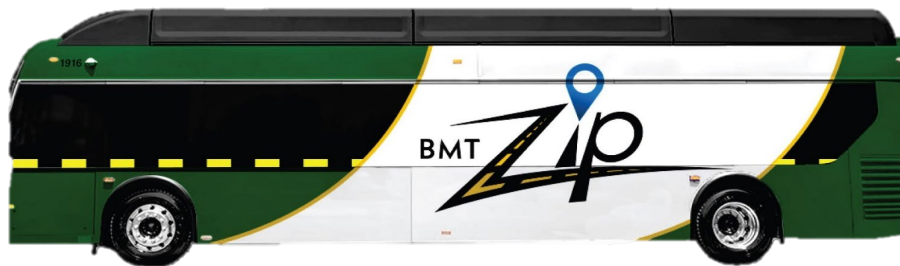


TRANSIT MANAGEMENT OF BEAUMONT REQUEST FOR PROPOSAL



RFP #: 2024-001

Title: Computer Aided Dispatch and Automatic Vehicle Location System

Due Date: Thursday, June 20, 2024

Table of Contents

1	NOTICE TO PROPOSERS	
1.1	Summary	4
1.2	Important Dates	4
1.3	Format	4
1.4	Labeling	4
1.5	Delivery of Proposals	4
1.6	Appendix A: Standard Terms & Conditions	5
1.7	Appendix B: Sample Contract for Purchase of Services	5
1.8	Multiple Proposals	5
1.9	Transit Management of Beaumont Contact Information	5
1.10	Inquiries, Clarifications, and Exceptions	5
1.11	Addenda	5
1.12	Bid Distribution Information	5
1.13	Virtual Presentations/Site Visits/Meetings	5
1.14	Acceptance/Rejection of Proposals	6
1.15	Withdrawal or Revision of Proposals	6
1.16	Subcontracting or Third Party Payments	6
1.17	Non-Restrictive Specifications and Vendor Alternates	6
1.18	Non-Material and Material Variances	6
1.19	Public Records	6
1.20	Contract Quantities	7
1.21	Proposal Evaluation	7
1.22	Proposal Scoring	7
1.23	Award and Final Offers	7
1.24	Award Notice	7
1.25	Financial Commitments	7
1.26	Negotiate Contract Terms	7
1.27	Tax Exempt	7
1.28	Proposers Responsibility	8
1.29	General Information	8
1.30	Introduction	8
1.31	Core Requirements	8
1.32	Scope of Work	9
1.33	Vendor Requirements	20
1.34	Insurance Requirements	20
1.35	Delivery	21
1.36	Bid Bonds, Performance Bonds, Progress Payments	21
1.37	Protest Process	21
2	REQUIRED INFORMATION AND CONTENT FOR SUBMITTAL OF PROPOSALS	22
	Form A: Signature Affidavit	24
	Form B: Receipt of Forms and Submittal	25
	Form C: Vendor Profile	26

Form D: Designation of Confidential and Proprietary Information	27
Form E: Cost Proposal	28
Form F: References	29
Appendix A: Standard Terms & Conditions	30
Appendix B: Sample Contract for Purchase of Services	35
Federally Required Clauses	41

1 NOTICE TO PROPOSERS

1.1 Summary

Transit Management of Beaumont (TMB) is soliciting Proposals from qualified vendors for Computer Aided Dispatch (CAD) and Automatic Vehicle Location (AVL) System. Vendors submitting Proposals ("Proposers") are required to read this Request for Proposals ("RFP") in its entirety and follow the instructions contained herein.

1.2 Important Dates

Deliver Proposals no later than the due date and time indicated below. TMB will reject all late Proposals:

RFP Issued Date:	May 21, 2024
Questions Due Date:	May 29, 2024
Addendum Posted Date:	June 5, 2024
Due Date:	June 20, 2024
Evaluation of Proposals:	June 24-28, 2024
Intent to Award:	July 2, 2024
Training to be Completed by:	September 6, 2024
Implementation to be Completed by:	September 13, 2024

1.3 Format

TMB will not consider illegible Proposals.

Elaborate Proposals (i.e., expensive artwork) beyond that sufficient to present a complete and effective Proposal, are not necessary or desired.

One hard copy and one digital copy of the proposal is required.

Complete and return Forms A through F and all other required documents per the proposal to Transit Management of Beaumont with your submitted proposal.

1.4 Labeling

All Proposals must be clearly labeled:

Proposer's Name and Address
RFP #: 2024-001
Title: Computer Aided Dispatch and Automatic Vehicle Location System
Due: June 20, 2024 5:00 pm CT

All email correspondence must include RFP 2024-001 in the subject line.

1.5 Delivery of Proposals

Options and Instructions:

At least one hard copy and one digital copy of the proposal is required.

Digital copies may be in the form of an email or a USB drive.

At least one copy of proposals must be delivered or mailed to:

Transit Management of Beaumont
550 Milam Street
Beaumont, TX 77701

Email proposals must be mailed to heather.aguilar@beaumonttransit.com making sure to include RFP 2024-001 in the subject line. An acknowledgement email will be sent upon receipt.

Proposals may be hand delivered between 8 am and 5 pm Monday through Friday excluding Holidays.

Hard copies sent via United States Postal Service must be postmarked at least 5 days before the due date of the proposals.

Proposals must be delivered as instructed. Deliveries to other city departments and/or locations may result in disqualification.

Note: If you are mailing your proposal via a third-party delivery service, the outside of the packaging MUST be clearly marked with the RFP name and number. This ensures the proposal can be delivered to the Buyer without first having to be opened.

1.6 Appendix A: Standard Terms & Conditions

Proposers are responsible for reviewing this attachment prior to submission of their Proposals. TMB Standard Terms and Conditions are the minimum requirements for the submission of Proposals.

1.7 Appendix B: Sample Contract for Purchase of Services

Proposers are responsible for reviewing this attachment prior to submission of their Proposals. The Sample Contract for Purchase of Services shall serve as the basis of the contract resulting from this RFP. The terms of this template contract shall become contractual obligations following award of the RFP. By submitting a Bid, Proposers affirm their willingness to enter into a contract containing these terms. (applicable only to services)

1.8 Multiple Proposals

Multiple Proposals from Proposers are permitted; however, each must fully conform to the requirements for submission. Proposers must sequentially label (e.g., Proposal #1, Proposal #2) and separately package each Proposal. Proposers may submit alternate pricing schemes without having to submit multiple Proposals.

1.9 Transit Management of Beaumont Contact Information

Transit Management of Beaumont Purchasing Department administers the procurement function:

Heather Aguilar
Buyer
550 Milam St
Beaumont, TX 77701
PH: (409) 980-8194
heather.aguilar@beaumonttransit.com

Contacting staff outside of the Purchasing Department regarding this RFP without written consent from the Purchasing Department may result in your proposal being rejected.

1.10 Inquiries, Clarifications, and Exceptions

Proposers are to raise any questions they have about the RFP document without delay. Direct all questions, in writing, to the Purchasing Department Buyer listed in Section 1.9.

Proposers finding any significant ambiguity, error, conflict, discrepancy, omission, or other deficiency in this RFP document shall immediately notify the Buyer and request clarification. In the event that it is necessary to provide additional clarification or revision to the RFP, TMB will post addenda – see 1.11 below. Proposers are strongly encouraged to check for addenda regularly.

Proposals should be as responsive as possible to the provisions stated herein. A prospective vendor may take "exception" to proposal terms, conditions, specifications and dates stated within the proposal package. However, TMB reserves the right to disqualify any and all Proposals submitted which include exceptions, if deemed not in its best interests.

1.11 Addenda

In the event that it is necessary to provide additional clarification or revision to the RFP, TMB will post addenda to its website – see 1.12 below. It is the Proposers responsibility to regularly monitor the websites for any such postings. Proposers must acknowledge the receipt of any addenda on Form B. Failure to retrieve addenda and include their provisions may result in disqualification.

1.12 Bid Distribution Information

Transit Management of Beaumont posts Request for Proposals, addenda, tabulations, awards and related announcements on its website <https://beaumonttransit.com/business-with-us/>. It is the Proposers responsibility to regularly monitor the website for any such postings. Proposers' failure to retrieve such addenda and incorporate their appropriate provisions in their response may result in disqualification.

1.13 Virtual Presentations/Site Visits/Meetings

Proposers may be asked to attend meetings, make virtual presentations, inspect TMB locations or make their facilities available for a site inspection as part of this RFP process. Such presentations, meetings or site visits will be at the Proposer's expense.

1.14 Acceptance/Rejection of Proposals

TMB reserves the right to accept or reject any or all proposals submitted, in whole or in part, and to waive any informalities or technicalities, which at TMB's discretion is determined to be in its best interests. Further, TMB makes no representations that a contract will be awarded to any Proposer responding to this request. TMB expressly reserves the right to reject any and all Proposals responding to this invitation without indicating any reasons for such rejection(s).

TMB reserves the right to postpone due dates and openings for its own convenience and to withdraw this solicitation at any time without prior notice.

1.15 Withdrawal or Revision of Proposals

Proposers may, without prejudice, withdraw proposals submitted prior to the date and time specified for receipt of proposals by requesting such withdrawal before the due time and date of the submission of proposals. After the due date of submission of proposals, no proposals may be withdrawn for a period of 90 days or as otherwise specified or provided by law. Proposers may modify their proposals at any time prior to the due date of proposals.

1.16 Subcontracting or Third Party Payments

All subcontracting shall be pre-approved upon award by TMB before any work begins. Subcontractors must abide by all terms and conditions of the proposal. The prime contractor shall be responsible for all subcontractor(s) work and payment.

1.17 Non-Restrictive Specifications and Vendor Alternates

Specifications are intended to define the general level of quality and performance of this purchase and not to restrict competition. Vendors may offer one or more alternates with lesser or greater features; however, TMB reserves the right to make its selection based on its best interest. Vendors offering alternates shall submit, with their proposal, an itemized comparison with this specification, documenting equivalence for quality, performance, etc. Failure to identify exceptions or deviations in this manner may be a basis to declare the proposal as non-responsive. If in your opinion, any of the specifications, terms and conditions of this RFP prevents you from offering a proposal, consideration will be given to a Vendor's request for change.

1.18 Non-Material and Material Variances

TMB reserves the right to waive or permit cure of non-material variances in the offer if, in its judgment, it is in TMB's best interest to do so. The determination of materiality is in the sole discretion of TMB.

1.19 Public Records

Proposers are hereby notified that all information submitted in response to this RFP may be made available for public inspection according to the Public Records Law of the State of Texas or other applicable public record laws. Information qualifying as a "trade secret"--defined in State of Texas Statutes--may be held confidential.

Proposers shall seal separately and clearly identify all information they deem to be "trade secrets," as defined in the State of Texas Statutes. Do not duplicate or co-mingle information deemed confidential and sealed, elsewhere in your response.

Sec. 134A.002.

(6) "Trade secret" means all forms and types of information, including business, scientific, technical, economic, or engineering information, and any formula, design, prototype, pattern, plan, compilation, program device, program, code, device, method, technique, process, procedure, financial data, or list of actual or potential customers or suppliers, whether tangible or intangible and whether or how stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing if:

(A) the owner of the trade secret has taken reasonable measures under the circumstances to keep the information secret; and

(B) the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

TMB cannot ensure that information will not be subject to release if a request is made under applicable public records laws. TMB cannot consider the following confidential: a proposal in its entirety, price proposal information, or the entire contents of any resulting contract. TMB will not provide advance notice to Proposers prior to release of any requested record.

To the extent permitted by such laws, it is the intention of TMB to withhold the contents of Proposals from public view--until such times as competitive or bargaining reasons no longer require non-disclosure, in TMB's opinion. At that time, all Proposals will be available for review in accordance with such laws.

1.20 Contract Quantities

The estimated annual quantities identified within this RFP are for bid purposes only and are based on historical data. TMB does not guarantee purchase any specific quantity or dollar amount.

Proposals that state TMB must guarantee a specific quantity or dollar amount may be disqualified.

1.21 Proposal Evaluation

TMB's evaluation committee will consist of members who have been selected because of their special expertise and knowledge of the service(s) and/or product(s) that are the subject of this RFP. Proposers may not contact members of the evaluation committee except at the request of the Purchasing Department.

The proposals will be initially reviewed to determine if mandatory requirements are met. Failure to meet mandatory requirements shall result in the proposal being rejected. In the event that all proposers do not meet one or more of the mandatory requirements, TMB reserves the right to continue the evaluation of the proposals that most closely meet the mandatory requirements of this RFP.

1.22 Proposal Scoring

Accepted proposals will be reviewed by an evaluation committee and scored against the stated criteria. The committee may review references, request interviews/presentations, conduct demonstrations and/or conduct on-site visits. The resulting information will be used to score the proposals. The evaluation committee's scoring will be tabulated, and proposals ranked based on the numerical scores received. Financial terms will not be the sole determining factor in this award. Other criteria described in this RFP will be considered, as well as any other factors the evaluation team determines may affect the suitability of the proposal for TMB's requirements. A supplier's submission of a proposal constitutes their acceptance of the evaluation technique and their recognition and acceptance the evaluators will use their judgment in making a determination. One or more responsive and responsible vendor proposals may be selected and further negotiations and/or interviews and/or product demonstrations may occur. Once the successful Vendor has been selected, an award notice will be issued.

