will have an initial term of five (5) years beginning on January 1, 2022. The City of Hot Springs wishes to engage a Firm to provide for the day-to-day management of the transit system using a Resident Advisor under the direction of the City Manager’s Office.

The Resident Advisor of the successful Proposer shall have experience as the manager or senior level manager of a similarly sized transit district providing mass transit services, some of which must have involved reporting directly to a political body, or equivalent experience or education. The Resident Advisor must demonstrate overall experience in managing a bus transit system in an urbanized area. The Resident Advisor must have experience and be knowledgeable of federal and state funding and of the rules and regulations that accompany such funding.

The initial selection and appointment, or any change, or any replacement of the Resident Advisor shall be the responsibility of the Firm, but shall not be made without first obtaining the advice and consent of the City of Hot Springs. If the City of Hot Springs finds the Resident Advisor is no longer acceptable to it, the Firm shall replace such Resident Advisor at its cost. Anytime the Resident Advisor is no longer available, the Contract must provide a qualified replacement, subject to approval of the City of Hot Springs.

The City of Hot Springs will expect the contractor to perform comprehensive transit management functions in three major areas: Administration, Operations and Maintenance. The following sections outline the basic contractor services and responsibilities to include the Firm’s management fee for delivery of these services. These three areas and the Firm’s management fee will form the basic components for any contract awarded pursuant to this RFP. The following items represent the minimum level of service expected and are not intended to be a comprehensive listing of all services.

A. Administration. The transit system contractor will be expected to perform the following administrative functions:

Personnel Administration. The contractor is responsible for the supervision of all HSIT employees as a contract manager working under the city's City Manager. The City of Hot Springs Human Resources Director provides technical assistance to the contractor upon request. The contractor is responsible for the provision of all employee policies, etc., for employee(s) of the contractor. HSIT employees operate under the city's HR polices as well as the specific HSIT employee polices.

Accounting/Bookkeeping. The City maintains a comprehensive accounting/bookkeeping system as an operating department of the city including all federal grant accounting and reporting requirements. However, the City will not perform any accounting or bookkeeping functions related to contractor (e.g., payroll, tax reports, etc.). The contractor shall assist the City by providing financial and statistical data regarding the system operations required for HSIT accounting purposes. Budget preparation such as monitoring/accountability/cash
collections will be a contractor responsibility.

**Purchasing.** The City conducts all purchases of goods and services for HSIT in the same manner as presently done for other City departments. The contractor shall be familiar with and assist in the preparation of specifications, submission of purchase requests, DBE vendor identification, bid evaluation, etc. The contractor shall assist the City in complying with FTA §5307 program regulations, including DBE/WBE requirements.

**Customer Service.** The contractor shall be required to administer a customer service procedure to handle complaints, violations of City, State, and FTA policies and provide system information.

**Farebox Control.** It is the contractor's responsibility to oversee the farebox counting, control and reporting process.

**Management Reporting.** Management reporting is the responsibility of the contractor and entails the presentation of pertinent operating information to the City. Management reports should include such items as ridership by type, miles, hours, etc., by day, routes and bus and such other reports as required by FTA or the City. City management and the contractor will work together in developing reporting formats and procedures.

**Dispatch.** The contractor must oversee dispatching for the system, overall, and the ADA service, in particular.

**Additional Activities And Reporting.** Preparation of the Transit Asset Management (TAM) plan, Public Transportation Agency Safety Plan, (PTASP), National Transit Database (NTD). Provide technical services for matters including but not limited to reporting for the National Transit Database and assistance preparing for FTA Triennial Reviews and ARDOT Compliance Reviews. Participate with local committees and organizations to include, but not limited to, City of Hot Springs Transportation Advisory Committee, Metropolitan Planning Organization Technical Advisory Committee, and meetings with ARDOT Public Transportation.

B. **Operation.** Overall management of the day-to-day operation of the transit system shall be the sole responsibility of the contractor. In order to ensure a proper operating structure, the following operational procedures will be required of the contractor.

**Personnel Hiring.** The contractor will be responsible assisting the city in the hiring, discipline and termination of HSIT operations personnel (supervisors, bus operators, service persons). Personnel matters shall be accomplished in accordance with the city's personnel program and includes recruiting, application, testing, interview, reference checks and examinations (physical and aptitude). The HSIT personnel are employees of the city.

**Bus operator Training.** The contractor will be responsible for maintaining a roster of qualified bus operators through classroom and in-field instruction. The bus operator training program includes orientation, driving training, route driving experience, driving ability test, continuing training and specialized training (i.e., ADA sensitivity training).

**Scheduling (Vehicles and Bus operators).** Schedule management of vehicles and bus operators will be the responsibility of the contractor. The contractor will be expected to use an organized procedure for bus operator assignment and workloads, as well as a system of rotating the vehicles among the routes, etc.

**Routing and Schedule Planning.** The contractor shall be responsible for conducting ongoing route planning to
ensure the best possible transit service within the resources available. In this regard, the contractor shall develop and monitor route schedules which best meet the needs of transit users and potential users. (Service alterations must be approved by the City Manager, Board of Directors and/or the FTA depending on the extent of the service change.)

**C. Maintenance.** The City of Hot Springs will be responsible for most maintenance functions; nevertheless, the contractor will be expected to comply with the following maintenance procedures.

**Vehicle Inspection.** The contractor will be required to develop and/or administer a daily vehicle inspection procedure to ensure proper vehicle operation and to provide a means for early identification of mechanical problems.

**Servicing/Cleaning.** The contractor will supervise the daily interior/exterior cleaning of each vehicle, as well as daily fueling. It is expected that all vehicles will be maintained in a manner which ensures high appearance levels and rider acceptance. Facilities and equipment for cleaning activities are provided at the City's public works complex where the buses are stored each night.

**Preventive Maintenance.** City maintenance personnel will perform vehicle preventive maintenance. The contractor will be responsible for ensuring that vehicles are available and should assist the City in keeping an organized record-keeping process.

**Fuel Supply.** The City of Hot Springs provides all fuel, oil and parts; however, the contractor will be responsible for ensuring that bus operators and transit system service personnel complete necessary documentation. The City utilizes an on-site automated fuel dispensing system via a third party contractor.

**D. Management Fee.** It is the City's desire that the public transit system provide the best possible service, produce the most revenue possible and result in the lowest possible operating costs. This goal may be best accomplished by designing a partnership between the City and private enterprise, which establishes well-defined contractor controls and responsibilities and which also provides the opportunity for the contractor to make a fair and reasonable profit. The potential contractor should, therefore, propose a specific fixed management fee to accomplish the scope of services which includes, but is not limited to, all contractor personnel costs, "home-office" support and overhead and profit. Two options should be priced:

- Management fee for the above including a guaranteed 120 hours of additional advisory and technical assistance annually by non-resident management personnel. The 120 hours shall not include travel times.

- Management fee as above but without a guaranteed 120 hours of annual additional assistance.

### III. PROPOSAL SUBMISSION

1. All proposals must be received at the Purchasing Office, City of Hot Springs, Arkansas, by 2:00 P.M. CT, WEDNESDAY, NOVEMBER 24, 2021 regardless of delivery method.

2. The envelope or container transmitting the proposals must be sealed, labeled, and addressed as follows:
3. **ONE (1) original sealed** proposal with all signed affidavits and certifications must be submitted (for reproduction by the City Staff) and **ONE (1) PDF version** (flash drive or CD). The City **will not** accept the PDF version by email. Any proposal not submitted in compliance with the instructions contained in this section and/or not containing the information requested by Section IV may be declared "non-responsive" and may not be considered.

**IV. PROPOSAL REQUIREMENTS/FORMAT/REQUIRED CONTENT**

Proposers must submit proposals that include the categories enumerated hereinafter. Proposals will be evaluated in accordance with the City's evaluation criteria based solely upon the proposal contents; therefore, respondents should carefully address each of the following proposal content categories. Proposals shall be prepared in a clear, concise, and economical manner. There is no page limitation or minimum document size, but any information the Proposer submits is expected to be concise and relevant to the RFP. Illustrations may be included in the proposal.

Proposals will be evaluated by an Evaluation Committee named by the City of Hot Springs City Manager. The award of this Contract shall be made to the Proposer whose proposal, in the opinion of the City of Hot Springs best meets the established criteria listed herein.

Each criterion has been assigned a weighting factor that reflects the relative significance or priority each criterion has in determining the costs and quality associated with this service. The proposal receiving the highest total score shall be deemed the proposal, in the opinion of the Evaluation Committee, that best meets the established criteria listed herein. The proposal that is evaluated by an Evaluation Committee as the best with regard to a particular criterion will receive the maximum number of points for that criterion.

Proposals shall adhere to the following format and contain the following items outlined below:

**Cover Letter**, providing the following information:
1. Identification of the proposer(s), including name, address and telephone number of the appropriate contact person at each company/firm.
2. A short summary describing experience, qualifications, and commitment to the work of HSIT.
3. Signature of a person authorized to bind the proposing firm/company to the terms of the proposal.
4. Detailed response to qualifications and capabilities of the Proposer relative to each of the evaluation criterion listed below:
   - A. Organizational Capabilities and Qualifications of Proposer
   - B. Prior Performance on Similar Projects / Background /Experience
   - C. Technical Capacity / Project Approach
A. ORGANIZATIONAL CAPABILITIES AND QUALIFICATIONS OF THE PROPOSER
Proposer shall provide an organizational structure of the company. Include resumes’ and list background and experience of the Contractor and any key personnel that will be working directly with the City of Hot Springs. This should include sufficient information indicating personnel education and experience, as well as any other information relative to performance of this contract. The extent, depth and quality of the individual’s relevant work experience will be evaluated, as well as the quality and applicability of the individual’s education, technical expertise, and professional development as they relate to this proposed position. Proposer must detail the availability of corporate support. Proposer must provide proof of the financial viability of the firm exhibiting adequate financial resources.

B. PRIOR PERFORMANCE ON SIMILAR PROJECTS/BACKGROUND/EXPERIENCE
The Proposer shall submit at least three (3) examples of similar projects that the proposer has undertaken (indicating current status of the project) within the last three (3) years. For each reference cited as related experience, furnish the name, title, address, and telephone number of the person(s) at the organization who is most knowledgeable about the work performed. The information shall describe the contract, including U.S. dollar value, number of vehicles, annual passenger trips, number of years the company has held the contract, and the current contract start date. A contact person's name and phone number from each procuring agency must be provided. City of Hot Springs is seeking the ability of the Proposer to demonstrate a history of providing high quality customer service, as quality is a vital review component.

