

Request for Proposals for the Preparation of a Transit Development Plan for The City of Rochester, Minnesota



Proposals Due March 3, 2015

Background Information

The City of Rochester is located in southeastern Minnesota approximately 90 miles from the Minneapolis/ St Paul area. According to the US Census Bureau, the City of Rochester had a population of 108,179 in 2013, making it by far the largest community in Olmsted County, which had an estimated population of 146,063. The City encompassed 35,249 acres of land in 2013, an increase of 7.1% from the 2007 area of 32,922 acres. The major employer is the world famous Mayo Clinic with a staff of over 30,000 employees. The Mayo medical campus is situated in the downtown providing diagnostics, research, testing laboratories, medical school and two hospitals. Due to the healthcare services the city has a large lodging industry with over 5,000 hotel rooms and many restaurants. IBM Corporation has a large production facility on the northwest part of the city. There are also a number of related medical and computer/software industries along with agricultural processing plants. The Rochester area is experiencing tremendous growth as a job producer and regional trade center.

The City of Rochester through the Transit and Parking Division of the Public Works Department provides for the overall administration and oversight of the transit program. The Transit and Parking Division provides for the planning, policy, procurement and marketing of public transit services. The City maintains a Citizens Advisory on Transit that provides citizen input and makes recommendations to the City Council. The seven members of the advisory are appointed by the Mayor. Community input is also solicited through neighborhood meetings and surveys. All major service and fare changes are subject to a public hearing process and approval of the City Council.

The City owns the transit equipment with day-to-day operations contracted for with two operators. The 2015 budget is \$7.6 million. The transit system served over 1.7 million passengers in 2013. (This includes over 40,000 paratransit riders.) Ridership increased by 41.7% between 2003 and 2013. The City's population grew from 88,338 in 2003 to 108,179 in 2013, an increase of 22.5%. Historically management has emphasized program revenues, and saw a farebox return in 2013 of 34% and 21% respectively on the regular route and dial-a-ride systems.

Transit operations are funded with local, State and federal dollars. The city is a direct recipient of Federal Transit Administration (FTA) Section 5307 funds. The FY 2014 FTA apportionment totaled \$1,964,143. The State of Minnesota requires 50% of the apportionment to be dedicated to operations. The State funding formula is based on a percent of total operating expenses less federal funds. For example, the local share requirement for the regular route urban area peer group is 20%. The local share for paratransit systems is 15%. While the State formula appears generous, the State has had to limit annual increases in total expenses. Consequently, in recent years the City of Rochester has dedicated almost 100% of its annual FTA apportionment to operations.

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Regular route operations are provided under contract by First Transit, Inc. The service is provided under a 54-month contract. The current contract runs through December 31, 2016. The company provides day to day operations including drivers, maintenance and garaging, dispatch, and customer contact.

The city owned fleet consists of 45 buses; all are wheelchair-accessible, low-floor design. The City awarded a five-year contract for buses with Gillig Corporation in June 2014. The first seven of those buses are expected to be delivered in October 2015. The City has completed a feasibility study for the deployment of compressed natural gas (CNG) buses and is seeking capital funds to build a CNG fueling station.

ZIPS Dial-A-Ride provides ADA paratransit service. The operation is contracted at a per vehicle hour rate with R&S Transport. The current 5-year contract (2-year base, plus 3 optional extensions at City's prerogative) was awarded in 2011. The operator provides day to day operations including drivers, maintenance and garaging, dispatching and customer contact.

The City last updated its Transit Development Plan in 2007. City staff provides ongoing service planning and an annual update of the operating budget and capital improvement program.

For a description of transit services, please visit www.rochesterbus.com.

Challenges

The local transit system will face various challenges in the coming years. Following are some of the more obvious ones.

Provide convenient service with competitive ride times and adequate community coverage.

Design services attractive to riders and easy to use and to effectively communicate information about them.

Provide, at a minimum, peak hour service to all Rochester neighborhoods.

Increase community access and mobility.

Maintain and expand park and ride facilities partnering whenever possible with private business.