Proposals will be scored using the following criteria:

Description	Points
Company Experience & Qualifications	15
Compliance with Scope of Work and Implementation Plan	25
Customer Service & Support Including Comprehensive Training Plan	20
Warranty	10
Ability to provide future capabilities as required	10
Pricing	20
TOTAL	100

1.23 Award and Final Offers

Award will be granted in one of two ways. The award may be granted to the highest scoring responsive and responsible proposer after the original evaluation process is complete. Alternatively, the highest proposer or proposers may be requested to submit best and final offers, and may be required to provide a virtual presentation. If TMB requests best and final offers, they will be evaluated against the stated criteria, scored, and ranked by the evaluation committee. The award will then be granted to the highest scoring proposer following that process. However, a proposer should not expect that TMB will request a best and final offer.

1.24 Award Notice

Award will be communicated via email notifying the awardee of the won bid. Thereafter, the award will be posted to our website.

1.25 Financial Commitments

All financial commitments regarding this solicitation are subject to the availability of funds approved by the City of Beaumont.

1.26 Negotiate Contract Terms

TMB reserves the right to negotiate the terms of the contract, including the award amount, with the selected proposer prior to entering into a contract. If contract negotiations cannot be concluded successfully with the highest scoring proposer, TMB may negotiate a contract with the next highest scoring proposer.

1.27 Tax Exempt

Transit Management of Beaumont operates as a contractor for the City of Beaumont, a municipality who is exempt from payment of Federal Excise taxes and State of Texas taxes. Federal Tax ID # 74-6000278. A completed Texas Sales and Use Tax Exemption Certification can be requested through the Purchasing Department.

1.28 Proposers Responsibility

Proposers shall examine this RFP and shall exercise their judgment as to the nature and scope of the work required. No plea of ignorance concerning conditions or difficulties that exist or may hereafter arise in the execution of the work under the resulting contract, as a consequence of failure to make necessary examinations and investigations, shall be accepted as an excuse for any failure or omission on the part of the Proposers to fulfill the requirements of the resulting contract.

DESCRIPTION OF SERVICES/COMMODITIES

1.29 General Information

Transit Management of Beaumont (TMB) is now accepting proposals for a Computer Aided Dispatch (CAD) and Automatic Vehicle Location (AVL) system. The purpose of this document is to provide the vendors with information to enable them to prepare and submit a proposal(s) for this project. TMB reserves the right to award to the highest scoring proposer for this project.

The purpose of this RFP is to promote competitive proposals for the purchase and installation of a complete CAD and AVL system including but not limited to; mobile data terminals (MDT), automatic voice annunciation (AVA) system, automatic passenger counters (APC), integration with existing Genfare farebox system with single point login capability, Luminator and Hanover signs, integration with other contracted services, and both static and real time Google ready General Transit Feed Specification (GTFS) that is available and accessible to any vendor of TMB's choosing. This solution should be a well-proven, turn-key, industry-standard system. The hardware and software must assist in capturing data and providing feedback to better manage and operate a more efficient TMB system.

TMB reserves the right to select, negotiate and subsequently award the proposed service which best meets our required needs, quality levels, and budget constraints.

1.30 Introduction

TMB is seeking a Vehicle Tracking System utilizing Global Positioning System (GPS) technology in conjunction with a vehicle location and mapping software to track vehicle locations en route and in real-time and provide a visual mapping display. The primary purpose of the system is to improve the quality of TMB's fixed-route service and emergency response capabilities to the public. This system must provide route and vehicle information in real-time via web interface to passengers, the dispatcher, and managerial personnel.

The system must be equipped with reporting capabilities to accurately data stream operation service information (e.g., route timing, passenger wait time, operator performance, vehicle speed and movement). This is essential for the completion of performance metrics, the analysis of daily operation, and long term project planning and analysis. The Vehicle Tracking System must include the functionality for hardware/software components to be installed on at least twenty (20) buses. The system must be able to recognize, alert, and modify routes to reflect detours and deviations.

Required elements must include but not be limited to; mobile data terminals (MDT), automatic voice annunciation (AVA) system, integration with existing Genfare farebox system with single point login capability, integration with existing, Luminator and Hanover signs, implantation of new digital signage, integration with other contracted services, and both static and real time GTFS that is available and accessible to any vendor of TMB's choosing. This solution must be a well-proven, turn-key, industry-standard, cloud-hosted system. The hardware and software must assist in capturing data and providing feedback to better manage and operate a more efficient TMB system. The proposal must demonstrate how the features will provide a significant operational upgrade for Transit Management of Beaumont.

1.31 Core Requirements

1 Vehicle Tracking Software

The Vehicle Tracking Software (VTS) must utilize GPS in conjunction with vehicle location and mapping software to accurately track bus locations en route in real-time and provide a visual mapping display. The GPS readings of the bus location must occur in real-time with vehicle location information posted on a Graphic User Interface (GUI) map display available on a public website and viewable through various devices (Smartphone, Kiosk, Bus Stop, PC, etc.). The system must be equipped with a notification service, whereupon users can subscribe and be able to select one route or multiple routes and be notified when the next bus is coming.

Real time tracking means that a vehicle's location is reported via an automatic vehicle location (AVL) device installed on each vehicle and transmitted to an internet server with a delay of not more than 2 seconds. This is done through the use of GPS for pinpointing the location and through a wireless communication system for transmitting the information to an internet server. The SOFTWARE PROVIDER must recommend a solution and/or partner for data transmission and indicate their recommended rate of transmission for a system such as this.

2 Vehicle Location Data

The Vehicle Tracking Software (VTS) must provide a Graphic User Interface real-time automatic vehicle location data display. Vehicle icon on the map display shall clearly indicate Vehicle ID, Route Direction, and Location. Further layered information on the vehicle must include Run Trip, Date/Time and Speed. The SOFTWARE PROVIDER must provide detailed explanation of existing maps and software mapping components and how they work with other components of the system. Screen shots of display windows utilized by dispatch and/or the passenger must be provided describing key features, attributes, and the information available within the mapping component. The SOFTWARE PROVIDER must describe in detail all traveler supported components that it provides, to include the features within each component as well as software and hardware required for implementation.

3 Maps

The VTS must include one integrated map with detailed maps of the service area region, preferred Google Maps. The map views must include standard map display features (zoom in/out, panning, etc.). The maps must have an automatic refresh feature with the option of refreshing the map view 'upon-demand' by the dispatcher. The geo-spatial object management portion of the system must provide capabilities to trace routes, place stops and landmarks on the map for dispatchers and the general public to see. The mapping component shall also include a navigational request.

4 Route Management

The VTS must include a Route Management module which can be utilized by the dispatcher to effectively manage the route and determine the location of any vehicle in service. The system must provide the dispatcher the necessary real-time information to manage vehicle fleets whether they are on fixed routes, in the yard, or on special on-demand detours on route. The system must display the time each bus arrives at each stop per route and the "wait times" (e.g., how long the bus is at the stop). The software must include a GUI real-time dispatch display that clearly indicates status (i.e., color-coding), with emphasis on bus arrival times at designated stops based on the average speed of the bus and traffic impacts. The vehicle icon on the dispatch display must clearly indicate Vehicle ID, Route, Directional Status, Arrival Time, Departure Time, and Date & Time of last GPS update.

5 Customer Interface

The VTS must include a public interface that provides customers with bus location information. At a minimum, the bus locations are to be displayed on a map available on the internet. Desired functionality includes details available for each bus (showing route, time at last stop or last time point, minutes late/early, etc.). The SOFTWARE PROVIDER must also describe other information distribution interfaces that are available with their product such as stop-based electronic displays, text/SMS messaging, etc. TMB may not choose to implement these additional features if their ongoing cost is too high, but the availability of multiple interfaces will be an important benefit.

6 Access to Location Data

Access to all real-time, static, and archived vehicle location data must also be available to any third-party applications or vendors as determined by TMB for any purpose. The SOFTWARE PROVIDER must indicate which method would be used (XML, RSS, JSON, SQL, etc.) within their RFP response.

1.32 Scope of Work

The purpose of this RFP is to remove and replace the current AVL/GPS Based Real-Time Passenger Information System for approximately 20 buses, which shall be implemented by September 13, 2024.

Overall

1 General

- a. System will have capability to capture and transmit vehicle location information on a real-time basis.
- b. System must have an update frequency rate as close to real-time as possible, no more than 2 seconds per update.
- c. iPhone, Android & mobile website apps must be included in the system offering for better access and convenience. A mobile app (iPhone and Android) for customer use must be offered free of charge for end user. Preference would be given for a "White-label" app, but other options will be considered.
- d. System shall offer administrators the ability to change/update route paths and bus stop locations via a cloud-based interface in real-time, allowing these updates/changes to be available immediately.

- e. System must offer one-click, Google ready (GTFS) exporting of static and real time feeds for any purpose that TMB determines.
- f. System must be turn-key and cloud hosted.
- g. Vendor must describe their go-live strategy, which shall include their implementation plan.
- h. Project required to be completed and implemented by September 13, 2024.
- i. System must provide optional capability and integration of Real-time Transit Data API, including developer documentation that allows for querying data from AVL services, with a Java Script Object Notation (JSON) document as output. The API must provide real-time vehicle location data and estimated arrival times for vehicles as they approach stops.
- j. System must have the capability of providing Automated Voice Annunciation (AVA) with customizable pronunciation, which will make the system compliant with the Americans with Disabilities Act (ADA).
- k. System must have the ability for Sign Integration with Hanover and/or Luminator signs.
- l. System must have the ability for Farebox Integration with the current Genfare (GFI) system.
- m. System must have the ability to expand to offer add-on's (APC, Interior Sign Integration, Head sign/Destination Sign Integration,) in the future with no additional hardware needed.
- n. Single point login is required to integrate existing farebox systems, head signs, automatic voice announcements and any additional programs/hardware as defined by TMB.
- o. System must be in HTML5 on the web for access.
- p. Vendor must provide in person Training for the startup and rollout and provide a training plan that includes a detailed list of all trainings offered.
- q. Vendor must provide detailed explanation on the training process as future updates or changes occur.
- r. System must have Covert Emergency Alarm (CEA)

2 Integrations

- a. Vendor must have the capability to integrate the current existing bus stop numbers.
- b. Vendor must offer capability to integrate with existing and concurrent systems such as GFI, Luminator, Hanover without compromising efficacy of overall system.
- c. Vendor must offer capability to share metadata with the camera system of TMB's choice.
- d. Vendor must provide visual route creator as additional management tool for all systems. Visual route creator must offer point and click mapping. All changes made through the creator must be made in real-time. Each created route, stop, and change must be effective immediately. Mapping must also have a time delay option to preplan route changes to deploy at a specific date and time.
- e. Proposed system must have the capability of integrating with the following items: automatic voice annunciation, onboard head signs, onboard LED signs and fare boxes.

3 Automated Voice Announcements (AVA)

- a. System shall have an integrated Automated Voice Announcing system that uses Vehicle Locations and GPS geo fences to announce stops both internally and externally.
- b. System shall give the ability to create and choose which stops and routes are announced via web portal.
- c. System shall give the ability to enter in how route or stop announcements must be pronounced phonetically via web portal.
- d. System shall have the ability to edit current stop or route announcements by turning "off" or "on" via web portal.
- e. System shall have the ability to announce stops or routes using a live map showing the vehicles location in real time via web portal.
- f. When a new route or stop is created the system shall always give the ability to choose whether the route or stop is announced via a web portal.

4 Future Capability Options of Overall System:

Automatic Passenger Counting (APC)

- a. System shall have an integrated Automatic Passenger Counter system that works in concert with the overall CAD and AVL system in a minimum of eight (8) existing buses.
- b. System shall give the ability to create passenger counts without administrator or driver input. Proposed solution must need zero manual input from any source for start-up.
- c. System shall be intuitive and easy to use.
- d. System shall have a minimum fifty (50) separate and unique rider types.
- e. System shall have at minimum one separate counting trigger: overhead or door entry.
- f. System shall cover all entrance and exit points of the vehicle.
- g. System must accurately count passengers as they board and alight, recording data as a function of individual stops, routes, and runs.
- h. System must be designed and tested to distinguish valid passengers from non-passenger objects, and to detect double-backs and re-crossings.
- i. Vendor shall ensure APC or Deferred Procedure Call (DPC) information is available in an acceptable format for National Transit Database (NTD) and Federal Transit Administration (FTA) Certified reporting of 95% confidence and 10% precision levels.

Pre-trip Inspection

Pre-trip inspection reporting prior to pull-out to eliminate manual processing of paper-based inspection for up to twenty (20) fixed route and ten (10) paratransit vehicles. Shall be fully customizable to include:

- a. Fully customizable inspection forms
- b. Allow operator keyed input to address specific issues and comments
- c. Force mandatory post-trip and end of day inspections for vehicles
- d. Capable of sending inspection reports to designated staff in real-time
- e. Configurable inspection duration validity (i.e. 24 hrs., 48 hrs., etc.)
- f. Alerts/notifies staff when vehicle leaves the garage without a valid status

Text Messaging

The CAD and AVL System shall accept both keyboard-entered and selected pre-defined text messages at a dispatch workstation and transmit those messages to selected vehicle(s). The CAD and AVL System shall allow workstation users to append pre-defined text messages. The CAD and AVL System shall maintain a visible list of unacknowledged text messages and shall inform the workstation user when the acknowledgement has not been received within a time determined by the system administrator.