C. TECHNICAL CAPACITY/PROJECT APPROACH
This criterion considers the Proposer’s compliance with and methodology for providing the minimum required scope of work services being proposed, to include how these services will be provided, and the Proposer’s ability to meet the needs of City of Hot Springs for the desired services. In addition, this category will also consider the Proposer’s ability to meet or exceed the Scope of Work requirements, objectives provided and relevant schedules and milestones. This factor evaluates the proposer’s approach to ensuring high quality management of service delivery by providing technical assistance to the Contractor and the City of Hot Springs. This criterion will also consider the technical services proposed to the City of Hot Springs along with the ability of the proposer to demonstrate the understanding of the requirements of the contract to provide technical services for matters including but not limited to reporting for the National Transit Database, assistance preparing for FTA Triennial Reviews and ARDOT Compliance Reviews, etc.

D. COST PROPOSAL
Cost is an important determinant for award, but not the sole consideration. The cost structure of the proposed contract will be payment of a monthly fixed fee for transit management services. Proposers shall provide the cost proposed for the management fee for each year of the contract (five years).

E. DBE/WBE/MBE
Proposers who are certified disadvantaged business enterprises (DBE) or women-owned business enterprises (WBE) or minority-owned business enterprises (MBE) may qualify for five (5) points as a DBE/WBE/MBE. To claim these points, proposers must include a copy of a current DEB/WBE/MBE certification issued by a governmental agency with their proposal. The City of Hot Springs Intracity Transit has established a 1.6% or higher DBE goal. The participation of certified firms in the provision of goods and services to the public transit system are encouraged and welcomed.
Dorethea Yates, Finance Director

Date
V. CONTRACT PROVISIONS

TERMS AND CONDITIONS OF PURCHASE
(contract provisions)

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<td>Federally Required Clauses and Certifications</td>
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1. COMPLETE AGREEMENT: This Purchase Order shall become a binding agreement of CONTRACTOR and CITY upon CONTRACTOR signing and returning an acceptance copy of this Purchase Order, or upon CONTRACTOR otherwise acknowledging acceptance of this Purchase Order or commencing performance of this Purchase Order, whichever occurs first. This Purchase Order together with the bid documents, as accepted by the CITY, bid specifications, drawings and documents referred to herein, and the other documents referred to therein, which by this reference are all made a part hereof, constitute the entire agreement between the parties, and all prior negotiations, proposals, and writings pertaining to this Purchase Order or the subject matter thereof, are superseded hereby. Any reference to CONTRACTOR's quotation, bid, or proposal does not imply acceptance of any term, condition, or instruction contained in such document. Any invoice, acknowledgment or other communication issued by CONTRACTOR in connection with this Purchase Order not expressly identified otherwise shall be construed to be for record and accounting purposes only. Any terms and conditions stated in such communications shall not be applicable to this Purchase Order and shall not be considered to be CONTRACTOR's exceptions to the provisions of this Purchase Order. Trade custom and/or trade usage is superseded by this Purchase Order and shall not be applicable in the Interpretation of this Purchase Order. Anything that may be called for in the specifications and not shown on the drawings, or shown on the drawings and not called for in the specifications, shall be of like effect as if called for and shown in both. In the event of any ambiguities, express conflicts or discrepancies in the specifications, drawings or other documents which are a part of this Purchase Order, CONTRACTOR shall immediately submit the matter to CITY for its determination and shall comply with the determination of CITY in such matter. All headings and numbering in this Purchase Order are for convenience of reference only and shall in no way be used in interpretation of any of the provisions in this Purchase Order.
2. **RESERVATION OF RIGHTS:** The making or failure to make any inspection of, or payment for, the goods or services covered by this Purchase Order shall in no way impair CITY's right to reject nonconforming or defective goods or services, nor be deemed to constitute acceptance by CITY of the goods or services, or affect in any way CONTRACTOR's obligations under this Purchase Order notwithstanding CITY's opportunity to inspect the goods or services, CITY's knowledge of the nonconformity or defect, its substantiality or the ease of its discovery, nor CITY's failure to earlier reject the goods or services.

3. **WAIVER:** CITY's failure to insist on performance of any term condition, or instruction, or failure to exercise any right or privilege or its waiver of any breach shall not thereafter, waive any such term, condition, instruction, right or privilege.

4. **PATENTS:** CONTRACTOR shall, at its sole expense, indemnify, hold harmless and defend CITY and Owner from and against any suit or proceeding brought against CITY and/or Owner based on a claim that the manufacture, use or sale of any goods or services or any part thereof, supplied under this Purchase Order constitutes infringement of any patent, copyright, trademark, or proprietary information right of others, and CONTRACTOR shall pay all damages and costs awarded therein against CITY and/or Owner. CONTRACTOR shall be notified promptly in writing of the suit or proceeding and shall be given adequate authority, information and assistance (at CONTRACTOR's expense) for the defense of same, subject to the right of CITY and Owner to participate at their expense and to be fully advised by CONTRACTOR in advance of all actions taken. In case said goods or any part thereof is in such suit held to constitute infringement or the sale or use of said goods or parts is enjoined, regardless of whether such determination constitutes a final judgment, CONTRACTOR shall, at its expense, either procure for CITY and Owner the right to sell and use said goods or part, or replace same with substantially equal but noninfringing goods, or if approved by CITY, remove said goods and refund the purchase price and the transportation and installation costs thereof. The preceding paragraph shall not apply to any goods, or any part thereof, manufactured to designs furnished and required by CITY, nor shall it apply to claims that the sale or use of a process or use of a combination of the goods supplied by CONTRACTOR hereunder with other goods infringe a patent, if such process or other goods was not supplied by CONTRACTOR and CONTRACTOR's supplying of the goods hereunder does not constitute contributory patent infringement.

5. **WARRANTY:** CONTRACTOR warrants to CITY and Owner that all goods and services covered by this Purchase Order will conform with the specifications, drawings, and other descriptions supplied or adopted by CITY and will be new, first class, fit, and sufficient for the purposes for which they are intended as evidenced in this Purchase Order and in the drawings and specifications referred to herein, of good materials, design and workmanship, free from defects, and will fulfill satisfactorily the operating conditions specified herein. These warranties shall extend to CITY, Owner, their successors, assigns, customers and the user of their customers' products. CONTRACTOR, at its expense, (including without limitation costs of removal, packing, transportation and reinstallation) shall promptly either repair or replace any goods and services furnished to CITY, which within 12 months after operational startup or within 18 months after shipment, whichever occurs first, shall fail to conform to the requirements of this Purchase Order. CONTRACTOR will at any time be chargeable for repairs made by CITY to correct such a failure to meet this warranty when CONTRACTOR has been given notice of such failure and thereafter has failed to take prompt and effective action to correct the failure in accordance with the foregoing. The above warranties are in addition to all other warranties, express or implied, at law or equity.

6. **INSPECTION AND EXPECTING:** CONTRACTOR shall be responsible for the performance of all activities affecting quality and schedule including those of its sub-suppliers. CITY reserves the right to review CONTRACTOR's Quality Assurance and Quality Control Procedures. The goods provided by CONTRACTOR under this Purchase Order are subject to inspection, expediting and witnessing of CONTRACTOR testing by CITY's representative and/or the Owner, who shall be granted access to all parts of the CONTRACTOR's plant(s) or CONTRACTOR's sub-supplier's plant(s) engaged in the manufacturing or processors of this Purchase Order. The representatives' inspection and witnessing of testing or lack of response shall in no way release the CONTRACTOR from any obligations related to this Purchase Order. CONTRACTOR shall further ensure that these terms and conditions become a part of its purchase orders to sub-suppliers for all goods or services which are used in the products purchased under this Purchase Order. CONTRACTOR and or CONTRACTOR's sub-supplier will notify CITY at least five (5) calendar days in advance of the date inspection or test can be made. If for any reason the date should be set back, CONTRACTOR shall telephone or wire CITY immediately. IF THE CITY INVOKES THIS CONDITION, BY NOTING ON THE PURCHASE ORDER FORM THAT IS ITS INTENT, THE CONTRACTOR SHALL NOT SHIP THE GOODS ON THIS PURCHASE ORDER WITHOUT EITHER CITY'S FINAL INSPECTION OR A WRITTEN WAIVER OF INSPECTION FROM CITY. VIOLATION OF THIS REQUIREMENT SHALL CONSTITUTE A REJECTION OF THE GOODS WITH SUBSEQUENT COSTS FOR RETURN OR OTHER ACTION AS WARRANTED AGAINST THE ACCOUNT OF THE
CONTRACTOR. Complete and accurate information is required to maintain the overall schedule. If requested, CONTRACTOR shall, at a minimum, furnish every fourteen (14) days, status of engineering, material procurement, production and shipping information.

7. INDEMNITY: 7.1 For and in consideration of the covenants of CITY under this Purchase Order, including the agreement of CITY to pay to CONTRACTOR the amounts which may become due and payable in accordance with the terms of this Purchase Order, CONTRACTOR hereby agrees to assume the risk of and to release, defend, indemnify and save harmless CITY, Owner, the related entities of CITY and Owner, and employees and agents and assigns of each (hereinafter "Indemnitees") from and against all lost, damage, liability, cost and expense (including without limitation, reasonable attorneys’ fees) arising out of any injury (including death) to any person or damage to any property resulting from or in any way connected with the performance of this Purchase Order or the goods furnished hereunder, regardless of whether or not such loss, damage, liability, cost or expense is caused in part by an Indemnitee. Neither this Article nor any other provision of this Purchase Order shall be construed in any circumstances to constitute an indemnification against any loss, damage, liability, cost or expense caused solely by the negligence of such Indemnitee. The indemnity obligations in this Purchase Order shall be deemed to be modified as required to exclude indemnification which is expressly prohibited by applicable statute or law. All obligations of this Purchase Order shall otherwise be enforced to the extent permitted by law.

7.2 CONTRACTOR acknowledges specific payment of ten dollars ($10) incorporated into the purchase price as legal consideration of CONTRACTOR's indemnity under this Article 9.2 and all other indemnities as may be provided in this Purchase Order.