Evaluate whether the existing hub and spoke system design with a single transfer location (downtown) will meet short and long term operational needs.

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Examine how the recommendations of the Destination Medical Center (DMC) project and the City's Comprehensive Plan, 2015-2035, will affect transit delivery, especially with regard to the following potentialities:

- a people-mover, possibly rail-based, along 2nd Street
- the relocation of the bus transfer area from 2nd Street to another location downtown (likely along 3rd and 4th Avenues SW)
- projected 30,000 new employees downtown by 2035
- the goal of bringing 23-30% of all downtown workers to their destinations via transit by 2035
- new park-and-ride locations near downtown, in addition to the existing park-and-ride lots on the edges of the City

Study Objective

The objective of this study is to develop an updated Transit Development Plan that includes an evaluation and recommendations regarding: program goals and objectives, operations/service design, capital improvements, funding, management structure, marketing and related policy issues. The study shall address internal and external factors influencing the use of public transit, including parking supply and policy, fares, schedules, route design, amenities, marketing, land use, etc. The plan shall include a short range element (within a 5 year window) and longer 10 year element.

Scope of Services

1.0 Update Goals and Objectives

Review and revise 2006 goals and objectives as needed. The consultant will review the existing goals and objectives and make recommendations as to revisions as necessary. This review will include discussions with staff and the Citizens Advisory on Transit and consideration of other community input.

Note: This task includes a survey of community decision makers.

The Community Decision Maker survey will be sent out to the following groups.

Mayor and Common Council
Olmsted County Board
Citizens Advisory on Transit
Chamber Transportation Committee
Rochester-Olmsted Council of Governments

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Secondary and post-secondary Educational institutions
Olmsted County Social Services
Public and private human services agencies
City and County Planning Commissions
Public Works and Rochester Olmsted Planning Department

The consultant will provide a report on Goals and Objectives.

2.0 Identification of Issues

As part of the plan development the consultant shall identify issues which should be addressed in the plan. This effort shall include identifying issues from the decision makers survey and other community surveys as well as at least one community meeting. Innovation for soliciting input is encouraged. The City is able to provide a website based survey platform with electronic tabulation.

The consultant will provide a report on Identified Issues

3.0 Profile of Existing Services and Ridership

The consultant shall develop an inventory of existing services including regular route, park and ride and paratransit operations. This inventory will include a description and analysis on a per route/ service basis. A profile of current ridership will also be developed. The consultant will conduct an onboard rider survey.

At a minimum, the inventory shall include the following:

- Overview of Management Structure
- Existing Services Profile
- Facilities
- Fleet
- Fare Structure
- Ridership and Operating Data
- Financial Overview
- Profile of Users
- Coordination with Other Area Transportation Services
- Coordination Efforts w/ Social service Agencies and Other Services
- Overview of Current Marketing Efforts

The consultant will provide a report on Existing Services

4.0 Service Evaluation

Some of the information needed to accomplish this task should be provided in the inventory completed under 3.0. Service design must encompass both existing and expansion routes. Consideration should be given to service zones based on optimum ride times to maintain competition with private auto travel. Service design includes regular route and paratransit services. (ADA –paratransit service must extend ¾ mile beyond fixed routes.)

Inclusion of underrepresented groups is an important consideration in this project. In evaluating submissions, particular emphasis will be placed on how proposals plan to engage and conduct outreach in those communities who have disproportionate numbers of transit users, but whose needs and preferences have not historically been prominent considerations. This would include people who: are low-income; are transit-dependent; have limited mobility; are members of racial, ethnic, and/or language minorities; and other underrepresented populations (see Evaluation Criteria, p. 13).

4.1 Evaluation of Existing Service

The consultant shall evaluate each service route including passenger counts, boarding and alighting counts, transfer counts and tracking, running time, hours of service (revenue hours), and mileage and schedule adherence. This task should include a survey of fixed-route and dial-a-ride paratransit ridership. Analysis of the information should include a close examination of compliance with the Americans with Disabilities Act (ADA) and the quality of paratransit.