Passenger Components

5 Public Website

- a. Users shall have ability to view only routes that are of interest to them or all routes.
- b. System must provide arrival estimates to give riders more detail about anticipated vehicle arrival times.
- c. Users shall have the System remember chosen routes from past times they have loaded to the website.
- d. Vendor shall design a banner that uses customer-supplied logos/graphics that clearly identifies TMB and a web address that is easy to market to riders.
- e. System shall provide a module that allows trip planner and other content to be provided on TMB's own website.
- f. System shall differentiate estimated time of arrival for inbound and outbound stops along a particular fixed route.
- g. System shall continuously update the web page whenever a new estimated time of arrival (ETA) is determined, bus is added/removed, etc., without the user being required to refresh the webpage.

6 Mobile Phone Access

- a. System must provide interface that shows steady vehicle movement without reloading on internet-enabled mobile phones/devices.
- b. System must provide access to announcements on internet-enabled mobile phones/devices.
- c. For phones with GPS capability, System must provide geolocation features to allow riders to identify location on map.
- d. System must have the ability to integrate fixed route and on-demand service area maps and arrivals allowing users to view both services in one app.
- e. System must provide a free-to-download native iPhone and Android application.
- f. System shall provide an optional notification platform for smartphones where riders can enter in a recurring schedule for impending bus arrival notifications. This must work without the rider being required to open the app.

7 Public Vehicle Location Displays

- a. System shall provide the ability for Customer to use new or existing flat screen monitors to display a version of the System that requires no user interaction (for example, an LCD/LED screen in a building lobby).
- b. Response shall include a proposal for optional twenty (20) next stop screens on the bus.
- c. Vendor shall provide the option for a minimum of ten (10) outdoor signs that would display real time bus information for the system or specific routes or other information as deemed appropriate by TMB that are suitable for Beaumont's outdoor environment. Vendor shall define the power usage or solar capabilities of all signage proposed.
- d. Vendor shall be responsible for ensuring that all maps, routes, and information properly displays and automatically refreshes on screens at all times.
- e. The display shall include route name and the ability to differentiate routes by design and color.
- f. The display shall include the ability to identify a specific vehicle and its associated route.
- g. The display shall have an automatic shut off and turn on time that can be adjusted by TMB remotely as needed.

Management Components

8 Management Software Requirements

- a. System shall provide a dashboard for dispatchers to monitor:
 - current vehicle locations
 - ability to receive and send canned messages
 - track and monitor alerts
 - view vehicle ID number
 - view vehicle speed
 - view operator name/ID
 - view route, block, and run
 - Equipment ID (eg. Modem IP, MAC, tablet number)
- b. System shall provide real-time graphical displays of vehicle location using map interface.
- c. System shall provide a management interface to allow assignment of buses to routes and/or blocks by dispatchers.
- d. Interface must be intuitive and simple to use.
- e. System shall allow announcements to be posted immediately or in advance for posting at pre-defined time(s). System shall also allow announcements to be removed automatically at pre-defined time(s) in the future.

- f. System shall have ability to enter/change route and/or stop data ad-hoc without contacting the vendor
- g. System shall provide historical playback of vehicle locations for a minimum of 60 days.
- h. All back end administrative tools and functions shall be available on cloud-based web portal. Solution must be 100% cloud based so that login is able to take place via a web portal at any time of the day.
- i. There must be at least three options for account privileges (dispatcher, viewer, admin, etc...) It is preferred that a local administrator shall have the ability to create new accounts instantaneously with these three options.
- j. Certain management functions (e.g. assigning buses, activating routes) shall be allowed from internet-enabled smartphones.

9 GTFS Requirements

- a. System shall provide a clean GTFS feed to upload to Google.
- b. GTFS feed must be exportable in both a static and real time format to any program or vendor of TMB's choosing.

10 Reports

- a. System shall provide web-based reports that allow customer to run transit system more efficiently. Desired reports include:
 - On-Time Performance (available by driver, stop number, and vehicle)
 - a. System shall provide a report that tabulates the percentage of on-time performance that is defined by TMB (eg. one (1) minute early, over five (5) minutes late)
 - Headway Report
 - Travel time Report
 - Hours in service Report
 - Mileage Report to include total mileage, scheduled, and actual by day, route, driver and vehicle
 - Raw passenger data
- b. Ability to see all of a particular vehicle's arrivals and departures for the day
 - Off-Route Report
 - Speeding Report
- c. Reports shall allow for time-based comparison (e.g. last week vs. this week) and historical reporting.
- d. Reporting data must be captured. It is required for such data to be available for a minimum of 42 months. The cost of the memory capacity should be included in the proposal.
- e. Reports shall be exportable to standard Microsoft document format (Excel, Word and/or PDF) format and must be available to client instantly.
- f. History tool that allows administrators the option to select viewing the entire system at once, by route, or by bus.
- g. System shall include a report for number of bicycles or mobility devices boarded, and the option to add additional custom reports as defined by TMB at any point in the length of the contract.

11 Support

- a. Vendor will provide 24/7 support when needed in case of severe emergencies.
- b. Vendor must be accessible via phone, web and e-mail, at a bare minimum.
- c. Turnaround response time of vendor for any mission critical component of the system must not exceed three (3) hours.
- d. Vendor shall provide help manuals to allow resolution of straightforward items as expeditiously as possible.
- e. Support shall be available during TMB Hours of Operation which are Monday-Saturday 5:00am-9:30 pm.

- f. Vendor shall protect and backup, for a minimum of 60-days, any software configuration settings, any Customer provided data that has been modified for use by the software, and any new data produced by the software itself.
- g. Vendor shall identify a single individual who will serve as the main point of contact for all support needs after initial installation process.

12 Hardware

- a. Transit Management of Beaumont is seeking the most user friendly system while requiring the least maintenance. Preference would be to have no onboard servers and the ability to push all information out to tablet or comparable device.
- b. At the time of installation, the hardware must be the current technology available and compatible with the vendor's software.
- c. Vendor shall install a power conditioner in each vehicle to ensure proper voltage to the tracking unit to increase device stability and performance.
- d. Vendor shall install an inline power fuse to tracking units to prevent possible power short conditions and device failure.
- e. Should a malfunction occur which requires hardware to be replaced-- during the initial contract; the replacement equipment must be new with the latest technology at the time of replacement and/or installation.
- f. Hardware shall offer the capability for dynamic interface additions/changes over time. Examples must include driver login, route selector, and passenger counting input, on-time performance indicators, etc.
- g. Hardware shall provide the ability to integrate additional components directly into existing hardware. Examples must include Automatic Voice Announcement systems for American Disabilities Act compliance and Automatic Passenger Counters .
- h. Hardware shall receive software updates automatically via web-based communications.
- i. Vendor shall provide future support options for hardware over the life of the contract.
- j. The MDT shall have a scratch free display with damage-resistant glass to allow easy readability.
- k. The MDT shall be able to withstand shock and vibrations generated by transit vehicles.
- l. The MDT shall be drop resistant, vibration resistant, atmosphere certified, and MIL-STD- 810G and IP67 certified.
- m. On-board system equipment shall remain operational in the presence of any common or typical airborne particles, greases, oils, fuel vapor and engine exhaust and other contaminants accumulated on coins and bills, including bent and mutilated "street money". The onboard system shall be protected against damage, loss or modification of data caused by high or low voltage or voltage fluctuations and irregularities.
- n. All hardware shall conform to all applicable quality control standards of the original manufacturer and the vendor. All hardware components shall be new and suitable for the purposes specified. All on-board equipment shall integrate with the vehicle's electrical supply. Additionally, equipment should meet the following standards

All on-board equipment must be able to operate in a transit environment;

- Meet or exceed the relevant SAE specifications for vibration, humidity, heat, electrical tolerance, and particulate matter;
- All equipment modules, cables, mounting hardware, and connectors shall be designed to withstand the full range of operating environments found in the areas in which they are to be installed, and shall not interfere with the operation of existing and future equipment;
- Onboard Ethernet connection to transmit CAD and AVL Data.

Onboard Vehicle System and Equipment Environmental Conditions	
Storage Temperature	0° to +165°F ambient
Storage Humidity	2 to 99% RH (non-condensing)
Operating Temperature	+25° to +120°F ambient, plus solar load from direct sunlight through bus
Thermal Shock	1° per minute drop in temperature over 15°F range between 110° and 60°
Relative Humidity Range	13% to 99% RH including condensation
Vibration	1.5g (rms), 5 to 200 Hz
Shock	5g peak (instantaneous)
Dust	Airborne particles and dust encountered in the bus operating environment and
Inclination	0° to 10° off vertical
Water/solvents	Equipment shall be adequately protected against ingress of water or damage
Electromagnetic interference	Withstand the effects of conducted and received electromagnetic energy and
Grounding/Lightning	Good ground available/Lightning protection available to protect from high voltage

The Proposer shall provide a MDT that has, the following specifications at a minimum, but not limited to:

The MDT shall automatically engage when the vehicle is started, and shut down a programmable amount of time after the vehicle is turned off.

The MDT shall store the most recent location received from the GPS receiver, so that if the GPS receiver is not able to report the location, the last known good location will remain available.

The MDT shall incorporate a color graphical screen capable of displaying fonts of variable size and can change colors between day and night or has automatic brightness controls.

The MDT shall have capabilities to show the Operator turn by turn directions.

The MDT shall have the capabilities to show the Operator if they are ahead of schedule or behind schedule in number of minutes and/or color code.

The MDT shall be equipped with appropriate functional buttons, physical and/or touch screen, capable of controlling other onboard systems (e.g. GFI, head signs, etc.).

The MDT display shall be readable by the Operator from the seated position under the full range of ambient illumination conditions, through the incorporation of such measures as driver-operated brightness/contrast control, anti-glare coating and adjustable orientation mounting.

The MDT shall be capable of providing unique audio tones to alert the Operator of incoming messages.

The MDT shall be capable of, but not limited to, displaying the following onboard information and interface to onboard systems during operation of the vehicle:

- Data Messaging
- Emergency Alarm
- Head Sign Control
- Logon
- Maintenance
- GFI- Mobile Validator (Ability to show fare on MDT, accept and cancel transaction from MDT etc.)
- Route Guidance
- Schedule Adherence
- Stop Announcement
- Talk
- Transfer Notification
- Trip/Schedule Display Control

The MDT shall support en route changes of the assigned Operators for cases such as mechanical breakdowns, Operator substitutions, etc.

The MDT shall enable Operators to send user-friendly, easy to use predefined text data messages to dispatch with a minimum of interaction e.g. wheel chair loaded, bike loaded etc. These text messages shall be user configurable by system administrator and flexible in the way they are ordered on the MDT.

Operators shall be able to review recently received messages at any time with a minimum of interaction. The MDT shall be capable of retaining at least the last (10) ten received messages for Operator review. The received messages shall be ordered chronologically with the most recently received message presented first.

When the vehicle receives a data message, the Operator shall be notified by a mutable audio tone signal and the message shall be available for display on the MDT within one second after it is received.

The MDT shall provide for automatic control of all destination signs in vehicles. The destination signs shall be automatically updated by the Operator at logon and at predefined points along each route (e.g., at the end of a trip). The points at which destination sign messages shall be automatically changed shall be configurable by Transit Management of Beaumont.

Power supplies for on-board vehicle system and equipment shall include adequate filters and components to regulate the vehicle supplied voltage and render it devoid of power spikes and noise, which could contribute to erroneous registration, data generation and recording. Provisions shall include elimination of electronic interference caused by such items as fluorescent light power units, alternators, air conditioning units, radio communication units, on-board video systems, and other accessories characteristic of the vehicle-operating environment.

Adequate protection against transient surges on the vehicle power supply shall be incorporated to the extent necessary to prevent damage to electronic components.

It shall be incumbent upon the Proposer to be fully aware of the vehicle operating environment and conditions which may affect the operation and reliability of the on-board equipment.

Fuses, circuit breakers or other protective devices shall be employed to protect the electronics, and other components of the on-board vehicle system from overload and damage. Where used, they shall be accessible without disassembly of components. Location shall permit inspection or replacement through normal maintenance access doors or panels. Fuses, circuit breakers or other protective devices shall be of standard, commercially available, non-proprietary design.

Fuses, circuit breakers or other protective devices shall be employed to protect the electronics, and other components of the on-board vehicle system from overload and damage. Where used, they shall be accessible without disassembly of components. Location shall permit inspection or replacement through normal maintenance access doors or panels. Fuses, circuit breakers or other protective devices shall be of standard, commercially available, non-proprietary design.

Product Guarantee, Warranty and Succession Plan

The CAD and AVL System should have a minimum thirty-six (36) month warranty and shall offer options for extending the warranty for up to five (5) years.

All parts shall be fully warranted and meet the standard manufacturer's warranty.

Annual maintenance costs for a period of five (5) years must be included in the Proposer's proposal.

Materials and workmanship hereinafter specified and furnished shall be fully guaranteed CAD and AVL Hardware Manufacture for three (3) years from transfer of title against any defects. The Proposer shall correct defects that may occur as the result of faulty workmanship within the first year after installation and acceptance by TMB at no additional cost to TMB. The Proposer shall promptly, at no cost to TMB, correct or re-perform (including modifications or additions as necessary) any nonconforming or defective work within the first year after completion of the project of which the work is a part of. The period of the Proposer's warranties for any items herein are not exclusive remedies, and TMB has recourse to any warranties of additional scope given by the Proposer to TMB and all other remedies available at law or in equity. The Proposer's warranties shall commence with acceptance of/or payment for the work in full.