8. DELAYS: TIME OF DELIVERY IS OF THE ESSENCE FOR THIS PURCHASE ORDER. CONTRACTOR shall promptly notify CITY of any actual or anticipated delay in delivery and take all reasonable steps to avoid or end delays without additional cost to CITY. Where the delay is caused by act of God, acts of civil or military authority, epidemics, war, riot, strikes or other similar causes beyond CONTRACTOR’s control and which CONTRACTOR could not have reasonably foreseen or provided against, CITY shall have the right to either (i) terminate by written notice to CONTRACTOR all or part of this Purchase Order in accordance with its terms or (ii) extend the date of delivery or performance for a period equal the duration of the delay, but CONTRACTOR shall not be entitled to any extra compensation for such delay. CONTRACTOR shall not be excused from performance hereunder where alternate sources of supply of materials, goods or services are available.

9. ASSIGNMENT: Neither this Purchase Order nor any portion hereof shall be assigned or delegated without CITY’s prior written consent and any such assignment or delegation shall be void. CITY reserves the right to assign this Purchase Order to the Owner or Owner's successors or assigns or to CITY's affiliates.

10. CHANGES: CITY shall have the right by written direction to make changes in the specifications and drawings for goods or services covered by this Purchase Order. If CONTRACTOR believes that such change affects the price or delivery date for such goods or services, CONTRACTOR shall so notify CITY in writing (with adequate supporting documentation) within five (5) calendar days after receipt of said written direction. CONTRACTOR shall suspend performance of the change unless thereafter released in writing by CITY to perform said change and CITY and CONTRACTOR shall mutually agree in writing upon an equitable adjustment in the price and/or delivery date to reflect the effect of such change. CONTRACTOR's request for any adjustments shall be deemed waived unless submitted in writing within such five (5) calendar days after CONTRACTOR receives direction to make such changes. CONTRACTOR shall not suspend performance of the unaffected portion of this Purchase Order while CITY and CONTRACTOR are in the process of making such changes and any related adjustments or at any time thereafter unless so instructed in writing by CITY. If released in writing by CITY, CONTRACTOR shall comply with and perform such change in accordance with the terms of this Purchase Order during the time CONTRACTOR and CITY require to mutually agree upon an equitable adjustment. No substitutions shall be made in this Purchase Order without the prior written authority of CITY. No agreement or understanding modifying the conditions or terms of this Purchase Order shall be binding upon CITY nor will extra compensation be paid by CITY unless the agreement or understanding is made in writing.

11. CANCELLATION FOR DEFAULT: In the event CONTRACTOR shall be adjudged bankrupt, make a general assignment for the benefit of its creditors, or if a receiver shall be appointed on account of CONTRACTOR's insolvency, or in the event CONTRACTOR is in default of any provision or requirement of this Purchase Order, CITY may, by written notice to CONTRACTOR, without prejudice to any other rights or remedies which CITY may have, cancel further performance by CONTRACTOR under this Purchase Order. In the event of such cancellation, CITY may complete the performance of this Purchase Order by such means as CITY selects, and CONTRACTOR shall be responsible for any additional costs incurred by CITY in so doing. CONTRACTOR shall deliver or assign to CITY any work in progress as
CITY may request. Any amounts due CONTRACTOR for goods and services completed by CONTRACTOR in full compliance with the terms of this Purchase Order prior to such cancellation shall be subject to setoff of CITY's additional costs of completing the Purchase Order and other damages incurred by CITY as a result of CONTRACTOR's default. Waiver by CITY of any default of CONTRACTOR shall not be considered to be a waiver by CITY of any provision of this Purchase Order or of any subsequent default by CONTRACTOR.

12. TERMINATION FOR CONVENIENCE: CITY shall have the right to terminate for its convenience further performance of all or any separable part of this Purchase Order at any time by written notice to CONTRACTOR. On the date of such termination stated in the notice, CONTRACTOR shall discontinue all work pertaining to this Purchase Order, shall place no additional orders, and shall preserve and protect materials on hand purchased for or committed to this Purchase Order, work in progress, and completed work both in CONTRACTOR's and in its suppliers' plants pending CITY's instructions and shall dispose of same in accordance with CITY's instructions. Termination payment to CONTRACTOR or refund to CITY, if any, shall be promptly and mutually agreed to by CITY and CONTRACTOR, based on that portion of the work satisfactorily performed to the date of cancellation, including reimbursement for reasonable overhead and profit on such work, plus reasonable and necessary expenses resulting from the termination, as substantiated by documentation satisfactory to and verified by CITY, disposition of work and material on hand, and amounts previously paid by CITY. CONTRACTOR shall not be entitled to any lots of prospective profits, contribution to overhead or incidental, consequential or other damages because of such termination. CONTRACTOR shall deliver or assign all goods with all applicable warranties or dispose of goods as directed by CITY prior to final payment.

13. LAWS AND REGULATIONS: CONTRACTOR warrants that all goods and services supplied pursuant to this Purchase Order will comply with all applicable laws, ordinances and regulations, and, further, CONTRACTOR shall provide all permits, certificates and licenses which may be required for the performance of the Purchase Order. This Purchase Order shall be subject to the law and jurisdiction of the State of Arkansas unless expressly designated otherwise in this Purchase Order. CONTRACTOR further warrants that all goods furnished by CONTRACTOR in performance of this Purchase Order will comply fully with the Occupational Safety and Health Act of 1970(54 U.S. Stat. 1590), as amended, and State plan approved under such Act, and the regulations there under, to the extent applicable to such equipment, and in addition to any other rights or remedies which CITY may have, CONTRACTOR shall indemnify, defend and hold harmless CITY and its Owner from and against any and all claims, loss, or liability arising from failure of such goods to comply therewith. The provisions of Executive Order 11246, as amended by Executive Order 11375 (Equal Employment Opportunity), 35 USC 2012 (Vietnam Era Veterans Readjustment Assistance Act of 1974), Section 503 of the Rehabilitation Act of 1973 (Handicapped Regulations), and the implementing regulations found at 41 CFR 60-1&2, 41 CFR 60-250, and 41 CFR 60-741, respectively, are hereby incorporated by reference. By agreeing to this Order, CONTRACTOR certifies that it maintains no segregated employee facilities at provided in 41 CFR * 60-1.8 and that it is not debarred from being awarded federal or federally assisted contracts. CONTRACTOR shall be responsible for any liability which may accrue to CITY or Owner from any violation thereof.

14. MECHANICS' LIENS: CONTRACTOR agrees to indemnify, hold harmless and defend CITY and Owner from and against all laborers', material men's and/or mechanics' liens arising from the performance of CONTRACTOR's obligations under this Purchase Order and shall keep the premises of CITY and Owner free from all such claims, liens, and encumbrances. CONTRACTOR for itself and all of its Contractors and suppliers of any tier, waives all rights of lien against the property and premises of CITY and Owner for labor performed or for goods furnished for the work.

15. SUSPENSION OF PERFORMANCE: CITY may at any time, and from time to time, by written notice to CONTRACTOR, suspend further performance of all or any portion of this Purchase Order by CONTRACTOR. Such suspensions shall not exceed more than one hundred eighty (180) consecutive calendar days each nor aggregate more than two hundred seventy (270) calendar days. Upon receiving any such notice of suspension, CONTRACTOR shall promptly suspend further performance of the Purchase Order to the extent specified, and during the period of such suspension shall properly care for and protect all work in progress and materials, supplies, and equipment CONTRACTOR has on hand for performance of the Purchase Order. CONTRACTOR shall use its best efforts to utilize its material labor and equipment in such a manner as to mitigate costs associated with suspension. CITY may at any time withdraw the suspension as to all or part of the suspended performance by written notice to CONTRACTOR specifying the effective date and scope of withdrawal, and CONTRACTOR shall, on the specified date of withdrawal, resume diligent performance of the work for which the suspension is withdrawn. If CONTRACTOR believes that any such suspension or withdrawal of suspension justifies modification of the Purchase Order price or time for performance, CONTRACTOR shall comply with the provisions set forth in Article 12, entitled CHANGES. In no event shall CONTRACTOR be entitled to any loss of prospective profits, contributions to overhead or any incidental, consequential or other damages because of such suspensions or withdrawals of
16. **INDEPENDENT CONTRACTOR:** CONTRACTOR shall act as an Independent Contractor and not as an agent or employee of CITY or Owner and shall not contract any portion of the work without the written consent of CITY.

17. **GRATUITIES:** CITY may, by written notice to the CONTRACTOR, terminate the right of the CONTRACTOR to proceed or continue under this Purchase Order 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 of the CONTRACTOR to any officer or employee of the Owner or CITY with a view toward securing this Purchase Order or securing favorable treatment with respect to the awarding or amending, or the making of any determinations with respect to the performing of this Purchase Order. In the event this Purchase Order is terminated as provided in this provision, CITY shall be entitled to pursue the same remedies against the CONTRACTOR as it could pursue in the event of a breach of the Purchase Order by the CONTRACTOR. The rights and remedies of CITY provided in this or any other article shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Purchase Order.

18. **CONFIDENTIAL INFORMATION:** The Documents and all other Information designated as confidential or proprietary and contents thereof are referred to as "Information." CONTRACTOR agrees to retain the Information in confidence and not to disclose it to any third party or use such Information for any other purpose, except as authorized by CITY for the performance of this Purchase Order. CONTRACTOR shall not publicize the existence or scope of this Purchase Order without CITY's written consent. CONTRACTOR shall require these same agreements on the part of any sub-supplier to whom the Information is disclosed. CONTRACTOR shall return all Information and copies therefore to CITY upon written request.

19. **HAZARDOUS MATERIALS:** CONTRACTOR shall notify CITY in writing upon receipt of Purchase Order if goods furnished are subject to laws or regulations relating to hazardous or toxic substances; or when disposed of, to regulations governing hazardous wastes, or to any other environmental or safety and health regulations. CONTRACTOR shall furnish all appropriate shipping certification and instructions for shipping, safety, handling, exposure, and disposal in a form sufficiently clear for use by CITY's nontechnical personnel and sufficiently specific to identify all action which the user must take concerning the material. The following certification must be made on the bill of lading: "This is to certify that the above named articles are properly classified, described, packaged, marked and labeled and are in proper condition for transportation according to any applicable transportation regulations."

20. **VALIDITY OF PROVISIONS:** In the event any Provision, or any part or portion of any Provision of this Purchase Order shall be held to be invalid, void or otherwise unenforceable, such holding shall not affect the remaining part or portions of that Provision or any other Provision hereof.

21. **ARBITRATION:** In the event that CITY is required to arbitrate a dispute with a third party, which dispute arises out of this Purchase Order or is in any way connected with CONTRACTOR, CONTRACTOR agrees to join in such arbitration proceeding as CITY may direct and shall submit to such jurisdiction and be finally bound by the judgment rendered in accordance with the arbitration rules as may be established therein.