4.2 Evaluation of Needed Changes to Service– Fixed-Route

This task will include an inventory of service needs, including: un-served and underserved areas; unserved and underserved times; and evaluation of service delivery options. The evaluation shall include a ridership demand analysis. The evaluation of needs shall also specifically address service for 2nd and 3rd shift workers and service to outlying industrial park type development.

Task will include a survey of non-users. (The consultant shall recommend as to sample size and method of survey.)

The consultant will provide a report on Service Evaluation and Needs including a Rider Demand Analysis
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4.3 Development of Recommended Service Plans – Fixed-Route

The consultant will develop recommended service plans based on the needs evaluation, which is heavily informed by rider preferences and feedback. Recommended service plans shall include service route designs, time tables, service hours, ridership forecasts and cost estimates, strategies for improved compliance with ADA requirements, and any policy changes necessary to effect the recommendations. The expansion plans will be separated into two categories; areas ready for service and areas projecting a need for service within a 5 year window.

The consultant will provide a report on Recommended Service Plans

4.4 Evaluation of Needed Changes to Service – Dial-a-Ride Paratransit

This task will include an inventory of service needs, including: un-served and underserved areas; unserved and underserved times; evaluation of service delivery options; service denials; on-time performance; latent demand; and factors that assist or hinder compliance with ADA requirements. The evaluation shall include a ridership demand analysis. The evaluation of needs shall also specifically address service for 2nd and 3rd shift workers and service to outlying industrial park type development.

Task will include a survey of non-users. (The consultant shall recommend as to sample size and method of survey.)

The consultant will provide a report on Service Evaluation and Needs including a Rider Demand Analysis

4.5 Development of Recommended Service Plans – Dial-a-Ride Paratransit

The consultant will develop recommended service plans based on the needs evaluation, which is heavily informed by rider preferences and feedback. Recommended service plans shall include ridership forecasts, cost estimates, service hours, tactics for performance improvement, strategies for improved compliance with ADA requirements, and any policy changes necessary to effect the recommendations. The expansion plans will be separated into two categories; areas ready for service and areas projecting a need for service within a 5 year window.

The consultant will provide a report on Recommended Service Plans

5.0 Performance Indicators

This task will include peer comparisons and an evaluation of existing service cost, efficiency and effectiveness, and comparison with adopted performance standards. The consultant shall recommend performance goals.

Performance indicators currently used include farebox return ratio, passengers per hour and miles on a per trip and system average. New service may not start out meeting adopted performance indicators. There is a need to provide for a demonstration period during which a new service builds ridership.

The consultant will provide a report on Performance Indicators
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5.1 Service Standards

This task will include peer comparisons and an evaluation of existing overall service frequency, overall geographical area served, environmental justice, efficiency and effectiveness, and measurement against adopted service standards. The consultant shall examine existing service standards, update them, remove any that are unnecessary, and recommend any new standards that are necessary.

The consultant will provide a report on Service Standards

6.0 Development of Park and Ride Location Plan

This task will assess existing park and ride facilities for potential improvements as well as evaluate the feasibility and locations for future facilities.

- Review existing park and ride facilities and their current usage (include license plate survey to determine where they are from).
- Review transit service to existing park and ride facilities.
- Review transit service availability/capacity for proposed park and ride facilities (Transit Demand Analysis).
- Estimate future demand for park and ride facilities
- Create site selection criteria for future park and ride sites.
- Application of criteria to the proposed park and ride facilities.
- Application of criteria to the existing park and ride facilities
- Develop site design criteria for automobile, pedestrian and transit vehicle circulation and rider services and amenities.

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- Recommendations on the phasing of near and long term improvements to park and ride facilities.

The consultant will provide a report on Park and Ride Facilities

7.0 Development of a Capital Improvements Plan

The consultant shall develop a 10 year capital asset plan that includes schedules and cost estimates for replacement, expansion and introduction of new technologies. At a minimum the following elements shall be included.

