

**Midland Odessa Urban Transit District
(MOUTD/EZ-RIDER)**



Cutaway Buses

Request For Proposals

Midland, Texas
Date: November 22, 2021

Due Date: December 14, 2021
Time: 3:00 P.M. EST

Receipt Location:
MOUTD/EZ-Rider
Attn: Kayleen Hamilton
10300 Younger Road
Midland, Texas 79706

MIDLAND ODESSA URBAN TRANSIT DISTRICT (MOUTD/EZ-RIDER)

Request for Proposals (RFP) # MOUTD-2021-02

PROPOSAL TITLE: **Cutaway Buses**

PROPOSAL NUMBER: **MOUTD-2021-02**

PROPOSAL OPENING: **December 14, 2021 at 3:00 PM (EST)**

CONTRACT TERM: **Purchase (6) Cutaways with a 3-year option to purchase up to an additional five (24) vehicles with the same specifications.**

The proposal must be fully and properly executed by an authorized person. By signing you certify your express authority to sign on behalf of yourself, your company, or other entity and full knowledge and acceptance of the REQUEST FOR PROPOSALS, Appendix A (Technical Specifications), and Appendix B (Federally Required and other Contract Clauses), and that all information provided is complete, true and accurate.

Proposers are requested to retain Appendix A and Appendix B for future reference.

MOUTD/EZ-RIDER

REQUEST FOR PROPOSAL FOR CUTAWAY-STYLE TRANSIT BUSES

RFP #MOUTD-2021-02

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1.1 REQUEST FOR PROPOSALS

1.1.1 SOLICITATION DATA

1.1.1.1 PROCUREMENT/CONTRACTS ADMINISTRATOR

Request for Proposals (RFP) No: MOUTD-2021-02

Midland Odessa Urban Transit District
10300 Younger Road, Midland, TX 79706

Procurement/Contracts Administrator: Kayleen Hamilton

Telephone No.: (432) 561-9990 x110

Fax No.: (432) 561-8056

Email: khamilton@ez-rider.org

www.ez-rider.org

1.1.1.2 SCOPE

MOUTD/EZ-RIDER requests proposals for the manufacture and delivery of six (6) 14 or fewer passenger cutaway transit buses in accordance with the terms and conditions set forth below. The Contract shall be a firm-fixed price Contract for the provision of a base order of six (6) 14-passenger cutaway transit buses with related necessary components, and selected options with the option to purchase twenty-four (24) additional vehicles over a five-year period.

1.1.1.3 SOLICITATION SCHEDULE

The following is the solicitation schedule for Offerors:

Issuance of RFP for Cutaway Buses	November 22, 2021
All Technical Questions and Requests for Approved Equal	December 6, 2021 3:00PM
Proposal Due Date	December 14, 2021 3:00PM

1.1.2 PRE-PROPOSAL

1.1.2.1 OFFEROR COMMUNICATIONS AND REQUESTS

All correspondence, communication and/or contact in regard to this solicitation or Offers shall be with the Procurement/Contracts Administrator identified in "Procurement/Contracts Administrator" above, or his/her designated representative. Offerors and their representatives shall not make any contact with or communicate with any members of the MOUTD/EZ-RIDER, or its employees and consultants, other than the Procurement/Contracts Administrator in regard to any aspect of this solicitation or Offers.

At any time during this procurement up to the time specified in "Solicitation Schedule," Offerors may request, in writing, a clarification or interpretation of any aspect of the RFP or any addenda to the RFP. Such written requests shall be made to the Procurement/Contracts Administrator and may be transmitted by email. The Offeror making the request shall be responsible for its proper delivery to the MOUTD/EZ-RIDER per "Procurement/Contracts Administrator" on the form provided in "Request for Clarification." MOUTD/EZ-RIDER will not respond to verbal

requests, only written responses provided as addenda shall be official and all other forms of communication with any officer, employee or agent of MOUTD/EZ-RIDER shall not be binding.

If it should appear to a prospective Offeror that the performance of the Work under the Contract, or any of the matters relating thereto, is not sufficiently described or explained in the RFP or Contract documents, or that any conflict or discrepancy exists between different parts thereof or with any federal, state, local or MOUTD/EZ-RIDER law, ordinance, rule, regulation, or other standard or requirement, then the Offeror shall submit a written request for clarification to MOUTD/EZ-RIDER within the time period specified above.

1.1.2.2 ADDENDA TO RFP

MOUTD/EZ-RIDER reserves the right to amend the RFP at any time. Any amendments to or interpretations of the RFP shall be described in written addenda. Prospective Offerors, or their agents, shall be responsible for ensuring that they have received all addenda. Notification of any addendum will be emailed to all prospective Offerors officially known to have received the RFP to the email address provided by each prospective Offeror. Failure of any prospective Offeror to receive the notification or addendum shall not relieve the Offeror from any obligation under its proposal as submitted or under the RFP, as clarified, interpreted or modified. All addenda issued shall become part of the RFP. Prospective Offerors shall acknowledge the receipt of each individual addendum and all prior addenda in their proposals. Failure to acknowledge in their proposals receipt of addenda may, at MOUTD/EZ-RIDER's sole option, may disqualify the proposal.

If MOUTD/EZ-RIDER determines that the addenda may require significant changes in the preparation of proposals, the deadline for submitting the proposals may be postponed by the number of days that MOUTD/EZ-RIDER determines will allow Offerors sufficient time to revise their proposals. Any new Due Date shall be included in the addenda.

1.1.2.3 CONDITIONS, EXCEPTIONS, RESERVATIONS OR UNDERSTANDINGS

Proposals stating conditions, exceptions, reservations or understandings (hereinafter "deviations") relating to the RFP may be rejected. Offerors may propose alternates either within one overall proposal or by submitting more than one proposal. Any alternate proposal shall include a price proposal in accordance with "Price Proposal Requirements."

Any and all deviations must be explicitly, fully and separately stated in the proposal by completing form(s) provided in "Form for Proposal Deviation," setting forth at a minimum the specific reasons for each deviation so that it can be fully considered and, if appropriate, evaluated by MOUTD/EZ-RIDER. All deviations not found by MOUTD/EZ-RIDER to be unacceptable shall be evaluated in accordance with the appropriate evaluation criteria and procedures, and may result in the Offeror receiving a less favorable evaluation than without the deviation.

1.1.3 INSTRUCTIONS TO OFFERORS

1.1.3.1 DUE DATE

One (1) original and three (3) copies must be received at the address shown in "Procurement/Contracts Administrator" by **3:00 PM December 14, 2021** to be considered. Proposals received after the date and time specified shall not be opened nor considered for award. Proposals and subsequent offers shall be valid for a period of 180 days.

1.1.3.2 TECHNICAL PROPOSAL REQUIREMENTS

Whenever an item in the specification is identified by reference to brand name, such

identification is intended to indicate the quality and characteristics of products that will be satisfactory. If it is proposed to furnish an "or equal" item, it will be the proposer's responsibility to provide material such as catalog cuts, drawings, and manufacturer's specifications that will allow MOU/D/EZ-RIDER to determine whether the item meets the standard specification. The Request for Approved Equal form is located on page 14 of the RFP.

1.1.3.2.1 Offeror Qualifications Statement

The Offeror shall submit the information necessary for MOU/D/EZ-RIDER to determine that the Offeror meets the qualifications listed in "Qualifications Requirements." The submittals shall include:

- A. A letter of commitment from an underwriter confirming that the Offeror can be bonded for the required amount.
- B. A letter of commitment from an underwriter confirming that the Offeror can be insured for the required amount.
- C. A Table of Organization of Offeror's engineering, management, sales, manufacturing and service organizations and resumes of key personnel.
- D. A narrative describing Offeror's manufacturing facilities.
- E. A narrative describing Offeror's spare parts procurement and distribution system.
- F. A narrative describing Offeror's Quality Assurance Program.
- G. A narrative describing Offeror's production plan, schedule and capacity.
- H. A narrative describing Offeror's after-sales support capabilities.
- I. A list of three (3) client references including contact name and title, address, voice telephone number and e-mail address.

1.1.3.2.2 Technical Proposal

The Offeror shall submit the information necessary for MOU/D/EZ-RIDER to evaluate the proposed vehicle. The submittals shall include:

- A. Appendix C – Bus Information: lists the minimum detailed information requirements for MOU/D/EZ-RIDER to evaluate the proposed bus, subsystems and components.
- B. Deviations from the Technical Specifications: provide a list of all proposed deviations, utilizing "Form for Proposal Deviations" in order of occurrence by page number and section number. This list should include the listed specification, the proposed deviation and sufficient technical data to enable the request to be evaluated. Each deviation will be evaluated and scored based on the evaluation criteria.
- C. Warranty Offering: provide a description of the base warranty offering and as listed in Appendix E.
- D. Vehicle Life Data: provide data to substantiate that the bus structure and components meet or exceed the life cycle requirements of 150,000 miles or 5 years, whichever comes first.
- E. Maintenance Facility Requirements: provide a list of special facilities or modifications to existing facilities that may be necessary to service the proposed bus.
- F. Tools and Equipment Requirements: provide a list of any specialized tools and equipment necessary to maintain the proposed bus.
- G. Maintenance Staff Training Plan: provide the planned curriculum, amount of time and class size to train the MOU/D/EZ-RIDER maintenance and operations staff with regard to maintenance, troubleshooting and repair of the proposed bus. The narrative shall include a list of training aids and materials to be used in various

MOUTD/EZ-RIDER Cutaway classes.

- H. Delivery Dates: A listing of the tentative delivery dates for the buses of the base order. This submittal must include the information necessary to determine that the delivery dates are attainable.

1.1.3.3 PRICE PROPOSAL REQUIREMENTS

MOUTD/EZ-RIDER is seeking pricing for an initial purchase of six (6) cutaway transit buses and associated optional components. Although significant weight within the “price” criteria will be placed on “the cost of a complete single bus”, all pricing (training, options, etc.) as submitted will be used in proposal evaluation, determining basis of award and assessing life cycle costs (where applicable).

The Offeror is required to complete and execute the Pricing Schedule of Form (Appendix F) and provide the same in the price proposal.

MOUTD/EZ-RIDER is exempt from payment of State of Texas and local taxes. Neither the Pricing Schedule nor any requests for payment pursuant to this Agreement to the Procuring Agency shall include any federal, state or local tax unless such a tax is specifically required to be imposed upon said Pricing Schedule or request for payment by the laws and/or regulations of the federal government or any state government. MOUTD/EZ-RIDER will furnish the necessary exemption certificate.

1.1.3.4 PROPOSAL PACKAGING REQUIREMENTS

The package shall be marked as specified below and shall contain the entire proposal documents required and no other documents. The package shall contain information required by this RFP. These same requirements shall apply to any Best and Final Offers that may be requested.

RFP MOUTD-2021-02 TECHNICAL PROPOSAL MOUTD/EZ-RIDER: Bus Procurement – 14- passenger Low-Floor Cutaway
1. Letter of Transmittal 2. Technical Proposal 3. References and Other Information (if provided by Offeror) 4. Price and Proposal 5. Pricing Schedule 6. Supporting Data
SUBMITTED BY: (Offeror’s Name and Address)
Proposal package shall be addressed and delivered to the address specified in "Procurement/Contracts Administrator"

1.1.3.5 DBE CERTIFICATION

The contract for professional services shall be 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. MOUTD’s overall goal for DBE participation is 6.9% for the calendar years 2020, 2021, and 2022. There is no DBE goal get for this contract; however, the contractor shall report any DBE participation to MOUTD.

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 the application requirements of 49 CFR 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 MOUTD deems appropriate. Each subcontract the Contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The successful proposer will be required to abide by the provisions set forth in Appendix G: Disadvantaged Business Enterprise Provisions.

1.1.3.6 MODIFICATION OR WITHDRAWAL OF PROPOSALS

A modification of a proposal already received will be accepted by MOUTD/EZ-RIDER only if the modification is received prior to the Proposal Due Date, or is specifically requested by MOUTD/EZ-RIDER, or is made with a requested BAFO. All modifications shall be made in writing and executed and submitted in the same form and manner as the original proposal.

An Offeror may withdraw a proposal already received prior to the Proposal Due Date by submitting, in the same manner as the original proposal, to MOUTD/EZ-RIDER a written request for withdrawal executed by the Offeror's authorized representative. After the proposal Due Date, a proposal may be withdrawn only if MOUTD/EZ-RIDER fails to award the Contract within the proposal validity period prescribed in "Due Date" or any agreed upon extension thereof. The withdrawal of a proposal does not prejudice the right of an Offeror to submit another proposal within the time set for receipt of proposals.

This provision for modification and withdrawal of proposals may not be utilized by an Offeror as a means to submit a late proposal and, as such, will not alter MOUTD/EZ-RIDER's right to reject a proposal.

1.1.4 PROPOSAL EVALUATION, NEGOTIATION AND SELECTION

Proposals will be evaluated, negotiated, selected and any award will be made in accordance with the criteria and procedures described below. The approach and procedures are those that are applicable to a competitive negotiated procurement whereby proposals are evaluated to determine which proposals are within a competitive range. Discussions and negotiations may then be carried out with Offerors within the competitive range, after which Best and Final Offers (BAFOs) may be requested. However, MOUTD/EZ-RIDER may select a proposal for award without any discussions or negotiations or request for any BAFO(s). Subject to MOUTD/EZ-RIDER's right to reject any or all proposals, the Offeror will be selected whose proposal is found to be most advantageous to MOUTD/EZ-RIDER, based upon consideration of the criteria of "Qualification Requirements" and "Proposal Evaluation Criteria" below.

1.1.4.1 OPENING OF PROPOSALS

All proposals and evaluations will be kept strictly confidential throughout the evaluation, negotiation and selection process. Only the members of the Selection Committee and/or MOUTD/EZ-RIDER officials, employees and agents having a legitimate interest will be provided access to the proposals and evaluation results during this period.

1.1.4.2 SELECTION COMMITTEE

A Selection Committee will be established and will make all decisions regarding the evaluations, determination of responsible Offerors.

1.1.4.3 PROPOSAL SELECTION PROCESS

The following describes the process by which proposals will be evaluated and a selection made for a potential award. Any such selection of a proposal by a responsible Offeror shall be made by consideration of only the criteria of "Qualification Requirements" and "Proposal Evaluation

Criteria” below. “Qualification Requirements” specifies the requirements for determining responsible Offerors, all of which must be met by an Offeror to be found qualified. Final determination of an Offerors’ qualification will be made based upon all information received during the evaluation process and as a condition for award. The “Proposal Selection Process” section contains all of the evaluation criteria, and their relative order of importance, by which a proposal from a qualified Offeror will be considered for selection. An award, if made, will be to a responsible Offeror for a proposal that is found to be in the MOU/D/EZ-RIDER’s best interest, price and other evaluation criteria considered.

The procedures to be followed for these evaluations are provided in “Evaluation Procedures” below.

1.1.4.3.1 Qualification Requirements

The following are the requirements for qualifying responsible Offerors. All of these requirements must be met; therefore, they are not listed by any particular order of importance. The Offeror of any proposal that the Selection Committee finds not to meet these requirements, and cannot be made to meet these requirements, may be determined not to be responsible and its proposal rejected. The requirements are as follows:

- I. Sufficient financial strength and resources and capability to finance the work to be performed and complete the Contract in a satisfactory manner as measured by:
 - A. Ability to secure required bond(s) as evidenced by a letter of commitment from an underwriter confirming that the Offeror can be bonded for the required amount.
 - B. Ability to obtain required insurance with coverage values that meet minimum requirements evidenced by a letter from an underwriter confirming that the Offeror can be insured for the required amount.
- II. Evidence that the human and physical resources are sufficient to perform the contract as specified and assure delivery of all equipment within the time specified in the Contract as demonstrated in by the Table of Organization, to include:
 - A. Engineering, management and service organizations with sufficient personnel and requisite disciplines, licenses, skills, experience, and equipment to complete the Contract as required and satisfy any engineering or service problems that may arise during the warranty period.
 - B. Adequate manufacturing facilities sufficient to produce and factory-test equipment on schedule.
 - C. A spare parts procurement and distribution system sufficient to support equipment maintenance without delays and a service organization with skills, experience and equipment sufficient to perform all warranty and on-site work.
- III. Evidence that Offeror is qualified in accordance with Part 3: Quality Assurance Provisions.
- IV. Evidence of satisfactory performance and integrity on contracts in making deliveries on time, meeting specifications and warranty provisions, parts availability, and steps Offeror took to resolve any judgments, liens, fleet defects history, and warranty claims. Evidence shall be determined by client references.

1.1.4.3.2 Proposal Evaluation Criteria

The following are the complete criteria by which proposals from responsible Offerors will be evaluated and ranked for the purposes of determining the competitive range and to make any selection of a proposal for a potential award. Any exceptions, conditions, reservations or understandings explicitly, fully and separately stated on the "Form for Proposal Deviation" which do not cause MOUTD/EZ-RIDER to consider a proposal to be outside the competitive range, will be evaluated according to the respective evaluation criteria and/or sub-criteria which they affect.

The criteria are listed by their relative order of importance. Sub-criteria are listed by their relative order of importance within the specific criterion they comprise. Also, certain sub-criteria may have sub-criteria that are listed by their relative degree of importance within the specific sub-criterion they comprise.

The following criteria will be used in evaluating the proposal:

Delivery Schedule – The tentative dates for vehicle delivery of the base contract.

Technical – The Offeror's compliance with the Technical Specification and the content of the Technical Proposal.

Offeror's Past Performance – The degree to which the Offeror has worked with procuring agencies with regard to bus manufacture, adherence to production and delivery schedules, resolution of warranty issues and fleet defects. MOUTD/EZ-RIDER will utilize the client reference (1.1.3.2.1), as well as past history.

Warranty – The initial warranty offering presented to MOUTD/EZ-RIDER

Price – The Price Proposal presented to MOUTD/EZ-RIDER. – For scoring purposes within these criteria significant weight is placed on the "cost of bus" listed in Appendix F - rows 1, 2 and/or 3.

Unacceptable Exceptions, Conditions, Reservations and Understandings (pass or fail).

Exceptions, conditions, reservations or understandings that are explicitly, fully and separately stated on the required form of "Form for Proposal Deviation" will be evaluated for their acceptability. Each of any exceptions and/or conditions made in a proposal will be evaluated and MOUTD/EZ-RIDER will determine their individual acceptability. An unacceptable exception, condition, reservation, or understanding, if not withdrawn by the Offeror upon the request by MOUTD/EZ-RIDER, would be cause for rejecting the proposal. For the purposes of determining the competitive range a proposal containing unacceptable exceptions, conditions, reservations or understandings, may be included on the basis that the proposal is capable of being made acceptable provided that the Offeror withdraw or modify the unacceptable exceptions, conditions, reservations or understandings. Any exceptions, conditions, reservations or understandings which do not cause MOUTD/EZ-RIDER to consider a proposal to be outside the competitive range, will be evaluated according to the respective evaluation criteria and/or sub-criteria which they effect.

