



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

RFP Number	RFP 2020-03-09
RFP Title	On-Demand Technology
Item Description	Valley Regional Transit (VRT) is seeking proposals from private companies to develop and implement a pilot for a modern and innovative transit on-demand system in Nampa and Caldwell Idaho.
Term	Contractor shall provide services as described herein for an initial term of approximately one (1) year commencing on October 1, 2020 and expiring on September 30, 2021 with an option to renew upon mutual agreement of both parties under the same terms and condition for two (2) additional one-year periods of time.
Deadline for Submittal	Proposals Due: April 20, 2020, 5:00 p.m. MDT
Direct Inquiries and Send Submittals to	Jason Jedry, Controller procurement@valleyregionaltransit.org 208.258.2709
Project Manager	Leslie Pedrosa
Format of Submittals	<ol style="list-style-type: none"> 1. Electronic submittals in PDF format must be received by VRT by the date and time in the "Deadline for Submittals" section above. No exceptions. <ol style="list-style-type: none"> a. Total page limit is seven (7) single sided pages, 12 pt. type, introductory letter, and resumes are not included in page count. b. Front and back cover pages are acceptable and do NOT count in the submittal. Cover pages shall only identify the contractor and project. 2. Send electronic submittals to Jason Jedry, Controller procurement@valleyregionaltransit.org 3. Respondents are responsible for verifying receipt by VRT of the submittals.
Clarification of Submittals	<p>During the evaluation of submittals, VRT reserves the right to the following:</p> <ul style="list-style-type: none"> • Contact any or all proposers for additional information for clarification purposes, • Discard submittals which contain errors, or • At its sole discretion, waive disqualifying errors or gain clarification of error or information.
RFP Calendar	These dates are for planning purposes and represent the agency's desired timeline for this project. Any revision to the "Deadline for Submittals" will be made by addendum. All other dates may be adjusted without notice as needs or circumstances dictate.

OFFERORS NAME: _____



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

REQUEST FOR PROPOSAL RFP 2020-03-09 On-Demand Technology

Activity	Timeline
RFP Issue Date	March 9, 2020
Pre-Proposal Meeting	March 16, 2020-10:00 a.m. On site - 700 NE 2 nd Street, Suite 100 By phone – 208-258-2720 Access Code: 0544988
Questions Due	March 20, 2020 5:00 p.m. MDT
Proposals Due	April 20, 2020 5:00 p.m. MDT
Submittal Review and Selection	April 27- May 4, 2020
Negotiations / Interviews	May 11 – June 30, 2020
Notification of Intent to Award	July 6, 2020 5:00 p.m. MDT
Notice to Proceed	September 1, 2020

1. BACKGROUND AND PROJECT DESCRIPTION

Valley Regional Transit (VRT) is a Regional Public Transportation Authority in southwest Idaho with a 29 member Board, made up of local government representatives, in Ada and Canyon counties in southwestern Idaho. VRT was created as a single authority to be responsible for providing, aiding, and assisting public transportation within its two-county jurisdiction. VRT supports the fixed-route bus system, Boise Green Bike, a passenger information call center, and works with a variety of populations to provide specialized transportation to targeted populations. VRT may contract for services with public and private entities to carry out the purposes of Chapter 21 (40-2109(4)).

2. STATEMENT OF OBJECTIVE

Valley Regional Transit (VRT) is seeking proposals from private companies to develop and implement a pilot for a modern and innovative transit on-demand system in Nampa and Caldwell Idaho. VRT is interested in developing a transit on-demand system that can leverage current capital resources, e.g. existing vehicles, bus stops and shelters, and existing staff, to deliver a comprehensive, high quality, and sustainable transit on-demand solution within current financial constraints. VRT is the Regional Transit Authority for Ada and Canyon County with a vision of expanding transit solutions in one of the fastest growing regions in the country. If successful, there would be interest in expanding transit on-demand solutions for other services and to other parts of VRT's service area.

At a minimum the system should have the following characteristics:

- Intuitive and easy to use mobile app, on-line access, accommodate walk-up riders, as well as a landline phone option
- Flexible, frequent and reliable services
- Support key activity areas in the cities of Nampa and Caldwell, as well as educational institutions, dense areas, and employment centers



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

- Agency and customer support
- Comprehensive real-time data reporting
- Implementable within the existing time constraints
- Compatible with existing fare collection systems
- Capable of carrying more than 10 passengers per revenue hour
- Effective marketing tools, resources and outreach support to implement service

3. SUBMITTAL REQUIREMENTS

In submitting responses, Proposers are to be aware that VRT strongly considers the completeness of the submittal to be the most important. Clear and effective presentations are preferred. The cover letter shall clearly contain the RFP title and the respondent's name.

Submitted electronic RFP response must include the following information:

- A. **Coversheet** of this RFP included, See Page # 1, above, with Proposer's name at bottom of summary page.
- B. **Cover Letter** addressed to Procurement Administrator, should serve as both an introduction of the Proposer and an overview of the proposal. Introduction should:
 - i. Identify the project manager.
 - ii. Provide contact information (physical address, telephone number, and email) and a statement confirming the commitment of key personnel identified in the submittal to meet VRT's quality and schedule expectations.
 - iii. No price information shall be included in the cover letter.
 - iv. Include a statement to the effect that the proposal shall remain valid for a period of not less than ninety (90) days from the due date for proposal.
- C. **Written Responses** should include information below. Attach additional sheets in order to respond. Each response is to be appropriately headed with the corresponding Item Number. See written response format on page 1.
 - i. **Project Approach / Work Plan**: Discuss the approach, work plan and proposed schedule of the project to meet timeline. Discuss how firm will meet or exceed the standards set forth in the Statement of Objective.
 - ii. **Firm Qualifications and Relevant Experience**: Discuss the firm's qualifications, experience and history in developing and implementing a transit on-demand system.
- D. **References**: Complete Part 9 with references for three directly applicable projects with current contact information. Include references for sub-consultants, if applicable.
- E. **Price Proposal**: In a separate .pdf included with and as a part of your solicitation response, the Proposer shall include pricing breakdown for the following price structures, for a one-year period:



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

- Software Cost – Start Up
- Equipment – 10 Buses
- Total Implementation Cost
- Total Annual Cost

- F. **Offerors Information and Certification:** Completed Part 8 with official signature(s) and date(s).
- G. **Conflict of Interest Affidavit:** Page 21 with official signature(s) and date(s).
- H. **Lobbying Certificate:** Page 22 with official signature(s) and date(s).
- I. Offers submitted in response to this **solicitation shall be in the English language.** Offers received in other than English shall be rejected.

4. EVALUATION CRITERIA AND AWARD OF CONTRACT

The award of the contract will be made to the most responsive and responsible proposer that has demonstrated to be the most advantageous to VRT. Award may be made without negotiation or discussion of proposals received; proposals should be submitted initially on the most favorable terms possible.

A. Selection of the successful proposer will be based on information provided in response to the RFP including evaluation of proposals according to Valley Regional Transit specified criteria including cost, consideration of any exceptions taken to Valley Regional Transit proposed contract terms and conditions, and may include qualifications and experience of the proposer and information provided by any required references for whom work of a similar nature has been done.