If the Proposer procures equipment or materials under the Contract, the Proposer shall obtain for the benefit of TMB's equipment and materials warranties against defects in materials and workmanship to the extent such warranties are reasonably obtainable.

The Proposer shall pass along to TMB any additional warranties offered by the manufacturers at no additional costs to TMB, should said warranties extend beyond the thirty-six month period specified herein.

This warranty shall in no manner cover equipment that has been damaged or rendered unserviceable due to negligence, misuse, acts of vandalism, or tampering by TMB or anyone other than employees or agents of the Proposer. The Proposer's obligation under its warranty is limited to the cost of repair of the warranted item or replacement thereof, at the Proposer's option. Insurance covering said equipment from damage or loss is to be borne by the Proposer until full acceptance of equipment and services.

The Proposer shall provide a Succession Plan for the purpose of providing continued operations in the event that the contract is not renewed or is terminated for convenience, or the Proposer is declared in breach of the contract. TMB requires that operations continue without interruption under all circumstances.

The Proposer's succession plan shall assume TMB's ownership of all assets used for CAD and AVL System operations (e.g. equipment, system hardware and software) and for TMB's immediate/automatic right to assume or use any other elements required for uninterrupted CAD and AVL functions. The Proposer's succession plan shall include a reasonable cost for transferring from the Proposer to TMB.

The Succession Plan shall describe how the Proposer's operations would continue under TMB's control. The plan shall cover the following areas, but not limited to:

- Transfer of assets, including equipment and other materials and supplies
- Transfer of data
- Transfer of system hardware and software
- Identification of any contractual agreements that are assumable by TMB, including but not limited to maintenance agreements
- Staffing and training required to actually accomplish the succession

13 Software

- a. At the time of implementation, the software must be the current version and compatible with the vendor's hardware.
- b. Vendor must always ensure that TMB is utilizing the latest approved software version available and provide a plan for any upgrades that may occur detailing how such upgrades are to be handled (eg. Cost, frequency of anticipated upgrades, implementation plan for upgrades).
- c. The product must provide the following menu system and security features:
 - Ability to modify and add menus
 - Individual user accounts with authentication
 - Access control by role
 - Multiple screen sessions available for each workstation
 - Ability to expire passwords and force password changes (i.e., passwords be set to expire after a certain number of days)
 - The Proposer will provide software updates for a minimum period of five (5) years from the date of TMB's acceptance of the installation of the initial procurement, without additional cost to TMB.
 - Any hardware or software licensing or maintenance fees will be noted in the Proposer's submission.

14 Maintenance

- a. A minimum of three (3) years of ongoing product support shall be included in the fee. Vendor's support will be accessible via phone, web and email with a turnaround response time of less than 3 hours for any mission critical components. Base support shall be available during TMB's Business hours which are Monday-Saturday 5:00am-9:30 pm.
- b. Software enhancements (point releases) shall be included for the duration of the project. A notification from the awarded vendor summarizing changes will be emailed to TMB prior to implementing enhancements or upgrades
- c. Any proposed ongoing licensing and maintenance fees must include a commitment to maintaining a minimum level of reliability or uptime. A fully functioning scheduling application is essential to maintaining transit operations. TMB's expectation is that the selected product will function as described in this scope and be available.

15 Delivery and Installation

- a. TMB prefers a vendor who can deliver and install a fully functional, tested and operational system by September 13, 2024
- b. All proposals must include a Gantt chart or similar detailed, step by step project management timeline, outlining specific tasks, responsibilities, and dates from start to finish for this project.
- c. The chart must include specific dates when Transit Management of Beaumont personnel must be available to work with the Contractor.
- d. Vendor shall identify key staff and their roles in the installation process.

16 Training

The Proposer shall provide a program to train personnel in all details of the newly purchased system including, but not limited to the equipment, hardware, support and diagnostic equipment, and software provided under this Contract. The Proposer shall be responsible for training designated personnel in accordance with the requirements specified in this section.

Training shall include course development, the provision of instructors, the supply of handouts and manuals, the preparation of classroom aids, and all other items as required to satisfactorily prepare personnel to operate the newly purchased system.

All training classes will be scheduled with TMB's personnel and shall not take place more than four weeks prior to the first day of planned operation. TMB reserves the right to record training sessions conducted by the Proposer for review and future use.

- Training will take place at the TMB's facility located at 550 Milam St Beaumont, TX 77701.

Training Program Plan

Detailed training outlines, lesson plans, and tests shall be submitted to TMB for review and approval. At a minimum, the Proposer must provide a training program that is comprehensive enough to bring employees designated by TMB to the level of proficiency required for operations of the furnished equipment. Formal training shall include both classroom and practical work and shall be augmented by informal follow-up as needed. Practical training on equipment shall occupy a significant portion of all training classes. Training should be oriented to the job classification of the participants.

The Training Program Plan shall provide the following for each course, but not limited to:

- Brief course description
- Expected performance objectives and how the expected objectives will be measured
- Outline of the course content (one for each course)
- Type or method(s) of presentation that will be used
- Resources required (equipment, classroom space, supplies etc.)
- An estimated time schedule to train (based on the required number of hours and/or sessions of instruction) employees
- Intended audience and the maximum class size

Training Schedule

The Proposer shall provide a detailed training timeline to include successfully meeting the implementation date required.

The Proposer shall provide a preliminary and detailed schedule of training tasks for TMB's review and approval. The detailed schedule of training tasks shall be based upon the equipment installation schedule, which shall be established as a dependency in the Proposer's training plan. The Proposer shall recognize that in addition to routine business hours, training will be required during evening and late-night hours along with weekends to accommodate TMB's employees and service schedules.

Instructor Qualification

The Proposer shall provide experienced and qualified instructors to conduct the training courses at TMB's facilities. TMB's personnel to receive training are:

- TMB Trainers

- Supervisors
- Operators
- Dispatchers
- Management
- Maintenance Personnel

The Proposer shall expect TMB's supervisory and management personnel to audit the training classes. If in the opinion of TMB, a Proposer instructor(s) lacks the skill or knowledge to provide instruction or cannot communicate with the personnel, TMB reserves the right to request the training to be repeated and/or the instructor replaced.

Equipment

The Proposer shall provide functional equipment to facilitate and conduct training at the designated training locations.

Training Material Submittal

The Proposer shall submit, to TMB, a list of the training materials required for each course discussed in the Training Program Plan.

The Proposer shall submit, to TMB, instruction guides for each training course. The guides shall include the following, but not limited to:

- Course agenda and objectives
- Resources and facilities required for the course
- Detailed lesson plans or outlined presentations and discussion guides
- Pre- and post-training assessment
- Instructions for using any audio/visual support and equipment
- Handouts
- Computer-based presentations

Final training material shall be submitted 10 days before classes are scheduled to begin.

Electronic Documentation and Training

All documentation and training materials provided as final hard copy shall also be submitted in an electronic form as specified by TMB.

Reproduction of Training Material

TMB reserves the right to reproduce portions or all of the training materials provided by the Proposer for the sole use of TMB.

17 Vendor Compliance

- a. It is the Proposers responsibility to notate any exception taken to TMB's requirements (SCOPE OF WORK) specified in this RFP. Proposers taking exceptions shall submit, with their proposal, an itemized comparison with the specification, documenting the nature of their exception. ALL SUCH ITEMIZED LISTS SHALL BE PRESENTED IN THE EXACT SAME ORDER AS TMB'S SPECIFICATIONS AND SHALL REFERENCE THE PAGE & ITEM NUMBER. For example, if your company does not offer 24/7 support as required on Page 10, Item 11, you must reference that page and item number on your exception list and provide information on the support you offer.
- b. Failure to identify exceptions or deviations in this manner may be a basis to declare the proposal as non-responsive.
- c. Vendor must provide implementation plan in the case their business is bought or sold during the duration of the existing contract with Transit Management of Beaumont.

18 Pricing Format

- a. Proposer must complete and return the included pricing document. Form E: Cost Proposal
- b. Proposer must provide an additional, separate completed pricing sheet with all hardware and software options distinctly listed, with both unit and extended pricing.
- c. Proposer must provide all operating costs for the solution.
- d. Proposer must provide a yearly breakdown of all projected costs, both capital and operating.
- e. Proposer must provide route deviations/changes free of charge; this must be listed as such on the pricing sheet.
- f. Proposer must provide a preferred cellular carrier option that will guarantee the functionality of the system hardware and software.

1.33 Vendor Requirements

Vendor must be in this line of work for ten (10) years, including licensed and approved sales and service dealer from manufacturers.

1.34 Insurance Requirements

It is hereby agreed and understood that the insurance required is primary coverage and that any insurance or self insurance maintained by Transit Management of Beaumont, the City of Beaumont, its officers, council members, agents, employees or authorized volunteers will not contribute to a loss. This insurance shall be written for not less than any limit of liability specified herein, or required by law, whichever is greater, notwithstanding that the policy may have lower limits applying elsewhere in the policy. All applicable insurance and endorsements shall be in full force and evidenced prior to commencing work and remain in force until the entire job is completed or the length of time that is specified in the contract.

1 GENERAL LIABILITY COVERAGE

- A. Commercial General Liability
 - (a) \$1,000,000 general aggregate
 - (b) \$1,000,000 products - completed operations aggregate
 - (c) \$1,000,000 personal injury and advertising injury
 - (d) \$1,000,000 each occurrence limit
- B. Claims made form of coverage is not acceptable.
- C. Insurance must include:
 - (a) Premises and Operations Liability
 - (b) Blanket Contractual Liability including coverage for the joint negligence of Transit Management of Beaumont, the City of Beaumont, its officers, council members, agents, employees, authorized volunteers and the named insured
 - (c) Personal Injury
 - (d) Explosion, collapse, and underground coverage
 - (e) Products/Completed Operations
 - (f) Independent Contractors

2 BUSINESS AUTOMOBILE COVERAGE

- A. Minimum Limits - \$1,000,000 Combined Single Limit for Bodily Injury and Property Damage each accident
- B. Must cover liability for "Any Auto" - including Owned, Non-Owned and Hired Automobile Liability

3 WORKERS COMPENSATION AND EMPLOYERS LIABILITY

- A. Must carry coverage for Statutory Workers Compensation and Employers Liability minimum limit of:

- (a) \$100,000 Each Accident
- (b) \$500,000 Disease Policy Limit
- (c) \$100,000 Disease - Each Employee

4 ADDITIONAL PROVISIONS

- * Additional Insured – On the General Liability Coverage, Transit Management of Beaumont, the City of Beaumont, and its officers, council members, agents, employees, and authorized volunteers shall be "Additional Insureds."
- * Endorsement -The Additional Insured and Workers Compensation Subrogation Waiver policy endorsements must accompany the Certificate of Insurance.
- * Waiver of Workers Compensation Subrogation - The workers' compensation policy is to be endorsed with a waiver of subrogation. The insurance company, in its endorsement, agrees to waive all rights of subrogation against the City, its officers, officials, employees and volunteers for losses paid under the terms of the policy that arises from the work performed by the named insured for or on behalf of Transit Management of Beaumont.
- * Notice – Transit Management of Beaumont requires written notice of cancellation.
- * Acceptability of Insurers - No insurance required hereunder shall be carried with an insurer not authorized to do business in Texas. TMB reserves the right to disapprove any insurance company. A minimum AM Best Rating of A-VII is required.

1.35 Delivery

All products must be FOB Destination.

1.36 Bid Bonds, Performance Bonds, Progress Payments

Must supply a 10% bid bond. 50% Performance Bond of the Contract Amount.

1.37 Protest Process

TMB policy requires that all prospective contractors be accorded fair and equal consideration in the solicitation and award of contracts. To that end, any interested party shall have the right to protest alleged inequities in the procurement process and to have its issues heard, evaluated, and resolved administratively. "Interested party" is defined as an actual or prospective offeror whose direct economic interest would be affected by the award of a contract or by failure to award a contract.

1 Submittal Procedures

An interested party wishing to protest a matter involving a proposed procurement or contract award shall file a written submission to:

Claudia San Miguel, General Manager
 550 Milam St
 Beaumont, TX 77701

Protest must be filed by certified mail or other delivery method by which receipt can be verified. Electronic submission of protests will not be accepted.

The protest shall include, at a minimum:

- (a) The name and address of the protesting party and its relationship to the procurement sufficient to establish that the protest is being filed by an interested party;
- (b) Identity of the contact person for the protestor, including name, title, address, telephone, fax and email addresses. If the contact point is a third party representing the protestor, the same information must be provided, plus a statement defining the relationship between the protestor and the third party;
- (c) Identification of the procurement;
- (d) A description of the nature of the protest, referencing the portion(s) of the solicitation involved;
- (e) Identification of the provision(s) of any law, regulation, or other governance upon which the protest is based;
- (f) A complete discussion of the basis for the protest, including all supporting facts, documents or data; and

- (g) A statement of the specific relief requested.

The protestor is solely responsible for the completeness and validity of the information provided. Any documents relevant to the protest should be attached to the written submission. Documents which are readily available on the internet may be referenced to an appropriate link.

Protests shall be submitted in accordance with the requirements of this chapter and any directions included in the solicitation, and shall be addressed to the General Manager. TMB may decide a protest solely upon the written submission. The protest submission must therefore include all materials necessary to support the protester's position. Additional or supplemental materials may only be submitted at the request of, or with the permission of, the General Manager. If the procurement uses federal funds, an informal notice of receipt of a protest must be given to the appropriate regional office of the Federal Transit Administration. The form of notice may be specified by the regional office.