1.1.4.4 EVALUATION PROCEDURES

All aspects of the evaluations of the proposals and any discussions/negotiations, including documentation, correspondence and meetings, will be kept confidential during the evaluation and negotiation process.

Proposals will be analyzed for conformance with the instructions and requirements of the RFP and Contract documents. Proposals that do not comply with these instructions and do not include the required information may be rejected as insufficient. MOU/D/EZ-RIDER reserves the right to request an Offeror to provide any missing information and to make corrections. Offerors are advised that the detailed evaluation forms and procedures will follow the same proposal format and organization specified in "Instructions to Offerors". Therefore, Offerors shall pay close attention to and strictly follow all instructions. Submittal of a proposal will signify that the Offeror has accepted the whole of the Contract documents, except such conditions, exceptions, reservations or understandings explicitly, fully and separately stated on the forms and according to the instructions of "Form for Proposal Deviation". Any such conditions, exceptions, reservations or understandings that do not result in the rejection of the proposal are subject to evaluation under the criteria of "Proposal Evaluation Criteria".

Evaluations will be made in strict accordance with all of the evaluation criteria and procedures specified in "Proposal Selection Process" above. MOU/D/EZ-RIDER will select for any award the highest ranked proposal from a responsible Offeror, qualified under "Qualification Requirements" which does not render this procurement financially infeasible and is judged to be most advantageous to MOU/D/EZ-RIDER based on consideration of the evaluation "Proposal Evaluation Criteria".

1.1.4.5 CONFIDENTIALITY OF PROPOSALS

Except as otherwise required by the Freedom of Information Law, MOU/D/EZ-RIDER will exempt from disclosure records submitted in the proposal which are trade secrets or are maintained for the regulation of commercial enterprise which if disclosed would cause substantial injury to the competitive position of the subject enterprise. Any such records that an Offeror believes should be exempted from disclosure shall be specifically identified and marked as such. Blanket-type identification by designating whole pages or sections as records exempt from disclosure will not assure confidentiality. The specific records must be clearly identified and an explanation submitted as to why they should be exempt.

1.1.5 RESPONSE TO PROPOSALS

1.1.5.1 ACCEPTANCE/REJECTION OF PROPOSALS

MOU/D/EZ-RIDER reserves the right to reject any or all proposals for sound business reasons, to undertake discussions with one or more Offerors, and to accept that proposal or modified proposal which, in its judgment, will be most advantageous to MOU/D/EZ-RIDER, price and other evaluation criteria considered. MOU/D/EZ-RIDER reserves the right to consider any specific proposal that is conditional or not prepared in accordance with the instructions and requirements of this RFP to be noncompetitive. MOU/D/EZ-RIDER reserves the right to waive any defects, or minor informalities or irregularities in any proposal that do not materially affect the proposal or prejudice other Offerors.

If there is any evidence indicating that two or more Offerors are in collusion to restrict competition or otherwise engaged in anti-competitive practices, the proposals of all such Offerors shall be rejected and such evidence may be a cause for disqualification of the participants in any future solicitations undertaken by MOU/D/EZ-RIDER.

MOU/D/EZ-RIDER may reject a proposal that includes unacceptable deviations as provided in "Conditions, Exceptions, Reservations or Understandings".

1.1.5.2 SINGLE PROPOSAL RESPONSE

If only one proposal is received in response to this RFP and it is found by MOUTD/EZ-RIDER to be acceptable, a detailed price/cost proposal may be requested of the single Offeror. A price or cost analysis, or both, possibly including an audit, may be performed by or for MOUTD/EZ-RIDER of the detailed price/cost proposal in order to determine if the price is fair and reasonable. The Offeror has agreed to such analysis by submitting a proposal in response to this RFP. A price analysis is an evaluation of a proposed price that does not involve an in-depth evaluation of all the separate cost elements and the profit factors that comprise an Offeror's price proposal. It should be recognized that a price analysis through comparison to other similar procurements must be based on an established or competitive price of the elements used in the comparison. The comparison must be made to a purchase of similar quantity involving similar specifications and in a similar time frame. Where a difference exists, a detailed analysis must be made of this difference and costs attached thereto. Where it is impossible to obtain a valid price analysis, it may be necessary to conduct a cost analysis of the proposed price. A cost analysis is a more detailed evaluation of the cost elements in the Offeror's Offer to perform. It is conducted to form an opinion as to the degree to which the proposed costs represent what the Offeror's performance should cost. A cost analysis is generally conducted to determine whether the Offeror is applying sound management practices in proposing the application of resources to the contracted effort and whether costs are allowable, allocable and reasonable. Any such analyses and the results thereof shall not obligate MOUTD/EZ-RIDER to accept such a single proposal; and MOUTD/EZ-RIDER may reject such proposal at its sole discretion.

1.1.5.3 CANCELLATION OF PROCUREMENT

MOUTD/EZ-RIDER reserves the right to cancel the procurement at any time before the Contract is fully executed and approved on behalf of MOUTD/EZ-RIDER.

1.1.5.4 PROTESTS

Pre-Proposal Opening Protests. If an Offeror can demonstrate that the Contract Documents issued by MOUTD/EZ-RIDER are unduly exclusionary and restrictive or that federal, state or local laws or regulations have been violated during the course of the procurement, then the Offeror may seek a review with MOUTD/EZ-RIDER. Protests shall be clearly identified as Protests and submitted in writing as early as possible, but no later than five business days before proposal opening.

Post-Proposal Opening Protests. A protest to the acceptance or rejection of any or of all offers or bids to a contract, or to the award thereof, or to any such action proposed or intended by MOUTD/EZ-RIDER must be received in writing by the Procurement/Contracts Administrator no later than five (5) business days after the protesting party first learned, or reasonably ought to have learned, of the action or the proposed or intended action to which he/she protests.

1.1.5.5 AVAILABILITY OF FUNDS

This procurement is subject to the availability of funding. Funding sources include local share, Texas State grants and grants from the Federal Transit Administration (FTA). This contract shall be subject to any terms and conditions contained in grants used to fund this contract. MOUTD/EZ-RIDER's obligation hereunder is contingent upon the availability of appropriated funds from which payment for the contract purposed can be made. No legal liability on the part of MOUTD/EZ-RIDER for any payment shall arise until funds are made for this Contract and until the Contractor received notice of such availability. Any award of Contract hereunder will be conditioned upon said availability of funds for the Contract.

**Request for Clarification, Exception or Approved Equal
ALL REQUESTS FOR APPROVED EQUALS MUST BE RECEIVED
BY DECEMBER 6, 2021 3:00PM**

Bid Document Section:

Section Title:

Nature of Request:

If the vendor is seeking concurrence with an approved equal, please submit supporting documentation (such as product specifications) and/or samples to support your contention that the requested equal meets or exceeds the specification minimum requirement.

Signed:

MOUTD/EZ-RIDER Response

Approved: _____ Denied: _____

Explanation:

Signed: _____

1.1.6.2 ACKNOWLEDGMENT OF ADDENDA

The following form shall be completed and included in the proposal.

Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive to the solicitation. Acknowledged receipt of each addendum must be clearly established and included with the Offer.

ACKNOWLEDGMENT OF ADDENDA – RFP MOUTD-2021-02

The undersigned acknowledges receipt of the following addenda to the documents:

Addendum No. _____, Dated _____

Addendum No. _____, Dated _____

Addendum No. _____, Dated _____

Addendum No. _____, Dated _____

Offeror: _____ Name	_____
	Street Address

	City, State, Zip

	Authorized Signature

	Title

	Phone

1.1.6.3 OFFEROR SERVICE AND PARTS SUPPORT DATA

Location of nearest Technical Service Representative to MOU/D/EZ-RIDER

Name _____

Address _____

Telephone _____

Offeror to describe technical services readily available from said representative.

Location of nearest Parts Distribution Center to MOU/D/EZ-RIDER

Name _____

Address _____

Telephone _____

Offeror shall describe the extent of parts available at said center.

Policy for Delivery of Parts and Components to be Purchased for Service and Maintenance

Regular Method of Shipment _____

Cost to MOU/D/EZ-RIDER _____

1.1.6.4 BUY AMERICA CERTIFICATION

Certificate of Compliance

The proponent hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11.

Date: _____

Signature: _____

Title: _____

Company Name: _____

Certificate of Non-Compliance

The proponent hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Date: _____

Signature: _____

Title: _____

Company Name: _____

1.1.6.5 DEBARMENT AND SUSPENSION CERTIFICATION (LOWER TIER COVERED TRANSACTION)

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

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

_____.

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

_____ Signature of the Bidder or Offeror's Authorized Official

_____ Name and Title of the Bidder or Offeror's Authorized Official

_____ Date

1.1.6.6 LOBBYING CERTIFICATION

The Bidder or Offeror certifies, to the best of its knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of a Federal department or agency, a Member of the U.S. Congress, an officer or employee of the U.S. Congress, or an employee of a Member of the U.S. Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification thereof.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions (as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96).
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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

_____ Signature of the Bidder or Offeror's Authorized Official

_____ Name and Title of the Bidder or Offeror's Authorized Official

_____ Date

1.1.6.7 DBE CERTIFICATION

I hereby certify that the Offeror has complied with the requirements of 49 CFR part 26, Participation by Disadvantaged Business Enterprises in DOT Programs, the Offeror is a certified TVM (Transit Vehicle Manufacturer) and that our goals have not been disapproved by the Federal Transit Administration.

_____ Signature of the Offeror's Authorized Official

_____ Name and Title of the Offeror's Authorized
Official

_____ Date

1.1.6.8 CERTIFICATE OF COMPLIANCE WITH BUS TESTING REQUIREMENT

The undersigned certifies that the vehicles offered in this procurement comply and will, when delivered, comply with 49 U.S.C. § 5323(c) and FTA's implementing regulation at 49 CFR Part 665 according to the indicated one of the following three alternatives.

(mark one and only one of the three blank spaces with an "x")

- 1. ___The buses offered herewith have been tested in accordance with 49 CFR Part 665 on _____(date). The vehicles being sold should have the identical configuration and major components as the vehicle in the test report, which must be submitted with this Offer. If the configuration or components are not identical, the manufacturer shall provide with its Offer a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

- 2. ___The manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), and submits with this Offer the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

- 3. ___ The vehicle is a new model and will be tested and the results will be submitted to MOUTD/EZ-RIDER prior to acceptance of the first bus.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Date: _____

Signature: _____

Company Name: _____

Title: _____

1.1.6.10 PRICING SCHEDULE (Refer to Pricing Matrix, Appendix F)

The buses and materials to be furnished under the proposed contract shall be priced as listed below in the Pricing Matrix (Appendix F). Refer to Appendix D – Deliverables and Contract Requirements - for a list of materials other than complete buses such as spare components, test and/or diagnostic equipment and OEM manuals to be furnished during the contract.

	Pricing
14- Passenger Cutaway Bus 25'	Refer to Appendix F "Pricing Matrix"
14- Passenger Cutaway Bus 26'	
14- Passenger Cutaway Bus 27'	
OPTIONS	
GFI FastFare Electronic Farebox with Trim	
Optional Kneeling System	
2 Position Bicycle Rack	
CWI Camera System	
EyeRide EyeNet	
Delivery Charges per Vehicle	
Optional Special Tools	
Optional Maintenance Training	

1.1.6.11 NON-COLLUSIVE PROPOSAL CERTIFICATION

Statement of Non-Collusion

By submission of this proposal, each Offeror and each person signing on behalf of any Offeror certifies, and in the case of a joint proposal each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his/her knowledge and belief:

- (1) The prices in this proposal have been arrived at independently, without collusion, consultation, communication or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other bidder or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the Offeror and will not knowingly be disclosed by the Offeror prior to opening, directly or indirectly, to any other proponent or to any competitor; and
- (3) No attempt has been made or will be made by the Offeror to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

A BID SHALL NOT BE CONSIDERED FOR AWARD NOR SHALL ANY AWARD BE MADE WHERE (1), (2), (3) ABOVE HAVE NOT BEEN COMPLIED WITH; PROVIDED HOWEVER, THAT IF IN ANY CASE THE BIDDER(S) CANNOT MAKE THE FOREGOING CERTIFICATION, THE BIDDER SHALL SO STATE AND SHALL FURNISH BELOW A SIGNED STATEMENT WHICH SETS FORTH IN DETAIL THE REASONS THEREFORE:

[AFFIX ADDENDUM TO THIS PAGE IF SPACE IS REQUIRED FOR STATEMENT.]

Subscribed to under penalty of perjury under the laws of the State of Texas, this _____ day of _____, 2021 as the act and deed of said corporation or partnership.

Signature

Printed Name and Title

1.2 OFFER

By execution below Offeror hereby offers to furnish equipment and services as specified in the MOUTD/EZ-RIDER's Request for Proposals No. MOUTD-2021-02 Including "General Provisions" (Section 2), "Quality Assurance Provisions" (Section 3), "Warranty Provisions" (Section 4) and "Technical Specifications" (Appendix A) therein.

Offeror: _____
Name

Street Address

City, State, Zip

Signature of Authorized Signer

Title

Phone

2.1 DEFINITIONS

The following are definitions of special terms used in this document.

Authorized Signer/Signature: The person who is executing this Contract on behalf of the Offeror/Contractor and who is authorized to bind the Offeror/Contractor.

MOU/D/EZ-RIDER: Midland Odessa Urban Transit District

Contract: The Offer and its acceptance by MOU/D/EZ-RIDER as manifested by the contract documents specified in "Contract Documents".

Procurement/Contracts Administrator: The person who is responsible for this Solicitation on behalf MOU/D/EZ-RIDER.

Contractor: The successful Offeror who is awarded a Contract for providing all buses and equipment described in the Contract Documents.

Defect: Patent or latent malfunction or failure in manufacture, installation, or design of any component or subsystem.

Due Date: The date and time by which Offers (proposals or bids) must be received by MOU/D/EZ-RIDER as specified in "Instructions to Offerors".

Offer: A promise to deliver equipment and services according to the underlying solicitation of MOU/D/EZ-RIDER documented using the prescribed form in the solicitation, including any bid or proposal or Best and Final Offer.

Offeror: A legal entity that makes an Offer.

Non-Technical Deviation: A deviation that refers to Sections 1 through 4. MOU/D/EZ-RIDER will respond in writing to each non-technical deviation.

Related Defect: Damage inflicted on any component or subsystem as a direct result of a separate Defect.

Solicitation: MOU/D/EZ-RIDER's Request for Proposals.

Supplier or Subcontractor: Any manufacturer, company, or agency providing units, components, or subassemblies for inclusion in the bus. Supplier items shall require qualification by type and acceptance tests in accordance with requirements defined in Part 3: Quality Assurance Provisions.

Technical Deviation: A deviation to Section 5 of the RFP. MOU/D/EZ-RIDER will evaluate and score each technical deviation as part of the technical proposal.

Work: Any and all labor, supervision, services, materials, machinery, equipment, tools, supplies, and facilities called for by the Contract and necessary to the completion thereof.

2.2 CONTRACT AND MODIFICATIONS

2.2.1 CONTRACT AWARD AND EXECUTION

The acceptance of an Offer for award, if made, shall be evidenced by a notice of award of Contract in writing delivered in person or by mail to the Offeror whose Offer is accepted. No other act by MOU/D/EZ-RIDER shall evidence acceptance of an Offer. Such notice shall obligate said Offeror to commence performance under the Contract as specified in "Production of Documents".

2.2.1.1 ORDERING OF BUSES

- (a) Any bus to be furnished under this Contract shall be ordered by issuance of delivery (purchase) orders by the individuals designated in the specifications.
- (b) All delivery (purchase) orders are subject to the terms and conditions of this Contract. In the event of conflict between a delivery (purchase) order and this Contract, the Contract shall control.
- (c) A delivery (purchase) order is considered "issued" when MOU/D/EZ-RIDER deposits the order in the mail or emails a copy to the Contractor.
- (d) Any order issued during the effective period of this Contract and not completed by the Contractor within that period shall be completed by the Contractor within the time specified in the order. The Contract shall govern the Contractor's rights and obligations with respect to that order to the same extent as if the order were complete during the contract's effective period.

2.2.1.2 DELIVERY DATES

Bus delivery dates for the initial bus build will be determined by using the "Bus Delivery Dates" submittal. The amount of time that elapses between the ordering of the initial bus build and delivery of the initial bus build will be used as a benchmark for future bus orders under this Contract.

2.2.2 CONTRACT DOCUMENTS

The Contract shall include by reference:

1. Contractor's Offer or Best and Final Offer, including:
 - a. Warranty Provisions, and
 - b. Technical Specification
2. MOU/D/EZ-RIDER's Notice of Award
3. Quality Assurance Provisions from RFP #MOU/D-2021-02
4. Federally Required and Other Contract Clauses from RFP #MOU/D-2021-02
5. Addenda - As issued for RFP #MOU/D-2021-02

2.2.3 MODIFICATIONS TO CONTRACT

2.2.3.1 CONTRACTOR CHANGES

Any proposed change in this Contract shall be submitted in writing to MOU/D/EZ-RIDER for its prior approval.

2.2.3.2 WRITTEN CHANGE ORDERS

Verbal change orders are not permitted. No change in this Contract shall be made unless MOU/D/EZ-RIDER gives prior written approval therefore. The Contractor shall be liable for all

costs resulting from, and/or for satisfactorily correcting, any specification change not properly ordered by written modification to the Contract and signed by MOUTD/EZ-RIDER.

2.2.3.3 CHANGE ORDER PROCEDURE

As soon as reasonably possible but no later than 30 (thirty) calendar days after receipt of the written change order to modify the Contract, the Contractor shall submit to the Procurement/Contracts Administrator a detailed price and schedule proposal for the work to be performed. This proposal shall be accepted or modified by negotiations between the Contractor and the Procurement/Contracts Administrator. At that time a detailed modification shall be executed in writing by both parties. Disagreements that cannot be resolved within negotiations shall be resolved in accordance with the Contract disputes clause. Regardless of any disputes, the Contractor shall proceed with the work ordered.

2.2.3.4 PRICE ADJUSTMENT FOR REGULATORY CHANGES

If price adjustment is indicated, either upward or downward, it shall be negotiated between MOUTD/EZ-RIDER and the Contractor for changes that are mandatory as a result of legislation or regulations that are promulgated and become effective after the Due Date. Such price adjustment may be audited, where required.