B. If a single proposal is received in response to this RFP; Valley Regional Transit will be required to perform a detailed cost/price analysis in order to award the contract. A Proposal Evaluation/Negotiation Committee will perform the overall evaluation process.

C. Valley Regional Transit may, following receipt and evaluation of proposals and any allowed best and final offer procedures, negotiate with any or all of the responsive and responsible proposers until VRT determines which proposal provides the best value/most advantageous for VRT. In addition to any other negotiation criteria described herein, Valley Regional Transit may negotiate to ensure the submitting proposers have a clear understanding of the objectives required and requirements that must be met, ensure that the proposers will make available the required personnel and facilities to satisfactorily perform the contract, or agree to any clarifications regarding scope of work or other contract terms.

5. PROPOSAL EVALUATION REQUIREMENTS

A. Proposal Critical Evaluation (Listed In Relative Order of Importance)

1. Responsive/responsible
2. Qualifications/experience



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

3. Price
4. Project approach/work plan
5. Written responses
6. References

B. Proposed Pricing

In a separate .pdf included with and as a part of your solicitation response, the Proposer shall complete **Part 9 – Price Proposal**. Only one signed copy is necessary.

C. General

1. Shortlist:

The Authority reserves the right to shortlist the proposers on the stated criteria. However, the Authority may determine that shortlisting is not necessary.

2. Interviews:

The Authority reserves the right to conduct interviews with some or all of the proposers at any point during the evaluation process. However, the Authority may determine that interviews are not necessary. In the event interviews are conducted, information provided during the interview process shall be taken into consideration when evaluating the stated criteria. The Authority shall not reimburse the proposer for the costs associated with the interview process.

3. Additional Investigations:

The Authority reserves the right to make such additional investigations as it deems necessary to establish the competence and financial stability of any proposer submitting a proposal.

6. Definitions

The following terms, whenever set forth in initial capitals in this Agreement, shall have the meanings set forth in this Part 6, Definition, except as otherwise expressly provided in this Agreement:

Agreement: The complete RFP and all addendums and final negotiations.

Agreement Term: The time commencing with the award of the contract and ending on the expiration of the contract - including any extensions or renewals that may be or have been agreed upon by both parties after award to the contract.

Offeror or Prime-Offeror: The Offeror or Prime-Offeror is the primary contact with Valley Regional Transit and is responsible for all services for which it is submitting an RFP. The Prime-Offeror is responsible for all Sub-Offerors and their compliance to all standards of this RFP.

Required Coverage: All insurance necessary to protect and save harmless Valley Regional Transit, the Vehicles, the Equipment, and the Real Property and Facilities, including, without limitation, the insurance coverage specified in this Agreement.

Sub-Offeror: Is the subcontractor for which the Prime-Offeror is directly responsible.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

Termination for Default: Termination caused by diminished service or scheduling; requirement compliance, plan implementation or failure to perform in a timely manner.

Termination for Impossibility: Termination in the event that funding source fails in any fiscal year to appropriate or otherwise makes available sufficient funds.

Valley Regional Transit: Regional Public Transportation Authority.

Valley Regional Transit Board: The duly appointed Board of Directors of Valley Regional Transit

7. SPECIAL CONTRACT TERMS AND CONDITIONS

- A. **DELIVERY:** Delivery of items/services initially shall be to Valley Regional Transit, 5907 Cleveland Blvd Caldwell, ID 83605, or 700 NE 2nd Street Meridian, ID 83642.
- B. **SILENCE OF SPECIFICATION:** The apparent silence of this specification and supplemental specifications as to any detail, or the apparent omission from it of a detailed description concerning any point shall be regarded as meaning that only best commercial practice is to be used. Any exception to this specification shall be cause for rejection. Valley Regional Transit reserves the right to verify specification compliance and other information with published sources as deemed necessary.
- C. **FAILURE TO DELIVER:** Contractor shall deliver the items/services and complete any required training in accordance with all of the terms and conditions herein. Failure to do so may be cause for the termination of the Contract. Contractor shall complete delivery within the time specified in Contractor's bid. Contractor shall notify Valley Regional Transit within one (1) day of receipt of order if delivery cannot be completed as required. Upon receipt of such notice, Valley Regional Transit reserves the right to cancel the order and make the purchase elsewhere. Failure to meet specified delivery requirements may result in Contract termination.
- D. **SUBCONTRACTING:** The requirement for Prime-Offeror responsibility does not prohibit Sub-Offeror or joint ventures provided that the successful Prime-Offeror assumes the following responsibilities: The requirement for Prime-Offeror responsibility does not prohibit Sub-Offeror or joint ventures provided that the prime successful Prime-Offeror assumes the following responsibilities: (1) serves as the sole general Prime-Offeror with Valley Regional Transit; (2) assumes full responsibility for the performance of all its Sub-Offerors, joint ventures, and other agents; (3) provides the sole point of contact for all activities through a single individual designated as project manager; (4) submits information with its proposal documenting the financial standing and business history of each Sub-Offeror or joint venture; and (5) submits copies of all subcontracts and other agreements proposed to document such arrangement. Without limiting the foregoing, any such legal documents submitted under item "(5)" must (a) make Valley Regional Transit a third-party beneficiary thereunder; (b) grant to Valley Regional Transit the right to receive notice of and cure any default by the successful Prime-Offeror under the document; and (c) pass through to Valley Regional Transit any and all warranties and indemnities provided or offered by the Sub-Offeror or similar party.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

- E. TAXES:** Valley Regional Transit is exempt from Federal and State taxes and will execute the required exemption certificates.
- F. INDEMNIFICATION:** Prime-Offeree agrees to assume liability for and to indemnify and hold harmless Valley Regional Transit, its board members, officers, employees, agents, and attorneys from and against any and all liabilities, losses, damages, costs, payments, and expenses of every kind and nature (including attorney's fees and disbursements) ("Liabilities") as a result of claims, demands, actions, suits, proceedings, judgments, or settlements ("Claims") arising out of, or alleged to have arisen out of, or in any way relating to, or alleged to be relating to, the negligence of Prime-Offeree, or the execution, performance, nonperformance, or enforcement of the Agreement.
- G. INDEPENDENT CONTRACTOR:** Prime-Offeree and any consultants or sub-contractors retained by Prime-Offeree shall at all times and for all purposes under this Agreement be considered independent contractors. Prime-Offeree and any consultants or sub-contractors retained by Prime-Offeree are not employees of Valley Regional Transit. They are not entitled to employee benefits nor do they operate under the direct supervision and control of Valley Regional Transit, but are required to utilize independent judgment and professional skills under the parameters of this agreement.
- H. INSURANCE, Required Coverage:** Prime-Offeree shall procure, maintain, and keep in force, at Prime-Offerees expense, the Insurance Coverage as required below and shall cause Valley Regional Transit to be a named insured on all policies (except professional liability). Prime-Offeree shall provide Proof of Insurance to VALLEY REGIONAL TRANSIT prior to award. Proof of Insurance shall include an additional insured endorsement. For the duration of the Agreement and until all work under the Agreement is completed, Prime-Offeree shall have and maintain, at Prime-Offerees expense, the following types of insurance and shall comply with all limits, terms and conditions of such insurance.