22. **RIGHT TO OFFSET:** CITY, without waiver or limitation of any rights or remedies of CITY or Owner, shall be entitled from time to time to deduct from any amounts due or owing by CITY to CONTRACTOR in connection with this Purchase Order (or any other Purchase Order or Contract with CITY), any and all amounts owed by CONTRACTOR to CITY or Owner.

23. **SECURITY.** If CITY makes any advance or progress payment to CONTRACTOR under the Purchase Order, upon CITY's request, CONTRACTOR agrees to execute a Security Agreement and Financing Statement (both in forms satisfactory to CITY) granting a security interest to CITY effective in all states of fabrication or manufacture, in the proceeds, raw materials and goods which are purchased, manufactured, or otherwise obtained pursuant to the Purchase Order.

24. **INSURANCE.** The insurance requirements the bidder must meet, if any, on this project are identified in the “Terms and Conditions of Bidding” and “Statement of Compliance” form. The bidder's required coverages are indicated by a check mark in the left column on the compliance form. Bidders are to indicate their compliance by checking in the right column the coverages for which a certificate is provided and attach the certificates.

25. **SAFETY AND HEALTH REGULATIONS:** While on the premises of CITY or Owner, CONTRACTOR and its
employees shall comply with all applicable safety and health laws, regulations, and ordinances and with the safety, health and plant regulations of CITY and Owner, and shall ensure that all of its employees and agents have a safe place of work on said premises. CONTRACTOR shall keep said premises and the vicinity thereof clean of debris and rubbish caused by its work and, upon completion of its work, shall leave the premises clean and ready for use. Upon request of CITY or Owner, and at no cost or expense to CITY or Owner, CONTRACTOR shall promptly remove from said premises any person under the control of CONTRACTOR who violates any of the aforesaid safety, health, or plant laws, regulations, ordinances or rules or who may cause or threaten to cause a breach of the peace, or who is otherwise objectionable to CITY or Owner.

26. ESCALATION CLAUSE: Contractor may not increase any unit or lump sum pricing during the term of the contract except as provided hereinafter. Prices are to remain firm for an initial period of 120 days after bid award. Thereafter, prices may be changed upward or downward as to the cost of the product being offered. Contractor may increase pricing based upon the documented unexpected or extra ordinary price increases (escalations) from suppliers or sub-Contractors. Prior to delivery and billing for such escalations, the Contractor must notify the City in writing of the adjusted pricing and provide written documentation for the amount of any such escalation. Such documentation shall consist of invoices, quotes, and/or price increase notifications from suppliers of sub-Contractors. In no case shall the Contractor’s fixed profit margin as established by the original contract amount increase due to escalations during the term of the contract. Products or services subject to escalation shall not be delivered or billed until written confirmation and acceptance of the adjusted pricing has been received from the City. This clause shall only be applicable to such goods and services as the City shall in writing so designate as subject to escalation

26. FEDERALLY REQUIRED CERTIFICATIONS AND CLAUSES: Bids for goods and services purchase with federal funding may require the inclusion of additional federally required clauses and certifications. When required, said certifications and clauses shall be considered a part of this contract.
VI. TERMS AND CONDITIONS

REQUEST FOR PROPOSALS (RFP)
TERMS AND CONDITIONS

A. DEFINITIONS

Throughout this request for proposals, the following definitions shall apply:

1. Acceptance or Accepted: Written, signed documentation of City of Hot Springs determination that the Firm’s Work expressly specified therein has been completed in accordance with the Contract.
2. Addendum/Addenda: Written additions, deletions, clarification, interpretations, modifications, or corrections to the solicitation documents issued by City of Hot Springs during the solicitation period and prior to contract award.
3. Administrative Change: Documentation provided by City of Hot Springs to Firm, which reflects internal City of Hot Springs procedures not affecting the Contract terms or Scope of Work.
4. Arkansas Department of Transportation (ARDOT) is an agency of the State of Arkansas responsible for transportation throughout the state. The ARDOT Public Transportation Division provides funding and technical assistance to local transit agencies in the state.
5. Best and Final Offer: Best and Final Offer shall consist of the Proposer’s revised proposal, the supplemental information, and the Proposer’s Best and Final Offer. In the event of any conflict or inconsistency in the items submitted by the Proposer, the items submitted last will govern.
6. Change Documentation: A written document agreed upon by Project Managers, which if it creates a material change to the Contract term or Scope of Work shall be executed as a Contract Amendment.
7. Change Order: Written order issued by City of Hot Springs, with or without notice to sureties, making changes in the Work within the scope of this Contract.
9. Contract Amendment: A written change to the Contract modifying, deleting or adding to the terms or Scope of Work, signed by both parties, with or without notice to the sureties.
10. Contract or Contract Documents: The writings and drawings embodying the legally binding obligations between City of Hot Springs and the Firm for completion of the Work.
11. Contract Period: The period of time during which the Contractor shall perform the Services or Work under the Contract.
12. Contract Price: The amount payable to the Contractor under the terms and conditions of the Contract for the satisfactory performance of the Services or Work under the Contract.
13. Contractor/Firm: The individual, association, partnership, firm, company, corporation, or combination thereof, including joint ventures, contracting with City of Hot Springs for the performance of Services or Work under the Contract. This term shall signify the vendor selected and under contract with City of Hot Springs to provide paratransit transportation services.
15. DBE: Disadvantage Business Enterprise.
16. DOT: The U.S. Department of Transportation.
17. Final Acceptance: The point when City of Hot Springs acknowledges by signed writing that the Contractor has performed the entire Work in accordance with the Contract.
18. Federal Transit Administration (FTA): A branch of the U.S. Department of Transportation (USDOT) established to improve transportation throughout the nation. The FTA provides funding and assistance to local and regional transportation agencies, among various other programs.

19. Headway: The time interval between vehicles in a transit system moving in the same direction on a particular route.

20. Holidays: The official Transit Service holidays are: New Year’s Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; and Christmas Day.

21. HSIT: Hot Springs Intracity Transit is the bus operation system for the City of Hot Springs.

22. Person: Includes individuals, associations, firms, companies, limited liability companies, corporations, partnerships, and joint ventures.

23. Purchasing Department: The individual(s) designated by City of Hot Springs from time to time to administer the Contract and be the Contractor’s primary point of contact. The Procurement Administrator will approve orders, receipts, and invoices and document the Contractor’s performance, but has no contracting authority. This Person may be the Project Manager.

24. Project Manager: The individual designated by City of Hot Springs to manage the project on a daily basis, and who may represent City of Hot Springs for Contract Administration.

25. Proposer/Bidder or Offeror: Individual, association, partnership, firm, company, corporation, limited liability company or a combination thereof, including joint ventures, submitting a bid/proposal to perform the work.


27. Reference Documents: Reports, specifications, and/or drawings that are available to Proposers for information and reference in preparing bids, but not as part of this Contract.

28. RFP or Solicitation: Request for Proposals; also known as the solicitation document.

29. Responsive: Responsive means that the Proposer has complied in every way with all requirements of the RFP. A Responsive determination does not allow for discussion with Proposer. When the Proposal is received, it is either responsive or non-responsive based upon its own merits.

30. Scope of Work or Statement of Work (SOW): A section of the Request for Proposals consisting of written descriptions of services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

31. Services: The furnishing of labor, time, or effort by a Contractor, but not involving the delivery of any specific manufactured goods.

32. Specifications or Technical Specifications: A Section of the Request for Proposals consisting of written descriptions of services to be performed, or the goods to be provided, or the technical requirements to be fulfilled under this Contract.

33. Submittals: Information that is submitted to the Procurement Administrator in accordance with the Scope of Work/Specifications.

34. Work: Everything to be provided and done for the fulfillment of the Contract and shall include all goods and services specified under this Contract, including Contract Amendments and settlements.

B. INTERPRETATION OF RFP

1. Any person, firm, or corporation able to meet the requirements of this RFP is invited to respond to this RFP. Proposals will be bound by the provisions contained in this RFP unless an amendment or deviation is formally approved and distributed by the City.

2. This RFP represents in writing to all proposers the most comprehensive and definite statement that the City is able to make as to the requirements, terms, and conditions for this proposal process and
performance of the project. Information and understandings, verbal or written, which are not contained either in this RFP or in subsequent written addenda to this RFP will not be considered in evaluating proposals. Any conditions or expectations on the part of the proposer for performance by the City must be set forth in the proposal. The City is not obligated to consider the proposer’s post submittal terms and conditions.

3. The scope of work and services listed are to be interpreted as meaning the minimum acceptable by the City.

4. Proposals must include all federal, state, and local taxes, as applicable.

5. As part of the public negotiation process leading to the selection of a contractor, the City may request additions or modifications to any proposal. It is the present intent of the City not to negotiate substantive portions of an applicant's proposal and to rely on the information submitted in these proposals in awarding a contract.

6. The City reserves the right to award the contract without further discussion on the proposals submitted. The City and its designees also reserve the right to reject and/or accept any and all proposals received or parts thereof by item, groups of items, or in total. The City retains the right to waive any minor irregularities in any proposal submitted.

The City may make such investigations it deems necessary to determine the ability of the proposer to provide/perform as sought by the City and the proposer shall provide relevant information as requested.

7. All proposals will become part of the official file on this matter without obligation to the City. In addition, respondents are hereby advised that proposals, once the City has made its selection, are subject to the Arkansas Freedom of Information Act and, therefore, available for viewing or copying by anyone upon request.

8. This solicitation does not commit the City to pay any costs incurred in preparing and submitting the proposal or to contract for the services specified.

9. Acceptance by the successful proposer of an award from this proposal indicates that the successful candidate is in no way currently indebted to the City, Garland County, or the State of Arkansas. Indebtedness to any of the above shall be the basis for non-award and/or cancellation of any award.

10. It is the City's policy to encourage the involvement of Disadvantaged Business Enterprises (minority-owned and women-owned businesses) in contracts awarded. DBE's are particularly invited to submit proposals to perform work outlined in this RFP, either as a prime contractor, subcontractor or as part of a joint venture. Non-DBE firms are encouraged to arrange subcontracts or joint ventures with DBE's prior to submission of their proposal.

11. Any questions concerning this RFP should be directed to Olivia Thomason, 324 Malvern, Hot Springs, AR 71901, or City of Hot Springs, Purchasing Office, PO Box 6300, Hot Springs, AR 71902, (501) 321-6830, or emailed to purchasing@cityhs.net.