2.2.4 PARTIES AND CHANGES IN PARTIES

2.2.4.1 PARTIES

The parties to the contract are MOUTD/EZ-RIDER as defined in "Definitions", Section 2.1 and the Offeror as set out in the accepted Offer.

2.2.4.2 SUCCESSION

The Contract will be binding on the parties, their successors, and assigns.

2.2.4.3 ASSIGNMENT AND SUBCONTRACTING

The Contractor will not assign or subcontract its rights or obligations under the Contract without prior written permission of MOUTD/EZ-RIDER, and no such assignment or subcontract will be effective until approved in writing by MOUTD/EZ-RIDER. MOUTD/EZ-RIDER will not assign or subcontract its rights or obligations under Contract without prior written permission of the Contractor, except that MOUTD/EZ-RIDER reserves the right to assign all or a portion of the specified deliverables along with its rights and/or obligations under the Contract to another transit agency (any FTA-funded entity).

2.2.5 SPECIFICATION AND OFFER OMISSIONS

Notwithstanding the provision of drawings, technical specifications, or other data by MOUTD/EZ-RIDER, the Contractor shall have the responsibility of supplying all parts and details required to make the bus complete and ready for service even though such details may not be specifically mentioned in the drawings and specifications.

Any request, condition, exception, reservation, understanding or other deviation by Contractor not separately stated as required by "Instructions to Offerors" by completing the specified form(s) shall be invalid and shall not be binding on MOUTD/EZ-RIDER.

2.2.6 TERMINATION OF CONTRACT

2.2.6.1 TERMINATION FOR CONVENIENCE

The performance of work under this Contract may be terminated by MOUTD/EZ-RIDER in

accordance with this clause in whole, or from time to time in part, whenever the Procurement/Contracts Administrator shall determine that such termination is in the best interest of MOU/D/EZ-RIDER. Any such termination shall be effected by delivery to the Contractor of a notice of termination specifying the extent to which performance of work under the Contract is terminated, and the date upon which such termination becomes effective.

After receipt of a notice of termination, and except as otherwise directed by the Procurement/Contracts Administrator, the Contractor shall: stop work under the Contract on the date and to the extent specified in the notice of termination; place no further orders or subcontracts for materials, services, or facilities, except as may be necessary for completion of such portion of the work under the Contract as is not terminated; terminate all orders and subcontracts to the extent that they relate to the performance of work terminated by the notice of termination; assign to MOU/D/EZ-RIDER in the manner, at the times, and to the extent directed by the Procurement/Contracts Administrator, all of the right, title, and interest of the Contractor under the orders and subcontracts so terminated, in which case MOU/D/EZ-RIDER shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts; settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the approval or ratification of the Procurement/Contracts Administrator, to the extent she may require, which approval or ratification shall be final for all the purposes of this clause; transfer title to MOU/D/EZ-RIDER and deliver in the manner, at the times, and to the extent, if any, directed by Procurement/Contracts Administrator the fabricated or un-fabricated parts, work in process, completed work, supplies, and other material produced as part of, or acquired in connection with the performance of, the work terminated, and the completed or partially completed plans, drawings, information and other property which, if the Contract had been completed, would have been required to be furnished to MOU/D/EZ-RIDER; use its best efforts to sell, in the manner, at the times, to the extent, and at the price(s) directed or authorized by the Procurement/Contracts Administrator, any property of the types referred to above, provided, however, that the Contractor shall not be required to extend credit to any purchaser, and may acquire any such property under the conditions prescribed by and at a price(s) approved by the Procurement/Contracts Administrator, and provided further, that the proceeds of any such transfer or disposition shall be applied in reduction of any payments to be made by MOU/D/EZ-RIDER to the Contractor under this Contract or shall otherwise be credited to the price or cost of the work covered by this Contract or paid in such other manner as the Procurement/Contracts Administrator may direct; complete performance of such part of the work as shall not have been terminated by the notice of termination; and take such action as may be necessary, or as the Procurement/Contracts Administrator may direct, for the protection or preservation of the property related to this Contract which is in the possession of the Contractor and in which MOU/D/EZ-RIDER has or may acquire an interest.

The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to MOU/D/EZ-RIDER to be paid the Contractor. Settlement of claims by the Contractor under this termination for convenience clause shall be in accordance with the provisions set forth in Part 49 of the Federal Acquisition Regulations (48 CFR 49) except that wherever the word "Government" appears it shall be deleted and the word "MOU/D/EZ-RIDER" shall be substituted in lieu thereof.

2.2.6.2 TERMINATION FOR DEFAULT

MOU/D/EZ-RIDER may, by written notice of default to the Contractor, terminate the whole or any part of this Contract if the Contractor fails to make delivery of the supplies or to perform the services within the time specified herein or any extension thereof; or if the Contractor fails to perform any of the other provisions of the Contract, or so fails to make progress as to endanger

performance of this Contract in accordance with its terms, and in either of these two circumstances does not cure such failure within a period of 10 (ten) days (or such longer period as the Procurement/Contracts Administrator may authorize in writing) after receipt of notice from the Procurement/Contracts Administrator specifying such failure.

In the event that MOUTD/EZ-RIDER elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by MOUTD/EZ-RIDER shall not limit MOUTD/EZ-RIDER's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

If the Contract is terminated in whole or in part for default, MOUTD/EZ-RIDER may procure, upon such terms and in such manner as the Procurement/Contracts Administrator may deem appropriate, supplies or services similar to those so terminated. The Contractor shall be liable to MOUTD/EZ-RIDER for any excess costs for such similar supplies or services, and shall continue the performance of this Contract to the extent not terminated under the provisions of this clause. Except with respect to defaults of subcontractors, the Contractor shall not be liable for any excess costs if the failure to perform the Contract arises out of causes beyond the control and without the fault or negligence of the Contractor. If the failure to perform is caused by the default of a subcontractor, and if such default arises out of causes beyond the control of both the Contractor and subcontractor, and without the fault or negligence of either of them, the Contractor shall not be liable for any excess costs for failure to perform, unless the supplies or services to be furnished by the subcontractor were obtainable from other sources in sufficient time to permit the Contractor to meet the required delivery schedule.

Payment for completed supplies delivered to and accepted by MOUTD/EZ-RIDER shall be at the Contract price. MOUTD/EZ-RIDER may withhold from amounts otherwise due the Contractor for such completed supplies such sum as the Procurement/Contracts Administrator determines to be necessary to protect MOUTD/EZ-RIDER against loss because of outstanding liens or claims of former lien holders.

If, after notice of termination of this Contract under the provisions of this clause, it is determined for any reason that the Contractor was not in default under the provisions of this clause, or that the default was excusable under the provisions of this clause, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to termination for convenience of the Procurement Agency.

The rights and remedies of MOUTD/EZ-RIDER provided in this clause shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.

2.2.7 DISPUTES

Any dispute arising under this Agreement that is not disposed of by agreement shall be decided by the MOUTD/EZ-Rider General Manager who shall reduce the decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the General Manager shall be final and conclusive unless within thirty days from the date of receipt of such decision, the Contractor mails or otherwise furnishes to the General Manager a written appeal of the original finding addressed to MOUTD/EZ-Rider and requesting a hearing on the claim.

Pending final decision of the disputes hereunder, the Contractor shall proceed diligently with the performance of this Agreement and in accordance with the decision of the General Manager.

2.2.8 COMMUNICATIONS

Communications in connection with this Contract shall be in writing and shall be delivered by email or by regular, registered, or certified mail addressed to the officer(s) or employee(s) of

MOUTD/EZ-RIDER Cutaway

MOUTD/EZ-RIDER and of the Contractor designated to receive such communications. Telephone calls may be used to expedite communications but shall not be official communication unless confirmed in writing.

Communications shall be considered received at the time actually received by the addressee or designated agent.

2.3 DELIVERY AND TITLE

2.3.1 DELIVERIES

2.3.1.1 BUS DELIVERY PROCEDURE

Delivery of buses shall be determined by signed receipt to 10300 Younger Road, Midland, TX, 79706, and may be preceded by a cursory inspection of the bus.

2.3.1.2 DELIVERY SCHEDULE

Days and hours of delivery shall be 7:00 a.m. through 5:00 p.m. Monday through Friday, excluding holidays that are officially recognized MOUTD/EZ-RIDER holidays.

2.3.1.3 ACCEPTANCE OF BUS

Within 15 (fifteen) calendar days after arrival at the designated point of delivery, the bus shall undergo MOUTD/EZ-RIDER tests defined in Part 3: Quality Assurance Provisions. If the bus passes these tests or if MOUTD/EZ-RIDER does not notify Contractor of non-acceptance within 15 (fifteen) calendar days after delivery, acceptance of the bus by MOUTD/EZ-RIDER occurs on the fifteenth day after delivery.

Acceptance may occur earlier if MOUTD/EZ-RIDER notifies the Contractor of early acceptance or places the bus in revenue service. If the bus fails these tests, it shall not be accepted until the repair procedures defined in "Repairs After Non-acceptance" have been carried out and the bus retested until it passes.

2.3.2 REPAIRS AFTER NONACCEPTANCE

The Contractor, or its designated representative shall perform the repairs after non-acceptance. If the Contractor fails or refuses to make the repairs within 5 (five) days, then the work may be done by MOUTD/EZ-RIDER's personnel with reimbursement by the Contractor.

2.3.2.1 REPAIRS BY CONTRACTOR

After non-acceptance of the bus, the Contractor must begin work within 5 (five) working days after receiving notification from MOUTD/EZ-RIDER of failure of acceptance tests. MOUTD/EZ-RIDER shall make the bus available to complete repairs timely with the Contractor repair schedule.

The Contractor shall provide, at its own expense, all spare parts, tools, and space required to complete the repairs. At MOUTD/EZ-RIDER's option, the Contractor may be required to remove the bus from MOUTD/EZ-RIDER's property while repairs are being affected. If the bus is removed from MOUTD/EZ-RIDER's property, repair procedures must be diligently pursued by the Contractor's representatives, and the Contractor shall assume risk of loss while the bus is under its control.

2.3.2.2 REPAIRS BY MOUTD/EZ-RIDER

1. Parts Used. If MOUTD/EZ-RIDER performs the repairs after non-acceptance of the bus, it

shall correct or repair the defect and any related defects using Contractor-specified parts available from its own stock or those supplied by the Contractor specifically for this repair. Monthly, or at a period to be mutually agreed upon, reports of all repairs covered by this procedure shall be submitted by MOU/D/EZ-RIDER to the Contractor for reimbursement or replacement of parts. The Contractor shall provide forms for these reports.

2. Contractor Supplied Parts. If the Contractor supplies parts for repairs being performed by MOU/D/EZ-RIDER after non-acceptance of the bus, these parts shall be shipped prepaid to MOU/D/EZ-RIDER from any source selected by the Contractor within 10 (ten) working days after receipt of the request for said parts.
3. Return of Defective Components. The Contractor may request that parts covered by this provision be returned to the manufacturing plant. The total cost for this action shall be paid by the Contractor.

2.3.3 UNAVOIDABLE DELAYS

2.3.3.1 CONTRACTOR'S DELAY

If the Contractor is delayed at any time during the progress of the Work by the neglect or failure of MOU/D/EZ-RIDER or by a cause described below, then the time for completion and/or affected delivery date(s) shall be extended by MOU/D/EZ-RIDER subject to the following conditions:

1. The cause of the delay arises after the notice of award and neither was nor could have been anticipated by the Contractor by reasonable investigation before such award and is not due to any fault on the part of the Contractor;
2. The Contractor demonstrates that the completion of the Work and/or affected delivery(s) will be actually and necessarily delayed;
3. The effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay; and
4. The Contractor makes written request and provides other information to MOU/D/EZ-RIDER as described in "Notification of Contractor Delay".

A delay meeting all the conditions of this section shall be deemed an excusable delay. Any concurrent delay that does not constitute an excusable delay shall not be the sole basis for denying a request hereunder.

None of the above shall relieve the Contractor of any liability for the payment of any liquidated damages owing from a failure to complete the Work by the time for completion that the Contractor is required to pay pursuant to "Liquidated Damages for delays occurring prior to, or subsequent to the occurrence of an excusable delay.

MOU/D/EZ-RIDER reserves the right to rescind or shorten any extension previously granted, if subsequently MOU/D/EZ-RIDER determines that any information provided by Contractor in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the request for an excusable delay.

Notwithstanding the above, MOU/D/EZ-RIDER will not rescind or shorten any extension

previously granted if the Contractor acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by the Contractor.

2.3.3.2 NOTIFICATION OF CONTRACTOR DELAY

Notwithstanding "Contractor's Delay", no extension or adjustment of time shall be granted unless (1) written notice of the delay is filed with MOUTD/EZ-RIDER within 7 (seven) calendar days after the commencement of the delay and (2) a written application therefore, stating in reasonable detail the causes, the effect to date and the probable future effect on the performance of the Contractor under the Contract, and the portion or portions of the Work affected, is filed by the Contractor with MOUTD/EZ-RIDER within 14 (fourteen) calendar days after the commencement of the delay. No such extension or adjustment shall be deemed a waiver of the rights of either party under this Contract.

2.4 PAYMENT

MOUTD/EZ-RIDER shall pay and the Contractor shall accept the amounts set forth in the price schedule as full compensation for all costs and expenses of completing the Work in accordance with the Contract, including but not limited to all labor and material required, overhead, expenses, storage and shipping, risks and obligations, fees and profit, and any unforeseen costs.

MOUTD/EZ-RIDER shall make payments for buses at the unit prices itemized in the Price Schedule within 30 (thirty) calendar days after the delivery and acceptance of each bus and receipt of a proper invoice. In the event that the bus does not meet all requirements for acceptance MOUTD/EZ-RIDER may, at its exclusive option, "conditionally accept" the bus and place it into revenue service pending receipt of Contractor furnished materials and/or labor necessary to effectuate corrective action for acceptance.

MOUTD/EZ-RIDER shall make a final payment for all withholding within 30 (thirty) calendar days of receipt of a final proper invoice and the following:

1. Delivery and acceptance of all Contract deliverables, including manuals and other documentation required by the Contract, excluding training.
2. Rectification of any deficiencies found during the acceptance of buses.
3. Contractor provision of any certifications as required by law and/or regulations.
4. Completion of post-delivery audits required under the Contract.

2.5 SERVICE AND PARTS

2.5.1 TRAINING

Within three (3) months after delivery of the first bus, the Contractor shall provide a qualified instructor from the bus manufacturer and, when necessary, a qualified instructor from the engine, transmission, multiplex and fire suppression system manufacturers at MOUTD/EZ-RIDER property for the purpose of training MOUTD/EZ-RIDER maintenance and operations instruction staff.

2.5.2 DOCUMENTS

The Contractor shall provide the required documents and manuals as specified in Appendix D,

Deliverable and Contract Requirements. All parts manuals are to be furnished in printed/paper and electronic PDF format. The Contractor shall keep maintenance manuals available for a period of three years after the date of acceptance of the buses procured under this Contract. The Contractor shall also exert its best efforts to keep maintenance manuals, operator manuals and parts books up-to-date for a period of 5 (five) years. The supplied maintenance and operator's manuals shall incorporate all equipment ordered on the buses covered by this procurement.

2.5.3 PARTS AVAILABILITY GUARANTY

The Contractor hereby guarantees to provide, within reasonable periods of time, the spare parts, software and all equipment necessary to maintain and repair the buses supplied under this Contract for a period of at least 7 (seven) years after the date of acceptance and to supply. Parts shall be interchangeable with the original equipment and be manufactured in accordance with the quality assurance provisions of this Contract.

2.5.4 INTERCHANGEABILITY

Unless otherwise agreed, all units and components procured under this Contract, whether provided by suppliers or manufactured by the Contractor, shall be duplicates in design, manufacture, and installation to assure interchangeability among buses in this procurement. This interchangeability shall extend to the individual components as well as to their locations in the buses.

It is understood that bus manufacturers can't control regulatory changes or changes made by sub-component suppliers over the course of the contract. Any changes that need to be made for these reasons must be noted during preproduction for the upcoming bus build. Part numbers and descriptions shall be required.

2.5.5 SURVIVABILITY

Contractor's obligations under this section 2.5 shall survive the nominal expiration or discharge of other Contract obligations and MOUTD/EZ-RIDER may obtain any remedy under law, Contract or equity to enforce the obligations of Contractor that survive the manufacturing, warranty, and final payment periods.

2.6 AUDIT AND INSPECTION OF RECORDS

In accordance with 49 C.F.R. § 18.36(i), 49 C.F.R. § 19.48(d), and 49 U.S.C. § 5325(a), the Contractor agrees to provide MOUTD/EZ-RIDER, FTA, the Comptroller General of the United States, the Secretary of the U.S. Department of Transportation, the Texas Department of Transportation or any of their duly authorized representatives access to any books documents, papers, and records of the Contractor which are directly pertinent to or relate to this Contract (1) for the purpose of making audits, examinations, excerpts, and transcriptions and (2) when conducting an audit and inspection.

- A. In the event of a sole source Contract, or single Offer, single responsive Offer, or competitive negotiated procurement the Contractor shall maintain and the Procurement/Contracts Administrator, the U.S. Department of Transportation and the Texas Department of Transportation or the representatives thereof, shall have the right to examine all books, records, documents, and other cost and pricing data related to the Contract price, unless such pricing is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, or combinations thereof. Data related to the negotiation or performance of the contract shall be made available for the purpose of evaluating the accuracy, completeness, and currency of the cost or pricing data. The right of examination

shall extend to all documents necessary for adequate evaluation of the cost or pricing data, along with the computations and projections used therein, including review of accounting principles and practices that reflect properly all direct and indirect costs anticipated for the performance of the Contract.