Commercial General and Umbrella Liability Insurance: Commercial General Liability (CGL) Insurance and, if necessary, Commercial Umbrella covering bodily injury and property damage. This insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract. Combined single limit shall not be less than \$500,000 each occurrence and \$1,000,000 in the aggregate.

Workers' Compensation: Where required by law, the Contractor and its subcontractors, if any, shall maintain all statutorily required Workers Compensation coverage. Coverage shall include Employer's Liability, at minimum limits of \$500,000 per Accident, \$500,000 Disease, \$1,000,000 Policy Limit. The Contractor must maintain coverage issued by a surety licensed to write workers' compensation insurance in the state of Idaho or from a surety issued an extraterritorial certificate approved by the Idaho Industrial Commission from a state that has a current reciprocity agreement with the Idaho Industrial Commission.

Automobile Liability: Automobile Liability Insurance covering owned or non-owned vehicles. Combined single limit per occurrence shall not be less than \$1,000,000.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

- I. **INVOICING:** The awarded Prime-Offerrer will submit all invoices, with supporting documentation to: Valley Regional Transit, by mail Attn: Accounts Payable, 700 NE 2nd Street, Suite 100, Meridian, ID 83642 or Email to: generalaccounting@valleyregionaltransit.org. All Invoices through Valley Regional Transit are processed bi-weekly. The awarded Prime-Offerrer can expect Valley Regional Transit to issue and mail payment within 45 days after receipt of invoice with regards to the terms set forth within this RFP.
- J. **GUARANTEE:** The successful Prime-Offerrer will guarantee that the items, services and/or equipment being provided will meet or exceed the minimum specification requirements set forth herein. If Valley Regional Transit finds that the items, services or equipment supplied does not conform to these specifications or subsequently falls out of compliance during the term of the Agreement, the Prime-Offerrer will be required, at their expense, to make all corrections necessary to bring the items, services and/or equipment into compliance.
- K. **CURRENCY:** All payments are payable in US currency.
- L. **STOP WORK ORDER:** Any "Stop Work Order" given to Awarded Offeror will cause all physical work to stop and a complete cessation of all expenditures, ordering of materials, etc., on the part of the Awarded Offeror and/or their assigns.
- M. **FORCE MAJEURE:** Except as otherwise provided herein, neither the vendor nor Valley Regional Transit shall be liable to the other for any delay or failure of performance of any provisions herein, nor shall any such delay or failure or performance constitute default hereunder, to the extent that such delay or failure is caused by force *majeure*. The term force *majeure*, as used herein shall mean without limitation: acts of God, such as epidemics; lightning; earthquakes; fire, storms; hurricanes; tornadoes; floods; washouts; droughts, or other severe weather disturbances; explosions; arrests; restraint of government and people; and other such events or any other cause which could not be reasonably foreseen in the exercise of ordinary care, and which is beyond the reasonable control of the party affected and said party is unable to prevent.

PROPOSER will be required to demonstrate their proposed solutions "proof of concept." The "proof of concept" must be demonstrated to a satisfactory level as determined by VRT whereby all features and functions of the Contractors proposed solution is demonstrated prior to contract award.
- N. **PROTEST OF CONTRACTOR SELECTION OR CONTRACT AWARD:** If any participating proposer objects to such award, such bidder shall respond in writing to the notice from the political subdivision within seven (7) calendar days of the date of transmittal of the notice, setting forth in such response the express reason or reasons that the award decision of the governing board is in error. Thereafter, staying performance of any procurement until after addressing the contentions raised by the objecting bidder, the governing board shall review its decision and determine whether to affirm its prior award, modify the award, or choose to re-bid, setting forth the reason or reasons therefore. After completion of the review process, the political subdivision may proceed as it deems to be in the public interest. (Idaho code, 67-2806 (2)(j)).
- O. **VALLEY REGIONAL TRANSIT PREROGATIVE:** Valley Regional Transit reserves the right to contract with any single firm or joint venture responding to this RFP (without performing interviews), based solely upon its evaluation and judgment of the firm or joint venture in accordance with the evaluation criteria. This RFP does not commit Valley Regional Transit to negotiate a contract, nor



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

does it obligate Valley Regional Transit to pay for any costs incurred in preparation and submission of bids or proposals or in submission of a contract. Valley Regional Transit reserves and holds at its discretion the following rights and options in addition to any others provided by Valley Regional Transit: (1) to reject any or all of the bids or proposals; (2) to issue subsequent requests for bids or proposals; (3) to elect to cancel the solicitation; (4) to waive minor informalities and irregularities in bids or proposals received; (5) to enter into a contract with any combination of one or more prime contractors, subcontractors, or service providers; (6) to approve or disapprove the use of proposed subcontractors and substitute subcontractors; and (7) to negotiate with any, all, or none of the respondents to the RFP.

- P. NONDISCRIMINATION:** Valley Regional Transit will not discriminate with regard to race, color, creed, national origin, sex, age, or disability in the consideration for award of contract.
- Q. ALTERATION OF PROPOSAL DOCUMENT:** Offeror must not alter this document so as to change any portion except as required in order to submit their pricing and their acknowledgement of acceptance of the terms and conditions included herein. Any changes other than those allowed will be grounds for non-acceptance and rejection of your proposal.
- R. OFFEROR RESPONSE, No Additional Terms and Conditions:** Valley Regional Transit objects to and shall not consider any additional terms or conditions submitted by an Offeror, including any appearing in documents
- S. EXECUTION OF CONTRACT:** All required bonds (of applicable) and insurance certificates (see Part II, § 8, Insurance, below) must be received at Valley Regional Transit's Administrative Office no later than ten (10) calendar days after the date of notification of intent to award by Valley Regional Transit. In the event the apparently successful Bidder does not submit any or all of the aforementioned documents on or before the required deadline, Valley Regional Transit may award the contract to another Bidder; in such event, Valley Regional Transit shall have no liability and said party shall have no remedy of any kind against Valley Regional Transit.
- T. CONTRACT ADMINISTRATION:** Jason Jedry at Valley Regional Transit shall assist in the central administration for this contract: 700 NE 2nd St. Suite 100 Meridian, ID 83642 (208) 258-2709. Email: procurement@valleyregionaltransit.org
- U. CONTRACT MANAGEMENT:** VRT Project Manager, Leslie Pedrosa shall administer the planning and coordination aspects of this contract. Email: lpedrosa@valleyregionaltransit.org. Phone 208-258-2713. Mail: Valley Regional Transit, 700 NE 2nd St. Suite 100 Meridian, ID 83642



valleyregionaltransit

700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

8. OFFEROR ACKNOWLEDGES RECEIPT OF THE FOLLOWING ADDENDA

ADDENDA	DATE
1.	
2.	
3.	
4.	

Prime-Offerrer (General Information)

Acknowledgement: (Exhibit B)

I have read the Professional Services Agreement and agree to the terms of the agreement.