Buses
Shelters
Hubs
Park and Ride Facilities
Information Systems
Other Technologies

The federal Moving Ahead for Progress in the 21st Century (Map-21) law requires that states develop a risk-based transportation asset management plan (TAMP) to maintain or improve the nation's transportation systems. The TAMP should outline a systematic scheme for cost-effective repairs, maintenance, replacement, and rehabilitation of transportation assets based on engineering and economic analysis. While transportation assets are mostly roads and bridges, states are encouraged to include all infrastructure assets within the right-of-way in their TAMP. As such, this task includes assessing certain transit assets with respect to the requirements of the TAMP required by MAP-21.

The consultant will provide a 10 Year Capital Asset Plan

8.0 Marketing and Communications

The plan will measure community awareness and effectiveness of past efforts thereby providing a benchmark for past and future comparisons. Recommendations will be provided as to; types of media and messages to market services and improvements to rider information services.

The consultant will provide a report on Marketing and Communications

9.0 Financial Plan

The consultant shall project the operating costs and revenues on an annual basis for each proposed service change (on a per route basis) and for proposed capital improvements.

The financial plan shall also identify and recommend an annual financing plan for operations and capital improvements based on current and expected funding sources.

The consultant will provide a report on the Financial Plan

10.0 Review Organizational and Staffing Framework

The consultant shall review and make recommendations regarding the roles of City staff and the contracted operator in the provision of services, including which tasks are better handled by one or the other. The organizational and staffing report should examine the current City staff, compare it to other organizations in peer-level transit systems, gauge the need to add staff members, how many would be appropriate, what their areas of expertise should be, and a timeline for optimal inclusion of new staff members. The organizational and staffing report should include a proposed organizational chart.

The consultant will provide a report on Management and Organizational Framework

11.0 Final Plan Document

The consultant will assemble an executive summary and final report combining all of the task reports.

The consultant will provide executive report and final plan.

Printing

The consultant shall provide one electronic copy of each report to the City's designated representative. The consultant shall provide 20 copies each of an Executive Summary and the Final Plan both of which shall also be provided electronically in an acceptable format to the city.

Maps

All maps shall be provided in an Arcview format.

Ownership

The consultant shall provide copies of all media and visual aids including power point presentations. Such media, visual aids and printed reports shall be considered the property of the City and may be used, copied and distributed at the City's discretion.

Project Budget

The project budget will be determined based on the selected proposal subject to available funding.

Type of Contract

Any contract entered into as a result of this RFP shall be fixed price. The consultant's proposal shall provide a price for each task. The City shall incorporate Standard Contract Terms and Conditions Per "FTA Standard Clauses" (see Appendix A; note the "Certification Regarding Lobbying" form, which must be submitted for each bid or offer exceeding \$100,000).

Disadvantaged Business Enterprise Goals

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26: Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Financial Assistance Programs. The goal for participation of DBE's for this contract has been established at 1.76%.

Information Needed (see Appendix B):

1. DBE Bidding Form Affidavit – submitted at the time of bid opening.
2. A Schedule of DBE Subcontractor Participation (Form F-1) must be submitted by the prime contractor for all DBE subcontractors at the time of bid opening. It must contain:
 - a. Names and addresses of certified DBE's participating subcontractors

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- b. The work they are to perform
 - c. The dollar value of each proposed certified DBE contract
3. If the DBE goal cannot be met, the prime contractor must check the appropriate box on the DBE Bidding Form and complete the Certificate of Good Faith Efforts (Form F-2) and submit it at the time of bid opening.
 4. To ensure that assigned DBE goals are met by the prime contractor, the prime contractor must provide an updated report documenting the actual amount paid to every DBE sub-contractor to the CITY OF ROCHESTER DBE Liaison Officer every month on the Monthly DBE Reporting Form F-3.