- B. For Contract modifications or change orders the Procurement/Contracts Administrator, the U.S. Department of Transportation and the Texas Department of Transportation, or their representatives shall have the right to examine all books, records, documents, and other cost and pricing data related to a Contract modification, unless such pricing is based on adequate price competition, established catalog or market prices of commercial items sold in substantial quantities to the public, or prices set by law or regulation, or combinations thereof. Data related to the negotiation or performance of the Contract modification or change order shall be made available for the purpose of evaluating the accuracy, completeness, and currency of the cost or pricing data. The right of examination shall extend to all documents necessary for adequate evaluation of the cost or pricing data, along with the computations and projections used therein, either before or after execution of the Contract modification or change order for the purpose of conducting a cost analysis. If an examination made after execution of the contract modification or change order reveals inaccurate, incomplete, or out-of-date data, the Procurement/Contracts Administrator may renegotiate the contract modification or change order price adjustment and MOU/D/EZ-RIDER shall be entitled to any reductions in the price that would result from the application of accurate, complete or up-to-date data.
- C. For any cost reimbursable work, the Contractor shall maintain and MOU/D/EZ-RIDER, the U.S. Department of Transportation and the Texas Department of Transportation, or their representatives shall have the right to examine books, records, documents, and other evidence, including review of accounting principles and practices that reflect properly all direct and indirect costs incurred as related to said cost reimbursable work.
1. The materials described in Paragraphs A, B and C above shall be available at the Contractor's office at all reasonable times for inspection, audit, and making excerpts and transcriptions until three years from the date of final payment under the Contract except that the materials described in Paragraph A above shall also be available prior to any award and materials relating to "Service and Parts". For records relating to appeals under "Disputes", "Audit and Inspection of Records" (this Section), litigation, or the settlement of claims arising out of the negotiation or the performance of contract modifications, records shall be kept available until such appeals, litigation, or claims have been disposed of.
 2. The Procurement/Contracts Administrator and her representative and any other parties authorized under this clause shall employ sound business practices to protect the confidence of the data specified under this clause, for which the Contractor provides access, against disclosure of such information and material to third parties except as permitted by the Contract. The Contractor shall be responsible for ensuring that any confidential data bears appropriate notices relating to its confidential character.
 3. The requirements of this section are in addition to other audit, inspection, and record-keeping provisions specified elsewhere in the Contract documents.

2.7 RISK

2.7.1 INSURANCE

The Contractor agrees to procure and maintain at its expense during the term of the Agreement insurance of the kinds and in the amounts hereafter required, with insurance companies

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authorized to do business in the State of Texas, covering all operations under this Agreement, whether performed by the Contractor or its subcontractors. The policies shall provide for a thirty-day notice to MOU/D/EZ-RIDER prior to termination, cancellation or change.

Prior to the execution of the Agreement, the Contractor shall supply MOU/D/EZ-RIDER a certificate(s) of insurance providing evidence of insurance coverage for the Contractor for the following coverage:

- (A) Commercial General Liability insurance in a comprehensive form including coverage for property damage, bodily injury, personal injury, products, contractual and completed operations with a single limit of at least \$5,000,000.00 per occurrence and aggregate. The certificate shall name MOU/D/EZ-RIDER as an additional insured.

MOU/D/EZ-RIDER and the Contractor agree to waive all rights against each other for damages to the extent covered by the insurance, except for such rights they may have to the proceeds of such insurance held by MOU/D/EZ-RIDER as trustee. The Contractor shall require similar reciprocal waivers by all subcontractors and sub-subcontractors. This policy shall recognize such waivers of recovery by an appropriate Waiver of Subrogation Clause Endorsement, excluding any subrogation of rights granted under Texas law to the contrary notwithstanding.

2.7.3 PRODUCTION OF DOCUMENTS

Upon award of the Contract to an Offeror, such Offeror shall commence performance under the Contract by executing all Contract Guaranty Agreements provided with the Offer and by furnishing any required bonds pursuant to the Contract documents within 10 calendar days after the date of receipt of the notice of award or within such further time as MOU/D/EZ-RIDER may allow.

Failure to fulfill these requirements within the specified time is cause for termination of the Contract under "Termination for Default".

2.7.4 INDEMNIFICATION

The Contractor shall, to the extent permitted by law (1) protect, indemnify and save MOU/D/EZ-RIDER and its members, officers, employees and agents, including consultants, harmless from and against any and all liabilities, damages, claims, demands, liens, encumbrances, judgments, awards, losses, costs, expenses, and suits or actions or proceedings, including reasonable expenses, costs and attorneys' fees incurred by MOU/D/EZ-RIDER and its officers, employees and agents, including consultants, in the defense, settlement or satisfaction thereof, for any injury, death, loss or damage to persons or property of any kind whatsoever, arising out of, or resulting from, the negligent acts, errors or omissions of the Contractor, including negligent acts, errors or omissions of its officers, employees, servants, agents, subcontractors and suppliers; and (2) upon receipt of notice and if given authority, shall settle at its own expense or undertake at its own expense the defense of any such suit, action or proceeding, including appeals, against MOU/D/EZ-RIDER and its members, officers, employees and agents, including consultants, relating to such injury, death, loss or damage. Each party shall promptly notify the other in writing of the notice or assertion of any claim, demand, lien, encumbrance, judgment, award, suit, action or other proceeding hereunder. The Contractor shall have sole charge and direction of the defense of such suit, action or proceeding. MOU/D/EZ-RIDER shall not make any admission that might be materially prejudicial to the Contractor unless the Contractor has failed to take over the conduct of any negotiations or defense within a reasonable time after receipt of the notice and authority above provided. MOU/D/EZ-RIDER shall at the request of the Contractor furnish to the Contractor all reasonable assistance that may be necessary for the purpose of defending such

suit, action or proceeding, and shall be repaid all reasonable costs incurred in doing so. MOUTD/EZ-RIDER shall have the right to be represented therein by advisory counsel of its own selection at its own expense.

The obligations of the Contractor under the above paragraph shall not extend to circumstances where the injury, or death, or damages is caused solely by the negligent acts, errors or omissions of MOUTD/EZ-RIDER, its officers, employees, agents or consultants. The obligations of the Contractor shall not extend to circumstances where the injury, or death, or damages is caused, by the negligence of any third party operator, not including an assignee or subcontractor of the Contractor, subject to the right of contribution as provided in the next sentence below. In case of joint or concurrent negligence of the parties hereto giving rise to a claim or loss against either one or both, each shall have full rights of contribution from the other.

2.9 POLICIES FOR PRIME CONTRACT

2.9.1 PRE-AWARD AND POST-DELIVERY AUDIT REQUIREMENTS

2.9.1.1 CERTIFICATIONS REQUIRED

The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the required certifications:

2.9.1.2 BUY AMERICA REQUIREMENTS

The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic component.

2.9.1.3 FEDERAL MOTOR VEHICLE SAFETY STANDARDS (FMVSS)

The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

3.1 CONTRACTOR'S IN-PLANT QUALITY ASSURANCE REQUIREMENTS

3.1.1 QUALITY ASSURANCE REQUIREMENTS

3.1 QUALITY ASSURANCE REQUIREMENTS

The Contractor, the Contractor's manufacturing plant and organization shall comply with all local, state, and federal laws and adhere to industry standards for its quality assurance program.

3.1.2 QUALITY ASSURANCE ORGANIZATION

3.1.2.1 ORGANIZATION ESTABLISHMENT

The Contractor shall establish and maintain an effective in-plant quality assurance organization. It shall be a specifically defined organization and should be directly responsible to the Contractor's top management.

3.1.2.2 CONTROL

The quality assurance organization shall exercise quality control over all phases of production from initiation of design through manufacture and preparation for delivery. The organization shall also control the quality of supplied articles.

3.1.2.3 AUTHORITY AND RESPONSIBILITY

The quality assurance organization shall have the authority and responsibility for reliability, quality control, inspection planning, establishment of the quality control system, and acceptance/rejection of materials and manufactured articles in the production of the transit buses.

3.1.3 QUALITY ASSURANCE ORGANIZATION FUNCTIONS

3.1.3.1 MINIMUM FUNCTIONS

The quality assurance organization shall include the following minimum functions.

3.1.3.2 WORK INSTRUCTIONS

The quality assurance organization shall verify inspection operation instructions to ascertain that the manufactured product meets all prescribed requirements.

3.1.3.3 RECORDS MAINTENANCE

The quality assurance organization shall maintain and use records and data essential to the effective operation of its program. These records and data shall be available for review by the Resident inspectors. Inspection and test records for this procurement shall be available for a minimum of 1 year after inspections and tests are completed.

3.1.3.4 CORRECTIVE ACTION

The quality assurance organization shall detect and promptly ensure correction of any conditions that may result in the production of defective transit buses. These conditions may occur in designs, purchases, manufacture, tests, or operations that culminate in defective supplies, services, facilities, technical data, or standards.

3.1.4 STANDARDS AND FACILITIES

3.1.4.1 BASIC STANDARDS AND FACILITIES

The following standards and facilities shall be basic in the quality assurance process.

3.1.4.2 CONFIGURATION CONTROL

The Contractor shall maintain drawings, assembly procedures, and other documentation that completely describe a qualified bus that meets all of the options and special requirements of this procurement. The quality assurance organization shall verify that each transit bus is manufactured in accordance with these controlled drawings, procedures, and documentation.

3.1.4.3 MEASURING AND TESTING FACILITIES

The Contractor shall provide and maintain the necessary gauges and other measuring and testing devices for use by the quality assurance organization to verify that the buses conform to

all specification requirements. These devices shall be calibrated at established periods against certified measurement standards that have known, valid relationships to national standards.

3.1.4.4 PRODUCTION TOOLING AS MEDIA OF INSPECTION

When production jigs, fixtures, tooling masters, templates, patterns, and other devices are used as media of inspection, they shall be proved for accuracy at formally established intervals and adjusted, replaced, or repaired as required to maintain quality.

3.1.4.5 EQUIPMENT USE BY RESIDENT INSPECTORS

The Contractor's gauges and other measuring and testing devices shall be made available for use by the resident inspectors to verify that the buses conform to all specification requirements. If necessary, the Contractor's personnel shall be made available to operate the devices and to verify their condition and accuracy.

3.1.5 CONTROL OF PURCHASES

3.1.5.1 MAINTENANCE OF CONTROL

The Contractor shall maintain quality control of purchases.

3.1.5.2 SUPPLIER CONTROL

The Contractor shall require that each supplier maintain a quality control program for the services and supplies that it provides. The Contractor's quality assurance organization shall inspect and test materials provided by suppliers for conformance to specification requirements. Materials that have been inspected, tested, and approved shall be identified as acceptable to the point of use in the manufacturing or assembly processes. Controls shall be established to prevent inadvertent use of nonconforming materials.

3.1.5.3 PURCHASING DATA

The Contractor shall verify that all applicable specification requirements are properly included or referenced in purchase orders of articles to be used on transit buses.

3.1.6 MANUFACTURING CONTROL

3.1.6.1 CONTROLLED CONDITIONS

The Contractor shall ensure that all basic production operations, as well as all other processing and fabricating, are performed under controlled conditions. Establishment of these controlled conditions shall be based on the documented work instructions, adequate production equipment, and special working environments if necessary.

3.1.6.2 COMPLETED ITEMS

A system for final inspection and test of completed transit buses shall be provided by the quality assurance organization. It shall measure the overall quality of each completed bus.

3.1.6.3 NONCONFORMING MATERIALS

The quality assurance organization shall monitor the Contractor's system for controlling nonconforming materials. The system shall include procedures for identification, segregation, and disposition.

3.1.6.4 STATISTICAL TECHNIQUES

Statistical analysis, tests, and other quality control procedures may be used when appropriate in

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the quality assurance processes.

3.1.6.5 INSPECTION STATUS

A system shall be maintained by the quality assurance organization for identifying the inspection status of components and completed transit buses. Identification may include cards, tags, or other normal quality control devices.

3.1.7 INSPECTION SYSTEM

3.1.7.1 INSPECTION SYSTEM SCOPE

The quality assurance organization shall establish, maintain, and periodically audit a fully-documented inspection system. The system shall prescribe inspection and test of materials, work in process, and completed articles. As a minimum, it shall include the following controls.

3.1.7.2 INSPECTION PERSONNEL

Sufficient trained inspectors shall be used to ensure that all materials, components, and assemblies are inspected for conformance with the qualified bus design.

3.1.7.3 INSPECTION RECORDS

Acceptance, rework, or rejection identification shall be attached to inspected articles. Articles that have been accepted as a result of approved materials review actions shall be identified. Articles that have been reworked to specified drawing configurations shall not require special identification. Articles rejected as unsuitable or scrap shall be plainly marked and controlled to prevent installation on the bus. Articles that become obsolete as a result of engineering changes or other actions shall be controlled to prevent unauthorized assembly or installation. Unusable articles shall be isolated and then scrapped.

Discrepancies noted by the Contractor or resident inspectors during assembly shall be entered by the inspection personnel on a record that accompanies the major component, subassembly, assembly, or bus from start of assembly through final inspection. Actions shall be taken to correct discrepancies or deficiencies in the manufacturing processes, procedures, or other conditions that cause articles to be in nonconformity with the requirements of the contract specifications. The inspection personnel shall verify the corrective actions and mark the discrepancy record. If discrepancies cannot be corrected by replacing the nonconforming materials, MOUTD/EZ-RIDER shall approve the modification, repair, or method of correction to the extent that the contract specifications are affected.

3.1.7.4 QUALITY ASSURANCE AUDITS

The quality assurance organization shall establish and maintain a quality control audit program. Records of this program shall be subject to review by MOUTD/EZ-Rider.

3.2 INSPECTIONS

3.2.1 INSPECTION STATIONS

Inspection stations shall be at the best locations to provide for the work content and characteristics to be inspected. Stations shall provide the facilities and equipment to inspect structural, electrical, hydraulic, and other components and assemblies for compliance with the design requirements.

Stations shall also be at the best locations to inspect or test characteristics before they are concealed by subsequent fabrication or assembly operations. These locations shall minimally

include underbody structure completion, body framing completion, body prior to paint preparation, water test before interior trim and insulation installation, engine installation completion, underbody dress-up and completion, bus prior to final paint touchup, bus prior to road test, and bus final road test completion.

3.2.2 RESIDENT INSPECTOR

3.2.2.1 RESIDENT INSPECTOR ROLE

MOUTD/EZ-RIDER may be represented at the Contractor's plant by resident inspectors. They shall monitor, in the Contractor's plant, the manufacture of transit buses built under the procurement. The presence of these resident inspectors in the plant shall not relieve the Contractor of its responsibility to meet all of the requirements of this procurement. MOUTD/EZ-RIDER shall designate a primary resident inspector, whose duties and responsibilities are delineated in "Pre-Production Meetings; "Authority"; and "Pre-Delivery Tests". Contractor and resident inspector relations shall be governed by the guidelines included as Attachment A to this Part 4 "Quality Assurance" Provisions.

3.2.2.2 AUTHORITY

Records and data maintained by the quality assurance organization shall be available for review by the resident inspectors. Inspection and test records for this procurement shall be available for a minimum of one year after inspections and tests are completed.

The Contractor's gauges and other measuring and testing devices shall be made available for use by the resident inspectors to verify that the buses conform to all specification requirements. If necessary, the Contractor's personnel shall be made available to operate the devices and to verify their condition and accuracy. Discrepancies noted by the resident inspector during assembly shall be entered by the Contractor's inspection personnel on a record that accompanies the major component, subassembly, assembly, or bus from start of assembly through final inspection. Actions shall be taken to correct discrepancies or deficiencies in the manufacturing processes, procedures, or other conditions that cause articles to be in nonconformity with the requirements of the contract specifications. The inspection personnel shall verify the corrective actions and mark the discrepancy record. If discrepancies cannot be corrected by replacing the nonconforming materials, MOUTD/EZ-RIDER shall approve the modification, repair, or method of correction to the extent that the contract specifications are affected.

The primary resident inspector shall remain in the Contractor's plant for the duration of bus assembly work under this contract. Only the primary resident inspector or designee shall be authorized to release the buses for delivery. The resident inspectors shall be authorized to approve the pre-delivery acceptance tests. Upon request to the quality assurance supervisors, the resident inspectors shall have access to the Contractor's quality assurance files related to this procurement. These files shall include drawings, assembly procedures, material standards, parts lists, inspection processing and reports, and records of defects.

3.3 ACCEPTANCE TESTS

3.3.1 RESPONSIBILITY

Fully-documented tests shall be conducted on each production bus following manufacture to determine its acceptance to MOUTD/EZ-RIDER. These acceptance tests shall include pre-delivery inspections and testing by the Contractor, and inspections and testing by MOUTD/EZ-RIDER after the buses have been delivered.

3.3.2 PRE-DELIVERY TESTS

The Contractor shall conduct acceptance tests at its plant on each bus following completion of manufacture and before delivery to MOU/D/EZ-RIDER. These pre-delivery tests shall include visual and measured inspections, as well as testing the total bus operation. The tests shall be conducted and documented in accordance with written test plans, approved by MOU/D/EZ-RIDER.

Additional tests may be conducted at the Contractor's discretion to ensure that the completed buses have attained the desired quality and have met the requirements in "Technical Specifications" (Part 5). MOU/D/EZ-RIDER may, prior to commencement of production, demand that the Contractor demonstrate compliance with any requirement in "Technical Specifications" (Part 5), if there is evidence that prior tests have been invalidated by Contractor's change of supplier or change in manufacturing process. Such demonstration shall be by actual test, or by supplying a report of a previously performed test on similar or like components and configuration. Any additional testing shall be recorded on appropriate test forms provided by the Contractor and shall be conducted before acceptance of the bus.

3.3.2.1 INSPECTION - VISUAL AND MEASURED

Visual and measured inspections shall be conducted with the bus in a static condition. The purpose of the inspection testing is to verify overall dimensional and weight requirements, to verify that required components are included and are ready for operation, and to verify that components and subsystems that are designed to operate with the bus in a static condition do function as designed.

3.3.2.2 TOTAL BUS OPERATION

Total bus operation shall be evaluated during road tests. The purpose of the road tests is to observe and verify the operation of the bus as a system and to verify the functional operation of the subsystems that can be operated only while the bus is in motion.

Each bus shall be driven for a minimum of 15 (fifteen) miles during the road tests. Observed Defects shall be recorded on the test forms. The bus shall be retested when Defects are corrected and adjustments are made. This process shall continue until Defects or required adjustments are no longer detected. Results shall be pass/fail for these bus operation tests.

3.3.3 POST-DELIVERY TESTS

MOU/D/EZ-RIDER may conduct acceptance tests on each delivered bus. These tests shall be completed within 15 (fifteen) days after bus delivery and shall be conducted in accordance with written test plans. The purpose of these tests is to identify Defects that have become apparent between the time of bus release and delivery to MOU/D/EZ-RIDER. The post-delivery tests shall include visual inspection and bus operations. No post-delivery test shall apply criteria that are different from the criteria applied in an analogous pre-delivery test (if any).

Buses that fail to pass the post-delivery tests are subject to non-acceptance. MOU/D/EZ-RIDER shall record details of all Defects on the appropriate test forms and shall notify the Contractor of acceptance, conditional acceptance, or non-acceptance of each bus within five days according to "Acceptance of Bus" after completion of the tests. The Defects detected during these tests shall be repaired according to procedures defined in "Contractual Provisions" (Part 2, "Repairs After Non-acceptance).