Name of Company: _____

The undersigned certifies as follows:

1. That he/she has read and understands all requirements and specifications of the request for bids; and
2. That he/she agrees to all requirements, specifications, terms, and conditions of the request for bid referenced above; and
3. That he/she will furnish the designated item(s) and /or service(s) as quoted in the request for bid; and
4. That he/she certifies under penalty of perjury that the Prime-Offerrer is, to the best of his/her knowledge, not in violation of any Idaho tax law; and
5. That his/her company has been certified as one of the following registered business classifications:

DBE Corporation Other, identify: _____

Idaho Resident Bidder? Yes No

Federal Tax I.D. Number: _____

DUNS Number: _____

**valleyregionaltransit**700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

Firm's Address: _____

Firms Contact Person: _____ Title: _____

Telephone: _____ Email: _____

Project Manager and Title if different from Contact Person:

Name: _____ Title _____

Contact Phone: _____ Contact e-mail: _____

Address where correspondence should be sent:
_____Listing Sub-Offerors proposed (if applicable), their phone numbers, and areas of responsibility (indicate which firms are DBE's):

Prime-Offeror understands and agrees that, by his/her signature, if awarded the contract for the project, he/she is entering into a contract with Valley Regional Transit that incorporates the terms and conditions of the entire Request for Proposals package, including the General Conditions section of the Request for Proposals.

Prime-Offeror understands that this proposal constitutes a firm offer to Valley Regional Transit that cannot be withdrawn for ninety (90) calendar days from the date of the deadline for receipt of proposals. If awarded the contract, Prime-Offeror agrees to deliver to Valley Regional Transit the required insurance certificates and performance bond if applicable within ten (10) calendar days of the notice of award.

Prime Offeror:_____
Prime-Offerors Signature_____
Date



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

9. Price Proposal

Proposer is to complete this Revenue Proposal form in compliance with Part 9 of this RFP.

The Price Proposal shall include all labor, materials, tools, equipment, transportation, training and other costs necessary to fully complete the procurement pursuant to the proposal terms, conditions and specifications.

Software Cost – Start Up	\$
Equipment – 10 Buses	\$
Total Implementation Cost	\$
Total Annual Cost	\$

Any additional cost please list and explain:

Company Name: _____ Date: _____

Signature: _____ Printed Name: _____
Authorized Official



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

10. REQUIRED REFERENCES

THIS PAGE MUST BE COMPLETED AND RETURNED AS PART OF YOUR PROPOSAL RESPONSE

Responses received without the required references cannot be considered and will be rejected. Proposer is to provide a list of three (3) firms currently using your services and other services similar to those being required herein for Valley Regional Transit. For each reference provide a contact name and contact information sufficient to allow Valley Regional Transit to contact the firm and receive a reference.

PROPOSERS (Company) Name: _____

REQUIRED REFERENCES

1. Company Name:

Address:

Contact Name:

Contact Phone:

Email:

2. Company Name:

Address:

Contact Name:

Contact Phone:

Email:

3. Company Name:

Address:

Contact Name:

Contact Phone:

Email:



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

11. FTA REQUIREMENTS CLAUSES

GENERAL: This Contract is subject to the terms of a financial assistance contract between the Authority and the Federal Transit Administration (FTA) of the United States Department of Transportation.

A. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts - Applicable to all contracts.

Flow Down - Not required by statute or regulation for either primary contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

Model Clause/Language - While no specific language is required, FTA has developed the following language.

No Obligation by the Federal Government –

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.

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

(031 U.S.C. 3801 et seq., 49 CFR Part 31 18 U.S.C. 1001, 49 U.S.C. 5307)

Applicability to Contracts - These requirements are applicable to all contracts.

Flow Down - These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Model Clause/Language - These requirements have no specified language, so FTA offers the following language.

Program Fraud and False or Fraudulent Statements or Related Acts –

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.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

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.

C. ACCESS TO RECORDS AND REPORTS (49 U.S.C 5325, 18 CR 18.36 (i), 49 CFR 633.17)

Applicability to Contracts - Reference Chart "Requirements for Access to Records and Reports by Type of Contracts."

Flow Down - FTA does not require the inclusion of these requirements in subcontracts.

Model Clause/Language - The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee 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 sub-grantee 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 sub-grantee 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



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

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 sub-grantee 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 subcontract

D. 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 Agreement (Form FTA MA (6) dated October, 1999) 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

- E. EQUAL EMPLOYMENT OPPORTUNITY (not applicable to contracts for standard commercial supplies and raw materials):** In connection with the execution of this Contract, the Contractor shall not discriminate against any employee or application for employment because of race, color, creed, national origin, sex, age, or disability. The Contractor shall take their employment, without regard to their race, religion, color, sex national origin, etc. Such actions 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. Contractor further agrees to insert a similar provision in all subcontracts, except subcontracts for standard commercial supplies or raw materials.

- F. TITLE VI CIVIL RIGHTS ACT OF 1964:** (The following requirements apply to the underlying contract)

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



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

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.

Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying contract.

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. 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.

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 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.

Disability – 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.

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.

G. TERMINATION PROVISIONS

TERMINATION FOR IMPOSSIBILITY: Termination for Impossibility in the event that funding source fails in any fiscal year to appropriate or otherwise make available sufficient funds, or Termination for Default by diminished service or scheduling; requirement compliance, plan implementation or to perform in a timely manner.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

TERMINATION FOR BEST INTEREST: Valley Regional Transit may terminate this contract, in whole or in part, at any time by written notice to the Offeror when it is in the VRT's best interest:

1. If the Offeror fails to perform in the manner called for in the contract, or if the Offeror fails to comply with any other provisions of the contract, VRT may terminate this contract for default. Termination shall be effected by serving a notice of termination on the Offeror setting forth the manner in which the Offeror is in default. The Offeror will only be paid the contract price for services performed in accordance with the manner of performance set forth in the contract.
2. If it is later determined by VRT that the Offeror 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 Offeror, VRT, after setting up a new delivery of performance schedule, may allow the Offeror to continue work, or treat the termination as a termination for convenience.
3. Valley Regional Transit, in its sole discretion may, in the case of a termination for breach or default, allow the Offeror ten (10) days 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.
4. If Offeror fails to remedy to Valley Regional Transit's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Offeror of written notice from VRT setting forth the nature of said breach or default, VRT shall have the right to terminate the Contract without any further obligation to Offeror. Any such termination for default shall not in any way operate to preclude VRT from also pursuing all available remedies against Offeror and its sureties for said breach or default.
5. In the event that Valley Regional Transit elects to waive its remedies for any breach by Offeror of any covenant, term or condition of this Contract, such waiver by VRT shall not limit VRT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
6. If, after termination for failure to fulfill contract obligations, it is determined that the Offeror was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for convenience

H. DISADVANTAGED BUSINESS ENTERPRISE (DBE) PARTICIPATION:

Policy: It is the policy of the U.S. Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 applies to this Agreement.

DBE Obligation: Valley Regional Transit and the Contractor agree to ensure that Disadvantaged Business Enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts under this Agreement. In this regard, Valley Regional Transit and Contractor shall take all necessary and reasonable steps in accordance with 49 CFR Part



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

23 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform Contracts. Valley Regional Transit and Contractor shall not discriminate on the basis of race, creed, color, national origin, age, or sex in the award and performance of DOT-assisted Contracts.

I. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

(FTA Circular 4220.1F)

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 4220.1F, dated April 15, 1996 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 Valley Regional Transit requests which would cause Valley Regional Transit to be in violation of the FTA terms and conditions.