This report must include:

1. The contract number and description
 2. Prime contractor name, contact name, address, city, state, zip, phone and fax
 3. Name, contact name, address, city, state, zip, phone and fax of all DBE sub-contractors
 4. Total contracted amount for each DBE sub-contractor – including any approved amendments to amounts to be paid to DBE sub-contractors
 5. Amount “paid-to-date” to each DBE sub-contractor
 6. Total Amount “paid-to-date” to each DBE sub-contractor
 7. Proof of payment from the prime contractor to the DBE
5. When the contract is closed, an End-of-Contract Report Form F-4 must be submitted to the CITY OF ROCHESTER DBE liaison officer. The End-of-Contract Report Form F-4 must include all information mentioned above. This report will review final payments to all DBE sub-contractors to ensure that the actual amount paid to the DBE subcontractors equals or exceeds the dollar amounts stated above. All discrepancies must be noted and explained.

Payments:

The prime contractor must pay subcontractors for satisfactory performance of their contracts no later than 30 days from the receipt of payment made to the prime by the City of Rochester. Prompt return of retainage payments from the prime contractor to the subcontractor(s) will be made within 30 days after the subcontractor’s work is satisfactorily completed.

Notifications:

The contractor must promptly notify the City of Rochester, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that

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work through its own forces or those of an affiliate without prior written consent of the City of Rochester.

City of Rochester DBE Liaison Officer Contact:

Scott Retzlaff
City of Rochester, Minnesota
Department of Public Works
201 SE 4th Street, Room #108
Rochester, MN 55904
Phone: 507-328-2439
Fax: 507-328-2432
sretzlaff@rochestermn.gov

Subcontracts

The City will consider proposals that use subcontractors for specific tasks. The same project schedule and basic requirements for submission of a proposal shall apply.

Schedule

The following schedule for the Transit Development Plan (TDP) is presented with the understanding that, due to the need to coordinate with other planning efforts such as the City's comprehensive plan development, the dates are tentative and subject to change:

RFP release: February 3, 2015

Deadline for submissions: March 3, 2015

Interviews: March 16-20, 2015

TDP award: April 6, 2015

Kickoff of TDP: April 14, 2015

Deliverables completed:

- System analysis and community surveys of riders, non-users, and stakeholders (including elected officials, public and private social services, employers, and educational institutions) in the first five months: September 14, 2015
- Development of recommended plan – including goals and objectives, service model, capital plan, organization and staffing plan, and funding plan – within five months from the end of the survey period: February 15, 2016
- **Note:** The TDP will include a Title VI update, completed toward the end of plan development

Adoption of TDP by City Council: April 20, 2016

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Proposal Requirements

- Ability to complete the study by February 15, 2016.
 - Name, address, and DUNS number of the organization submitting the proposal. Identify a contact person and that person's telephone number and email address.
 - A proposed project scope. The scope must thoroughly describe in detail the specific steps or tasks which will be performed and include a time schedule estimating duration and completion time estimates for each step.
 - A suggested public participation plan.
 - Staff - the proposal must identify the specific persons (contractor and subcontractors) who will perform the work under the contract, describe their professional qualifications and experience, and indicate what their role(s) will be in the project.
 - Experience - The consultant (including subcontractors) must cite and summarize its previous, recent and relevant experience and studies, which deal with the subject of this project and/or related subjects.
 - Budget - The proposal must include the following:
 - Estimated number of hours and hourly rate for each individual and total price by task in the scope of work.
 - Travel - indicate the number and cost of on-site visits as well as other anticipated travel expenses.
 - Other direct expenditures.

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City Contact

For further information contact:

Bryan Law
Transit Planner
City of Rochester, MN
BLaw@rochestermn.gov
507-328-2485

Public Works & Transit Operations Center
4300 East River Rd NE
Rochester, MN 55906

Proposal Submittal

Ten (10) copies of the proposal **must** be received by the City of Rochester at the City Contact address, above, no later than 4:00 p.m. Central Time on Tuesday, March 3, 2015.

Optional: ***In addition*** to the ten hard copies mailed to the City, a PDF version of the proposal may be emailed to the City Contact, above.

Evaluation Criteria

- General quality of response and responsiveness to terms and conditions10%
- Technical approach50%
 - Methodology for problem analysis
 - Clarity and organization in concept development
 - Quantity and quality of services rendered
 - Public participation process (including a special emphasis on community engagement and outreach to underrepresented groups)
- Organization, personnel and expertise30%
 - Qualifications of personnel assigned to project
 - Experience of personnel assigned to project
 - Experience of firm
- Cost10%
- TOTAL100%

The City of Rochester reserves the right to accept or reject any or all proposals.