4.1 BASIC PROVISIONS

4.1.1 WARRANTY REQUIREMENTS

4.1.1.1 CONTRACTOR WARRANTY

Warranties in this document are in addition to any statutory remedies or warranties imposed on the Contractor.

4.1.1.2 COMPLETE BUS

The complete bus, propulsion system, components, major subsystems, and body and chassis structure, are warranted to be free from Defects and Related Defects for one year or 50,000 miles, whichever comes first, beginning on the in-service date as recorded in MOUTD/EZ-RIDER's maintenance and materials management software, or conditional acceptance of each bus under "Acceptance of Bus".

4.1.1.3 SUBSYSTEMS AND COMPONENTS

Subsystems and components shall be warranted as submitted in Appendix E, as determined by the negotiated procurement process or purchased additional warranty.

4.1.1.4 EXTENSION OF WARRANTY

If, during the warranty period, repairs or modifications on any bus, made necessary by defective design, materials or workmanship are not completed due to lack of material or inability to provide the proper repair for 30 (thirty) calendar days, the applicable warranty period shall be extended by the number of days equal to the delay period.

4.1.2 VOIDING OF WARRANTY

The warranties shall not apply to the failure of any part or component of the bus that directly results from misuse, negligence, accident, or repairs not conducted in accordance with the Contractor provided maintenance manuals and with workmanship performed by adequately trained personnel in accordance with recognized standards of the industry. The warranty shall also be void if MOUTD/EZ-RIDER fails to conduct normal inspections and scheduled preventive maintenance procedures as recommended in the Contractor's maintenance manuals and that omission caused the part or component failure.

4.1.3 EXCEPTIONS AND ADDITIONS TO WARRANTY

The warranties shall not apply to the following items: scheduled maintenance items, normal wear-out items, and items furnished by MOUTD/EZ-RIDER, except insofar as such equipment may be damaged by the failure of a part or component for which the Contractor is responsible.

The warranties shall not apply to components and major subsystems specified by MOUTD/EZ-RIDER, and required by MOUTD/EZ-RIDER to be installed on the bus by the Contractor, if the following conditions apply: the component or major subsystem supplier declines to participate in this warranty; and the Contractor notifies MOUTD/EZ-RIDER in writing with, or before submitting, Contractor's original Offer. The Contractor shall pass on to MOUTD/EZ-RIDER any warranty, offered by a component supplier, which is superior to that required herein.

4.1.4 DETECTION OF DEFECTS

If MOUTD/EZ-RIDER detects a Defect within the warranty periods defined in "Warranty Requirements", it shall within 30 (thirty) working days, notify the Contractor's representative. Within five working days after receipt of notification, the Contractor's representative shall either agree that the Defect is in fact covered by warranty, or reserve judgment until the subsystem or component is inspected by the Contractor's representative or is removed and examined at MOUTD/EZ-RIDER's property or at the Contractor's plant. At that time, the status of warranty coverage on the subsystem or component shall be mutually resolved between MOUTD/EZ-RIDER and the Contractor. Work shall commence to correct the Defect within 10 (ten) working days after receipt of notification and shall be conducted in accordance with "Repairs by Contractor".

4.1.5 SCOPE OF WARRANTY REPAIRS

When warranty repairs are required, MOUTD/EZ-RIDER and the Contractor's representative shall agree within five working days after notification on the most appropriate course for the repairs and the exact scope of the repairs to be performed under the warranty. If no agreement is obtained within the five-day period, MOUTD/EZ-RIDER reserves the right to commence the repairs in accordance with "Repairs by MOUTD/EZ-RIDER".

4.1.6 FLEET DEFECTS

4.1.6.1 OCCURRENCE AND REMEDY

A fleet defect is defined as cumulative failures of any kind in the same components in the same or similar application where such items covered by the warranty and such failures occur in the warranty period in the specified proportion of the buses delivered under this contract. For deliveries of over 50 buses, the proportion shall be 15 (fifteen) percent. For deliveries of 4 (four) to 49 (forty-nine) buses the proportion shall be 20 (twenty) percent.

The Contractor shall correct a fleet defect under the warranty provisions defined in "Repair Procedures". After correcting the Defect, MOUTD/EZ-RIDER and the Contractor shall mutually agree to and the Contractor shall promptly undertake and complete a work program reasonably designed to prevent the occurrence of the same Defect in all other buses and spare parts purchased under this contract. Where the specific Defect can be solely attributed to particular identifiable part(s), the work program shall include redesign and/or replacement of only the defectively designed and/or manufactured part(s). In all other cases, the work program shall include inspection and/or correction of all of the buses in the fleet via a mutually agreed to arrangement.

4.1.6.2 EXCEPTIONS TO FLEET DEFECT PROVISIONS

Fleet defect warranty provisions shall not apply to components and major subsystems specified by MOUTD/EZ-RIDER and required by MOUTD/EZ-RIDER to be installed on the bus by the Contractor, if the following conditions apply: the component or major subsystem supplier declines to participate in this warranty; and the Contractor notifies MOUTD/EZ-RIDER in writing with, or before submitting, Contractor's original Offer. The Contractor shall pass on to MOUTD/EZ-RIDER any warranty, offered by a component supplier, that is superior to that required herein.

4.2 REPAIR PROCEDURES

4.2.1 REPAIR PERFORMANCE

The Contractor is responsible for all warranty-covered repair work. To the extent practicable, MOUTD/EZ-RIDER will allow the Contractor or its designated representative to perform such work. At its discretion, MOUTD/EZ-RIDER may perform such work if it determines it needs to do so based on transit service or other requirements. Such work shall be reimbursed by the Contractor based on standard repair times, calculated at a rate agreed upon by MOUTD/EZ-Rider and the Contractor.

4.2.2 REPAIRS BY CONTRACTOR

The Contractor or its designated representative shall begin work on warranty-covered repairs, within five calendar days after receiving notification of a Defect from MOUTD/EZ-RIDER. MOUTD/EZ-RIDER shall make the bus available to complete repairs timely with the Contractor repair schedule.

The Contractor shall provide at its own expense all spare parts, tools, and space required to complete repairs. At MOUTD/EZ-RIDER's option, the Contractor may be required to remove the bus from MOUTD/EZ-RIDER's property while repairs are being affected. If the bus is removed from MOUTD/EZ-RIDER's property, repair procedures must be diligently pursued by the Contractor's representative.

4.2.3 REPAIRS BY MOUTD/EZ-RIDER

4.2.3.1 PARTS USED

If MOUTD/EZ-RIDER performs the warranty-covered repairs, it shall correct or repair the Defect and any Related Defects utilizing parts supplied by the Contractor specifically for this repair. At its discretion, MOUTD/EZ-RIDER may use Contractor-specified parts available from its own stock if deemed in its best interest. Monthly, or at a period to be mutually agreed upon, reports of all repairs covered by this warranty shall be submitted by MOUTD/EZ-RIDER to the Contractor for reimbursement or replacement of parts. The Contractor shall provide forms for these reports.

4.2.3.2 CONTRACTOR SUPPLIED PARTS

MOUTD/EZ-RIDER may require that the Contractor supply new parts for warranty-covered repairs being performed by MOUTD/EZ-RIDER. These parts shall be shipped prepaid to MOUTD/EZ-RIDER from any source selected by the Contractor within 10 (ten) working days of receipt of the request for said parts. Parts supplied by the Contractor shall be Original Equipment Supplier (OEM) equivalent or superior to that used in the bus original manufacture.

4.2.3.3 DEFECTIVE COMPONENTS RETURN

The Contractor may request that parts covered by the warranty be returned to the manufacturing plant. The total cost for this action shall be paid by the Contractor. Materials should be returned in accordance with Contractor's instructions.

4.2.3.4 FAILURE ANALYSIS

The Contractor shall, upon specific request of MOUTD/EZ-RIDER, provide a failure analysis of fleet defect- or safety-related parts, or major components, removed from buses under the terms of the warranty, that could affect fleet operation. Such reports shall be delivered within 60 (sixty) days of the receipt of failed parts.

4.2.4 WARRANTY AFTER REPLACEMENT/REPAIRS

If any component, unit, or subsystem is repaired, rebuilt or replaced by the Contractor, or by MOU/D/EZ-RIDER with the concurrence of the Contractor, the component, unit, or subsystem shall have the un-expired warranty period of the original. Repairs shall not be warranted if Contractor- provided or authorized parts are not used for the repair; unless the Contractor has failed to respond within five days, in accordance with "Scope of Warranty Repairs".

The warranty on items determined to be fleet defects as defined in "Fleet Defects" shall be extended for the time and/or miles of the original warranty. This extended warranty shall begin on the repair/replacement date for corrected items on each bus.

APPENDIX A

Technical Specifications for Cutaway Style Buses

A SCOPE

A.1 GENERAL REQUIREMENTS

This specification defines the requirements for a small urban medium or light duty cutaway style transit bus that will be operated in the geographic, climatological and environmental conditions of MOUTD/EZ-RIDER's operating area in west Texas. The bus will be used for general service on urban and arterial streets and suburban express service. The bus shall have a minimum expected life of 5 years or 150,000 miles whichever comes first and is intended for the widest possible spectrum of passengers, including children, adults, the elderly, and persons with disabilities. The bus will have a maximum of 14 passenger seats when no passengers in wheelchairs are on board. The vehicle must also be capable of securely carrying a minimum of 2 passengers in wheelchairs.

A.2 COMPLIANCE WITH FMVSS AND FMCSR

The bus shall comply with all applicable FMVSS and shall accommodate all applicable FMCSR in effect at the date of manufacture.

A.3 COMPLIANCE WITH ADA

The bus shall meet the requirements of ADA regulations 49 CFR, part 38, subpart B: Accessibility Specifications for Transportation; Vehicles, Buses, Vans and Systems.

A.4 COMPLIANCE WITH OTHER REGULATIONS

The bus shall comply with all additional applicable Federal and all applicable Texas State regulations. These shall include, but not be limited to, Federal and Texas State safety accessibility, and security requirements.

A.5 CONFLICT WITH REQUIREMENTS

In the event of any conflict between the requirements of this Specification and any applicable legal requirement, the legal requirement shall prevail. Technical requirements that exceed the legal requirements are not considered to conflict.

A.6 IDENTICAL BUSES

It is intended for this contract, if necessary, to encompass building groups of buses at different times during the contract period. Each part and component that comprises a new bus shall be new and identical to the same part or component in each bus manufactured during the contract period.

A.7 DELIVERY OF COMPLETE BUSES

Each bus shall be delivered complete and ready for service and no advantages shall be taken by the bus manufacturer in the omission of any parts or details that make a bus complete and ready for service, even if such parts are not mentioned in these specifications.

A.8 BUS SERVICE LIFE

The bus shall be designed to operate in urban transit service for at least 5 years or 150,000 miles. It shall be capable of operating a minimum of 30,000 miles per year including the fifth year.

A.9 ALTOONA TESTING

The proposed bus shall have undergone appropriate structural testing and/or analysis, including STRUAA FTA required Altoona testing, to ensure adequacy of design for light duty urban transit service. Any items that required repeated repairs or replacement must undergo the corrective action with supporting test and analysis. A report clearly describing and explaining the failures and corrective actions taken to ensure any and all such failures will not re-occur shall be submitted to MOUTD/EZ-RIDER. Submit a list of all models or variations of the proposed bus that have been Altoona tested (i.e. different bus lengths, different power plants, different fuel types etc.) and the date of the Altoona test. In addition to the bus model/test date list, submit only the fuel economy discussion or summary of each test in which the bus burned gasoline.

A.10 DESIRED DIMENSIONS

A.10.1 Body Length

24 to 28 feet (\pm 3 inches)

A.10.2 Body Width

96 to 102 inches (\pm 1 inch)

A.10.3 Maximum Overall Height

130 inches, includes all rigid roof mounted items such as A/C, exhaust, etc.

A.10.4 Maximum Curb Weight

Curb weight of the bus, as defined in section 5.1.2, shall be minimized to the extent practical without compromising integrity and durability and shall not exceed 14,500 pounds.

A.10.5 Seating/Standing Capacity

The passenger seating capacity shall be no more than 14 for any vehicle length. The passenger standing capacity shall be determined by the amount of useable floor space. Each standing passenger space shall utilize 1.5 square feet of useable floor space.

A.10.6 Floor Height

Height of the floor above the street shall be no more than 12 inches measured at the centerline of the passenger doorway. The floor may be inclined along the longitudinal axis of the bus, and the incline shall be less than 3 1/2° off the horizontal except locally at the doors where 2° slope toward the door is allowed. All floor measurements shall be with the bus at the design running height and on a level surface and with the standard, 16" or equal, tires.

A.10.7 Interior Headroom

Headroom above the aisle and at the centerline of the aisle seats shall be no less than 76 inches in the forward half of the bus tapering to no less than 74 inches forward of the rear settee. At the centerline of the window seats, headroom shall be no lower than 65 inches. Headroom at the back of the rear bench seat may be reduced to a minimum of 56 inches, but it shall increase to the ceiling height at the front of the seat cushion.

A.10.8 Door Opening Dimensions

The passenger door clear width shall be no less than 36 inches with the doors fully opened. When

open, the doors shall leave an opening no less than 76 inches in height.

A.11 PERFORMANCE

A.11.1 MAXIMUM OPERATING DISTANCE

The operating range of the bus when run on the transit bus duty cycle shall be at least 350 miles.

A.11.2 FUEL ECONOMY

The engine shall be tuned when delivered to provide optimized performance as specified above, including fuel economy. All related components and configuration that affect fuel economy, such as, fan control/operation, transmission, axle ratio, etc., shall be selected accordingly.

A.12 MAINTENANCE AND INSPECTION

A.12.1 INSPECTION INTERVAL

Scheduled maintenance tasks shall be related and shall be grouped in maximum mileage intervals. Routine scheduled maintenance actions, such as filter replacement and adjustments, shall not be required at intervals of less than 6,000 miles, or as indicated from a regular oil analysis program and routine daily service performed during the fueling operations. Higher levels of scheduled maintenance tasks shall occur at even multiples of mileage for lower level tasks.

A.12.2 SPECIAL TOOLS REQUIREMENT

Any special tools required to maintain the bus shall be provided in quantities as specified. Cost of tools shall be submitted separately as optional costs.

A.12.3 COMPONENT OR PART ACCESSIBILITY

All systems, components or parts subject to periodic maintenance or that are subject to a failure shall be readily accessible for service and inspection. To the extent practicable, removal or physical movement of components unrelated to the specific maintenance and/or repair tasks involved shall not be permitted. As a goal, relative accessibility of components, measured in time required to gain access, shall be inversely proportional to frequency of maintenance and repair of the components.

A.12.4 COMPONENT OR PART INTERCHANGEABILITY

Components with identical functions shall be interchangeable to the extent practicable. These components shall include, but not limited to, passenger window hardware, interior trim, lamps, lamp lenses, and seat assemblies. Components with non-identical functions shall not be, or appear to be, interchangeable. A component shall not be used in an application for which it was neither designed nor intended. Any one component or part used in the construction of these buses shall be an exact duplicate in design, manufacture, and assembly for each bus in each order group in this Contract.

A.12.5 MAINTENANCE MANUALS

A complete "as built" manual including complete wiring diagrams shall be provided on a thumb drive, accurately referencing colored, numbered, and function coded wiring applications.

A.13 FIRE SAFETY

A.13.1 GENERAL REQUIREMENTS

The bus shall be designed and manufactured in accordance with all applicable fire safety and smoke emission regulations. These provisions shall include the use of fire-retardant/low-smoke materials, fire detection systems, fire resistant separations, and facilitation of passenger evacuation.

A.13.2 MATERIALS REQUIREMENTS

All materials used in the construction of the Passenger Compartment of the bus shall be in accordance with the Recommended Fire Safety Practices defined in FTA Docket 90, dated October 20, 1993. Materials entirely enclosed from the passenger compartment, such as insulation within the sidewalls, need not comply. In addition, smaller components and items, such as seat grab rails, switch knobs and small light lenses, shall be exempt from this requirement.

A.13.3 ENGINE COMPARTMENT AND WHEEL WELL FIRE RESISTANCE AND SEPARATION

Engine Compartment/Passenger Compartment Fire Resistance and Separation

The passenger and engine compartments shall be separated by a bulkhead(s) constructed of fire resistant materials. The engine compartment shall include areas where the engine and exhaust systems are housed including the muffler, if mounted above the horizontal shelf. Such materials shall preclude or retard propagation of an engine compartment fire into the passenger compartment for a period of 10 minutes and shall be in accordance with the Recommended Fire Safety Practices defined in FTA Docket 90, dated October 20, 1993. Only necessary openings shall be allowed in the bulkhead, and these shall be fireproofed. Any passageways for the climate control system air shall be separated from the engine compartment by fireproof material. Piping through the bulkhead shall have copper, brass, or fireproof fittings sealed at the bulkhead with copper or steel piping on the forward side. Wiring may pass through the bulkhead only if connectors or other means are provided to prevent or retard fire propagation through the bulkhead. Engine access panels in the bulkhead shall be fabricated of fireproof material and secured with fireproof fasteners. These panels, their fasteners, and the bulkhead shall be constructed and reinforced to minimize warping of the panels during a fire that will compromise the integrity of the bulkhead.

Wheelwell/Passenger Compartment Fire Resistance and Separation

The passenger compartment and each wheel well shall be separated by fire resistant materials. Such materials shall preclude or retard propagation of a tire or other fire into the passenger compartment for a period of 10 minutes and shall be in accordance with the Recommended Fire Safety Practices defined in FTA Docket 90, dated October 20, 1993.

A.14 ENVIRONMENTAL REQUIREMENTS

A.14.1 GENERAL REQUIREMENTS

In the design and manufacture of the bus, the bus manufacturer shall make every effort to reduce the amount of potentially hazardous waste generated by MOU/D/EZ-RIDER when maintaining the bus in accordance with the procedures contained in the manufacturer's maintenance manuals. In accordance with Section 6002 of the Resource Conservation and Recovery Act the Bus manufacturer shall use, whenever possible and allowed by the specifications, recycled materials in the manufacture of the bus.

A.14.2 EXHAUST EMISSIONS

The engine shall meet all applicable emission requirements.

B STRUCTURE

B.1 DESIGN

B.1.1 GENERAL REQUIREMENTS

The bus shall have a clean, smooth, simple design, primarily derived from bus performance requirements and passenger service criteria established by this specification. The body and windows shall be sealed to prevent leaking of air, dust, or water under normal operating conditions

and during cleaning for the service life of the bus. Exterior panels shall be sufficiently stiff to minimize vibration; drumming or flexing while the bus is in service. When panels are lapped, the upper and forward panels shall act as a watershed. However if entry of moisture into interior of bus is prevented by other means, then rear cap panels may be lapped otherwise. The windows, hatches, and doors shall be able to be sealed.