PRIVACY ACT 5 U.S.C. 552

Applicability to Contracts

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Flow Down

The Federal Privacy Act requirements flow down to each third party contractor and their contracts at every tier.

Model Clause/Language

The text of the following clause has not been mandated by statute or specific regulation, but has been developed by FTA.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

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



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA

J. AMERICANS WITH DISABILITIES ACT (ADA)

Americans with Disabilities Act (ADA). The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC § 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, as amended, 29 USC § 794; 49 USC § 5301(d); and any implementing requirements FTA may issue. These regulations provide that no handicapped individual, solely by reason of his or her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement

K. DISPUTES

Performance During Dispute – Unless otherwise directed by Valley Regional Transit, 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 his employees, agents, or others for whose act he or she 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 Valley Regional Transit 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 in the State of Idaho.

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 Valley Regional Transit 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.

Ineligible Contractors - Neither Contractor, nor any officer or controlling interest holder of Contractor, is currently, or has been previously, on any debarred bidder list maintained by the United States government.

L. CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACTS (applicable only to contracts in excess of \$100,000): Contractor shall comply with all applicable standards, orders, or requirements issued under Section 306 of the Clean Air Act (42 USC 1857[h]), Section 508 of the Clean Water Act (33 USC 1368), Executive Order 11738, and environmental Protection Agency Regulations (40 CFR, Part 15), which prohibit the use under non-exempt federal contracts, grants, or



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

loans of facilities included on the EPA list of Violating Facilities. Contractor shall report all violations to FTA and to the USEPA Assistant Administrator for Enforcement (EN0329).

CERTIFICATIONS & AFFIDAVIT Proposer to complete as indicated below

DEBARMENT AND SUSPENSION CERTIFICATION (LOWER TIER COVERED TRANSACTION)

(To be submitted with a bid or Offer exceeding the small purchase threshold for Federal assistance programs, currently \$100,000.)

The prospective lower tier participant (Offeror) certifies, by submission of this Offer, 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.

If the prospective lower tier participant (Offeror) is unable to certify to the statement above, it shall attach an explanation, and indicate that it has done so, by placing an "X" in the following space _____.

THE OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND EXPLANATION, IF ANY. IN ADDITION, THE BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

CONFLICT OF INTEREST AFFIDAVIT

The undersigned, being first duly sworn on oath states on behalf of the Contractor:

Conflict of Interest - That the Contractor, by entering into this contact with Valley Regional Transit is to perform or provide work, services or materials to Valley Regional Transit, has thereby covenanted, and by this affidavit does again covenant any such interest, which conflicts in any manner or degree with the services required to be performed under this contract and that it shall not employ any person or agent having any such an interest. In the event that the Contractor, its agents, employees, or representatives, hereafter acquire such a conflict of interest, it shall immediately disclose such interest to Valley Regional Transit and take action immediately to eliminate the conflict or to withdraw from this contract, as Valley Regional Transit may require.

Contingent Fees and Gratuities - That the Contractor, by entering into this contract with Valley Regional Transit to perform or provide services or materials for Valley Regional Transit has thereby covenanted, and by this affidavit does again covenant and assure:

1. That no person or selling agency except employees or designated, agents or representatives of the Contractor has been employed or trained to solicit or secure this contract with an agreement or understand that a commission, percentage, brokerage, or contingent fee would be paid; and
2. That no gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member or employee of Valley Regional Transit or other governmental agency with a view toward securing this contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this contract.

Company Name: _____

By: _____

Title: _____



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

EXHIBIT A

LOBBYING CERTIFICATION

(To be submitted with a bid or offer exceeding \$100,000)

The Bidder or Offeror certifies, to the best its 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 a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. 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 thereof.
- (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 instruction, as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
- (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 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 OFFEROR, _____, CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFICATION AND DISCLOSURE, IF ANY. IN ADDITION, THE BIDDER OR OFFEROR UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C. §§ 3801 ET SEQ. APPLY TO THIS CERTIFICATION AND DISCLOSURE, IF ANY.

Signature of the Bidder or Offerors Authorized Official _____

Name, Title of the Bidder or Offerors Authorized Official _____

Date _____



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

EXHIBIT B

Professional Services Agreement Sample



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

PROFESSIONAL SERVICES AGREEMENT PSA

(XXX.XX.XX)

THIS PROFESSIONAL SERVICE AGREEMENT is made effective this (Date/Year) by and between **Valley Regional Transit** (hereinafter referred to as "VRT") and (**Vendor**) (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, the project contemplated by this Agreement is of mutual interest and benefit to Contractor and to VRT.

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to the following:

ARTICLE 1 - SCOPE OF WORK

1.1 Contractor agrees to perform the tasks outlined in the proposal attached as Exhibit A under the direction and review of VRT Executive Director or designated person(s).

1.2 Contractor's project manager shall be (Name), who is responsible for carrying out the provisions of this agreement and coordinating with subcontractors, where appropriate.

1.3 Any substantive changes, supplements and/or additions to the Request for Quote/Bid **Exhibit A** shall be covered by the provisions of Article 12 – Agreement Modification.

ARTICLE 2 - DURATION

This Agreement shall continue from the "base" year of (Agreement Term): A two (2) year period of time commencing on the above date, with the option to renew upon mutual agreement of both parties an additional three (3) one year terms. A final report shall be submitted within the time frame set forth in Article 3.2 of this Agreement.

ARTICLE 3 - CONFERENCES

3.1 During the term of this Agreement, representatives of Contractor will meet with representatives of VRT at times and places mutually agreed upon to discuss the progress and results, as well as ongoing plans, or changes therein, of Project to be performed hereunder.

ARTICLE 4 - COSTS, BILLINGS, AND OTHER SUPPORT

4.1 It is agreed to and understood by the parties hereto that, subject to any modifications to this Agreement, the total costs to VRT hereunder shall not exceed the sum of vendors proposal (**See Exhibit B – Vendor Proposal**). Further, the cost principals of 2 C.F.R. Part 200, Subpart E shall apply to the calculation and determination of allowable costs to be paid to Contractor or reimbursed to Contractor. Contractor will invoice the project as per Exhibit A and upon agreement by VRT will certify that project. The awarded vendor can expect payment within in 45 days after receipt of invoice.

ARTICLE 5 - INDEPENDENT CONTRACTOR

5.1 In the performance of all services hereunder:



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

5.1.1 Contractor shall be deemed to be and shall act as an independent contractor and shall assume and pay all liabilities and perform all obligations imposed with respect to the performance of this Agreement. VRT is not responsible for withholding, and shall not withhold FICA or other employment taxes of any kind from any payments which it owes Contractor. VRT shall issue Contractor a 1099 rather than a W-2 form. Contractor is not entitled to receive any benefit which employees of VRT are entitled to receive, if any, and Contractor shall not be entitled to workers' compensation, unemployment compensation, medical insurance life insurance, paid vacations, paid holidays, pension, profit sharing, or Social Security on account of Contractor's work for VRT. Contractor shall maintain Contractor's own occupational licenses in any and all cities and counties, as may be required by applicable law. Contractor shall furnish VRT with current certificates and proofs of payment that Contractor has coverage for workers' compensation insurance, general liability insurance, motor vehicle insurance and such other insurance as VRT may require of Contractor from time to time.