12. Requests for clarification of any items, requirements, or specifications contained herein must be
received by the City, **IN WRITING**, no later than the close of business on November 12, 2021. Upon receipt of a request for clarification, the City shall respond in writing no later than November 19, 2021, and shall furnish a copy of the said response to all prospective respondents who have obtained copies of the RFP at the time the City's response is mailed if the response materially changes the RFP or is deemed significant. The procedure outlined above shall be followed in order to ensure competitive fairness by providing all prospective respondents with the same information. Except when in the City’s best interest, the names of prospective proposers will not be divulged.

13. **Proposals must be signed** by a corporate officer authorized to commit the submitting firm and shall remain in full force and effect for ninety (90) calendar days following the date of opening. Proposals may be withdrawn prior to opening only. Negligence on the part of the proposer shall not constitute a right to withdraw the proposal after it is opened.

14. Respondents should also be available for oral presentations if such presentations are deemed necessary to determine the most qualified firm. Any such oral presentation will be scheduled through the Purchasing Office at a mutually convenient time. All presentations will be scheduled after the RFP submittal.

15. Any contract resulting from this RFP may be terminated by either party to the contract upon thirty (30) days' written notice.

16. The contracting party shall not discriminate based on race, sex, color, national origin, gender, sexual orientation, gender identity, or disability.

17. The escalation clause shall only be applicable to contracts with an option for annual extensions, for such goods and services as the City shall, in writing, so designate as subject to escalation. Prices are to remain firm for an initial period of 120 days after bid award. Thereafter, in the event of price increase of material, equipment, or labor occurring during the performance of the contract, through no fault of the Contractor, the contract sum may be equitably adjusted by both written notice and justifiable proof of cause for adjustment. The City shall provide the Contractor, in writing, an acceptance of the escalation before any price adjustment may be implemented. In no case shall the Contractor’s fixed profit margin, as established by the original contract amount, increase due to escalations during the term of the contract.

**C. EVALUATION CRITERIA**

The City’s purpose in soliciting proposals is to determine and select the best-qualified firm with which to award an agreement at the best possible price. In order to accomplish this objective, the following evaluation criteria and procedures will be used:

<table>
<thead>
<tr>
<th>Criteria</th>
<th>Max. Points</th>
</tr>
</thead>
<tbody>
<tr>
<td>A. Organization Capabilities/Qualifications</td>
<td>25</td>
</tr>
<tr>
<td>B. Prior Performance/Experience</td>
<td>30</td>
</tr>
<tr>
<td>C. Technical Capacity/Approach</td>
<td>15</td>
</tr>
<tr>
<td>D. Cost</td>
<td>25</td>
</tr>
<tr>
<td>E. DBE/WBE/MBE</td>
<td>05</td>
</tr>
</tbody>
</table>

**Total Points Possible**

100
Proposals will be reviewed by a selection committee using the above criteria. Each reviewer will evaluate the five sections of each proposal based on the proposal’s content. Reviewers will then assign a point score between zero and the criteria’s maximum possible points for each section. Points for each proposal will then be totaled and proposals ranked from the highest to the lowest total point score. The City reserves the right to invite two or more of the highest-rated firms to make oral presentations (shortlist). Firms invited to make oral presentations will be re-evaluated using the above criteria based on their oral presentation. The firm selected for a bid award will be expected to incorporate, in the agreement their assurances, offers, or guarantees made in their oral presentation. Negotiations will be conducted initially with the firm adjudged to be the best-qualified firm following the ranking and rating process. If a mutually satisfactory contract cannot be negotiated with the selected firm, the firm will be requested to submit a best and final offer in writing, and, if not approved, negotiations with that firm will be terminated. Negotiations will then be initiated with the subsequently qualified firm, and this procedure will be continued until a mutually satisfactory contract has been negotiated. The objective of negotiations will be to reach an agreement on the plans for the services to be provided and an acceptable cost proposal that outlines the cost for each task and final product.

D. PROTEST PROCEDURES

Protest of bidding procedures, specifications, or bid/contract awards shall be made in accordance with the following procedures. Such protests may only be initiated by an authorized representative of a person, firm, or corporation who has a direct economic interest in the particular procurement in question.

1. **Protest Filing.** Any protest must be filed with the purchasing agent at the address specified in the bid specifications or quotation request for the receipt of bids or quotes. The protest must be in writing and describe in full detail the basis for the protest and the particular bid or quote in controversy. In order to meet the time frames enumerated hereinafter, a protest may be received in person, by U.S. mail, facsimile, or electronic means; provided, however, that facsimile or electronic filing shall be followed with documents bearing original signatures as soon as practical thereafter.

2. **Bid Specifications (Pre-Award).** Protest of bid specifications or bidding procedures must be received by the purchasing office no later than five (5) business days prior to the scheduled bid opening or quotation closure period. Protests received on the day of bid opening or quotation closure will not be considered.

3. **Award.** Protests of procurement decisions shall be filed by the protestant within five (5) business days of the award decision. Upon a determination of vendor selection from the bid process, a “Notice of Intent to Award” will be posted on the City’s bid website. The purchasing agent, in consultation with the City Attorney and City Manager, shall have the authority to settle and resolve the protest. If the protest is not resolved by mutual agreement, the City Manager or his designee shall issue a decision in writing to the protestant within ten (10) business days after receipt of the protest stating the reasons for the action taken.

4. **Post-award protests and protest timelines.** All post-award protests shall be referred to the City Manager for action. Furthermore, the City Manager, at his discretion, may extend the protest
5. **Stay of procurement award.** In the event of a timely protest pursuant to this section, the city shall not proceed with the solicitation or procurement until the protest is resolved by mutual agreement, the City Manager or his designee issues a final decision, the board of directors approves the procurement in controversy or a court decision is rendered if the controversy is filed in court. Provided, however, that the city may proceed with procurement in controversy if a written determination is made by the purchasing agent, in consultation with the city attorney, that the items to be purchased are urgently required, the delivery or performance will be unduly delayed by failure to make the award promptly, or failure to make award will otherwise cause undue harm to the city.

6. **Award notification.** Notification of procurement decisions shall be available as soon as such decisions are final. Bid or contract award recommendations to be considered by the board of directors shall whenever possible, also be available in the office of the city clerk seven (7) calendar days prior to the board of directors meeting at which the bid or contract award is scheduled for consideration. It is the responsibility of all bidders to make inquiries of the purchasing office regarding procurement decisions for rendering protests.

7. **Federal grants.** Protest of any procurement funded in whole or in part with federal grant funds may also be filed subsequently with the funding agency. The Department with primary oversight responsibility for a particular federal grant shall ensure that federal agency bid protest procedures, if any, are made available and shall provide assistance in the administration of such agency protest procedures.

**E. AWARD OF CONTRACT**

The City Manager or his designee will review the selection committee’s recommendation and make the final decision regarding recommending the bid award to the Board of Directors. The City will be contacting the successful bidder to negotiate a contract/service agreement. The detailed provision of the contract will be reviewed by the City Attorney. Any significant work alterations or additions during the term of the contract shall be renegotiated by the City and the selected respondent. The selected respondent may be required to obtain a City business license. The City reserves the right to request the modification of any and all proposals and/or to reject all proposals.
STANDARD FORM OF AGREEMENT

(Contract)

Solicitation #

THIS AGREEMENT, made and entered into this ______ day of ____________, 2021 by and between the CITY OF HOT SPRINGS of the County of Garland and State of Arkansas, acting through its MAYOR, as a duly authorized by resolution of its BOARD OF DIRECTORS, hereinafter termed CITY; and ________________________________, of the City of _____________________________, and State of ____________, hereinafter termed VENDOR.

WITNESSETH:

That for and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by the CITY, the VENDOR hereby agrees with the CITY to provide certain transit management and operations services under the terms as stated in the specifications and contract documents consisting of the Notice to Bidders, Terms and Conditions of Bidding, Terms and Conditions of Purchase (Contract Provisions), and Bid Specifications as prepared by the City of Hot Springs, Arkansas, together with the VENDOR’S Bid Proposal, as accepted by the City, and all attachments and required Bidder Certifications, all of which are hereby incorporated by reference, made a part of, and which collectively evidence and constitute the entire contract.

IN WITNESS WHEREOF, the parties to these present have executed this Agreement in the year and day first above written.

CITY OF HOT SPRINGS, ARKANSAS

PARTY OF THE FIRST PART

_____________________________________

VENDOR

BY: ________________________________

AUTHORIZED OFFICIAL

BY: ________________________________

ATTEST: ________________________________

HARMONY MORRISSEY, CITY CLERK
This Bidder’s Checklist is provided to ensure all required forms are completed, signed, and returned as part of the bid submission. All forms must be included as indicated for a bid to be considered a complete and responsive bid. Appropriate signatures and the date are required on each document. If an item is missing, the bid may be declared unresponsive and therefore rejected.

This sheet will serve as the cover sheet for the bid submission.

<table>
<thead>
<tr>
<th>Required Submitted</th>
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<tbody>
<tr>
<td>Statement of Requirements</td>
</tr>
<tr>
<td>One (1) Original Sealed Proposal</td>
</tr>
<tr>
<td>One (1) PDF version (flash drive or CD)</td>
</tr>
<tr>
<td>Federal Required Clauses Acknowledgement</td>
</tr>
<tr>
<td>Federal Certifications Four (4) Total: (Debarment &amp; Suspension/Lobbying/Non-Collusion/Federal Forms)</td>
</tr>
</tbody>
</table>

Bidder’s Signature  

Date Signed

Bidder’s Trade Name (Company, Individual, etc.)
IX. STATEMENT OF REQUIREMENTS

STATEMENT OF REQUIREMENTS

Certificates for those coverages checked below must be submitted by the Bidder with the bid forms. (If there are no checks in the left column, no insurance requirements apply.)

XX General Liability (Minimum Amt.) $ 500,000.00

Product Liability (Minimum Amt.) $ __________

Vehicle Liability (Minimum Amt. per law)

Workers Compensation

Builders Risk (Minimum Amt.) $ __________

Personal Injury (Minimum Amt.) $ __________

Certificate of Good Standing with the State’s Secretary of State

In addition to the above certification, the Bidders are hereby notified that the following additional items apply to this procurement as noted.

This procurement is subject to an escalation clause. (maximum 3% annually)

This procurement is not subject to an escalation clause.

This procurement is subject to federally required certifications/contract clauses.

XX This procurement is subject to federally required certifications/contract clauses.

XX AR City Business License:   City _________________ Number _______________

Bidder’s Signature

Bidder’s Trade Name (Company, Individual, etc.)