B.1.2 STRUCTURE LIFE

The structure of the bus shall be designed to withstand the transit service conditions typical of an urban duty cycle throughout its service life. The bus structural frame shall be designed to operate with minimum maintenance or repairs throughout a minimum 5-years. The bus shall be constructed using only inherently corrosion-resistant materials and fasteners to minimize deterioration. No structural failure or cracks shall occur during the 5-year bus life. A steel structure with a 5 year/150,000 mile warranty will be considered through submittal of a deviation.

B.1.3 DISTORTION

The bus, loaded to GVWR and under static conditions, shall not exhibit deflection or deformation that impairs the operation of the steering mechanism, doors, windows, passenger escape mechanisms and service doors.

B.1.4 CRASHWORTHINESS

The bus body and roof structure shall withstand a static load equal to 150 percent of the curb weight evenly distributed on the roof with no more than a 6-inch reduction in any interior dimension. Windows shall remain in place and shall not open under such a load. These requirements must be met without components such as roof-mounted air conditioning installed. The bus shall withstand a 25-mph impact by a 4,000-pound automobile at any point, excluding doorways, along either side of the bus with no more than 3 inches of permanent structural deformation at seated passenger hip height. This impact shall not result in sharp edges or protrusions in the bus interior. Exterior panels below 35 inches from ground level shall withstand a static load of 2,000 pounds applied perpendicular to the bus by a pad no larger than 5 inches square. This load shall not result in deformation that prevents installation of new exterior panels to restore the original appearance of the bus. To protect passengers seated in area, the basic bus structure shall incorporate a substantial side impact barrier. The barrier shall include a stainless steel plate, continuous between the front wheel arches and the rear suspension (except in the width of the exit door opening). The impact barrier shall be an integral welded part of the undercarriage portion of the bus structure.

Results of such testing shall meet the standards set forth in Federal Register Volume 47, No. 195, Section 2.1.2.10.

B.1.5 CORROSION RESISTANCE

The bus frame, body, structure and suspension components shall resist corrosion or deterioration from atmospheric conditions and road salts for a period of 5 years or 150,000 miles whichever comes first. With the exception of periodically inspecting the visible coatings applied to prevent corrosion and reapplying these coatings in limited spots, the Bus manufacturer shall not require the complete reapplication of corrosion compounds over the life of the bus. The bus shall be constructed using only inherently corrosion-resistant materials and fasteners to minimize deterioration. All materials that are not inherently corrosion resistant shall be protected with corrosion-resistant coatings. All joints and connections of dissimilar metals shall be corrosion-resistant and shall be protected from galvanic corrosion.

B.1.6 UNDERCOATING

Except as noted below, the entire body lower frame assembly, cab, underbody, understructure/frame, chassis, fenders, wheel housings, and lower skirt panels shall be

completely undercoated. Undercoating shall be applied to a uniform thickness throughout with no bare spots. Items and components that shall not be undercoated include non-metallic fender and engine, transmission, drive shaft(s), differential/axle housing, brakes, lube fittings, exhaust system, and power steering. The inner surfaces of structural tubing other than stainless steel shall be protected with a corrosion inhibitor or undercoating.

B.2 VEHICLE REQUIREMENTS

B.2.1 CHASSIS

A shuttle bus chassis with a GVWR of 14,500 pounds or GM4500 with a GVWR of 14,200 pounds, or approved equal and must include the following: 4,600 to 5,000 pound front GAWR; 9,600 pound minimum Rear Axle; or equivalent.

B.2.2 FUEL TANK

The vehicle fuel tank must be installed by the chassis manufacturer. Single fuel tank with maximum capacity available for the chassis configuration.

B.3 TRANSMISSION

B.3.1 GENERAL REQUIREMENTS

Vehicle will be rear wheel drive with OEM 6 speed automatic transmission with overdrive, automatic shifts with a torque converter.

B.3.2 TRANSMISSION DIAGNOSTICS

The electronically controlled transmission shall have on-board diagnostic capabilities, be able to monitor functions, store and time stamp out-of-parameter conditions in memory, and communicate faults and vital conditions to service personnel. The transmission shall contain built-in protection software to guard against damage.

B.4 BRAKE SYSTEM

Brake system to be power, self-adjusting, four wheel disc with four wheel ABS

Service hydraulic brakes shall be furnished on all wheels of each bus. Disc brakes shall be supplied. The brake system shall conform to the requirements of all Federal and State regulations, designed so that conformance can be maintained throughout the normal adjustment cycle. The braking system shall include service brakes, a parking and emergency brake. The brake system shall be approved by MOUTD/EZ-RIDER.

B.5 EXHAUST SYSTEM

B.5.1 GENERAL REQUIREMENTS

Exhaust manifolds, muffler and tail pipe assemblies shall be tight and allow no emission of fumes or smoke other than from open end of tail pipe. Exhaust pipes and muffler properly installed with heat shield and baffles

B.5.2 MATERIAL

The exhaust muffler shall be a steel heavy plate type muffler designed with proper acoustical qualities and tailored to the engine requirements and installation. Exhaust pipes shall be constructed of steel metal tubing or better direct from the muffler to a location in the rear of the bus.

B.6 ALTERNATOR

220 - 225 amp OEM alternator or equivalent

B.7 ELECTRICAL

B.7.1 BATTERIES

Dual OEM batteries rated at 600 CCA or greater each, or equivalent.

B.7.2 ELECTRICAL SYSTEM

Original manufacturer's vehicle wiring shall remain unchanged to the greatest extent practicable consistent with the requirements of these specifications. A separate electrical panel for all add-on components located in the bulkhead with locking panel shall be provided.

B.7.3 DIAGNOSTICS AND MAINTENANCE

The vehicle shall be supplied with an alternator-powered 12-volt electrical system connected to AN on-board diagnostics system. Heavy-duty circuit board junction panel to be provided inside the bus, easily accessible from the inside. Board to be equipped with heavy-duty 12-volt DC relays and 12-volt DC circuit breakers and blade type fuses. Electrical components which may require servicing or replacement shall be readily accessible through access panels or covers. Installation of aftermarket electrical components and systems in the engine compartment shall be eliminated to the greatest possible extent.

B.8 SUSPENSION

Front axle shall be heavy-duty type. Spring and shock absorber type suspension or approved equal is acceptable.

B.9 MODIFICATIONS

Only chassis frame modifications shall consist of frame rail extension section engineered for the application and shall be installed by a recognized "qualified vehicle modifier (QVM)." No modifications shall be made to the OEM drive train (i.e. engine, transmission), OEM drive train mounts, and/or OEM drive train specified component positioning.

B.10 KNEELING

B.10.1 GENERAL REQUIREMENTS

An optional kneeling system shall lower and raise the front of the bus a minimum of 3 inches, both above and below the level of the bus maintained by the leveling valves, at any load up to and including GVWR, measured at the longitudinal centerline of the entrance door.

B.10.2 KNEELING RATE

The bus shall kneel at a maximum rate of 1.25 inches per second at essentially a constant rate. After kneeling, the bus shall rise within 2 seconds to a height permitting the bus to resume service and shall rise to the correct operating height within 7 seconds regardless of load up to GVWR. During the lowering and raising operation, the maximum acceleration shall not exceed 0.2g and the jerk shall not exceed 0.3g/sec.

B.10.3 SAFETY INTERLOCK SYSTEM

The safety interlock will disable the ramp unless certain vehicle safety conditions are achieved, and will lock the transmission shifter while in Park when the ramp is deployed, or if the Park Brake is applied. Locking the shifter while Park Brake is set prevents premature brake wear

MOUTD/EZ-RIDER Cutaway
from driving with the Park Brake set.

B.11 BODY STRUCTURE

The body shall be plumb, square and level before installation on the body.

B.11.1 BODY EXTERIOR

Exterior mirrors are to be heated remote.

Rain gutters shall be provided to prevent water flowing from the roof onto the passenger doors and driver's side window. When the bus is decelerated, the gutters shall not drain onto the windshield, driver's side window or door boarding area. Cross-sections of the gutters shall be adequate for proper operation.

Flexible black fender skirts shall be provided at the rear wheel housing. Wheels and tires shall be removable with the fender skirts in place. Mud flaps are required behind the rear tires. The OEM chassis chrome bumper shall be provided on the front of the bus. The rear bumper shall be constructed from 10-gauge steel, powder coated black.

B.11.2 WINDOWS

To create a feeling of light and spaciousness in the passenger compartment, the main passenger windows shall be as large as possible, 45" wide x 36" high minimum. Narrower windows may be used to fill smaller areas as necessary. The windows are to be glazed with nominal 1/8" tempered safety glass. Emergency escape provisions shall comply with FMVSS 217.

All passenger windows shall not open with the exception of the driver window and destination window assemblies. All aluminum and steel material will be clear anodized to help prevent corrosion. All passenger windows and driver's window shall be quick-change design or submitted deviation.

All windows must meet FMVSS 205 and the minimum requirements. Irregular shaped windows are to be split fix non-egress. The destination window assembly shall be split fix with the transom glazing clear. All emergency handles shall be located on the right side of the window assemblies. Emergency exit and window release lever operation instructions must be metal and bolted to window frame rail adjacent to each seat. Emergency instructions must be printed in both English and Spanish.

B.11.3 FENDER SKIRTS

Features to minimize water spray from the bus in wet conditions shall be included in wheel housing design. Fender skirts shall be flexible. Wheels and tires shall be removable with the fender skirts in place.

B.11.4 SPLASH APRONS

Splash aprons, composed of 1/4-inch-minimum composition or rubberized fabric, shall be installed behind and/or in front of wheels as needed to reduce road splash and protect underfloor components. The splash aprons shall extend downward to within 4 inches of the road surface at static conditions. Apron widths shall be no less than tire widths. Splash aprons shall be bolted to the bus understructure. Splash aprons and their attachments shall be inherently weaker than the structure to which they are attached. The flexible portions of the splash aprons shall not be included in the road clearance measurements. Other splash aprons shall be installed where necessary to protect equipment that extends below the frame rails behind the rear axle. Aprons shall have a maximum width compatible with the understructure of the bus.

B.11.5 WINDSHIELD WIPERS

The bus shall be equipped with an electrically powered, Sprague Industries, OEM or submitted deviation, variable speed windshield wiper for each half of the windshield. For non-synchronized wipers, separate controls for each side shall be supplied.

B.11.6 ROOF VENTILATORS / ESCAPE HATCHES

An escape hatch shall be incorporated into the roof.

B.11.7 NUMBERS AND SIGNS

Numbers and signs as specified by MOUTD/EZ-RIDER shall be applied to the exterior of the bus.

B.11.8 EXTERIOR AUDIBLE WARNING DEVICES

B.11.8.1 HORN

Dual electric horns shall be mounted behind the front bumper and be protected from road splash. Such horns shall be controlled by a push button located in center of steering wheel.

B.11.8.2 BACK-UP ALARM

An audible warning shall sound when reverse gear is selected. Visible reverse operation warning shall conform to SAE Standard J593. Audible reverse operation warning shall conform to SAE Recommended Practice J994 Type C or D.

B.11.8.3 KNEEL ALARM

An indicator visible to the operator shall be illuminated until the bus is raised to a height adequate for safe street travel. An audible warning alarm will sound simultaneously with the operation of the kneeler to alert passengers and bystanders.

B.11.9 PASSENGER ENTRY

B.11.9.1 VEHICLE ACCESSIBILITY RAMP

Vehicle shall be integrated with a Braun ramp, or approved equal, with a 1000 pound capacity and with a minimum useable ramp area of 34" in width x 62" inches in length. Design being capable of deploying to the ground at a maximum 5:1 continuous grade slope, or equivalent.

B.11.9.2 PASSENGER ENTRY DOOR

The entry door shall be an outward opening, 40" double-leaf type with a molded safety seal at center. The door shall be electrically controlled by a switch located within reach of a seated driver. The door clear opening shall be a minimum of 38.5" wide by 75" high. Doors must be parallel to the frame rails of the vehicle to allow for safe parallel curb loading in the event the ramp does not need to be deployed. Auto-reopen switch included.

B.11.10 LIGHTING

B.11.10.1 EXTERIOR LIGHTING

All exterior lighting, with the exception of lighting supplied by the chassis manufacturer, shall be LED.

Amber front marker lights, red rear marker lights, red rear light bar, OEM stop/turn/back-up lights, license plate light.

B.11.10.2 INTERIOR LIGHTING

LED dome lights to be provided. The passenger compartment lighting shall be controlled by a switch located within the driver area. Passenger entry shall be illuminated by an LED light strip. Driver courtesy lights shall be included.

B.11.11 FLOOR

B.11.11.1 SUB FLOOR MATERIAL

Fiberglass composite preferred; plywood acceptable with sealed edges, minimum 5/8" thick (minimum), CDX plywood, mounted with Tek screws installed into the steel floor frame.

B.11.11.2 WHEEL HOUSINGS

The rear wheel housings shall be a minimum of 14-gauge galvanized steel. Interior floor covering shall be Slip Resistant Flooring a minimum of 70 mills, Seam-sealed.

B.11.11.3 LEVEL FLOOR

The passenger seating area shall have a level floor throughout; sloped floor designs will not be allowed.

B.11.12 SEATING

B.11.12.1 DRIVER SEAT

To be OEM seat or approved equal.

B.11.12.2 PASSENGER SEATS

Freedman, American Seating, or approved equal. Maximum of fourteen (14) ambulatory passenger seats and a minimum of two (2) wheelchair stations. No wheelchair position shall be blocked from loading and unloading due to the use of another wheelchair position.

B.11.13 HEATING/AIR CONDITIONING

In addition to OEM driver area heating, defroster, and air conditioning, a separate heating and air conditioning system suitable to daily operation in West Texas, extreme heat and cold, with the ability to refresh the air and temperature of the interior of the vehicle to maintain passenger comfort is desired. Please specify the proposed system.

B.11.14 USEFUL LIFE

Medium-size, light-duty transit buses (approximately 25'–35'): at least five years or an accumulation of at least 150,000 miles.

B.11.15 WHEELS AND TIRES

B.11.15.1 WHEELS

Steel or machine finished aluminum hub piloted wheels, or submitted deviation shall be

provided. All wheels shall be interchangeable and shall be removable without a puller. Wheels shall be compatible with tires in size and load-carrying capacity.

B.11.15.2 TIRES

Tires shall be suitable for the conditions of transit service and sustained operation at the maximum speed capability of the bus.

B.11.16 ENGINE

Engine shall use regular unleaded gasoline or clean diesel.

B.11.16.1 ENGINE DIAGNOSTICS

The engine control system shall have onboard diagnostic capabilities able to monitor vital engine functions; store and time stamp out of parameter conditions in memory, and communicate faults and vital conditions to service personnel. Diagnostic reader device connector ports, suitably protected against dirt and moisture, shall be provided in operator's area and near or inside engine compartment. The onboard diagnostic system shall inform the operator via visual and/or audible alarms when out-of-parameter conditions exist for vital engine functions. The engine shall be a gas engine with sequential, multiport, electronic, returnless fuel injection. Emissions controls shall contain dual three-way converters and heated oxygen sensors.

B.11.16.2 STARTER

The engine starter shall operate from normal vehicle voltage and be sized to provide sufficient torque to turn the engine reliably under all hot or cold engine or ambient temperature conditions.

B.11.16.3 DRIVE SHAFT

The drive shaft shall be guarded to prevent it from striking the floor of the bus or the ground in the event of a tube or universal joint failure.

B.11.17 INTERIOR

B.11.17.1 FLOOR COVERING

The floor covering shall have a non-skid walking surface that remains effective in all weather conditions and complies with all ADA requirements.

B.11.17.2 INSTRUMENTS & CONTROLS

- Speedometer
- Odometer
- Engine Coolant Temperature
- Tachometer
- Odometer
- Trip Computer
- Fuel Tank Level Gauge
- Low Fuel Warning Light
- Headlight High Beam Indicator
- Parking Brake "ON" indicator light
- Directional Signal and Flasher Action light

MOUTD/EZ-RIDER Cutaway
Fasten Safety Belt warning light
Emergency Flasher
Door Control
Kneeling Switch
AC/Heater Switch
Two-speed wiper control with intermittent feature
Switch for passenger compartment lights
Driver's Dome light

C PASSENGER REQUIREMENTS

C.1 FRONT DOORWAY

Front doors, or the entry area, shall be fitted with ADA compliant assists. Assists shall be as far outward as practicable, but shall be located no farther inboard than 6 inches from the outside edge of the entrance step and shall be easily grasped by a 50th-percentile female boarding from street level. Door assists shall be functionally continuous with the horizontal front passenger assist and the vertical assist and the assists on the wheel housing or on the front modesty panel.

C.2 OVERHEAD

Except forward of the standee line, a continuous, full grip, overhead assist shall be provided. This assist shall be convenient to standees anywhere in the bus and shall be located over the center of the aisle seating position of the transverse seats. The assist shall be no less than 72 inches above the floor.

D ACCESSIBILITY PROVISIONS

D.1 GENERAL REQUIREMENTS

The design and construction of the bus shall be in accordance with all requirements defined in 49 CFR, Part 38, Subpart B: ADA Accessibility Specifications for Transportation Vehicles; Buses, Vans and Systems. The design load for this section shall be 1,000 lbs. Space and body structural provisions shall be provided at the front of the bus to accommodate the wheelchair loading system. Prior to submission of bid, the bus manufacturer shall provide a plan, including layout drawings for entry, maneuvering, parking, and exiting of wheelchair passengers, to show compliance with ADA regulations.

D.2 RAMP SYSTEM

D.2.1 General Requirements

A ramp system with a capacity of at least 1000 lbs., compliant to requirements defined in 49 CFR Part 38, Subpart B, §38.23c shall provide ingress and egress quickly, safely, and comfortably, both in forward and rearward directions, for a passenger in a wheelchair from a level street or curb. The platform shall be designed to protect the ramp from damage and persons on the sidewalk from injury during the extension/retraction or lowering/raising phases of operation. The loading platform shall be covered with a replaceable or renewable, nonskid material and shall be fitted with devices to prevent the wheelchair from rolling off the sides during loading or unloading. Deployment or storage of the ramp shall require no more than 15 seconds. Q'Straint INQLINE Assist to be included.

D.2.2 Operator's Position

The controls shall be mounted in the operator's area and the loading system operation shall be under the surveillance and complete control of the operator when positioned in the operator's seat.