5.1.2 This Agreement does not create an employer-employee relationship between VRT and Contractor, and this Agreement is not a contract for future employment or future engagement.

5.1.3 Neither party is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, or representation as to any matter. Neither shall be bound by the acts or conduct of the other.

ARTICLE 6 - INDEMNIFICATION

6.1 Contractor shall indemnify, defend, and hold harmless VRT, its members, directors, officers, employees, and agents, from and against any and all claims, damages, liabilities, suites, administrative proceedings, and expenses, including attorney fees and costs, resulting from a breach of this Agreement by Contractor or any errors or omissions of Contractor, or any agent, employee, or subcontractor of Contractor, in the performance of this Agreement.

6.2 If either party files an action to enforce this Agreement, or which arises out of this Agreement, the prevailing party shall be entitled to an award of reasonable attorney fees and costs of suit including attorney's fees and costs of litigation, arbitration, and including appeals.

ARTICLE 7 - PROPRIETARY INFORMATION

7.1 Contractor agrees it will keep confidential and not use any material or information furnished by VRT for any purpose whatsoever other than as herein specified without prior written consent of VRT.

ARTICLE 8 - DISCLOSURE

8.1 Contractor shall not disclose information concerning work under this Agreement to any third party, unless such disclosure is necessary for the performance of the Agreement effort. No news release, public announcement, denial or confirmation of any part of the subject matter of this Agreement or any phase of any program hereunder shall be made without prior written consent of VRT. The restrictions of this paragraph shall continue in effect until completion or termination of this Agreement for such period of time as may be mutually agreed upon in writing by the parties. In the absence of a written established period, no disclosure is authorized. Failure to comply with the provisions of this paragraph may be cause for termination of this Agreement. This provision applies to periods during and after the Agreement Period.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

ARTICLE 9 - GOVERNING LAW

9.1 This Agreement shall be governed and construed in accordance with the federal law, the laws of the state of Idaho, and any applicable local ordinances of governmental entities located within the VRT service area. The parties agree that the counties of either Ada or Canyon, State of Idaho, are the proper venue for any action arising out of this Agreement.

ARTICLE 10 - ASSIGNMENT

10.1 This Agreement shall not be assigned by either party without the prior written consent of the parties hereto.

ARTICLE 11 - TERM

11.1 This Agreement shall become effective upon the date first herein above written and shall continue in effect for the full duration of the Agreement Period unless sooner terminated in accordance with the provisions of this Agreement. The parties hereto may, however, extend the term of this Agreement for additional periods as desired upon mutually agreeable terms and conditions, which the parties reduce to writing and sign.

ARTICLE 12 - AGREEMENT MODIFICATION

12.1 Any agreement to change the terms of this Agreement in any way shall be valid only if the change is made in writing and approved by mutual agreement of authorized representatives of the parties hereto. Any written amendment modifying this Agreement shall address cost increase or decrease and time of completion increase with reference to the final completion date and the date the final report is due.

ARTICLE 13 - DEFAULT

13.1 VRT may, by written notice of default to Contractor, terminate the whole or any part of this Agreement in any one of the following circumstances: (a) if Contractor fails to perform the services within the time specified herein or any extension thereof; or (b) if Contractor fails to perform any of the other provisions of this Agreement in accordance with its terms, and in either of these two circumstances not cure such default or commence curing the same within a period of ten days (or such longer period as VRT may authorize in writing) after receipt of notice from VRT specifying such failure.

13.2 Contractor shall continue performance of this Agreement to the extent not terminated. VRT shall have no obligations to Contractor with respect to the terminated part of this Agreement except as herein provided. In case of Contractor's default, VRT's rights as set forth herein shall be in addition to VRT's other rights although not set forth in this Agreement.

13.3 Contractor shall not be liable for damages resulting from default due to causes beyond Contractor's control and without Contractor's fault or negligence. **ARTICLE 14 - NON-WAIVER OF RIGHTS**

14.1 The failure of VRT to insist upon strict performance of any of the terms and conditions in this Agreement, or to exercise any rights or remedies, shall not be construed as a waiver of its right to assert any of the same or to rely on any such terms or conditions at any time thereafter. The invalidity in whole or in part of any term or condition of this Agreement shall not affect the validity of other parts hereof.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

ARTICLE 15 - TERMINATION

15.1 VRT may terminate this Agreement in whole or in part, for VRT's convenience or because of the failure of Contractor to fulfill its obligations under this Agreement. VRT shall terminate by delivering to Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to VRT's Executive Director all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this Agreement, whether completed or in process. If the termination is for the convenience of VRT, the Executive Director shall make an equitable adjustment in the Cost of Work but shall allow no anticipated profit on unperformed services. If the termination is for failure of Contractor to fulfill this Agreement obligations, as set forth below, VRT may complete the work by contract or otherwise and Contractor shall be liable for any additional cost incurred by VRT. If, after termination for failure to fulfill contract obligations, it is determined that 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 VRT.

15.2 If Contractor fails to perform in the manner called for in this Agreement, or if Contractor fails to comply with any other provisions of this Agreement, VRT may terminate this Agreement for default. Termination shall be effected by serving a notice of termination on Contractor setting forth the manner in which Contractor is in default. Contractor will only be paid for services performed in accordance with the manner of performance set forth in this Agreement. If it is later determined by VRT that 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 Contractor, VRT, after setting up a new performance schedule, may allow Contractor to continue work, or treat the termination as a termination for convenience.

15.3 VRT in its sole discretion may, in the case of a termination for breach or default, allow Contractor ten (10) calendar days 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 VRT's satisfaction the breach or default or any of the terms, covenants, or conditions of this Agreement within ten (10) calendar days after receipt by Contractor or written notice from VRT setting forth the nature of said breach or default, VRT shall have the right to terminate this Agreement without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude VRT from also pursuing all available remedies against Contractor and its sureties for said breach or default.

15.4 In the event that VRT elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by VRT shall not limit VRT's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

15.5 Termination of this Agreement by either party for any reason shall not affect the rights and obligations of the parties accrued prior to the effective date of termination of this Agreement. No termination of this Agreement, however effectuated, shall affect VRT's rights and duties or release the parties hereto from their rights and obligations under Articles 4 and 5.

15.6 If sufficient funds are not provided from applicable Federal, state, local or other sources to permit VRT in the exercise of its reasonable administrative discretion to continue this Agreement, or if VRT or the



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

program for which this Agreement was executed is abolished, VRT may terminate this Agreement without further liability by giving Contractor not less than thirty (30) days written notice.

15.7 Contractor agrees to include the above clause in each subcontract in excess of \$10,000 which is 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 sub-consultants who will be subject to its provisions

ARTICLE 16 - ENTIRE AGREEMENT

16.1 Upon acceptance of this Agreement, Contractor agrees that the provisions under this Agreement, including all documents incorporated herein by reference, shall constitute the entire Agreement between the hereto, and supersede all prior agreements relating to the subject matter hereof. This Agreement may not be modified or terminated orally, and no modification or any claimed waiver of any of the provisions hereof shall be binding unless in writing and signed by the party against whom such modification or waiver is sought to be enforced.