2 Protests of the Solicitation Process

A protest related to the technical scope or specification, terms, conditions, or form of a solicitation must be received no later than three (3) working days prior to the due date of proposals; if the protest addresses an amendment to the solicitation, it must be received no later than three (3) working days prior to the due date for proposals or three (3) working days after the date of issuance of the amendment, whichever is later; in no event, however, may a protest of this nature be submitted after bids or proposals are received. Upon receipt of such a protest, the General Manager shall notify all prospective procurement offerors and other known interested parties of the receipt and nature of the protest, and shall post a notice of the protest on TMB's web page. Unless the General Manager determines that delay will be prejudicial to the interest of TMB or that the protest patently lacks substantial merit, the solicitation process will be extended pending resolution of the protest. The protest will be considered and either denied or sustained, in part or in whole, by the General Manager in writing. A written decision specifying the grounds for sustaining, in part or in full, or denying the protest will be transmitted to the protestor prior to the receipt of bids or proposals in a manner that provides verification of receipt.

A notice of the decision shall be provided to all parties given notice of the protest, and posted to TMB's web page. Should the protest be upheld in whole or in substantial part, the contracting officer may either (1) amend the solicitation to correct the document or process accordingly; or (2) cancel the solicitation in its entirety. If the solicitation is amended, the time for receipt of bids or proposals shall be equitably extended to permit all participants to revise their bids or proposals to reflect the decision. If the protest is denied, the solicitation shall proceed as if the protest had not been filed, unless the protester pursues its protest with the Federal Transit Administration (FTA) as defined below, or otherwise appeals the decision of the General Manager, as defined below. Protests received by TMB after the time periods specified above shall be considered untimely and may be denied on that basis unless the General Manager concludes that the issue(s) raised by the protest involves substantial prejudice to the integrity of the procurement process.

3 Evaluation of Protests

A protest decision should ordinarily be written and published within ten (10) working days of receipt of the protest. The General Manager may extend the response period if additional time is required to gather and evaluate information necessary for the decision or for other good cause.

The General Manager may request additional written information from the protestor or other parties, as necessary to determine the validity of the protest. A formal or informal hearing may be held. If a formal hearing is held, testimony shall be given under oath and a transcript or electronic recording of the proceeding shall be made; the transcript or recording shall be provided to the protestor and made part of the protest record. The General Manager shall redact from any submission under the protest process information which has been identified as proprietary.

4 Protests Filed with FTA

A protestor may file a protest with FTA only after exhausting all administrative remedies provided by TMB, on the basis described in FTA Circular 4220.1F, Chapter VII, Sec. 1.b. FTA's review of protests will generally be limited to allegations that (1) TMB does not have or fails to follow its protest procedures; (2) TMB failed to review a complaint or protest; or (3) the issue involves violations of Federal law or regulation. The FTA is not obligated to review any protest. Protests addressing TMB's DBE program may be submitted to the U.S. Department of Transportation, Office of Small and Disadvantaged Business Utilization, in accordance with 49 CFR Part 26 and guidance issued there under.

2 REQUIRED INFORMATION AND CONTENT FOR SUBMITTAL OF PROPOSALS

- a. Form A- Signature Affidavit
- b. Form B- Receipt Forms and Submittal Checklist
- c. Form C- Contractor Profile Information

- d. Form D- Cost Proposal
- e. Form E- References
- f. All Federal Clause Mandatory Signed Documents: Government- Wide Debarment and Suspension & Lobbying Certification



This form must be returned with your response.

In signing this Proposal, we certify that we have not, either directly or indirectly, entered into any agreement or participated in any collusion or otherwise take any action in restraint of free competition; that no attempt has been made to induce any other person or firm to submit or not to submit Proposals, that this Proposal has been independently arrived at, without collusion with any other Proposers, competitor or potential competitor; that this Proposal have not been knowingly disclosed prior to the opening of Proposals to any other Proposers or competitor; that the above statement is accurate under penalty of perjury.

The undersigned, submitting this Proposal, hereby agrees with all the terms, conditions, and specifications required by Transit Management of Beaumont in this Request for Proposal, declares that the attached Proposal and pricing are in conformity therewith, and attests to the truthfulness of all submissions in response to this solicitation.

Proposers shall provide the information requested below. Include the legal name of the Proposers and signature of the person(s) legally authorized to bind the Proposers to a contract.

COMPANY NAME

SIGNATURE

DATE

PRINT NAME OF PERSON SIGNING



Form B: Receipt of Forms and Submittal Checklist

RFP #: 2024-001

This form must be returned with your response.

Proposers hereby acknowledge the receipt and/or submittal of the following forms:

Forms	Initial to Acknowledge SUBMITTAL	Initial to Acknowledge RECEIPT
Description of Services/Commodities	N/A	
Form A: Signature Affidavit		N/A
Form B: Receipt of Forms and Submittal Checklist		N/A
Form C: Vendor Profile		N/A
Form D: Designation of Confidential and Proprietary Information		N/A
Form E: Cost Proposal		N/A
Form F: References		N/A
Appendix A: Standard Terms & Conditions	N/A	
Appendix B: Contract for Purchase of Services	N/A	
Federal Clauses		N/A
Federal Clause Signed Forms: Government- Wide Debarment and Suspension & Lobbying Certification		N/A
Addendum #	N/A	
Detailed breakdown of each cost component (line-item detail)		N/A
Additional, separate completed pricing sheet with all hardware and software options distinctly listed, with both unit and extended pricing.		N/A
Provide operating costs for your submitted solution		N/A
Provide a yearly breakdown of all projected costs, both capital and operating.		N/A

COMPANY NAME

SIGNATURE

DATE

PRINT NAME OF PERSON SIGNING



Form C: Vendor Profile
RFP #: 2024-001

This form must be returned with your response.

COMPANY INFORMATION

COMPANY NAME (Make sure to use your complete, legal company name.)			
FEIN		(If FEIN is not applicable, SSN collected upon award)	
CONTACT NAME (Able to answer questions about proposal.)		TITLE	
TELEPHONE NUMBER		FAX NUMBER	
EMAIL			
ADDRESS	CITY	STATE	ZIP

ORDERS/BILLING CONTACT

Address where City purchase orders/contracts are to be mailed and person the department contacts concerning orders and billing.

CONTACT NAME (Able to answer questions about proposal.)		TITLE	
TELEPHONE NUMBER		FAX NUMBER	
EMAIL			
ADDRESS	CITY	STATE	ZIP



Form D: Designation of Confidential and Proprietary Information

RFP #: 2024-001

This form must be returned with your response.

Material submitted in response to Transit Management of Beaumont's (TMB) Request for Proposal includes at least one formula, pattern, compilation, program, device, method, technique or process that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use and is the subject of reasonable efforts to maintain its secrecy. Such information qualifies as a trade secret, as provided in TX Stat. § 134A.002 (6). As such, the proposer asks that the trade secrets contained on certain pages of this proposal, as indicated below, be treated as confidential material and not be released to the public. I am providing the following information with the understanding that it is being submitted to TMB under a pledge of confidentiality. I would not have submitted this information had TMB not pledged to keep it confidential* and request that the following pages not be released:

<u>Section</u>	<u>Page</u>	<u>Topic</u>

*NOTE: Proposers are cautioned that the **ENTIRE PROPOSAL MAY NOT FALL WITHIN THE CONFINES OF THE PLEDGE OF CONFIDENTIALITY**. THE ABOVE DESIGNATION(S) OF CONFIDENTIALITY IN NO WAY GUARANTEES THAT DESIGNATED INFORMATION WILL BE KEPT CONFIDENTIAL. UNDER THE PROVISION OF THE PUBLIC RECORDS LAW, PROPOSER IS NOT ENTITLED TO NOTIFICATION PRIOR TO THE RELEASE OF INFORMATION, AND IS NOT ENTITLED TO GO TO COURT TO BLOCK DISCLOSURE OF ANY PORTION OF THE PROPOSAL.

IF TMB AGREES WITH PROPOSER'S DESIGNATION OF TRADE SECRET OR CONFIDENTIALITY AND THE DESIGNATION IS CHALLENGED, THE UNDERSIGNED HEREBY AGREES TO PROVIDE LEGAL COUNSEL OR OTHER NECESSARY ASSISTANCE TO DEFEND THE DESIGNATION OF TRADE SECRET OR CONFIDENTIALITY.

Failure to include this designation in the proposal response may mean that all information provided as part of the proposal response will be open to examination and copying.

Signature (Authorized Representative)	Telephone Number	E-mail
---------------------------------------	------------------	--------

Name (Please Print)	Company Name
---------------------	--------------

Title	Date
-------	------

NOTE: TMB as custodian of these public records has the obligation, pursuant to the Public Records Law, to determine whether the above information can be kept confidential.
PROPRIETARY INFORMATION: A proposer responding to this proposal should not include any proprietary information or protected trade secret(s) as part of its proposal unless the proposer 1) designates the specific information that it maintains is proprietary or trade secret and the reason(s) for such designation in a separate document, and 2) identifies the specific information when it occurs within the proposal.
TMB's preference is for the proposer to segregate all information designated as confidential into one section of the Request for Proposal and/or a separate document for easier removal to maintain its confidential status. The response to the proposal should indicate which portion of the requested information is confidential and where this information is located within the response, i.e. under separate cover, in confidential Section No. _____, etc. Data contained in the proposal and all documentation become property of TMB.



Form E: Cost Proposal
RFP #: 2024-001

This form must be returned with your response.

Prepare the fee proposal as all inclusive, not-to-exceed, fixed fees:

- All Inclusive – Covers all direct and indirect necessary expenses including but not limited to; travel, telephone, copying and other out-of-pocket expenses.
- Not To Exceed – The actual fees shall not exceed the amount specified in fee proposal.
- Fixed Fee – All prices, rates, fees and conditions outlined in the proposal shall remain fixed and valid for the entire length of the contract and any/all renewals.

Any pricing increases or additions must be agreed upon in writing by both parties.

Total first year cost for proposed solution to include all hardware, software, implementation, training, support, hosting, and any other related expenses. Vendor must attach a detailed breakdown of each cost component (line-item detail) so TMB can project future replacement costs.	\$
Indicate your proposed annual costs for on-going maintenance and support .	YEAR 2 \$
	YEAR 3 \$
	(optional) YEAR 4 \$
	(optional) YEAR 5 \$
Indicate your proposed annual costs for warranty .	YEAR 2 \$
	YEAR 3 \$
	(optional) YEAR 4 \$
	(optional) YEAR 5 \$
List any other costs TMB may incur over the course of the proposed project.	\$
OPTIONS	
Price for twenty-two (22) optional APCs	\$
Price for twenty (20) optional on-board next stop signs	\$
Price for optional minimum ten (10) outdoor signs	\$

1. What is the lead time after notice to proceed?

COMPANY NAME

**Form F: References****RFP #: 2024-001***This form must be returned with your response.***REFERENCE #1 – CLIENT INFORMATION**

COMPANY NAME		CONTACT NAME		
ADDRESS	CITY	STATE	ZIP	
TELEPHONE NUMBER	FAX NUMBER			
EMAIL				
CONTRACT PERIOD	YEAR COMPLETED	TOTAL COST		
DESCRIPTION OF THE PERFORMED WORK				

REFERENCE #2 – CLIENT INFORMATION

COMPANY NAME		CONTACT NAME		
ADDRESS	CITY	STATE	ZIP	
TELEPHONE NUMBER	FAX NUMBER			
EMAIL				
CONTRACT PERIOD	YEAR COMPLETED	TOTAL COST		
DESCRIPTION OF THE PERFORMED WORK				

REFERENCE #3 – CLIENT INFORMATION

COMPANY NAME		CONTACT NAME		
ADDRESS	CITY	STATE	ZIP	
TELEPHONE NUMBER	FAX NUMBER			
EMAIL				
CONTRACT PERIOD	YEAR COMPLETED	TOTAL COST		
DESCRIPTION OF THE PERFORMED WORK				



Appendix A Transit Management of Beaumont Standard Terms and Conditions

(STC-Form: 3/5/2020)

General. Throughout this document, "Transit Management of Beaumont," "TMB" and "Purchasing" shall be synonymous and mean the Transit Management of Beaumont. The words "bid" and "proposal" are synonymous, as are the words "bidder," "proposer," "vendor," and "contractor." The phrases "request for proposal," "request for bids," "request for quotes," "quote," "request," invitation, and "solicitation" shall also be synonymous.

As applied to the winning or selected bidder, the words "bid," "proposal," and "contract" are synonymous.

Entire Agreement, Order of Precedence. These standard terms and conditions shall apply to any Purchase Order issued as a result of this Request for Bid/Proposal, except where expressly stated otherwise in the RFB/RFP or in a written instrument covering this purchase signed by an authorized representative of TMB and the Contractor, in a form approved by the City Attorney (a "Separate Contract"). If such a separate contract is executed it shall along with these Standard Terms and Conditions, TMB's request for proposals/bids, the version of the vendor's response/bid that was accepted by TMB, and the TMB's Purchase Order (if any) shall constitute the entire agreement ("Contract") and no other terms and conditions, whether oral or written, shall be effective or binding unless expressly agreed to in writing by Transit Management of Beaumont.

If a Separate Contract is not executed, these Standard Terms and Conditions, TMB's request for proposals/bids, the version of the vendor's response/bid that was accepted by TMB, and TMB's Purchase Order (if any) shall constitute a contract and will be the entire agreement.