Date Signed
APPENDIX I

FTA REQUIRED CERTIFICATIONS
CERTIFICATION REGARDING DEBAREMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY EXCLUSION

I, ____________________________________________, hereby certify (Name and title of official)

on behalf of ____________________________________________ that:

(Name of Bidder/Company Name)

By submission of this proposal, that neither it nor its principals, affiliates, and subcontractors, is presently; a) Debarred from participation in any federally assisted Award or agency on System for Award Management (SAM); b) Suspended from participation in any federally assisted Award; c) Proposed for debarment from participation in any federally assisted Award; d) Declared ineligible to participate in any federally assisted Award; e) Voluntarily excluded from participation in any federally assisted Award; or f) Disqualified from participation in any federally assisted Award.

Have not within a three-year period preceding this Bid 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; Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with the commission of any of the offenses aforementioned. Have not within a one-year period preceding this application/Bid had one or more public transactions (Federal, State, or Local) terminated for cause or default; and The Bidder represents, warrants and acknowledges the understanding that restrictions placed on the employment of labor or on the scale of pay for the work on a contract will be the requirements of the Fair Labor Standards Act (Federal Wage-Hour Law) of 1938, 28 USC §201 et seq., and other applicable labor laws.

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180,
subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

In signing this document, I declare that the foregoing certification and any other statements made by me on behalf of the Bidder are true and correct.

__________________________      _____________________    _____________
Signature of authorized representative    Type or print name              Date
CERTIFICATION TO RESTRICTIONS ON LOBBYING

I, ________________________________,

hereby certify (Name and title of official)

on behalf of ________________________________ that:

(Name of Bidder/Company Name)

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

2. If any funds other than federal appropriated funds have been paid or will be paid to 
any person influencing or attempting to influence an officer or employee of any 
agency, a Member of Congress, and officer or employee of Congress, or an employee 
of a Member of Congress in connection with the federal contract, grant, loan, or 
cooperative agreement, the undersigned shall complete and submit Standard Form – 
LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

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

This certification is a material representation of fact upon which reliance was placed when this 
transaction was made or entered into. Submission of this certification is a prerequisite for 
making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the 
Lobbying Disclosure Act of 1995). Any person who fails to file the required certification 
shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for 
each such failure.
The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.

_________________________  _______________________  _______
Signature of authorized representative  Type or print name  Date
CERTIFICATION OF NON-COLLUSION

I, ______________________________________, hereby certify (Name and title of official)

on behalf of ______________________________________, that:

(Name of Bidder/Company Name)

By submission of this proposal, , the Contractor submitting this proposal, and its agents, officers or employees have not directly or indirectly entered into any agreements, participated in any collusion, or otherwise taken any action in restraint of free competitive procurement in connection with this proposal or with any City of Hot Springs, Arkansas official.

________________________________________  ________________  __________
Signature of authorized representative    Type or print name            Date
CERTIFICATION OF FEDERAL FORMS

These required Federal certifications and contractual provisions for CERTAIN TRANSIT OPERATIONS AND MANAGEMENT SERVICES by the City of Hot Springs under the Federal Transit Administration Grant Programs must be completed, signed, and notarized in order that the bid shall be considered complete. I agree to comply with all Federal statutes, regulations, and executive orders required for Third Party Contracts. The bidder affirms the truthfulness and accuracy of the certifications and assurances it has made in this statement herein and acknowledges that the provision of the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801, et seq. apply to any certification, assurance, or submission made to the City and the FTA. In signing this document, I declare under penalties of perjury that the certifications and assurances, and any other statements made by me, are true and correct.

Printed Name of Company/Organization

Printed Name of Bidder/Authorized Agent

Signature of Bidder/Authorized Agent

Title of Bidder/Authorized Agent

Date
Subscribed and sworn to before me this ______ day of ______________________, 20______.

________________________________
Notary Public

My commission expires: ________________

(SEAL)

**All** information is required and must be submitted on this form or the bid will be rejected.
APPENDIX II

FTA REQUIRED CONTRACT CLAUSES
CITY OF HOT SPRINGS, ARKANSAS ACKNOWLEDGEMENT OF FEDERALLY REQUIRED CLAUSES.

The undersigned supplier/vendor hereby certifies and acknowledges that it has received the following referenced federally required clauses and will meet the requirements thereof as well as the applicable federal regulations pertaining thereto.

In the event of any conflict among the General Terms & Conditions and the Federal Transit Administration (FTA Contract Clauses where the parties’ intended resolution is not clear, the FTA Contract Clauses shall take precedence. In order for the City of Hot Springs to use FTA financial assistance to purchase/conduct capital projects, the City of Hot Springs, and the third-party contractor(s) qualified to perform these projects, must comply with all applicable Federal requirements. FTA’s Master Agreement contains a current description of statutory and regulatory requirements that may affect the City of Hot Springs’ procurement. Appendix D of FTA Circular 4220.1F contains matrices of the list of clauses and their appropriate uses in different procurement types.

Conflict of Interest: The Bidder hereby certifies that no employee, officer, or agent of the grantee shall participate in the selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when:
   a. The employee, officer, or agent;
   b. Any member of his immediate family;
   c. His or her partner; or
   d. An organization that employs, or is about to employ, has a financial or other interest in the firm selected for award. The Department’s officers, employees or agents shall neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from contractors, potential contractors, or parties to sub-agreements.

Non-Collusion Affidavit: (Section 112 (c) of Title 23, United States Code): Bidder has not, either directly, or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the bid submitted herein.

Federally Required Contract Clauses for Federal Transit Administration Funded Procurements

1. Fly America Requirements
2. Charter Bus Requirements
3. School Bus Requirements
4. Energy Conservation
5. Clean Water
6. Lobbying
7. Access to Records and Reports
8. Federal Changes
9. Safe Operation of Motor Vehicles

Company                                      Name/Title                                           Signature                                    Date
10. Clean Air
11. Recycled Products
12. No Government Obligation to Third Parties
13. Program Fraud and False or Fraudulent Statements or Related Acts
14. Termination
15. Government-wide Debarment and Suspension (Non-procurement)
16. Civil Rights
17. Breaches and Dispute Resolution
18. Transit Employee Protective Provisions
19. Disadvantaged Business Enterprise (DBE)
20. Substance Abuse Requirements
21. Access Requirement for Persons with Disabilities
22. Other Contract Requirements
23. Compliance with Federal Regulations
24. Conformance with ITS National Architecture
25. Disputes, Breaches, Defaults, or Other Litigation.
26. Incorporation of Federal Transit Administration (FTA) Terms
FEDERAL GOVERNMENT REQUIRED CLAUSES (FTA)

1. Fly America Requirements – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (less than $2,500).
Fly America Requirements a) Definitions. As used in this clause—
“International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. “United States” means the 50 States, the District of Columbia, and outlying areas. “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411. b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services. c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property. d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows: Statement of Unavailability of U.S.-Flag Air Carriers International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]: e) The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

2. Charter Bus Requirements – Applicability – Operational Service Contracts except micro-purchases (less than $2,500)
The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, “Charter Service,” 49 C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing. The contractor agrees that if it engages in a pattern of violations of FTA’s Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; A-22 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA’s Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

3. School Bus Requirements – Applicability – Operational Service Contracts
The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(f); 2. FTA regulations, “School Bus Operations,” 49 C.F.R. part 605; 3. Any other Federal School Bus regulations; or 4. Federal guidance, except as FTA determines otherwise in writing. If Contractor violates this School Bus Agreement, FTA may: 1. Bar the Contractor from receiving Federal assistance for public transportation; or 2. Require the contractor to take such remedial measures as FTA considers appropriate. When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities. A-62 The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

4. Energy Conservation – Applicability – All Contracts except micro-purchases (less than $2,500)

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

5. Clean Water – Applicability – All Contracts and Subcontracts over $100,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251-1387, et seq. Contractor will not use any violating facilities and will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding $100,000 financed in whole or in part with FTA assistance.

6. Lobbying – Applicability - Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts except micro-purchases (less than $2,500)

The undersigned certifies, to the best of his or her knowledge and belief, that:(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

7. Access to Records and Reports– Applicability – As shown below. These requirements do not apply to micro-purchases (less than $2,500).

Under 49 U.S.C. § 5325(g), FTA has the right to examine and inspect all records, documents, and
papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

The following access to records requirements apply to this Contract:

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.  
b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.  
c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.  
d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

8. Federal Changes – Applicability – All Contracts except micro-purchases (less than $2,500)
Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the municipal corporation and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

9. Safe Operation Of Motor Vehicles– Applicability – All federally funded third party contracts.
Seat Belt Use: The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-A-60 rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or AGENCY. Distracted Driving: The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

10. Clean Air – Applicability – All contracts over $100,000
(1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401-7677q, et seq. Contractor will not use any violating facilities and will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities”. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. (2) Contractor shall include these requirements in each subcontract exceeding $100,000 financed in whole or in part with FTA assistance.

11. Recycled Products – Applicability – All contracts over $10,000 for items designated by the EPA

12. No Government Obligation to Third Parties - Applicability – All contracts except micro-purchases (less than $2,500)
(i) the recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the
express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

13. Program Fraud and False or Fraudulent Statements or Related Acts – Applicability – All contracts except micro-purchases (less than $2,500)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

14. Termination – Applicability – All Contracts over $10,000.

Termination for Convenience (General Provision) The AGENCY may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the AGENCY’s best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to AGENCY to be paid the Contractor. If the Contractor has any property in its possession belonging to AGENCY, the Contractor will account for the same, and dispose of it in the manner AGENCY directs.

Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the AGENCY may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the AGENCY that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the AGENCY, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision) The AGENCY, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is
permitted and other appropriate conditions If Contractor fails to remedy to AGENCY’s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from AGENCY setting forth the nature of said breach or default, AGENCY shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude AGENCY from also pursuing all available remedies against Contractor and its sureties for said breach or default. Waiver of Remedies for any Breach In the event that AGENCY elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by AGENCY shall not limit AGENCY’s remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts) The AGENCY, by written notice, may terminate this contract, in whole or in part, when it is in the AGENCY’s interest. If this contract is terminated, the AGENCY shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

Termination for Default (Supply and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the AGENCY.

Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provision of this contract, AGENCY may terminate this contract for default. The AGENCY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the AGENCY may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the AGENCY resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the AGENCY in completing the work. The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of AGENCY, acts of another contractor in the performance of a contract with AGENCY, epidemics,
quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies AGENCY in writing of the causes of delay. If, in the judgment of AGENCY, the delay is excusable, the time for completing the work shall be extended. The judgment of AGENCY shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of AGENCY. Termination for Convenience or Default (Architect and Engineering) The AGENCY may terminate this contract in whole or in part, for the AGENCY's convenience or because of the failure of the Contractor to fulfill the contract obligations. The AGENCY shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the AGENCY's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. AGENCY has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials. If the termination is for the convenience of the AGENCY, the AGENCY’s Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the AGENCY may complete the work by contact or otherwise and the Contractor shall be liable for any additional cost incurred by the AGENCY. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of AGENCY. Termination for Convenience or Default (Cost-Type Contracts) The AGENCY may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of AGENCY or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the AGENCY, or property supplied to the Contractor by the AGENCY. If the termination is for default, the AGENCY may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the AGENCY and the parties shall negotiate the termination settlement to be paid the Contractor. If the termination is for the convenience of AGENCY, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a Notice of Termination for Default, the AGENCY determines that the Contractor has an excusable reason for not performing, the AGENCY, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

15. Government-wide Debarment and Suspension (Nonprocurement) – Applicability – Contracts over $25,000
The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of $25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be: a) Debarred from participation in any federally assisted Award; b) Suspended from participation in any federally assisted Award; c) Proposed for debarment from participation in any federally assisted Award; d) Declared ineligible to participate in any federally assisted Award; e) Voluntarily excluded from participation in any federally assisted Award; or f) Disqualified from

Federal Government
Required Clauses (FTA Procurements)

Initials
participation in any federally assisted Award. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

16. Civil Rights Requirements—Applicability—All contracts except micro-purchases (less than $2,500)
The following requirements apply to the underlying contract:
The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h)(3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof. 1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for A-26 employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue. 2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. 3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. 4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § A-27 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue. Contractor shall include these requirements in each subcontract financed in whole or in part with FTA assistance, modified only if necessary to identify the affected parties.

17. Breaches and Dispute Resolution—Applicability—All contracts over $150,000.
The AGENCY shall have the following rights in the event that the AGENCY deems the Contractor guilty of a breach of any term under the Contract. 1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors; 2. The right to cancel this Contract as to any or all of the work yet to be performed; 3. The right to specific performance, an injunction or any other appropriate equitable remedy; and 4. The right to money damages. For purposes of this Contract, breach shall include [AGENCY to define]. Rights and Remedies of Contractor—Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the AGENCY, the Contractor expressly agrees that no default, act or omission of the AGENCY shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the AGENCY directs Contractor to do so) or to suspend or abandon performance.

Federal Government
Required Clauses (FTA Procurements)
Remedies: Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the AGENCY will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the AGENCY takes action contemplated herein, the AGENCY will provide the Contractor with sixty (60) days written notice that the AGENCY considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes Example 1: Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of AGENCY’s [title of employee]. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision. Example 2: The AGENCY and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the AGENCY and the Contractor’s organization. In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner. Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the AGENCY’s direction or decisions made thereof.

Performance during Dispute: Unless otherwise directed by AGENCY, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages: Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies: Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the AGENCY and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction if the AGENCY directs. Rights and Remedies: The duties and obligations imposed by the Contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the AGENCY or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

18. Transit Employee Protective Provisions – Applicability – Contracts for transit operations except micro-purchases (less than $2,500).

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b): 1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract. 2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract. A-57 3. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA.
will be incorporated herein as required.

19. Disadvantaged Business Enterprise (DBE) – Applicability – Contracts over $250,000 (exclusive of transit vehicle purchases)

For all DOT-assisted contracts, each FTA recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts: The contractor, subrecipient or 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 of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor 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 the recipient deems appropriate, which may include, but is not limited to: (1) Withholding monthly progress payments; (2) Assessing sanctions; (3) Liquidated damages; and/or (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient’s written consent; and that, unless the recipient’s consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f)(1).

It is the policy of the AGENCY and the United States Department of Transportation (“DOT”) that Disadvantaged Business Enterprises (“DBE’s”), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the AGENCY to: 1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts; 2. Create a level playing field on which DBE’s can compete fairly for DOT-assisted contracts; 3. Ensure that the DBE program is narrowly tailored in accordance with applicable law; 4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE’s; 5. Help remove barriers to the participation of DBEs in DOT assisted contracts; 6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and 7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program. This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The AGENCY shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the AGENCY may consider during its review of the Bidder/Offeror’s submission package, the Bidder/Offeror’s documented history of non-compliance with DBE requirements on previous contracts with the AGENCY. Contract Assurance A-31 The Contractor, subrecipient or 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 of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor 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 the AGENCY deems appropriate.

To the extent authorized by Federal law, the Recipient agrees to facilitate participation by Disadvantaged Business Enterprises (DBE) in the Project and assures that each subrecipient, lessee, and third party contractor at any tier of the Project will facilitate participation by DBEs in the Project to the extent applicable. Therefore: (1) The Recipient agrees and assures that it will comply with section 1101(b) of SAFETEA-LU, 23 U.S.C. § 101 note, and U.S. DOT regulations, “Participation by
Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. Part 26. (2) The Recipient agrees and assures that it shall not discriminate on the basis of race, color, sex, or national origin in the award and performance of any third party contract, or subagreement supported with Federal assistance derived from U.S. DOT in the administration of its DBE program and will comply with the requirements of 49 C.F.R. Part 26. The Recipient agrees to take all necessary and reasonable steps set forth in 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of all third party contracts and subagreements supported with Federal assistance derived from U.S. DOT. As required by 49 C.F.R. Part 26 and approved by U.S. DOT, the Recipient’s DBE program, if any, is incorporated by reference and made part of the Grant Agreement or Cooperative Agreement for the Project. The Recipient agrees that implementation of this DBE program is a legal obligation, and that failure to carry out that DBE program shall be treated as a violation of the Grant Agreement or Cooperative Agreement for the Project and the Master Agreement. Upon notification by U.S. DOT to the Recipient of its failure to implement its approved DBE program, U.S. DOT may impose sanctions as provided for under 49 C.F.R. Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act, 31 U.S.C. §§ 3801 et seq..

20. Substance Abuse Requirements-Applicability-All third party contractors at every tier who perform a safety-sensitive function for the recipient or subrecipient.

FTA's drug and alcohol rules, 49 C.F.R. part 655, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with part 655. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them. How a recipient does so depends on several factors, including whether the contractor is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipient has with the contractor, and the financial resources available to the recipient to oversee the contractor's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules. FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

Explanation of Model Contract Clauses Option 1 The recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 C.F.R. part 655. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option for only those recipients that have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program. Option 2 The recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under Option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that, without adequate monitoring of the contractor's program, the recipient may find itself out of compliance with the rules. Option 3 The recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the
testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why. SUBSTANCE ABUSE TESTING Option 1 The Contractor agrees to participate in AGENCY’s drug and alcohol program established in compliance with 49 C.F.R. part 655. SUBSTANCE ABUSE TESTING Option 2 The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. parts 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of [name of State], or AGENCY, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before [insert date] and to submit the Management Information System (MIS) reports before [insert date before March 15] to [insert title and address of person responsible for receiving information]. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. SUBSTANCE ABUSE TESTING Option 3 The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of [name of State], or AGENCY, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before [insert date] and to submit the Management Information System (MIS) reports before [insert date before March 15] to [insert title and address of person responsible for receiving information]. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before [insert date or upon request] a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt [insert title of the Policy Statement the recipient wishes the contractor to use] as its policy statement as required under 49 C.F.R. part 655; OR (c) submit for review and approval before [insert date or upon request] a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the Contractor agrees to: [to be determined by the recipient, but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium].

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

22. Other Contract Requirements - To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient’s Procurement Guidelines, available upon request from the recipient.

23. Compliance with Federal Regulations - Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA
Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the municipal corporation and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

24. Conformance with ITS National Architecture - Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, “FTA National Architecture Policy on Transit Projects,” 66 Fed. Reg.1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing. U.S. DOT Common Rules requires Recipient to implement, and require any subgrantee, if any, to implement reasonable measures to safeguard protected personally identifiable information as well as any information that the FTA or pass-through entity designates as sensitive. Access Requirements for Persons with Disabilities – Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

25. Disputes, Breaches, Defaults, or Other Litigation. (a) FTA Interest. FTA has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the Award, the accompanying Underlying Agreement, and any Amendments thereto including, but not limited to, a default, breach, major dispute, or litigation, and FTA reserves the right to concur in any settlement or compromise. (b) Notification to FTA; Flow Down Requirement. If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub-agreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220. (1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason. (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements. (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an
agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. (c) Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for the Underlying Agreement. Notwithstanding the preceding sentence, the Recipient may return all liquidated damages it receives to its Award Budget for its Underlying Agreement rather than return the federal share of those liquidated damages to the Federal Government, provided that the Recipient receives FTA’s prior written concurrence. (d) Enforcement. The Recipient must pursue its legal rights and remedies available under any third party agreement or any federal, state, or local law or regulation.

26. Incorporation of Federal Transit Administration (FTA) Terms – Applicability – All contracts except micro-purchases (less than $2,500)
The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the municipal corporation to be in violation of FTA terms and conditions.
APPENDIX III

HSIT FINANCIAL/STATISTICAL/SYSTEM DATA
HOT SPRINGS INTRACITY TRANSIT
ORGANIZATIONAL CHART

DEPUTY CITY MANAGER*

RESIDENT ADVISOR
CONTRACTOR POSITION

SUPERVISOR*
(1 FULL TIME POSITION)

OFFICE MANAGER*
(1 FULL TIME POSITION)

TRANSIT DRIVER*
(9 FULL TIME POSITIONS)
(1 PART TIME POSITION)

SUPERVISOR*
(1 FULL TIME POSITION)

DRIVER/DISPATCHER*
(1 FULL TIME POSITION)

SERVICE/MAINTENANCE*
(1 FULL TIME POSITION)

* denotes City employee
DEPARTMENT MISSION
Our mission is to serve the City of Hot Springs with safe, reliable, and fixed route service along with on-demand paratransit service for persons with disabilities. We provide rides to about 200,000 passengers per year but due to COVID-19 the number was reduced in 2020. Our paratransit provides rides critical to seniors, those with disabilities and dialysis patients daily.