APPENDIX A

FTA STANDARD CLAUSES PROFESSIONAL SERVICES

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801 et seq.

49 CFR Part 31 18 U.S.C. 1001

49 U.S.C. 5307

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

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

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means

whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
7. FTA does not require the inclusion of these requirements in subcontracts.

FEDERAL CHANGES

49 CFR Part 18

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they 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.

CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000

42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332

29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,"

41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

(3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26

PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES

(1) Policy: It is the policy of the Department of transportation that disadvantaged business enterprises as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under the agreement. Consequently, the MBE requirements of 49 CFR Part 26 applies to this agreement.

(2) DBE Obligation: The recipient or its contractor agrees to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that

disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of DOT-assisted contracts.

This project includes a DBE goal of 1.76%. An affidavit of DBE participation is provided with the bid package and must be submitted with supporting documentation with the bid.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1E

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, 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 (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

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

TERMINATION

49 U.S.C. Part 18

FTA Circular 4220.1E

a. Termination for Convenience (General Provision) The **City of Rochester** may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government'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 (City of Rochester) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (City of Rochester), the Contractor will account for the same, and dispose of it in the manner the (City of Rochester) directs.

b. 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 **City of Rochester** 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 only be paid 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 City of Rochester 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 City of Rochester, 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.

c. Opportunity to Cure (General Provision) The (City of Rochester) 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 City of Rochester's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (City of Rochester) setting forth the nature of said breach or default, City of Rochester 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 City of Rochester from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that (City of Rochester) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (City of Rochester) shall not limit (City of Rochester)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

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

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows :

"Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion"

(1) The contractor and any prospective lower tier participant or subcontractors certifies, by signing this contract, that neither it nor its "principals" [as defined at 49 C.F.R. § 29.105(p)] is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

The certification in this clause is a material representation of fact relied upon by City of Rochester. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to City of Rochester, 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 49 CFR 29, Subpart C 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.

CONTRACT DISPUTES OR BREACHES

Disputes. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City. This decision shall be final and conclusive unless within [ten (10) days] from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City. 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 City shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute. Unless otherwise directed by the City, the 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 he is legally liable, a claim for damages therefore 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 City 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 within the State in which the City is located.

Rights and Remedies. The duties and obligations imposed by the Contract Documents and the rights and remedies available there under 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 City, its Architect 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 there under except as may be specifically agreed in writing.

RESTRICTIONS ON LOBBYING

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

<p>The bid package includes a certification regarding lobbying that must be signed and submitted with the bid.</p>

CLEAN AIR

42 U.S.C.. 7401 et seq

40 CFR 15.61

49 CFR Part 18

Clean Air.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended 42 U.S.C. §§704 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
- (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in part with Federal assistance provided by FTA.

CLEAR WATER REQUIREMENTS

33 U.S.C. 1251

Clean Water.

- (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and appropriate EPA Regional Office.

- (2) The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

FLY AMERICA REQUIREMENTS

49 U.S.C. § 40118

41 CFR Part 301-10

Fly America Requirements

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and any sub-recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

SEISMIC SAFETY

The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

PROHIBITED INTERESTS

1. No member, officer, or employee of the City of Rochester, or of a local public body during their tenure or for one year thereafter will have any interests, direct or indirect, in a contract or the proceeds thereof.

2. In accordance with 41 U.S.C. 22, the Contractor agrees that it will not admit any member of or delegate to the United States Congress to any share or part of the Project or any benefit derived there from.

ADA ACCESS

Contractors must comply with applicable requirements of the Americans with Disabilities Act of 1990 (ADA), Section 504 of the Rehabilitation Act of 1973, and USDOT/FTA implementing regulations.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans and Cooperative Agreements
(To be submitted with each bid or offer exceeding \$100,000)

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

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

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, 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.