Bid Selection. This invitation for bids does not commit Transit Management of Beaumont to award a contract, pay any costs incurred in preparation of bids, or to procure or contract for services or equipment. TMB may require the bidder to participate in negotiation and to submit such additional price or technical or other revisions to his or her bids as may result from negotiation. The bidder shall be responsible for all costs incurred as part of his or her participation in the pre-award process.

Transit Management of Beaumont reserves the right to accept or reject any or all bids submitted, in whole or in part, and to waive any informalities or technicalities which at TMB's discretion are determined to be in its best interests. Further, TMB makes no representations that a contract will be awarded to any offeror responding to this request. TMB expressly reserves the right to reject any and all bids responding to this invitation without indicating any reasons for such rejections(s).

TMB reserves the right to postpone due dates and openings for its own convenience and to withdraw this solicitation at any time without prior notice.

Addenda. Changes affecting the specifications will be made by addenda. Changes may include, or result in, a postponement in the bid due date. Bidders are required to complete the Bidder Response Sheet, acknowledging receipt of all parts of the bid, including all addenda.

Price Proposal. All bidders are required to identify the proposed manufacturer and model, and to indicate the proposed delivery time on the attached Proposal Form. Failure to do so may cause the bid to be considered non responsive. If desired, the bidder may include product literature and specifications. The price quoted will remain firm throughout each contract period. Any price increase proposed shall be submitted sixty (60) calendar days prior to subsequent contract periods and shall be limited to fully documented cost increases to the bidder which are demonstrated to be industry-wide.

Price Inclusion. The price quoted in any bid shall include all items of labor, materials, tools, equipment, and other costs necessary to fully complete the furnishing and delivery of equipment or services pursuant to the specifications attached thereof. Any items omitted from the specifications which are clearly necessary for the completion of the project shall be considered a portion of the specifications although not directly specified or called for in these specifications.

Pricing and Discount. Unit prices shown on the bid/proposal or contract shall be the price per unit of sale (e.g., gal., cs., doz., ea., etc.) as stated on the bid/proposal or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price. If an apparent mistake exists in the extended price, the unit price shall govern in the bid/proposal evaluation and contract administration. In determination of award, discounts for early payment will only be considered when all other conditions are equal. Early payment is defined as payment within fifteen (15) days providing the discount terms are deemed favorable. All payment terms must allow the option of Net 30.

F.O.B. Destination Freight Prepaid. Bid prices must include all handling, transportation and insurance charges. Failure to bid FOB Destination Freight Prepaid may disqualify your bid.

Award. TMB will have sole discretion as to the methodology used in making the award. Where none is specified, the award will be made to the lowest responsible bidder in compliance with the specifications and requirements of this solicitation.

The right is reserved to make a separate award of each item, group of items or all items, and to make an award in whole or in part, whichever is deemed in the best interest of Transit Management of Beaumont.

Responsiveness and Responsibility. Award will be made to the responsible and responsive bidder whose bid is most advantageous to TMB with price and other factors considered. For the purposes of this project, responsiveness is defined as the bidder's conformance to the requirements of the solicitation.

Being not responsive includes the failure to furnish information requested.

Responsibility is defined as the bidder's potential ability to perform successfully under the terms of the proposed Contract. Briefly, a responsible bidder has adequate financial resources or the ability to obtain said resources; can comply with required delivery taking into account other business commitments; has a satisfactory performance record; has a satisfactory record of integrity and business ethics; and has the necessary organization, experience and technical skills.

TMB reserves the right to refuse to accept any bid from any person, firm or corporation that is in arrears or is in default to Transit Management of Beaumont or the City of Beaumont, or has failed to perform faithfully any previous contract with TMB. If requested, the bidder must present within five (5) working days evidence satisfactory to Transit Management of Beaumont of performance ability and possession of necessary facilities, financial resources, adequate insurance, and any other resources required to determine the bidder's ability to comply with the terms of this solicitation document.

Cancellation/Termination. Transit Management of Beaumont reserves the right to cancel any contract in whole or in part without penalty due to non-appropriation of funds.

TMB may terminate this Contract for any reason, including convenience upon providing 60 days prior written notification to Bidder. Termination for convenience by TMB will entitle Bidder to payment for only those goods or services delivered, received and accepted and not subsequently rejected by TMB.

In the event the Bidder shall default in any of the covenants, agreements, commitments, or conditions and any such default shall continue un-remedied for a period of ten (10) days after written notice to the Bidder, TMB may, at its option and in addition to all other rights and remedies which it may have, terminate the Contract and all rights of the Bidder under the Contract.

Failure to maintain the required certificates of insurance, permits, licenses and bonds will be cause for Contract termination. If the Bidder fails to maintain and keep in force the insurance, if required, TMB shall have the right to cancel or terminate the Contract without notice.

Specifications. All bidders must be in compliance with all specifications and any drawings provided with this solicitation. Exceptions taken to these specifications must be noted on your bid.

When specific manufacturer and model numbers are used, they are to establish a design, type, construction, quality, functional capability and/or performance level desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and the bidder/proposer is responsible for providing sufficient information to establish equivalency. TMB shall be the sole judge of equivalency. Bidders are cautioned to avoid bidding alternates which do not meet specifications, which may result in rejection of their bid/proposal.

Regulatory Compliance. Seller represents and warrants that the goods or services furnished hereunder, including all labels, packages, and container for said goods, comply with all applicable standards, rules and regulations in effect under the requirements of all Federal, State and local laws, rules and regulations as applicable, including the Occupational Safety and Health Act (OSHA), as amended, with respect to design, manufacture or use for their intended purpose of said goods or services. Seller shall furnish Material Safety Data Sheets (MSDS) whenever applicable.

If it is determined by Transit Management of Beaumont that such standards are not met, the seller agrees to bear all costs required to meet the minimum standards as stated above for the equipment/products furnished under this contract.

Ownership of Printing Materials. All artwork, camera-ready copy, negative, dies, photos and similar materials used to produce a printing job shall become the property of Transit Management of Beaumont. Any furnished materials shall remain the property of TMB. Failure to meet this requirement will disqualify your bid.

Nonexclusive Contract. Unless otherwise stated, TMB reserves the right to purchase work or materials outside of this Contract.

Item Return Policy. Bidder will be required to accept return of products ordered in error for up to thirty (30) calendar days from date of receipt, with TMB paying only the return shipping costs. Indicate in detail on the Bidder Response Sheet, your return policy.

Payment Terms and Invoicing. Transit Management of Beaumont will pay properly submitted vendor invoices within thirty (30) days of receipt, providing goods and/or services have been delivered, installed (if required), and accepted as specified.

Payment shall be considered timely if the payment is mailed, delivered, or transferred within thirty (30) days after receipt of a properly completed invoice, unless the vendor is notified in writing by the agency of a dispute before payment is due.

Invoices presented for payment must be submitted in accordance with instructions contained on the purchase order, including reference to purchase order and submittal to the correct address for processing. Invoice payment processing address is shown on

the purchase order. Send or email invoices to Bill To address on the purchase order. Do not send invoices to ship to address.

Bidders, proposers shall include discounts for early payment as a percent reduction of invoice. Invoice discounts shall be determined where applicable, from the date of acceptance of goods and/or the receipt of invoice, whichever is later. Discounts for early payment terms stated on the bid/proposal must be shown plainly on the invoice; discounts for early payment not shown on the invoice will be taken.

Invoices submitted not in accordance with these instructions will be removed from the payment process and returned within ten (10) days.

F.O.B. Destination Freight Prepaid. Unless otherwise agreed in writing, the vendor shall bear all handling, transportation and insurance charges. Title of goods shall pass upon acceptance of goods at TMB's facility.

Tax Exemption. Transit Management of Beaumont contracts with the City of Beaumont and operates under its tax exempt status. The City of Beaumont's Tax Exempt number is 74-6000278. Any other sales tax, use tax, imposts, revenues, excise, or other taxes which are now, or which may hereafter be imposed by Congress, the State of Texas, or any other political subdivision thereof and applicable to the sale of material delivered as a result of the bidder's bid and which, by terms of the tax law, may be passed directly to Transit Management of Beaumont, will be paid by TMB.

Nondiscrimination. During the term of this Contract, the contractor, and the employees, representatives, agents and or volunteers thereof, shall not discriminate against any person based on race, color, creed, religion, sex, national origin, age, ancestry, disability, sexual orientation, gender identity, gender non-conformity, gender expression, transgender status, pregnancy, or marital or parental status.

Prevailing Wage. Where applicable under federal law, the contractor warrants that prevailing wages will be paid to all trades and occupations.

Indemnification. Contractor hereby agrees to indemnify, defend and hold harmless Transit Management of Beaumont, The City of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs and expenses of whatsoever kind or nature in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of contractor or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on Transit Management of Beaumont, The City of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers. The obligation to indemnify, defend and hold harmless Transit Management of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, shall be applicable unless liability results from the sole negligence of Transit Management of Beaumont, The City of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers.

Contractor shall reimburse Transit Management of Beaumont, The City of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided.

In the event that contractor employs other persons, firms, corporations or entities (sub-contractor) as part of the work covered by this Agreement, it shall be Contractor's responsibility to require and confirm that each sub-contractor enters into an Indemnity Agreement in favor of Transit Management of Beaumont, The City of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers, which is identical to this Indemnity Agreement.

This indemnity provision shall survive the termination or expiration of this Agreement.

Choice of Law and Compliance. This Contract shall be governed by and construed, interpreted, and enforced in accordance with the laws of the State of Texas. The parties agree, for any claim or suit or other dispute relating to this Contract that cannot be mutually resolved, the venue shall be Jefferson County Court or the United States District Court for the Eastern District of Texas.

The contractor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this Contract and which in any manner affect the work or its conduct. Transit Management of Beaumont reserves the right to cancel this Contract if the contractor fails to follow the requirements of the Limited Sales, Excise, and Use Tax Act (Sec. 151.001 Texas Tax Code) and related statutes regarding certification for collection of sales and use tax. TMB also reserves the right to cancel this Contract with any state or federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non-procurement contracts.

Contractor shall be required to demonstrate valid possession of appropriate required licenses and will keep them in effect for the term of this contract. The contractor shall also be required, when appropriate, to obtain the necessary building permits prior to performing work on TMB facilities.

Independent Capacity/Status of Contractor/Tax Filing. The parties hereto agree that the contractor, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent contractor and not as an officer, employee, or agent of TMB. The contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of TMB.

Contractor shall provide a valid IRS W9 form to the Purchasing Department, prior to payment. The contractor is informed that as an independent contractor, s/he may have a responsibility to make estimated tax returns, file tax returns, and pay income taxes and make social security payments on the amounts received under this Contract and that no amounts will be withheld from payments made to this contractor for these purposes and that payment of taxes and making social security payments are solely the responsibility and obligation of the contractor. The contractor is further informed that s/he may be subject to civil and/or criminal penalties if s/he fails to properly report income and pay taxes and social security taxes on the amount received under this Contract.

Open Records. Both parties understand that TMB is bound by the Texas Public Information Act (Texas PIA), and as such, responses and contracts are subject to and conditioned on the provisions of the law. Contractor acknowledges that it is obligated to assist TMB in retaining and producing records that are subject to the Texas PIA, and that the failure to do so shall constitute a material breach of the Contract, and that the contractor must defend and hold TMB harmless from liability under that law.

Except as otherwise authorized, those records shall be maintained for a period of seven (7) years after receipt of final payment under the Contract.

Confidentiality. Each party (on its behalf and on behalf of its subcontractors, employees or representatives, or agents of any kind) agrees to hold and treat all confidential information of the other party, including, but not limited to, trade secrets, sales figures, employee and customer information and any other information that the receiving party reasonably should know is confidential ("Confidential Information") as confidential and protect the Confidential Information with the same degree of care as each party uses to protect its own Confidential Information of like nature. Confidential Information does not include any information that (i) falls under Texas PIA (see Open Records) (ii) at the time of the disclosure or thereafter is lawfully obtained from publicly available sources generally known by the public (other than as a result of a disclosure by the receiving party or its representatives);

(iii) is available to the receiving party on a non-confidential basis from a source that is not and was not bound by a confidentiality agreement with respect to the Confidential Information; or (iv) has been independently acquired or developed by the receiving party without violating its obligations under this Contract or under any federal or state law.

Insurance Requirements.

Refer to RFP Insurance Requirements

Work Site Damages. Any damage, including damage to finished surfaces, resulting from the performance of this Contract shall be repaired to Transit Management of Beaumont's satisfaction at the contractor's expense.

Warranty of Materials and Workmanship. The contractor warrants that, unless otherwise specified, all materials and equipment incorporated in the work under the Contract shall be new, first class, and in accordance with the Contract Documents. The contractor further warrants that all workmanship shall be first class and in accordance with the Contract and shall be performed by persons qualified in their respective trades.

Work not conforming to these warranties shall be considered defective.

This warranty of materials and workmanship is separate and independent from and in addition to any other guarantees in this Contract.

Replacement of Defective Work or Materials. Any work or material found to be in any way defective or unsatisfactory shall be corrected or replaced by the contractor at its own expense at the order of TMB notwithstanding that it may have been previously overlooked or passed by an inspector. Inspection shall not relieve the contractor of its obligations to furnish materials and workmanship in accordance with this Contract and its specifications.