ACCOMPLISHMENTS OF FY2020

- Maintained normal service levels throughout the pandemic period. Masks were mandated for passengers and drivers in March. Buses were disinfected several times a day while in service. No-contact temperature checks were made periodically for passengers and at the beginning of service for drivers. Other protocols were developed and enforced, including social distancing guidelines and signage.
- Obtained $2.1 million in special 100% Federal CARES Act funding for IT operations and capital projects.
- Intracity Transit, with the assistance of ArDOT, developed its first Public Transportation Agency Safety Plan (PTASP). This meets a new Federal requirement and provides a comprehensive approach to operational safety, accident prevention and analysis.
- Staff from IT and other City Departments (Finance, Fleet Services, Human Resources and Deputy City Manager) provided a full range of reports, data and policies to the Federal Transit Administration for its Triennial Review, a comprehensive look at how the City manages the federal resources and meets all federal requirements.
- IT participated in the upgrade of the City’s P-25 complaint radio system. All vehicles have a two-way mobile radio on board.
- IT participated in the successful bidding and award of the construction contract for the Malvern Avenue Streetscape Project, funded in part by the Federal Transit Administration.
- Ordered 2 low floor cutaway vans for use in fixed route service.
- Installed 2 bus shelters, funded in part by CDBG.

OBJECTIVES FOR FY2021

- Continue to adapt to the changing COVID-19 protocols, including local enforcement of the Jan 20, 2021 Executive Order mandating face mask coverings on all public transit vehicles and facilities.
- Work to restore ridership to pre-pandemic levels by the end of 2021.
- Place 3-5 additional bus shelters in strategic locations.
- Procure and order a replacement heavy duty 30’ coach for fixed route.
- Update the Transit Asset Management Plan (TAMP).
- Continue implementation and update of the Public Transportation Agency Safety Plan (PTASP).
- Upgrade of video surveillance system at the Transportation Depot.
FARES

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Transfers are free. You must receive a transfer from driver upon boarding.

REQUIREMENT FOR REDUCED FARE

Senior citizens (age 62 and older), people with disabilities, or people who hold a valid Medicare card pay half price for cash fares and passes for fixed route services only when they present SSDI award letter, valid Medicare Card or Photo I.D.

TRANSFERS

You may transfer from one bus route to another only at the Transportation Plaza. To transfer to another bus ask your driver for a transfer ticket when you board the bus. Transfer tickets are free, nontransferable and non-negotiable and must be used within one hour of receipt.

BOARDING & DEPARTING

You may board the bus at bus stops along the designated routes. To depart the bus, simply pull the signal cord or push the signal button, located just above the window, a block or so before your desired stop.

DAYS & HOURS OF OPERATION

Buses operate from 6:10 am until 8:00 pm, Monday through Friday and from 10:10 am until 6:00 pm on Saturday. No bus service on Sunday or the following holidays: New Year’s Day, Memorial Day, 4th of July, Labor Day, Thanksgiving Day and Christmas Day. All bus routes begin and end their daily runs at the Transportation Plaza.

DISABLED CITIZEN SERVICES

All buses are equipped with wheelchair ramps and other accommodations for disabled passengers. If you have a special need, please advise the driver. Some disabled persons may be eligible for special paratransit service. Call 321-6625 for information.

Coupons (10)

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<td>Senior (62+) Disabled (ID Required)</td>
<td>$5.00</td>
</tr>
<tr>
<td>Medicare Card Holders</td>
<td>$5.00</td>
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<tr>
<td>Youths (7-18)</td>
<td>$6.25</td>
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MONTHLY PASSES

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<tr>
<th>Passenger</th>
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<tr>
<td>Adult (19-61)</td>
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<tr>
<td>Senior (62+) Disabled (ID Required)</td>
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<tr>
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</tr>
<tr>
<td>Youths (7-18)</td>
<td>$27.50</td>
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</table>

Exact Fare

When boarding, please have the exact amount when paying your fare. For security purposes, drivers are not permitted to make change. Please place your money directly in the fare box.

BUS ETIQUETTE

Drivers are permitted to ask if an accompanying animal is a service animal and about the kind of task that the animal has been trained to assist you with.

Smoking, vaping, eating or drinking are not permitted on the bus.

A driver may refuse to transport a passenger who appears under the influence of alcohol, illegal or dangerous substances or whose behavior or language appears abusive, defensive, disorderly or dangerous to the driver or other passengers.

Please fold strollers before boarding; and because drivers must be able to devote their full attention to the safe operation of their vehicle, please do not interact with the driver while the vehicle is in motion.

INFORMATION & SERVICES

For information or assistance regarding discount passes or books, trip route assistance, lost and found, other information or comments concerning the Hot Springs Intracity Transit service, call 321-2020 or visit our office at 100 Broadway Terrace.

Fares and general operating policies are governed by Hot Springs Code of Ordinances 13-2-1 seq and applicable federal regulations.

Intracity Transit is a public transit service of the City of Hot Springs and is funded, in part, by the Federal Transportation Administration and the Arkansas Department of Transportation.

For inclement weather information: 501-321-6808, City of Hot Springs Action Line.
<table>
<thead>
<tr>
<th>ROUTE 1</th>
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<th>Time</th>
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<tbody>
<tr>
<td>Outbound</td>
<td>Transportation Plaza</td>
<td>0:10</td>
</tr>
<tr>
<td></td>
<td>Central/Greenwood</td>
<td>0:15</td>
</tr>
<tr>
<td></td>
<td>Central/Oaklawn</td>
<td>0:18</td>
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<tr>
<td></td>
<td>St Vincent Hospital</td>
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<tr>
<td></td>
<td>Higdon Ferry/Twin Points</td>
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<tr>
<td></td>
<td>Temperance Hill</td>
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<tr>
<td>Inbound</td>
<td>Hot Springs Mall</td>
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<td></td>
<td>Walmart</td>
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<tr>
<td></td>
<td>Central/Cornerstone</td>
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<td></td>
<td>Market Place</td>
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<tr>
<td></td>
<td>Central/Oaklawn</td>
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<td>Outbound</td>
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<td></td>
<td>Levi Towers</td>
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<td></td>
<td>Hobson/Thornton</td>
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<td></td>
<td>Hobson/N. Mission</td>
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<tr>
<td></td>
<td>West Gate Plaza</td>
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<td>National Park College</td>
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<tr>
<td>Inbound</td>
<td>Mid America/ Mt Pine Rd</td>
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<tr>
<td></td>
<td>Walmart</td>
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<td>Mowery-Wyatt Plaza</td>
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<td>Richard/Albert Pike</td>
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<tr>
<td></td>
<td>Ouachita/Grand</td>
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<td>Park/Oriole</td>
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<td>Walnut/Whittington</td>
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<td>948 Whittington</td>
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<td>Depot</td>
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<td>Malvern/Lowery</td>
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<tr>
<td>Inbound</td>
<td>National Park Medical</td>
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<td>Ridgeway/Malvern</td>
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<td>Malvern/Silver</td>
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<td>Illinois/Wade</td>
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<tr>
<td></td>
<td>Mountain View Towers</td>
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<td>City Hall</td>
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<td>Transportation Plaza</td>
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<td>ROUTE TYPE</td>
<td>RIDERSHIP (excludes transfers)</td>
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<tr>
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<tr>
<td>302402</td>
<td>2004 Gillig Low Floor Transit Bus-Bought on online auction</td>
<td>01/03/2018</td>
</tr>
<tr>
<td>308078</td>
<td>2001 TRUCK DODGE RAM Full Size PTR 15-041 1/2 Ton Pickup 8 cyl. Pat Watson</td>
<td>06/12/2001</td>
</tr>
<tr>
<td>308627</td>
<td>2004 OPTI BUS 34 FT LOW FLOOR Fixed 31 SEATS, 2 TRIPLE FLIP SEATS &amp; 2 WHEEL CHAIRS</td>
<td>07/19/2004</td>
</tr>
<tr>
<td>309086</td>
<td>FEDERAL-2009 Gillig Transit Bus Fixed</td>
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<tr>
<td>309123</td>
<td>FEDERAL-2010 Toyota Prius 4Cyl HB Sedan</td>
<td>09/29/2009</td>
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<tr>
<td>309160</td>
<td>FEDERAL-2010 Gillig &quot;Low Floor&quot; Transit Bus Fixed</td>
<td>08/31/2010</td>
</tr>
</tbody>
</table>
City of Hot Springs
Asset Listing - 382 IT
Effective Date: 06/30/2021

<table>
<thead>
<tr>
<th>Number</th>
<th>Description</th>
<th>Acquisition Date</th>
<th>Original Purchase Price</th>
<th>Defined Service Life (Yrs/Mi)</th>
<th>Use or Condition</th>
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<tbody>
<tr>
<td>309161</td>
<td>FEDERAL-2010 Gillig &quot;Low Floor&quot; Transit Bus Fixed</td>
<td>08/31/2010</td>
<td>$345,831.00</td>
<td>10 yrs/350,000 mi</td>
<td>Yes, Fair</td>
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<tr>
<td>309334</td>
<td>FEDERAL 2013 Ford E450 SD Cutaway E4FF VIN #93308 Starcraft Allistar</td>
<td>07/30/2014</td>
<td>$59,771.65</td>
<td>5 yrs/150,000 mi</td>
<td>Yes, Good</td>
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<tr>
<td>309437</td>
<td>FEDERAL 2014 Ford Aerotech ADA Bus VIN #10194 Paratransit/FTA thru AHTD-80/20 Grant Job #A3491</td>
<td>12/31/2014</td>
<td>$50,589.00</td>
<td>4 yrs/100,000 mi</td>
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<tr>
<td>309507</td>
<td>FEDERAL 2016 Chevrolet Traverse</td>
<td>04/30/2016</td>
<td>$25,188.21</td>
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<tr>
<td>309514</td>
<td>FEDERAL-2016 chevrolet Glaval Low Floor Medium Cut-Away Bus VIN #40707</td>
<td>10/21/2016</td>
<td>$113,166.49</td>
<td>5 yrs/150,000 mi</td>
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<tr>
<td>309547</td>
<td>FEDERAL-Ford 20 Passenger Plus Driver ADA Van</td>
<td>02/20/2017</td>
<td>$59,293.00</td>
<td>4 yrs/100,000 mi</td>
<td>Yes, Good</td>
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<tr>
<td>309622</td>
<td>FEDERAL-2019 Ford ADA Bus VIN #24036-350 Transit Conversion Van with rear W/C lift and 2 W/C restraints. AML #85</td>
<td>12/27/2018</td>
<td>$45,010.00</td>
<td>4 yrs/100,000 mi</td>
<td>Yes, Good</td>
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