D.2.3 Manual Operation

A manual override system shall permit unloading a wheelchair and storing the device in the event of a primary power failure. The manual operation of the ramp shall not require more than 20 lbs. of force.

D.2.4 Wheelchair Positions

A minimum of two forward-facing wheel chair positions that comply with ADA requirements, as close to the wheelchair loading system as practical shall be provided. Wheelchair positions shall be at least 30 inches by 52 inches.

D.2.5 Wheelchair Restraints

Each position shall include Q'Straint floor anchorage system (www.qstraint.com) or submitted deviation. Each restraint shall have a means of storage to be used when the wheelchair position is used for conventional seating. The restraint mountings shall be integral to the surrounding seating and bus structure.

D.2.6 Wheelchair Circulation

The portion of the bus shall accommodate easy travel for a passenger in a wheelchair to and from the loading device and wheelchair stations. No portion of the wheelchair or its occupant shall protrude into the normal aisle of the bus when parked in a wheelchair station. As a guide, no wheelchair station width dimension should be less than 33.5 inches. Areas requiring 90-degree turns for wheelchairs should have a clearance arc dimension no less than 45 inches and in the area adjacent to the wheelchair stations, where 180-degree turns are expected to occur, provision should be made for a 60-inch-diameter circle. A vertical clearance of 12 inches above the floor surface should be provided on the outside of turning areas for a wheelchair footrest.

D.2.7 Passenger Stop Requests

A passenger "Stop Requested" signal system that complies with applicable ADA requirements defined in 49 CFR, Part 38.37 shall be provided.

D.2.8 Wheelchair Position Requirements

Each wheelchair and priority seating positions shall be provided with a stop request signal. Such a signal shall be no higher than 4 feet above the floor. Instructions shall be provided to clearly indicate function and operation of these signals.

E OPERATOR REQUIREMENTS

E.1 GENERAL REQUIREMENTS

Two vertical stanchions will be provided behind the driver's seat and filled to cover the back of the driver's seat for protection. All switches and controls necessary for the safe

operation of the bus shall be conveniently located in the operator's area and shall provide for ease of operation. Switches and controls shall be divided into basic groups and assigned to specific areas, in conformance with SAE Recommended Practice J680, Revised 1988, Location and Operation of Instruments and Controls in Motor Truck Cabs, and be essentially within the hand reach envelope described in SAE Recommended Practice, J287, Driver Hand Control Reach.

Operational controls, instrumentation, switches, and other system controls shall not be mixed with ventilation diffusers and non-operational controls or readouts. Controls shall be located so that boarding passengers may not easily tamper with control settings. The door control, kneel control, windshield wiper/washer controls, and run switch shall be in the most convenient operator locations. They shall be identifiable by shape, touch, and permanent markings. Doors shall be operated by a single control, conveniently located and operable in a horizontal plane by the operator's left or right hand. The setting of this control shall be easily determined by position and touch.

E.2 HVAC CONTROLS

A selector switch shall be configured with the listed functions:

Off – System off.

Cool – Cooling Mode

Low Vent – Ventilation Mode with fans on low speed.

High Vent – Ventilation Mode with fans on high speed.

Low Heat –Heating Mode with fans on low speed.

High Heat –Heating Mode with fans on high speed.

E.3 DESTINATION SIGNS

E.3.1 General Requirements

A light emitting diode (LED) destination sign system, as manufactured by Hanover or submitted deviation, shall be installed on each bus. The characters formed by the system shall meet the requirements of the Americans with Disabilities Act (ADA) of 1990 Reference 49 CFR Section 38.39.

E.3.2 Sign Illumination Requirements

The source of illumination shall consist of pixels utilizing high intensity light emitting diodes ("LED") with a light wavelength of 590 NM. The LED's shall have a UV resistant epoxy lens and be resistant to the effects of moisture.

E.3.3 Sign Enclosures

The signs shall be enclosed in a manner such as to inhibit entry of dirt, dust, water and other contaminants during normal operation or cleaning. Access shall be provided to clean the inside of the Bus window(s) associated with the Sign and to remove or replace the Sign components. Access panels and display boards shall be mounted for ease of maintenance/replacement. Any exterior Rear Sign enclosure used shall be made of Polycarbonate material containing fiberglass reinforcement.

E.3.4 Controller (see Automated Announcement OCU)

A single Operator's Control Unit (OCU) shall control all signs. The OCU shall contain a

display of at least two lines of 20-character capability to display selected and displayed messages. The OCU shall utilize a multi-key conductive rubber pad keyboard and be designed for transit operating conditions and contain an audio annunciator that beeps indicating that a key is depressed. The OCU shall continuously display the message associated with the selected destination readings (except the emergency message). The OCU shall also contain the capability to manually select the block number sign information (from 1 to 4 alpha-numeric characters) to be sent to the block number sign, independent of any pre-programmed destination sign message information. Pre-programmed messages shall be capable of being changed without re-entering a message code. An auxiliary port shall be made provided for wireless inputs.

E.3.5 Front Sign Location

The front sign shall be located in a separate compartment adjacent to the roofline and shall be the maximum size allowed to fit in the sign window area.

E.3.6 Side Sign Location

The side sign shall be located adjacent to the upper edge of the first fixed window behind the front door and shall be a minimum size of 14 rows x 108 columns; 4”h x 42”w. The side sign shall be protected by an enclosure consistent with the conditions found in the passenger compartment.

E.3.7 OTHER CONTROLS

Windshield Wiper/Washer Control

A control shall be provided to vary the speed of the required windshield wipers. The windshield washer control may be integrated into the windshield wiper speed, preferably with a push or pull motion.

E.3.8 FIRE EXTINGUISHER

A five-pound dry chemical fire extinguisher shall be installed in each bus.

E.3.9 ROAD HAZARD EQUIPMENT

A road hazard kit shall be installed in each bus.

E.3.10 FAREBOX

A Diamond XV farebox (or equivalent) with two (2) vaults will be installed. Provision shall also be made to connect a GFI Fastfare Farebox (Installation of the farebox is an optional part of this specification). The cable shall be run to the farebox platform and have a minimum of six feet of slack to reach the farebox. A Farebox Tamper cable (Belden 8205 or equal) shall be run from the farebox base area to the six-inch radio system enclosure. A farebox J1708 Circuit cable (Belden 9841 or equal) shall be run from the farebox base area to the internal destination sign area.

E.3.11 EYERIDE EYENET

Option for EyeRide EyeNet router to be installed in each vehicle.

E.3.12 VIDEO SURVEILLANCE

The system and its data are to be used for improvement of operator driving skills and to enhance operator security. A system is designed specifically to monitor and save both video and audio events based upon either predetermined criteria or manually triggered by an operator, as manufactured by CWI or submitted deviation. Any deviation from the specified system shall not be approved unless it fully integrates with existing infrastructure for video surveillance system.

E.3.13 BICYCLE RACK

Option for a two (2)-bicycle rack with a stainless steel or other non-corrosive finish (provided and installed) shall be included.

APPENDIX B

Federally Required and Other Contract Clauses

Purchase of Buses and Rolling Stock

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1. **FLY AMERICA REQUIREMENTS** (49 U.S.C. §40118, 41 CFR Part 301-10) ***Applies only to contracts valued at \$3,000 or more that include travel outside of the U.S. where federal funds will be used to pay for at least a portion of the transportation.***
2. **BUY AMERICA REQUIREMENTS** (49 U.S.C. 5323(j), 49 CFR Part 661) ***Applies only to contracts for Construction and Acquisition of Goods or Rolling Stock valued at more than \$100,000.*** The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.
3. **CARGO PREFERENCE REQUIREMENTS** (46 U.S.C. 1241, 46 CFR Part 381) ***Applies only to contracts valued at \$3,000 or more that involve transportation of equipment, materials, or commodities which may be transported by ocean vessels, where federal funds will be used to pay for at least a portion of the purchase.*** Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.
4. **ENERGY CONSERVATION REQUIREMENTS** (42 U.S.C. 6321 et seq., 49 CFR Part 18) ***Applies all contracts valued at \$3,000 or more for construction and/or the purchase of goods, services, or rolling stock, where federal funds will be used to pay for at least a portion of the purchase.*** The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act and to assure compliance by any subcontractors under his/her control.
5. **CLEAN WATER REQUIREMENTS** (33 U.S.C. 1251) ***Applies only to contracts valued in excess of \$100,000 for construction and/or the purchase of goods, services, or rolling stock, where federal funds will be used to pay for at least a portion of the purchase.***
 - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.
 - (2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

6. BUS TESTING, (49 U.S.C. 5323(c), 49 CFR Part 665) Applies only to contracts valued at \$3,000 or more that involve the purchase of buses or other rolling stock/turnkey where federal funds will be used to pay for at least a portion of the equipment. The Contractor [Manufacturer] agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
- 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

7. PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS (49 U.S.C. 5323, 49 CFR Part 663) Applies only to contracts valued at \$3,000 or more that involve the purchase of buses or other rolling stock/turnkey where federal funds will be used to pay for at least a portion of the equipment. 49 C.F.R. 661.12, but has been modified to include FTA's Buy America requirements codified at 49 U.S.C. A 5323(j).

Pre-Award and Post-Delivery Audit Requirements - The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

- (1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
- (2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.
- (3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1)

manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

8. **LOBBYING** (31 U.S.C. 1352, 49 CFR Part 19, 49 CFR Part 20) ***Applies only to contracts valued at \$3,000 or more that involve construction/architectural/engineering, the purchase of buses or other rolling stock/turnkey, professional services or operational service, where federal funds will be used to pay for at least a portion of the goods or services.*** The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7. Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

9. **ACCESS TO RECORDS AND REPORTS** (49 U.S.C. 5325, 18 CFR 18.36 (i), 49 CFR 633.17) ***Applies to all contracts valued at \$3,000 or more where federal funds will be used to pay for at least a portion of the purchase.*** The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.

2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized

representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49

U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

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

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

7. FTA does not require the inclusion of these requirements in subcontracts.

Sources of Authority: ¹ 49 USC 5325 (a) ² 49 CFR 633.17 ³ 18 CFR 18.36 (i)

10. FEDERAL CHANGES (49 CFR Part 18) Applies to all contracts and subcontracts at valued at \$3,000 or more where federal funds will be used to pay for at least a portion of the equipment. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the [Master Agreement](#) between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

11. CLEAN AIR (42 U.S.C. 7401 et seq., 40 CFR 15.61, 49 CFR Part 18) Applies to all contracts and subcontracts with a value exceeding \$100,000 or with indefinite quantities more than \$100,000 in any year, where federal funds are employed.

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

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

12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 USC 3701(b)(3)(A)(iii), 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 49 CFR 18.36(i)(6) Applies only to contracts valued at greater than \$100,000.

Contract Work Hours and Safety Standards

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) **Violation; liability for unpaid wages; liquidated damages** - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) **Withholding for unpaid wages and liquidated damages** - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

13. NO GOVERNMENT OBLIGATION TO THIRD PARTIES *Applies to all contracts valued at \$3,000 or more, where federal funds are used.*

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

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

14. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS (31 U.S.C. 3801 et seq., 49 CFR Part 31 18 U.S.C. 1001, 49 U.S.C. 5307) Applies to all contracts valued at \$3,000 or more, where federal funds are employed.

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

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

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

15. TERMINATION (49 U.S.C. Part 18, [FTA Circular 4220.1E](#)) Applies to all contracts valued in excess of \$10,000 where federal funds are employed. The termination clause in the base contract or specifications, in that order, takes precedence over the following provision, provided, however, that all contracts valued in excess of \$10,000 must meet the following minimum requirements.

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

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, MOUTD/EZ-RIDER may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by MOU/D/EZ-RIDER that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, MOU/D/EZ-RIDER, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) MOU/D/EZ-RIDER in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to MOU/D/EZ-RIDER's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from MOU/D/EZ-RIDER setting forth the nature of said breach or default, MOU/D/EZ-RIDER shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude MOU/D/EZ-RIDER from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that MOU/D/EZ-RIDER elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by MOU/D/EZ-RIDER shall not limit MOU/D/EZ-RIDER 's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) MOU/D/EZ-RIDER, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, MOU/D/EZ-RIDER may terminate this contract for default. MOU/D/EZ-RIDER shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of MOU/D/EZ-RIDER.

g. Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, MOU/D/EZ-RIDER may terminate this contract for default. MOU/D/EZ-RIDER shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of MOU/D/EZ-RIDER, protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and MOU/D/EZ-RIDER shall agree on

payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of MOUTD/EZ-RIDER.

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, MOUTD/EZ-RIDER may terminate this contract for default. MOUTD/EZ-RIDER shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by MOUTD/EZ-RIDER in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies MOUTD/EZ-RIDER in writing of the causes of delay. If in the judgment of MOUTD/EZ-RIDER, the delay is excusable, the time for completing the work shall be extended. The judgment of MOUTD/EZ-RIDER shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of MOUTD/EZ-RIDER.

i. Termination for Convenience or Default (Architect and Engineering) MOUTD/EZ-RIDER may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. MOUTD/EZ-RIDER shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Procurement/Contracts Administrator all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of MOUTD/EZ-RIDER, the Procurement/Contracts Administrator shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, MOUTD/EZ-RIDER may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by MOUTD/EZ-RIDER.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) MOUTD/EZ-RIDER may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of MOUTD/EZ-RIDER or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from MOUTD/EZ-RIDER, or property supplied to the Contractor by MOUTD/EZ-RIDER. If the termination is for default, MOUTD/EZ-RIDER may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to MOUTD/EZ-RIDER and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of MOUTD/EZ-RIDER, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, MOUTD/EZ-RIDER determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, MOUTD/EZ-RIDER, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

16. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT) (49 CFR Part 29, Executive Order 12549) ***Applies to all contracts and subcontracts valued at or expected to exceed \$25,000 where federal funds are employed.*** This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by MOUTD/EZ-RIDER. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to MOUTD/EZ-RIDER, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

17. PRIVACY ACT (5 U.S.C. 552) **Applies to all contracts valued at \$3,000 or more employing federal funds.** The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

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

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

18. CIVIL RIGHTS REQUIREMENTS (29 U.S.C. § 623, 42 U.S.C. § 2000, 42 U.S.C. § 6102, 42 U.S.C. § 12112, 42 U.S.C. § 12132, 49 U.S.C. § 5332, 29 CFR Part 1630, 41 CFR Parts 60 et seq.) **Applies to all contracts valued at \$3,000 or more that employ federal funds.** The following requirements apply to the underlying contract:

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

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

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

agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29

U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

19. BREACHES AND DISPUTE RESOLUTION (49 CFR Part 18, FTA Circular 4220.1E)
Applies to all contracts valued in excess of \$100,000. Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of MOU/D/EZ-RIDER's Executive Director. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Executive Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Executive Director] shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by MOU/D/EZ-RIDER, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between MOU/D/EZ-RIDER and the Contractor arising out of or relating to this agreement or its breach will be decided in a court of competent jurisdiction within the State in which MOU/D/EZ-RIDER is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by MOU/D/EZ-RIDER, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

20. DISADVANTAGED BUSINESS ENTERPRISE (DBE) (49 CFR Part 26) *Applies to all DOT-assisted contracting activities where the contract value is \$3,000 or more and where federal funds are employed.*

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*. MOU/D/EZ-RIDER's overall goal for participation of Disadvantaged Business Enterprises (DBE) is 2%. The agency's overall goal for DBE participation is set on an annual basis, and is available upon request. No specific DBE participation is required for this procurement, but MOU/D/EZ-RIDER will accord a DBE with appropriate consideration.

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 CFR 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 MOU/D/EZ-RIDER deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. Bidders/offerors 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 CFR 26.53. Award of this contract is conditioned on submission of the following **sealed bid or initial proposal, prior to award**:

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.
7. Written confirmation of the bidders/offeror's certification of their TVM status (Transit Vehicle Manufacturer).

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 MOU/D/EZ-RIDER. In addition, **the contractor may not hold retainage from its subcontractors.**

e. The contractor must promptly notify MOU/D/EZ-RIDER, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of MOU/D/EZ-RIDER.

21. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS (FTA Circular 4220.1E) *Applies to all contracts valued at \$3,000 or more where federal funds are employed.* Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in [FTA Circular 4220.1E](#) are hereby incorporated by reference.

Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

22. REGISTRATION WITH SAM.GOV (2 CFR Subtitle A, Chapter 1, Part 25.340) *System for Award Management (SAM)* means the Federal repository into which an entity must provide information required for the conduct of business as a recipient. Additional information about registration procedures may be found at the SAM Internet site (currently at <http://www.sam.gov>).

APPENDIX C BUS INFORMATION

Listed below are the instructions and guidelines to be used when using Appendix “C” BUS INFORMATION.

1. A complete set of submittals must be made for each proposed bus model as identified in APPENDIX “C”.
2. A copy of Appendix “C” listing the required information must be included with the proposal submittals.
3. Submittal Categories:
 - **Description**-Information in the form of a text description about the proposed bus that demonstrates compliance with the specification.
 - **Test Results**-Information consisting of the test results from a test procedure referred to in the specification.
 - **Manufacturer and Model #**-Information consisting of the manufacturer name and model # of a component that is usually manufactured by others.
 - **Drawing or Photograph**-Information in the form of a scale drawing, photograph or graphic representation to be submitted when a description is insufficient.
 - **Option**-Is not a submittal category. This column identifies the items that are quoted as an option. Submittals must be made as required.
 - **Deviation**-If a proposed bus does not conform to the specification, the deviation box must be checked and form 1.1.6.12 “Form for Proposal Deviation” must be submitted.
 - **Section/Page# in Proposal Submittal**-The location of the requested information in the proposal submittal must be listed in the appropriate box.

The requested information is intended to be the minimum amount of information to be submitted. Additional information may be submitted as necessary.

**APPENDIX D
DELIVERABLES AND CONTRACT REQUIREMENTS**

INSTRUCTIONS

Listed below are the instructions and guidelines to be used when using APPENDIX “D” DELIVERABLES AND CONTRACT REQUIREMENTS.

- This Schedule will be used to determine the materials, other than complete buses, to be furnished during the proposed agreement.
- Test Diagnostic Equipment Initial Bus Build - shall be quoted as an option to be purchased with the initial bus build.
- When the requirements specify the provision of software, such software shall be delivered with the first vehicle delivered.
- Materials listed as an option must only be provided when MOUTD/EZ-RIDER selects the option

**APPENDIX E
WARRANTY OFFERING**

INSTRUCTIONS

Listed below are the instructions and guidelines to be used when using APPENDIX “E” WARRANTY OFFERING.