Reservation of the Right to Inspect Work. At any time during normal business hours and as often as TMB may deem necessary, the contractor shall permit the authorized representatives of TMB to review and inspect all materials and workmanship at any time during the duration of this Contract, provided, however, TMB is under no duty to make such inspections, and any inspection so made shall not relieve the contractor from any obligation to furnish materials and workmanship strictly in accordance with the instructions, Contract requirements and specifications.

Ownership of Contract Product. All of the work product, including, but not limited to, documents, materials, files, reports, data, including magnetic tapes, disks of computer-aided designs or other electronically stored data or information (the "Documents"), which the contractor prepares pursuant to the terms and conditions of this Contract are the sole property of TMB. The contractor will not publish any such materials or use them for any research or publication, other than as expressly required or permitted by this Contract, without the prior written permission of Transit Management of Beaumont. The grant or denial of such permission shall be at TMB's sole discretion.

The contractor intends that the copyright to the Documents shall be owned TMB, whether as author (as a Work Made For Hire), or by assignment from contractor TMB. The parties expressly agree that the Documents shall be considered a Work Made For Hire as defined by Title 17, United States Code, Section 101(2).

As further consideration for Transit Management of Beaumont entering into this Contract, the contractor hereby assigns to TMB

all of the contractor's rights, title, interest and ownership in the Documents, including the right to procure the copyright therein and the right to secure any renewals, reissues and extensions of any such copyright in any foreign country. TMB shall be entitled to the sole and exclusive benefit of the Documents, including the copyright thereto, and whenever required by TMB, the contractor shall at no additional compensation, execute all documents of assignment of the full and exclusive benefit and copyright thereof to Transit Management of Beaumont. Any subcontractors and other independent contractors who prepare portions of the Documents shall be required by the contractor to execute an assignment of ownership in favor of TMB before commencing work.

Force Majeure. Neither party shall be in default by reason of any failure in performance of this Contract in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

Disadvantaged Business Enterprises. Transit Management of Beaumont encourages Disadvantaged Business Enterprises to submit a proposal. Vendors should submit their DBE certification along with their proposal.

Software & Technology Purchases.

Software Licenses. All software license agreements shall include TMB's mandatory legal terms and conditions as determined by the City Attorney. Please be advised that no City employee has the authority to bind the City by clicking on an End User License Agreement (EULA) or any other click-through terms and conditions without being specifically authorized by the City's Attorney or I.T. Director through procedures approved by the City Attorney and Risk Manager. All legal documents associated with the purchase or download of software must be reviewed by the City Attorney and may only be signed by an individual authorized to do so.

No Waiver. No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of TMB or contractor shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by TMB or contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as waiver of subsequent breach of the same covenant, term or condition.

Assignability/Subcontracting. Contractor shall not assign or subcontract any interest or obligation under this Contract without TMB's prior written approval. All of the services required hereunder will be performed by contractor and employees of contractor.

Amendment. This Contract shall be binding on the parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. Any other change in any provision of this Contract may only be made by a written amendment, signed by the duly authorized agent or agents who executed this Contract.

Severability. It is mutually agreed that in case any provision of this Contract is determined by any court of law to be unconstitutional, illegal or unenforceable, it is the intention of the parties that all other provisions of this Contract remain in full force and effect.

Authority. Contractor represents that it has the authority to enter into this Contract. If the contractor is not an individual, the person signing on behalf of the contractor represents and warrants that he or she has been duly authorized to bind the contractor and sign this Contract on the contractor's behalf.

Counterparts, Electronic Delivery. This Contract may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Contract may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Contract may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Contract, fully executed, shall be as valid as an original.



Appendix B
Transit Management of Beaumont
SAMPLE CONTRACT FOR PURCHASE OF SERVICES

1 PARTIES.

This is a Contract between Transit Management of Beaumont, hereafter referred to as "TMB" and _____ hereafter referred to as "Contractor."

The Contractor is a:

- | | | |
|--------------------------------------|--|---|
| <input type="checkbox"/> Corporation | <input type="checkbox"/> Limited Liability Company | <input type="checkbox"/> General Partnership |
| <input type="checkbox"/> LLP | <input type="checkbox"/> Sole Proprietorship | <input type="checkbox"/> Unincorporated Association |
| | <input type="checkbox"/> Other _____ | |

2 PURPOSE.

The purpose of this Contract is as set forth in Section 3.

3 SCOPE OF SERVICES AND SCHEDULE OF PAYMENTS.

Contractor will perform the following services and be paid according to the following schedule(s) or attachment(s):

List all attachments here by name and attach and label them accordingly.

Order of Precedence: In the event of a conflict between the terms of this Contract for Purchase of Services and the terms of any document attached or incorporated herein, the terms of this Contract for Purchase of Services along with Transit Management of Beaumont Standard Terms and Conditions, TMB's requests for proposals/bids, the version of the Contractor's proposal/bid that was accepted by TMB, and TMB's Purchase Order (if any) shall control and supersede any such conflicting term.

4 TERM AND EFFECTIVE DATE.

This Contract shall become effective upon execution by the General Manager (or the Purchasing Agent if so authorized) on behalf of Transit Management of Beaumont, unless another effective date is specified in the Attachment(s) incorporated in Section 3. The effective date of this Contract shall be <insert date> The term of this Contract shall be insert dates or reference attachments as needed.

5 ENTIRE AGREEMENT.

This Contract for Purchase of Services, including any and all attachments, exhibits and other documents referenced in Section 3 (hereafter, "Agreement" or "Contract") is the entire Agreement of the parties and supersedes any and all oral contracts and negotiations between the parties. If any document referenced in Section 3 includes a statement that expressly or implicitly disclaims the applicability of this Contract for Purchase of Services, or a statement that such other document is the "entire agreement," such statement shall be deemed rejected and shall not apply to this Contract.

6 ASSIGNABILITY/SUBCONTRACTING.

Contractor shall not assign or subcontract any interest or obligation under this Contract without TMB's prior written approval. All of the services required hereunder will be performed by Contractor and employees of Contractor. Vendor must provide implementation plan in the case their business is bought or sold during the duration of the existing contract with Transit Management of Beaumont.

7 DESIGNATED REPRESENTATIVE.

- A. Contractor designates as Contract Agent with primary responsibility for the performance of this Contract. In case t his Contract Agent is replaced by another for any reason, the Contractor will designate another Contract Agent within seven (7) calendar days of the time the first terminates his or her employment or responsibility using the procedure set forth in Section 14, Notices.
- B. In the event of the death, disability, removal or resignation of the person designated above as the Contract agent, TMB may accept another person as the Contract agent or may terminate this Agreement under Section 23, at its option.

8 PROSECUTION AND PROGRESS.

- A. Services under this Agreement shall commence upon written order from Transit Management of Beaumont to the Contractor, which order will constitute authorization to proceed; unless another date for commencement is specified elsewhere in this Contract including documents incorporated in Section 3.

- B. The Contractor shall complete the services under this Agreement within the time for completion specified in Section 3 and Section 4, the Scope of Services, including any amendments. The Contractor's services are completed when TMB notifies the Contractor in writing that the services are complete and are acceptable. The time for completion shall not be extended because of any delay attributable to the Contractor, but it may be extended by TMB in the event of a delay attributable to TMB, or in the event of unavoidable delay caused by war, insurrection, natural disaster, or other unexpected event beyond the control of the Contractor. If at any time the Contractor believes that the time for completion of the work should be extended because of unavoidable delay caused by an unexpected event, or because of a delay attributable to TMB, the Contractor shall notify TMB as soon as possible, but not later than seven (7) calendar days after such an event. Such notice shall include any justification for an extension of time and shall identify the amount of time claimed to be necessary to complete the work.
- C. Services by the Contractor shall proceed continuously and expeditiously through completion of each phase of the work.
- D. Progress reports documenting the extent of completed services shall be prepared by the Contractor and submitted to TMB with each invoice under Section 22 of this Agreement, and at such other times as TMB may specify, unless another procedure is specified in Section 3.
- E. The Contractor shall notify TMB in writing when the Contractor has determined that the services under this Agreement have been completed. When TMB determines that the services are complete and are acceptable, TMB will provide written notification to the Contractor, acknowledging formal acceptance of the completed services.

9 AMENDMENT.

This Contract shall be binding on the parties hereto, their respective heirs, devisees, and successors, and cannot be varied or waived by any oral representations or promise of any agent or other person of the parties hereto. Any other change in any provision of this Contract may only be made by a written amendment, signed by the duly authorized agent or agents who executed this Contract.

10 EXTRA SERVICES.

Transit Management of Beaumont may request the Contractor to perform extra services or decreased services, according to the procedure set forth in Section 22(b). Extra services or decreased services means services which are not different in kind or nature from the services called for in the Scope of Services, Section 3, but which may increase or decrease the quantity and kind of labor or materials or expense of performing the services. Extra services may not increase the total Contract price, as set forth in Section 21, unless the Contract is amended as provided in Section 9 above.

11 NO WAIVER.

No failure to exercise, and no delay in exercising, any right, power or remedy hereunder on the part of TMB or Contractor shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No express waiver shall affect any event or default other than the event or default specified in such waiver, and any such waiver, to be effective, must be in writing and shall be operative only for the time and to the extent expressly provided by TMB or Contractor therein. A waiver of any covenant, term or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term or condition.

12 NONDISCRIMINATION.

During the term of this Contract, the parties, and the employees, representatives, agents and or volunteers thereof, shall not discriminate against any person based on race, color, creed, religion, sex, national origin, age, ancestry, disability, sexual orientation, gender identity, gender non-conformity, gender expression, transgender status, pregnancy, or marital or parental status.

13 SEVERABILITY.

It is mutually agreed that in case any provision of this Contract is determined by any court of law to be unconstitutional, illegal or unenforceable, it is the intention of the parties that all other provisions of this Contract remain in full force and effect.

14 NOTICES.

All notices to be given under the terms of this Contract shall be in writing and signed by the person serving the notice and shall be sent registered or certified mail, return receipt requested, postage prepaid, or hand delivered to the addresses of the parties listed below:

FOR TMB:
Buyer, Finance Department
550 Milam St.
Beaumont, TX 77701

FOR THE CONTRACTOR:

15 STATUS OF CONTRACTOR/INDEPENDENT/TAX FILING.

The parties hereto agree that the Contractor, its officers, agents, and employees, in the performance of this agreement shall act in the capacity of an independent contractor and not as an officer, employee, or agent of TMB. The Contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the Contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of TMB.

Contractor shall provide a valid IRS W9 form to the Purchasing Department, prior to payment. The Contractor is informed that as an independent Contractor, s/he may have a responsibility to make estimated tax returns, file tax returns, and pay income taxes and make social security payments on the amounts received under this Contract and that no amounts will be withheld from payments made to this Contractor for these purposes and that payment of taxes and making social security payments are solely the responsibility and obligation of the Contractor. The Contractor is further informed that s/he may be subject to civil and/or criminal penalties if s/he fails to properly report income and pay taxes and social security taxes on the amount received under this Contract.

16 GOODWILL.

Any and all goodwill arising out of this Contract inures solely to the benefit of Transit Management of Beaumont; Contractor waives all claims to benefit of such goodwill.

17 THIRD PARTY RIGHTS.

This Contract is intended to be solely between the parties hereto. No part of this Contract shall be construed to add, supplement, amend, abridge or repeal existing rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

18 AUDIT AND RETAINING OF DOCUMENTS.

The Contractor agrees to provide all reports requested by Transit Management of Beaumont including, but not limited to, financial statements and reports, reports and accounting of services rendered, and any other reports or documents requested. Financial and service reports shall be provided according to a schedule (when applicable) to be included in this Contract. Any other reports or documents shall be provided within five (5) working days after the Contractor receives TMB's written requests, unless the parties agree in writing on a longer period. Payroll records and any other documents relating to the performance of services under the terms of this Contract shall be retained by the Contractor for a period of three (3) years after completion of all work under this Contract, in order to be available for audit by TMB or its designee.

19 CHOICE OF LAW AND COMPLIANCE.

This Contract shall be governed by and construed, interpreted and enforced in accordance with the laws of the State of Texas. The parties agree, for any claim or suit or other dispute relating to this Contract that cannot be mutually resolved, the venue shall be Jefferson County Court or the United States District Court for the Eastern District of Texas.

The Contractor shall give all notices and shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this Contract and which in any manner affect the work or its conduct. TMB reserves the right to cancel this Contract if the Contractor fails to follow the requirements of the Limited Sales, Excise, and Use Tax Act (Sec. 151.001 Texas Tax Code), and related statutes regarding certification for collection of sales and use tax. TMB also reserves the right to cancel this Contract with any state or federally debarred contractor or a contractor that is presently identified on the list of parties excluded from federal procurement and non- procurement contracts.

Contractor shall be required to demonstrate valid possession of appropriate required licenses and will keep them in effect for the term of this Contract. The Contractor shall also be required, when appropriate to obtain the necessary building permits prior to performing work on TMB facilities.

20 CONFLICT OF INTEREST.

- A. The Contractor warrants that it and its agents and employees have no public or private interest, and will not acquire directly or indirectly any such interest, which would conflict in any manner with the performance of the services under this Agreement.
- B. The Contractor shall not employ or Contract with any person currently employed by the Transit Management of Beaumont for any services included under the provisions of this Agreement.

21 COMPENSATION.

It is expressly understood and agreed that in no event will the total compensation under this Contract exceed \$ _____.