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

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

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

APPENDIX B

DBE BIDDING FORM

This affidavit must be included with the bid. If the bidder fails to accurately complete and submit this affidavit as required, the bid shall be deemed not responsive.

In connection with the bid submitted I affirm the following **DBE participation (PLEASE CHECK ONLY ONE)**:

Our Company has met the overall certified Disadvantaged Business Enterprise (DBE) participation goal of 1.76 percent (%).

Our Company's DBE goal for this contract is: _____ percent (%).

I agree that the DBE firms listed in our company's DBE Participation Schedule Form F-1 will be used to accomplish the DBE participation goal for this Contract for at least the dollar amounts set forth therein.

The DBE Participation Schedule Form F-1 must show the following:

- Names, addresses, and contact names of all MN certified DBE's that will be participating in this contract.
- A specific description of the work each DBE will perform
- The dollar amount of the participation of each DBE firm participating

I have attached written confirmation from each of the DBE's listed on the DBE Participation Schedule Form F-1 indicating that they are participating in the Contract as provided.

OR

I conclude that I am unable to achieve the DBE participation goal of 1.76%.

Our Company's DBE goal for this contract is: _____ percent (%). I hereby request a waiver of the overall goal. I have attached the following items as evidence of our Company's good faith effort to attempt to achieve the DBE participation goal of 1.76%. I have attached the Certification of Good Faith Efforts Form F-2 that shows the following:

- a. Documentation showing efforts used to identify and solicit of DBE's, including written solicitations (with bidding instructions).
- b. Selecting portions of the work to be performed by DBE's
- c. Providing interested DBE's with plan information and specification in a timely manner
- d. Documenting evidence of DBE negotiations

Form F-1 Participation Schedule

Firm Completing this Schedule _____

Date _____

Project Name _____

Goal _____

Total DBE Commitment \$ _____

List all quotes of DBE's that will be participating on the project. Include Sub contractors, Suppliers, Sub-consultants & Service providers

Name and contact information of DBE	Phone	Description of Work	Dollar Amount of Quote
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			

If you have any questions, please contact:

Scott E. Retzlaff
 Parking and Transit Assistant
 City of Rochester, Minnesota
 Department of Public Works
 4300 East River Road NE
 Rochester, MN 55906
 Phone: 507-328-2439
 Fax: 507-328-2432
sretzlaff@rochestermn.gov

Form F-2 Certification of Good Faith Efforts

Firm Completing this Schedule _____

Goal _____

Total DBE Commitment \$ _____

LIST YOUR ATTEMPTS TO SOLICIT BIDS FROM DBE SUBCONTRACTORS, SUPPLIERS, AND SERVICE PROVIDERS

Subcontractor/Supplier/Service Provider	DBE? (y) (n)	Phone	Dates, Method of Contact		Description of Work	Dollar Amount of Quote
			Letter	Phone		
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						

If you have any questions, please contact:

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 Rochester, MN 55906
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 Fax: 507-328-2432
sretzlaff@rochestermn.gov

Monthly DBE Reporting Form - Form F-3

Firm Completing this Schedule _____

Date _____

Project Name _____

List all DBE's that were paid during the reporting period. Include Sub contractors, Suppliers, Sub-consultants & Service providers

Name and contact information of DBE	Phone	Description of Work	Dollar Amount of Quote	DATE	Amount Paid	Amount Paid to Date
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
12						
13						
14						
15						

If you have any questions, please contact:

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 Parking and Transit Assistant
 City of Rochester, Minnesota
 Department of Public Works
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 Rochester, MN 55906
 Phone: 507-328-2439
 Fax: 507-328-2432
sretzlaff@rochestermn.gov

End of Contract Report - Form F-4

Firm Completing this Schedule _____

Date _____

Project Name _____

List all DBE's that were paid during the ENTIRE CONTRACT. Include Sub contractors, Suppliers, Sub-consultants & Service providers

Name and contact information of DBE	Phone	Description of Work	Dollar Amount of Quote	Total Amount Paid
1				
2				
3				
4				
5				
6				
7				
8				
9				
10				
11				
12				
13				
14				
15				

If you have any questions, please contact:

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