- This schedule lists the intended warranty for various subsystems and components on the proposed bus.
- A copy of Appendix E” listing the required information must be included with the bid submittals.

Overall vehicle warranty: _____

Engine warranty: _____

Transmission warranty: _____

Kneeling system warranty: _____

Please list any other component warranty: _____

Please list any other component warranty: _____

Please list any other component warranty: _____

Please list any other component warranty: _____

Please list any other component warranty: _____

Please list any other component warranty: _____

APPENDIX F PRICING MATRIX

<p>The buses and materials to be furnished under the proposed contract shall be priced as listed below. Refer to Appendix D – Deliverables and Contract Requirements - for a list of materials other than complete buses such as spare components, test and/or diagnostic equipment and OEM manuals to be furnished during the contract.</p>	<p>Cost of Optional Components</p>
<p>List the cost of a complete, single 25' bus without options. The cost of training per bus build and delivery per bus shall be provided separately in rows 8 and 9 of this document.</p>	
<p>List the cost of a complete, single 26' bus without options. The cost of training per bus build and delivery per bus shall be provided separately in rows 8 and 9 of this document.</p>	
<p>List the cost of a complete, single 28' bus without options. The cost of training per bus build and delivery per bus shall be provided separately in rows 8 and 9 of this document.</p>	
<p>List the cost of the optional installed GFI FastFare farebox with trim unit per vehicle</p>	
<p>List the cost of the optional installed CWI 5-Camera monitoring system per vehicle</p>	
<p>List the cost of the optional installed EyeRide EyeNet router system per vehicle</p>	
<p>List the cost of "optional kneeling system" per 5.3.2.2.1 General Requirements</p>	
<p>List the cost of optional "2 Position Bicycle Rack" per 5.5.1.17</p>	
<p>List the cost of optional "Special Tools". Any special tools required to maintain the bus per Section 5.1.6.14.3</p>	
<p>List the cost of "training per bus build" – as submitted in the maintenance staff training plan per Section 2.5.1 of the instructions to bidders.</p>	
<p>Vehicles are to be delivered 3664 Leeds Ave Charleston, SC 29405 during normal business hours as submitted per Section 2.3.1.1 "Deliveries." List the cost of delivery charges "per bus" to this location.</p>	

If an option is not available for a bus model, enter "N/A" for "Not Available".

APPENDIX G
DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS
(FEDERALLY ASSISTED CONTRACT WITH A DBE GOAL)

MOUTD’s FY19, FY20, FY21 DBE Goal is 5.48%. MOUTD HAS ESTABLISHED A 5% DBE GOAL ON THIS CONTRACT.
For assistance or with questions concerning the provisions in this Exhibit, contact Kayleen Hamilton, DBE Liaison at (432) 561-9990.

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Definitions and Interpretations

MOUTD will utilize the following definitions to identify Disadvantaged Business Enterprise (DBE) Program eligibility standards. The definitions defined in 49 CFR Part 26 are hereby incorporated by reference.

2. Banks and Financial Institutions

The Contractor is encouraged to utilize the services of disadvantaged, minority and woman-owned banks and financial institutions.

a. Certification and Directory of DBEs

(a) All prospective DBEs must be certified through the Texas Unified Certification Program (UCP). The UCP provides “one-stop shopping” to applicants for DBE certification, such that an applicant need apply only once for a DBE certification that will be honored by all UCP members in Texas. MOUTD is a member of the Texas UCP.

(b) The DBE firm will be verified as a certified DBE through the Texas UCP Directory. The UCP maintains an electronic DBE directory of all firms certified in Texas. The directory is located at <https://txdot.txdotcms.com/>. The local certifying UCP agency is the Texas Department of Transportation. Appropriate forms to apply for DBE certification are available at <http://ftp.dot.state.tx.us/pub/txdot-info/civ/certification/uniform-certification-application.pdf>.

(c) The eligibility of a DBE certified joint venture will be determined on a project-by-project basis by MOUTD.

(d) Offerors are reminded that only certified DBEs may participate in MOUTD contracts in such capacities. If Offerors propose using a DBE not currently certified, it is strongly urged that TxDOT be contacted well in advance of the date set for receipt of offers in order to enable review of the proposed DBE's eligibility.

Credit Toward Goals

MOU/D will count DBE participation toward the overall and contract goals as provided in 49 CFR 26.55. In addition, if the materials or supplies are purchased from a **DBE** regular dealer, count 60 percent of the cost of the materials or supplies toward **DBE** goals; do not count 100 percent of the cost.

DBE Modifications or Substitutions

This Provision applies to all modifications and substitutions under this Contract. The Contractor will be required to comply with this Provision to the extent needed to achieve the DBE goals agreed to at the time of contract award.

(a) If a prime Contractor wishes to terminate or substitute a DBE subcontractor listed as fulfilling its contract goal, and then performs the work of the terminated DBE subcontractor with its own forces, an affiliate, a non-DBE subcontractor or with another DBE subcontractor, it must submit written documentation prior to the termination or substitution of the DBE subcontractor to the Contracting Officer. This will include any changes to items of work, material, services, or DBE firms that differ from those identified on the Intent to Perform as a DBE Subcontractor form(s) on file with the Contracting Officer. The Offeror/Contractor must provide any and all documentation and information as may be requested with respect to the requested change.

(b) The Offeror's/Contractor's documentation shall include the specific reasons for the proposed change. Specific reasons that are acceptable include, but are not limited to: the DBE was not able to perform; the DBE was unable to produce acceptable work; and/or the DBE has submitted an unreasonable escalation in price. In the case of a DBE subcontractor being substituted by another DBE subcontractor, the Contractor should include the name, address, certification number and principal office of the proposed DBE firm. After providing an opportunity to the DBE Liaison to make a recommendation, the Contracting Officer will approve or disapprove the change.

(c) If the change involves a subcontractor substitution, the Offeror/Contractor must make good faith effort to replace one DBE with another DBE. The substitute DBE firm must be certified by the Texas UCP in order for the Offeror/Contractor to receive credit toward fulfilling its DBE participation goal for the contract. In the event that the Offeror/Contractor is unable to contract with another DBE firm, good faith effort documentation must be provided to the Contracting Officer describing the unsuccessful attempts to locate a substitute DBE. In all situations, the Contractor may not terminate or substitute a DBE subcontractor without the prior written consent of the Contracting Officer.

(d) The Offeror/Contractor must submit a new Intent to Perform as a DBE Subcontractor form for the substitute DBE firm(s) with the request for change, to verify that the new DBE firm(s) is certified by the Texas UCP. The Contracting Officer shall notify the Offeror/Contractor in writing of his decision as expeditiously as possible. If the contract has been awarded and the Contracting Officer approves the proposed substitution in writing, the Contractor shall provide a copy of the executed subcontract agreement with the proposed DBE firm to the Contracting Officer within ten (10) business days of its receipt of the substitution approval.

(e) If the change involves a modification, the Contractor must submit, if applicable, the Intent to Perform as a DBE Subcontractor form specified for contract modifications for any DBE subcontractor affected by this change. This form may be obtained from the Contracting Officer.

(f) If the Contractor does not comply with this Provision, MOU/D may elect to apply contract remedies as defined in 49 CFR Part 26, or other contract remedies, as appropriate. Additionally, the Contracting Officer may order that the profits from the terminated portion of the DBE subcontract be forfeited by the Contractor.

Demonstration of Good Faith Effort

(a) If an Offeror does not meet the DBE goal, it shall nevertheless be eligible for award of the contract if it can demonstrate to the Contracting Officer that it has made a good faith effort to meet the DBE goal. This good faith efforts documentation should be submitted when the initial response to MOU/D's solicitation is due. All Contractors, including DBE prime Contractors, are required to submit good faith efforts documentation, if necessary. In evaluating an Offeror's good faith effort submission, MOU/D will only consider those documented efforts that occurred prior to the good faith efforts determination.

(b) In the event that a firm submitted by an Offeror in accordance with the requirements of the Submission of

MOU/D/EZ-RIDER Cutaway

Subcontractor Utilization Forms and Related Documentation provision cannot be certified, the Offeror will be notified and given an opportunity to substitute that firm with a certified DBE firm. The Offeror will have ten (10) calendar days from the date of notification to accomplish the substitution. In the event the Offeror is unable to contract with another substitute DBE firm, the good faith efforts that the Offeror made in attempting to contract with a substitute DBE firm must be documented to the Contracting Officer at the end of the same ten (10) calendar day period.

(c) In making a determination that the Offeror has made a good faith effort to meet the DBE goal, the Offeror shall furnish to MOU/D, as part of its DBE utilization information provided under the Submission of DBE Utilization Forms and Related Documentation provision, such specific documentation concerning the steps it has taken to obtain DBE participation. By way of illustration and not limitation, MOU/D will consider the following information:

- (1) Whether the Offeror attended any pre-bid or pre-proposal meetings scheduled by MOU/D to discuss, among other matters, DBE participation opportunities and acknowledged receipt of DBE certified vendor lists;
- (2) Whether the Offeror advertised in general circulation, trade association, and/or minority/women-focus media concerning subcontracting opportunities;
- (3) Whether the Offeror provided written notice to a reasonable number of DBEs that their interest in the contract was being solicited in sufficient time to allow DBEs to participate effectively;
- (4) Whether the Offeror followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
- (5) Whether the Offeror selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down the contract into economically feasible subcontracts to facilitate DBE participation);
- (6) Whether the Offeror provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the contract;
- (7) Whether the Offeror negotiated in good faith with interested DBEs regarding their capabilities, not rejecting DBEs as unqualified without sound reasons based on a thorough investigation;
- (8) Whether the Offeror negotiated in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBE firms;
- (9) Whether the Offeror made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance, etc., as required by MOU/D or the Offeror;
- (10) Whether the Offeror made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services;
- (11) Whether the Offeror effectively used the services of available minority and women community organizations; Contractor groups; local, State, and Federal business assistance offices; and other organizations that provide assistance in the identification of DBEs;
- (12) Whether the Offeror obtained written documentation from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the DBE being rejected as a potential subcontractor for failing to obtain Offeror-required bonding. Documentation furnished by a surety company will be subject to verification by MOU/D; and
- (13) Whether other Offerors have attained a sufficient level of DBE participation to meet the contract goals.

(d) MOU/D will look not only at the different kinds of efforts that the Offeror has made, but also the quantity and intensity of those efforts. Efforts that are merely pro forma are not good faith efforts to meet the goal (even if they are sincerely motivated) if, given all relevant circumstances, the Offeror's efforts could not reasonably be expected to

MOUTD/EZ-RIDER Cutaway

produce a level of DBE participation sufficient to meet the goal.

(e) Offerors are reminded that the issue of whether or not the Offeror has met or exceeded the established goal and/or demonstrated good faith efforts is considered a matter of the Offeror's responsibility. MOUTD will only award contracts to Offerors determined to be responsible. The Contracting Officer, after affording MOUTD's DBE personnel an opportunity to make a recommendation, shall be responsible for determining the sufficiency of an Offeror's good faith effort to meet contract goals.

(f) An Offeror that the Contracting Officer determines is not responsible may request administrative review and reconsideration under MOUTD's Procurement Regulations. As part of any reconsideration, if requested, the Offeror may elect to meet in person with the Reconsideration Official (Chief of Administration) to discuss credit toward meeting the DBE goal or whether the Offeror made adequate good faith efforts.

Offeror's DBE Obligation

The Offeror's DBE Obligation is outlined in the Specifications and Conditions of this request for proposals, Section IV. Disadvantaged Business Enterprise.

The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of MOUTD to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/offerors, including those who qualify as a DBE. A DBE contract goal of has been established for this contract. The bidder/offeror shall make good faith efforts, as defined in Appendix A, 49CFR Part 26, to meet the contract goal for DBE participation in the performance of this contract

The bidder will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm 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 commitment made under (4); and (6) if the contract goal is not met, evidence of good faith efforts.

Prompt Payment Documentation and Reporting

The Contractor agrees to pay each subcontractor under the prime contract for satisfactory performance of its contract no later than 10 calendar days from receipt of each payment the prime Contractor receives from MOUTD. The prime Contractor must agree further to return retainage payments to each subcontractor within 10 calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced period may occur only for good cause following written approval of MOUTD. This language applies to both DBE and non-DBE subcontracts. Failure to satisfy prompt payment to subcontractors no later than 10 calendar days from the receipt of payment from MOUTD may constitute a breach of contract and may result in termination of the Contractor for default or such remedy as MOUTD may deem appropriate.

The Contractor and any subcontractors shall verify prompt payment through monthly reports to MOUTD. The Contractor and all subcontractors are responsible for responding by any noted response date or due date to any instructions or request for information.

As provided elsewhere in this Contract, MOUTD may withhold all or part of any payment otherwise due the Contractor if the Contractor fails to respond to MOUTD by noted response dates and/or make prompt payments to its subcontractors, suppliers, materialmen or laborers.

Sanctions for Noncompliance with MOUTD's DBE Program Provisions

Failure of the Contractor to carry out MOUTD's DBE program provisions shall constitute a breach of contract and may result in termination of the Contractor for default or such remedy as MOUTD may deem appropriate. MOUTD reserves

the right to apply legal and contract remedies available under Federal, state and local law, including but not limited to, responsibility determinations in future contracts, suspension and debarment procedures as outlined in 49 CFR Part 29, and forfeiture of profits as provided for elsewhere. MOUTD will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take steps provided in 49 CFR Section 26.107.

Submission of Subcontractor Utilization Forms and Related Documentation

I. Each Offeror should submit to MOUTD an executed Intent to Perform as a DBE Subcontractor form (Attachment 1) for each proposed subcontractor when the initial response to MOUTD's solicitation is due. Good faith documentation (if necessary) should also be submitted at this time. The submission of this information is considered an issue of responsibility, and MOUTD will not award a contract to any Offeror who has not supplied this documentation.

(b) The Intent to Perform as A DBE Subcontractor form for each proposed subcontractor shall constitute a representation by the Offeror to MOUTD that it believes such firm is ready, willing, and able to perform the work indicated. It shall also represent a commitment by the Offeror that if it is awarded the contract, it will enter into a subcontract with such subcontractor for the work described at the approximate price set forth in the Intent to Perform as A DBE Subcontractor form.

(c) If the DBE subcontractor participation changes after the forms have been submitted, but prior to award of the contract, the Offeror will be required to immediately notify the Contracting Officer of the changed amount and the reason(s) for the change. The modification and substitutions of DBE firms that occur shall be governed by DBE Modification or Substitutions provision of this Exhibit.

(d) Except as authorized by the Contracting Officer, the successful Offeror shall enter into formal agreements with the subcontracting firms shown in the submitted Intent to Perform as A DBE Subcontractor form(s) within ten (10) business days after receipt of a contract executed by MOUTD. The successful offeror (Contractor) shall provide the Contracting Officer two copies of each agreement within three (3) business days of execution.

(e) If an Offeror is a DBE and lists itself on the Intent to Perform as A DBE Subcontractor form, it is required to perform the work indicated with its own work force.

ATTACHMENT 1 TO APPENDIX G
(INTENT TO PERFORM AS A DBE SUBCONTRACTOR FOR A CONTRACT AWARD)

All DBE subcontracting firms to be used on this solicitation must fill out this form.

DBE firms participating in MOUTD's contracting opportunities must have "current" certification status with Texas's Unified Certification Program (UCP) prior to award of this contract. If MOUTD determines that the firm is not an eligible DBE firm for MOUTD contracts and subcontracts, the prime Contractor will be notified of the ineligibility of the listed firm. The submission of this form is considered an issue of responsibility and MOUTD will not award a contract to any Offeror who has not supplied this documentation.

- MOUTD Solicitation #: _____
- Name of DBE Subcontracting Firm _____.
- Has the DBE subcontractor been certified as a DBE by a Texas UCP agency? _____
- The DBE subcontractor is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both):

_____ and at the following price \$ _____. (If the materials or supplies are purchased from a **DBE** regular dealer, count 60 percent of the cost of the materials or supplies toward **DBE** goals).

BY: _____ DATE: ____/____/____
(Signature of **DBE** subcontracting Owner, President or Authorized Agent)

PHONE: (____) _____

(Print or Type - Name of Signature of Owner, President or Authorized Agent of **DBE** subcontracting firm)

DECLARATION OF PRIME CONTRACTOR

I HEREBY DECLARE AND AFFIRM that I am the _____
(Title of Declarant)

and a duly authorized representative of _____
(Name of Prime Contractor)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform as A DBE Subcontractor form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the subcontracting firm signed this form in the place indicated, and no material facts have been omitted.

Except as authorized by the Contracting Officer, the undersigned will enter into a formal agreement with the listed DBE subcontracting firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by the Midland Odessa Urban Transit District. The undersigned will provide the Contracting Officer a copy of that agreement within three (3) business days of execution.

The Prime Contractor designated the following person as their DBE Liaison Officer:

(Name-Please Print) (Phone)

Pursuant to 49 CFR Section 26.107, any person [entity] who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes and may be referred to the Department of Transportation, and possibly the Department of Justice, for prosecution.

Name of Declarant

Signature _____ (Date) _____

ATTACHMENT 2 TO APPENDIX G
(SUBCONTRACTOR UTILIZATION - SUMMARY OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)/SUPPLIER(S))

Offerors should provide information on **all** of their prospective subcontractor(s)/subconsultant(s)/ supplier(s) who will participate on this solicitation. Use additional sheets as necessary.

Project Name: _____ MOUTD Solicitation # _____

NAMES AND ADDRESSES OF SUBCONTRACTOR(S)/ SUBCONSULTANT(S)	TYPE OF WORK TO BE PERFORMED	ETHNICITY & GENDER OF OWNER	PREVIOUS YEAR'S ANNUAL GROSS RECEIPTS	\$ AMOUNT ON CONTRACT
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE IN THE STATE OF TEXAS BY THE UCP? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity Black Hispanic Native American Subcont. Asian American Asian Pacific American Non-Minority Woman Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE IN THE STATE OF TEXAS BY THE UCP? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity Black Hispanic Native American Subcont. Asian American Asian Pacific American Non-Minority Woman Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	
NAME: ADDRESS: PHONE: FAX: E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE IN THE STATE OF TEXAS BY THE UCP? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity Black Hispanic Native American Subcont. Asian American Asian Pacific American Non-Minority Woman Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

___ The bidder/offeror is committed to a minimum of ___% DBE utilization on this contract.

___ The bidder/offeror (if unable to meet the DBE goal) is committed to a minimum of ___% DBE utilization on this contract and submits documentation demonstrating good faith efforts.

Name of bidder/offeror's firm: _____

Print Name/Title of Person completing this form: _____

Signature _____ Date _____

Email _____ Phone _____