22 BASIS FOR PAYMENT.

A. GENERAL.

- 1 Transit Management of Beaumont will pay the Contractor for the completed and accepted services rendered under this Contract on the basis and at the Contract price set forth in Section 21 of this Contract. TMB will pay the Contractor for completed and approved "extra services", if any, if such "extra services" are authorized according to the procedure established in this section. The rate of payment for "extra services" shall be the rate established in this Contract. Such payment shall be full compensation for services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the services.
- 2 The Contractor shall submit itemized invoices, on the form or format approved by TMB and as may be further specified in Section 3 of this Contract. TMB will pay the Contractor in accordance with the schedule, if any, set forth in Section 3. The final invoice, if applicable, shall be submitted to TMB within three months of completion of services under this Agreement.
- 3 Payment shall not be construed as TMB's acceptance of unsatisfactory or defective services or improper materials
- 4 Final payment of any balance due to the Contractor will be made upon acceptance by TMB of the services under the Agreement and upon receipt by TMB of documents required to be returned or to be furnished by the Contractor under this Agreement.
- 5 TMB has the equitable right to set off against any sum due and payable to the Contractor under this Agreement, any amount TMB determines the Contractor owes TMB, whether arising under this Agreement or under any other Agreement or otherwise.
- 6 Compensation in excess of the total Contract price will not be allowed unless authorized by an amendment under Section 9, AMENDMENT.
- 7 Transit Management of Beaumont will not compensate for unsatisfactory performance by the Contractor.

B. SERVICE ORDERS, EXTRA SERVICE, OR DECREASED SERVICE.

- 1 Written orders regarding the services, including extra services or decreased services, will be given by TMB, using the procedure set forth in Section 14, NOTICES.
- 2 TMB may, by written order, request extra services or decreased services, as defined in Section 10 of this Contract. Unless the Contractor believes the extra services entitle it to extra compensation or additional time, the Contractor shall proceed to furnish the necessary labor, materials, and professional services to complete the services within the time limits specified in the Scope of Services, Section 3 of this Agreement, including any amendments under Section 9 of this Agreement.
- 3 If in the Contractor's opinion the order for extra service would entitle it to extra compensation or extra time, or both, the Contractor shall not proceed to carry out the extra service, but shall notify TMB, pursuant to Section 9 of this Agreement. The notification shall include the justification for the claim for extra compensation or extra time, or both, and the amount of additional fee or time requested.
- 4 TMB shall review the Contractor's submittal and respond in writing, either authorizing the Contractor to perform the extra service or refusing to authorize it. The Contractor shall not receive additional compensation or time unless the extra compensation is authorized by TMB in writing.

23 CANCELLATION/TERMINATION.

- A. TMB reserves the right to cancel any contract in whole or in part without penalty due to non-appropriation of funds.
- B. TMB may terminate this Contract for any reason, including convenience upon providing 60 days prior written notification to Contractor. Termination for convenience by TMB will entitle Contractor to payment for only those goods or services delivered, received and accepted and not subsequently rejected by Transit Management of Beaumont.
- C. In the event the Contractor shall default in any of the covenants, agreements, commitments, or conditions and any such default shall continue un-remedied for a period of ten (10) days after written notice to the Bidder, TMB may, at its option and in addition to all other rights and remedies which it may have, terminate the Contract and all rights of the Bidder under the Contract.

- D. Failure to maintain the required certificates of insurance, permits, licenses and bonds will be cause for Contract termination. If the Contractor fails to maintain and keep in force the insurance, if required, TMB shall have the right to cancel or terminate the Contract without notice.

24 INDEMNIFICATION.

Contractor hereby agrees to indemnify, defend and hold harmless Transit Management of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, from and against any and all suits, actions, legal or administrative proceedings, claims, demands, damages, liabilities, interest, attorneys' fees, costs and expenses of whatsoever kind or nature in any manner directly or indirectly caused, occasioned, or contributed to in whole or in part or claimed to be caused, occasioned, or contributed to in whole or in part, by reason of any act, omission, fault, or negligence, whether active or passive, of Contractor or of anyone acting under its direction or control or on its behalf, even if liability is also sought to be imposed on Transit Management of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers. The obligation to indemnify, defend and hold harmless Transit Management of Beaumont, its elected and appointed officials, officers, employees, agents, representatives and volunteers, and each of them, shall be applicable unless liability results from the sole negligence of TMB, its elected and appointed officials, officers, employees, agents, representatives and volunteers. Contractor shall reimburse TMB, its elected and appointed officials, officers, employees, agent or authorized representatives or volunteers for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. In the event that Contractor employs other persons, firms, corporations or entities (sub-contractor) as part of the work covered by this Agreement, it shall be Contractor's responsibility to require and confirm that each sub-contractor enters into an Indemnity Agreement in favor of Transit Management of Beaumont, its elected and appointed officials, officers, employees, agents, representatives, and volunteers, which is identical to this Indemnity Agreement. This indemnity provision shall survive the termination or expiration of this Agreement.

25 LIMITATION OF LIABILITY

TMB will not be liable for any loss of use, interruption of business, lost profits, or any indirect, special, incidental, or consequential damages of any kind regardless of the form of action whether in contract, tort (including negligence), strict product liability, or otherwise, even if it has been advised of the possibility of such damages. In no event shall TMB's aggregate liability under this agreement exceed the fees paid to Contractor hereunder.

26 INSURANCE.

Per RFP requirements

The Contractor will insure, and will require each subcontractor to insure, as indicated, against the following risks to the extent stated below. The Contractor shall not commence work under this Contract, nor shall the Contractor allow any Subcontractor to commence work on its Subcontract, until the insurance required below has been obtained and corresponding certificate(s) of insurance have been approved by Transit Management of Beaumont

Proof of Insurance, Approval. The Contractor shall provide TMB with certificate(s) of insurance showing the type, amount, effective dates, and expiration dates of required policies prior to commencing work under this Contract. Contractor shall provide the certificate(s) to TMB's representative upon execution of the Contract, or sooner, for approval by TMB. If any of the policies required above expire while this Contract is still in effect, Contractor shall provide renewal certificate(s) to TMB for approval. Certificate Holder language should be listed as follows:

Transit Management of Beaumont
Attn: Buyer
550 Milam St
Beaumont, TX 77701

The Contractor shall provide copies of additional insured endorsements or insurance policies, if requested by TMB. The Contractor and/or Insurer shall give Transit Management of Beaumont thirty (30) days advance written notice of cancellation, non-renewal or material changes to any of the above-required policies during the term of this Contract.

27 CONFIDENTIAL INFORMATION

Each party (on its behalf and on behalf of its subcontractors, employees or representatives, or agents of any kind) agrees to hold and treat all confidential information of the other party, including, but not limited to, trade secrets, sales figures, employee and customer information and any other information that the receiving party reasonably should know is confidential ("Confidential Information") as confidential and protect the Confidential Information with the same degree of care as each party uses to protect its own Confidential Information of like nature.

Confidential Information does not include any information that (i) falls under the Texas Public Information Act (Texas PIA) (see section 28) at the time of the disclosure or thereafter is lawfully obtained from publicly available sources generally known by the public (other than as a result of a disclosure by the receiving party or its representatives); (iii) is available to the receiving party on a non-confidential basis from a source that is not and was not bound by a confidentiality agreement with respect to the Confidential Information; or (iv)

has been independently acquired or developed by the receiving party without violating its obligations under this Agreement or under any federal or state law.

28 OPEN RECORDS

Both parties understand that TMB is bound by the Texas PIA, and as such, responses and contracts are subject to and conditioned on the provisions of the law. Contractor acknowledges that it is obligated to assist TMB in retaining and producing records that are subject to the Texas PIA, and that the failure to do so shall constitute a material breach of the Contract, and that the Contractor must defend and hold TMB harmless from liability under that law. Except as otherwise authorized, those records shall be maintained for a period of seven (7) years after receipt of final payment under the Contract.

29 OWNERSHIP OF CONTRACT PRODUCT.

All of the work product, including, but not limited to, documents, materials, files, reports, data, including magnetic tapes, disks of computer-aided designs or other electronically stored data or information (the "Documents"), which the Contractor prepares pursuant to the terms and conditions of this Contract are the sole property of TMB. The Contractor will not publish any such materials or use them for any research or publication, other than as expressly required or permitted by this Contract, without the prior written permission of TMB. The grant or denial of such permission shall be at TMB's sole discretion.

The Contractor intends that the copyright to the Documents shall be owned by Transit Management of Beaumont, whether as author (as a Work Made For Hire), or by assignment from Contractor to TMB. The parties expressly agree that the Documents shall be considered a Work Made For Hire as defined by Title 17, United States Code, Section 101(2).

As further consideration for TMB entering into this Contract, the Contractor hereby assigns to Transit Management of Beaumont all of the Contractor's rights, title, interest and ownership in the Documents, including the right to procure the copyright therein and the right to secure any renewals, reissues and extensions of any such copyright in any foreign country. TMB shall be entitled to the sole and exclusive benefit of the Documents, including the copyright thereto, and whenever required by TMB, the C

Contractor shall at no additional compensation, execute all documents of assignment of the full and exclusive benefit and copyright thereof to TMB. Any subcontractors and other independent Contractors who prepare portions of the Documents shall be required by the Contractor to execute an assignment of ownership in favor of TMB before commencing work.

30 FORCE MAJEURE.

Neither party shall be in default by reason of any failure in performance of this contract in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.

31 AUTHORITY.

Contractor represents that it has the authority to enter into this Contract. If the Contractor is not an individual, the person signing on behalf of the Contractor represents and warrants that he or she has been duly authorized to bind the Contractor and sign this Contract on the Contractor's behalf.

32 COUNTERPARTS, ELECTRONIC DELIVERY.

This Contract may be signed in counterparts, each of which shall be taken together as a whole to comprise a single document. Signatures on this Contract may be exchanged between the parties by facsimile, electronic scanned copy (.pdf) or similar technology and shall be as valid as original. Executed copies or counterparts of this Contract may be delivered by facsimile or email and upon receipt will be deemed original and binding upon the parties hereto, whether or not a hard copy is also delivered. Copies of this Contract, fully executed, shall be as valid as an original.

SIGNATURE PAGE FOLLOWS

FEDERALLY REQUIRED CLAUSES

This Article contains additional terms and conditions of the Contract that are required by the Federal Transit Administration (FTA). No deviations may be made from this Article.

Fly America Requirements

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

Access to Records and Reports

In accordance with 49 U.S.C. 5325(g) and 49 C.F.R. 633.17, the Contractor agrees to provide Transit Management of Beaumont, 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(3), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. 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. The Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case the Contractor agrees to maintain same until Transit Management of Beaumont, 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 2 C.F.R. 200.333. The FTA does not require the inclusion of these requirements in subcontracts.

Federal Changes

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

All rulings and interpretations of the Davis-Bacon and related Acts contained in 29 C.F.R. Parts 1, 3, and 5 are herein incorporated by reference in this Contract.

No Government Obligation to Third Parties

- (1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- (2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

Program Fraud & False or Fraudulent Statements & 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.
- (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 the 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. §5323(l) 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 the FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Government-Wide Debarment and Suspension

This Contract is a covered transaction for purposes of 2 C.F.R. Part 200, 180, and 1200. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 2 C.F.R. Part 180, or affiliates, as defined at 2 C.F.R. Part 180, are

excluded or disqualified as defined at 2 C.F.R. Part 180.

The Contractor is required to comply with 2 C.F.R. Part 180, subpart C and must include the requirement to comply with 2 C.F.R. Part 180, subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

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

Privacy Act

(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

(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 the FTA.

Civil Rights Requirements

The following requirements apply to the underlying contract:

(1) Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102, Section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. §12132, and Federal transit laws 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 the FTA may issue.

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

(a) Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” 42 U.S.C. §2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements the FTA may issue.

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

(c) Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. §12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. The Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements the FTA may issue.

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

Patent and Rights in Data

A. Rights in Data – This following requirements apply to each contract involving experimental, developmental or research work:

(1) The term “subject data” used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term “subject data” does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the Contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the FTA, until such time as the 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.

(b) In accordance with 2 C.F.R. 200.315, 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 in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "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.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and
2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by the FTA.

(c) When the FTA awards Federal assistance for experimental, developmental, or research work, it is the FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless the FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit the FTA to make available to the public, either the FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree 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 Purchaser or 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 Purchaser or 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.

(e) 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.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless the FTA determines otherwise, 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 provided by the FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through the FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by the FTA.

B. Patent Rights – These following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract 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, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until the FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through the FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The 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 the FTA.

Disadvantaged Business Enterprise (DBE)

A. This Contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%.

B. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of this DOT-assisted Contract. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as Transit Management of Beaumont deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph.

C. Bidders/offers are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 C.F.R. 26.53. Award of this Contract is conditioned on submission of the following:

1. The names and addresses of DBE firms that will participate in this Contract;
 2. A description of the work each DBE will perform;
 3. The dollar amount of the participation of each DBE firm participating;
 4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
 5. Written confirmation from the DBE that it is participating in the Contract as provided in the prime contractor's commitment; and
 6. If the contract goal is not met, evidence of good faith efforts to do so.
- The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- D. The Contractor is required to pay its subcontractors performing work related to this Contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from Transit Management of Beaumont. In addition, the Contractor may not hold retainage from its subcontractors.
- E. The Contractor must promptly notify Transit Management of Beaumont whenever a DBE subcontractor performing work r elated to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Transit Management of Beaumont.

Incorporation of Federal Transit Administration 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, to the extent it is consistent with the most recent laws and regulations, 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 (TMB) requests which would cause (TMB) to be in violation of the FTA terms and conditions.