ARTICLE 17 - DISADVANTAGED BUSINESS ENTERPRISES (DBE) STATUS

17.1 It is the policy of VRT 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 VRT to:

- Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
- Ensure that the DBE program is narrowly tailored in accordance with applicable law;
- Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
- Help remove barriers to the participation of DBEs in DOT assisted contracts;
- To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
- Assist in the development of firms that can compete successfully in the marketplace outside the DBE program

17.2 This Agreement is subject to 49 C.F.R. part 26 and 2 C.F.R. § 200.321. Therefore, 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 Agreement. VRT shall make all determinations with regard to whether or not Contractor is in compliance with the requirements stated herein. In assessing compliance, VRT may consider during its review of Contractor's submission package and Contractor's documented history of non-compliance with DBE requirements on previous contracts with VRT.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

17.3 Contractor shall take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible. Affirmative steps must include the following:

17.3.1 Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

17.3.2 Assuring the small and minority businesses and women's business enterprises are solicited whenever they are potential sources;

17.3.3 Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

17.3.4 Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

17.3.5 Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

17.3.6 Requiring all subcontractors to take the affirmative steps above. (2 C.F.R § 200.321)

17.4 Contractor and its subrecipients and subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as VRT deems appropriate.

17.5 Should DBE status, as defined under Federal regulations, be claimed by Contractor, Contractor agrees to furnish written evidence of DBE certification from a governmental entity. Subsequent failure to furnish such proof may be considered by VRT as grounds for termination of this agreement.

17.6 When sub-agreements with other parties are required to fulfill the Work Program described in Exhibit A, Contractor agrees to notify VRT of these contract opportunities and to seek qualified DBE firms from the published Idaho Transportation Department list (available from VRT) to perform the work. Contractor will notify VRT of the dollar value of the subagreement and the DBE status of any subcontractor or service provider. When DBE status is claimed for these subcontractors or service providers, Contractor shall provide VRT of written proof of DBE certification.

17.7 Contractor must promptly notify VRT, whenever a DBE sub-consultants performing work related to this Agreement is terminated or fails to complete its work, and must make good faith efforts to engage another DBE sub-consultants to perform at least the same amount of work. Contractor may not



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

terminate any DBE sub-consultants and perform that work through its own forces or those of an affiliate without prior written consent of VRT

17.8 Contractor shall include this clause in each subcontract financing in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the clause.

17.9 The provisions of this Section 17 are applicable if this Agreement is expected to exceed \$250,000. In the event that this Agreement is not expected to exceed \$250,000, the provisions of this Section 17 are inapplicable.

ARTICLE 18 - FEDERAL CONTRACTING REQUIREMENTS

18.1 All work performed under this Agreement shall meet the requirements of federal and state law including but not limited to the following:

18.2 Incorporation of Federal Transit Administration ("FTA") Terms. The provisions of this Agreement include, in part, certain standard terms and conditions required by the United States Department of Transportation ("DOT"), whether or not expressly set forth in the preceding provisions of this Agreement. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1D, as revised, 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. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request by VRT which would cause VRT to be in violation of the FTA terms and conditions.

18.2.1 Contractor shall include this clause in each subcontract financing in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the clause

18.3 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 (Form FTA MA (23) dated October 1, 2016) between VRT and FTA, as they may be amended or promulgated from time to time during the term of this Agreement. Contractor's failure to so comply shall constitute a material breach of this Agreement.

18.4 Civil Rights. The following requirements apply to this Agreement:

18.4.1 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, 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, Contractor agrees to comply with applicable Federal implementing regulations and other **implementing requirements FTA may issue.**

18.4.2 Equal Employment Opportunity. The following equal employment



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

opportunity requirements apply to this Agreement:

18.4.2.1 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, 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 activities undertaken in the course of providing the services contracted for under this Agreement. 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, Contractor agrees to comply with any implementing requirements FTA may issue.

18.4.2.2 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, Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

18.4.2.3 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. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, Contractor agrees to comply with any implementing requirements FTA may issue.

18.4.2.4 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.

18.5 Program Fraud and False or Fraudulent Statements or Related Acts.

18.5.1 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 the services to be provided under this Agreement. Upon execution of this Agreement, 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 this Agreement or the FTA assisted project for which the work under this Agreement 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,



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on Contractor to the extent the Federal Government deems appropriate.

18.5.2 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 Contractor, to the extent the Federal Government deems appropriate.

18.5.3 Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractor to include this clause in any lower tier subcontract. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

18.6 No Obligation by the Federal Government.

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

18.6.2 Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

18.7 Federal Privacy Act Requirements.

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

18.7.2 Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

18.8 Records Disclosure.

18.8.1 Contractor will retain, and will require its subcontractors of all tiers to



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

retain, complete and readily accessible records related in whole or in part to this Agreement, 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.

18.8.2 Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. Contractor shall maintain all books, records, accounts and reports required under this Agreement for a period of at not less than three (3) years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

18.8.3 Contractor agrees to provide VRT, 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 Contractor which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees to provide the FTA Administrator or his/her 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.

18.8.4 Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

18.8.5 Contractor agrees to permit VRT, FTA and their contractors access to the sites of performance under this Agreement as reasonably may be required.

18.9 Energy Conservation. 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.

18.9.1 Contractor shall include this clause in each subcontract financing in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the clause.

18.10 Breaches and Dispute Resolution.

18.10.1 Disputes. Disputes arising in the performance of this Agreement which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of VRT's Executive Director. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to the Executive Director. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director shall be binding upon Contractor and Contractor shall abide by the decision.

18.10.2 Performance During Dispute. Unless otherwise directed by VRT, Contractor shall continue performance under this Agreement while matters in dispute are being resolved.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

18.10.3 Claims for Damages. Should either party to this Agreement suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he 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 of damage.

18.10.4 Remedies. Unless this Agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between VRT and 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 VRT is located

18.10.5 Rights and Remedies. The duties and obligations imposed by this Agreement 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 VRT or Contractor shall constitute a waiver of any right or duty afforded any of them under this Agreement, 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.

18.10.6 Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clauses shall not be modified, except to identify the sub-consultants who will be subject to the provisions.

18.11 Fly America.

18.11.1 Fly America Requirements. 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 sub-recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Governmentfinanced 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. 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. Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

18.12 Water Pollution.

18.12.1 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 . Contractor agrees to report each violation to VRT and understands and agrees that VRT will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

18.12.2 Contractor shall include this clause in each subcontract financing in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the clause.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

18.12.3 The provisions of this Section 18.12 are applicable if this Agreement is expected to exceed \$150,000. In the event that this Agreement is not expected to exceed \$150,000, the provisions of this Section 18.12 are inapplicable.

18.13 Clean Air Act.

18.13.1 Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. Contractor agrees to report each violation to VRT and understands and agrees that VRT will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

18.13.2 Contractor shall include this clause in each subcontract financing in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the clause.

18.13.3 Applicability. The provisions of this Section 18.13 are applicable if this Agreement is expected to exceed \$150,000. In the event that this Agreement is not expected to exceed \$150,000, the provisions of this Section 18.13 are inapplicable.

18.14 Lobbying Limitations and Certification.

By executing this Agreement, Contractor certifies that, to the best of his or her knowledge and belief, that:

18.14.1 No Federal appropriated funds have been paid or will be paid, by or on behalf of Contractor, 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.

18.14.2 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, Contractor 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).

18.14.3 Contractor shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

18.14.4 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



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

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.

18.14.5 Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clauses shall not be modified, except to identify the sub-consultants who will be subject to the provisions.

18.14.6 The provisions of this Section 18.14 are applicable if this Agreement is expected to exceed \$100,000. In the event that this Agreement is not expected to exceed \$100,000, the provisions of this Section 18.14 are inapplicable.

18.15 Contracts Involving Experimental, Developmental, Or Research Work.

18.15.1 This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Agreement. The Contractor shall grant the AGENCY intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by this Agreement. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of this Agreement.

18.15.1.1 The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

(a) Any subject data developed under this Agreement, whether or not a copyright has been obtained; and

(b) Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

18.15.1.2 Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Agreement agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of this Agreement, or a copy of the subject data first produced under this Agreement for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Agreement, is not completed for any reason whatsoever, all data developed under this Agreement shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

18.15.1.3 Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

18.15.1.4 Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

18.15.1.5 Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Agreement is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

18.15.1.6 The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance. :

18.15.1.7 .

18.15.2 Patent Rights. This following requirements apply to each contract involving experimental, developmental, or research work:

18.15.2.1 General. If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under this Agreement to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, VRT and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

18.15.2.2 Unless the Federal Government later makes a contrary determination in writing, irrespective of Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), VRT and Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

18.15.2.3

Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

18.16 Debarment and Non procurement

18.16.1

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 this Agreement and all related contract at any level irrespective of the contract amount. As such, Contractor certifies 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:

18.16.1.1

Debarred from participation in any federally assisted Award;

18.16.1.2

Suspended from participation in any federally assisted Award;

18.16.1.3

Proposed for debarment from participation in any federally assisted Award;

18.16.1.4

Declared ineligible to participate in any federally assisted Award;

18.16.1.5

Voluntarily excluded from participation in any federally assisted Award; or

18.16.1.6

Disqualified from participation in any federally assisted Award.

18.16.2

The certification in Section 18.16.1 is a material representation of fact relied upon by VRT. If it is later determined by VRT that Contractor knowingly rendered an erroneous certification, in addition to remedies available to VRT, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. Contractor agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, during the term of this Agreement.

18.17 Contractor agrees to include the above two clauses in each subcontract expected to equal or exceed \$25,000 or subject to a federally required audited which is financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract which satisfy either or both of these prerequisites. It is further agreed that the clauses shall not be modified, except to identify the sub-consultants who will be subject to the provisions.

18.18 Contract Work Hours and Safety Standards for Awards Not Involving Construction.

18.18.1

Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.

18.18.2 Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the Agreement for all laborers and mechanics, including guards and watchmen, working on the Agreement. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

18.18.3 Such records maintained under this paragraph shall be made available by Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and Contractor will permit such representatives to interview employees during working hours on the job.

18.18.4 Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clauses shall not be modified, except to identify the sub-consultants who will be subject to the provisions.

18.19 Recovered Materials

18.19.1 Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247. 2 C.F.R. §200.322.

18.19.2 Contractor agrees to include the above clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clauses shall not be modified, except to identify the sub-consultants who will be subject to the provisions.

18.20 Safe Operation of Motor Vehicles.

18.20.1 Seat Belt Use. 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 rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by Contractor or VRT.

18.20.2 Distracted Driving. Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this Agreement.

18.20.3 Flow Down. Contractor agrees to include the above clauses in each



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

subcontract financed in whole or in part with Federal assistance provided by FTA and also a clause requiring the subcontractors to include this clause in any lower tier subcontract. It is further agreed that the clauses shall not be modified, except to identify the sub-consultants who will be subject to the provisions.

IN WITNESS WHEREOF, THE PARTIES HAVE CAUSED THESE PRESENTS TO BE EXECUTED IN DUPLICATE AS OF THE DAY AND YEAR FIRST ABOVE WRITTEN.

CONTRACTOR: (VENDOR NAME)

Date: _____

By: _____

Contractor Signature

Address

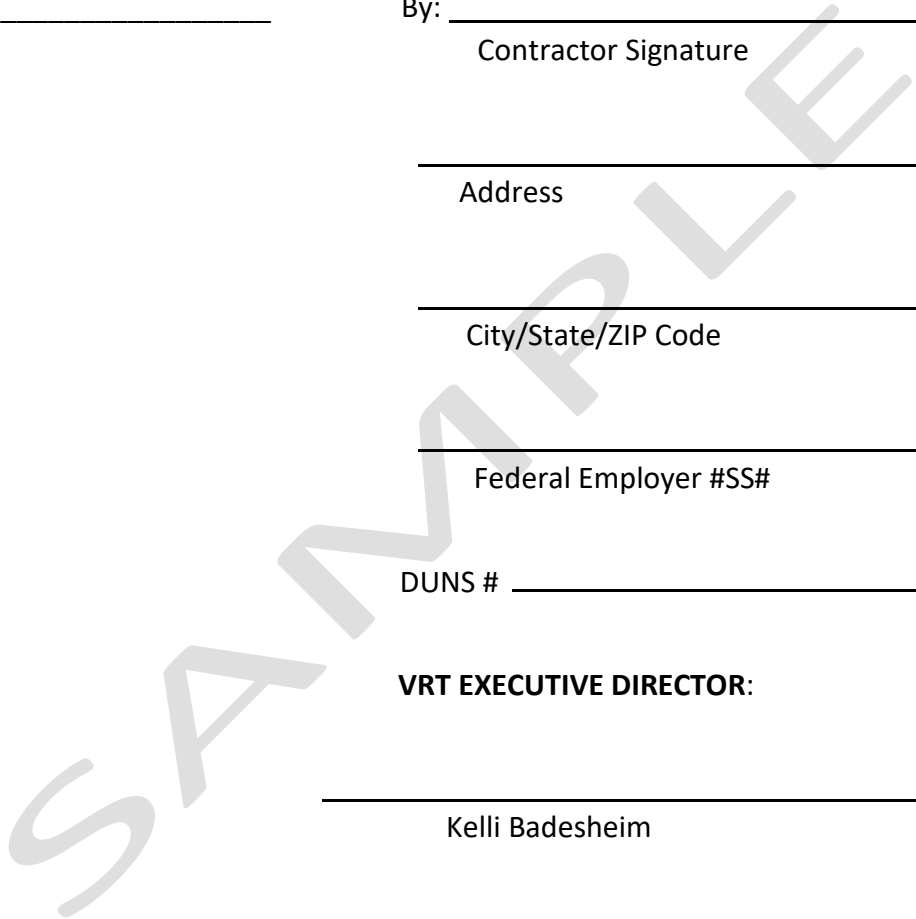
City/State/ZIP Code

Federal Employer #SS#

DUNS # _____

VRT EXECUTIVE DIRECTOR:

Kelli Badesheim





700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

SCOPE OF WORK

See attached vendor quote/bid on next page

SAMPLE



700 NE 2nd Street, Suite 100 • Meridian, Idaho 83642

EXHIBIT B VENDOR BID

SAMPLE