



SOLICITATION, OFFER AND AWARD FORM

REQUEST FOR PROPOSALS

1. SOLICITATION #: RFP-TBARTA-002 2. ISSUE DATE: 12/07/18 3. FOR INFORMATION CONTACT: NAME: Lisa P. Nooner, Purchasing Agent II PHONE: 727-540-1958 FAX: 727-540-0681 E-MAIL: Inooner@psta.net	4. BRIEF DESCRIPTION: The purpose of this RFP is for the procurement of auditing services.
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5. CONFERENCE: (See Exhibit C for more information.)
 When it's time, [join the meeting](#) Join by phone+1-415-655-0002
 Meeting number (access code): 730 082 735
 Meeting password: TBARTA
LOCATION: 3201 Scherer Drive **DATE AND TIME:** Monday, December 10, 2018, 9:00 am
 St. Petersburg, FL 33716

6. SUBMIT OFFER TO THE FOLLOWING ADDRESS: Pinellas Suncoast Transit Authority (PSTA) Attn: Procurement Department, RFP-TBARTA-002 3201 Scherer Drive St. Petersburg, FL 33716	7. OFFER SUBMISSION DUE DATE AND TIME: 12/14/2018, 10:00 a.m., Eastern Standard Time
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8. SUBMIT WITH OFFER: One (1) Original Offer, Zero (0) copies and One (1) electronic copy (Flash Drive or CD) including the exhibits and attachments listed on Page 3 of this form.

9. Offers will not be publicly opened

10. FIRM OFFER PERIOD: Offers shall remain firm for a period of 120 calendar days from the date specified in Block 7, above.

11. This solicitation and any resulting contract, respectively, consists of this Form and the exhibits and documents designated on Page 3 of this form.

OFFER

(To be completed by Offeror)

12. DISCOUNT FOR PROMPT PAYMENT: _____%, _____ Calendar Days (Please refer to Invoice and Payment clauses in Exhibit D)

13. If this offer is accepted within the period specified in Block 10, above, the offeror agrees to fully provide the goods and/or services covered by this solicitation at the prices and timelines specified in the solicitation.

14. ACKNOWLEDGEMENT OF AMENDMENTS: The offeror acknowledges receipt of the following solicitation amendments (write in all amendment numbers and amendment dates.

Amendment Number and Date	Amendment Number and Date	Amendment Number and Date

15. OFFEROR'S NAME AND ADDRESS: (Type or Print) TELEPHONE: E-MAIL: CELL PHONE: FAX:	16. NAME AND TITLE OF OFFEROR'S REPRESENTATIVE (PERSON AUTHORIZED TO EXECUTE CONTRACTS): (Type or Print) 17. OFFEROR'S REPRESENTATIVE SIGNATURE & DATE:
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AWARD

(To be completed by TBARTA)

18. Offeror is a: DBE: Yes No SBE: Yes No **20. ACCEPTED AS TO:****21. TOTAL AMOUNT OF AWARD:****22. CONTRACT NUMBER:****23. TBARTA'S CONTRACTING OFFICER'S SIGNATURE & CONTRACT AWARD DATE:**

Name: _____ Signature: _____ Date: ____/____/____

NAME	FORM DESCRIPTION	FORM #	SUBMIT WITH OFFER
Cover Sheet	Solicitation, Offer and Award Form	CS-01	YES
Schedule	Schedule	S-01	YES
Exhibit A	Representations and Certifications	A-02	YES
Exhibit B	Special Solicitation Instructions and Conditions	B-01	
Exhibit C	Solicitation Instructions and Conditions	C-03	
Exhibit D	Special Provisions	D-01	
Exhibit F	General Provisions	F-02	
Exhibit G	Disadvantaged Business Enterprise Provisions	G-02	YES, ATTACHMENTS 1 & 2
Exhibit H	Statement of Work	H-01	
Exhibit K	Contract	K-01	YES
	Offeror's Proposal	N/A	YES

SCHEDULE

CAUTION: A false statement in any offer submitted to TBARTA may be a criminal OFFENSE.

NOTE: For Invitations for Bids the terms "Offer" and "Offeror" shall mean "Bid" and "Bidder", respectively; and for Request for Proposals the terms "Bid" and "Bidder" shall mean "Offer" and "Offeror", respectively, in this solicitation and any associated exhibits.

THE OFFEROR MUST SIGN AND DATE THIS SCHEDULE WHERE PROVIDED AND SUBMIT ALL PAGES WITH THE OFFER.

BASE TERM

Line Item	Description		UOM (b)	Unit Cost (c)	Extended Cost (d)	
1	Base Term FY Ending Annual Audit 2021	1	ea			
Optional Services						
2	Paraprofessional	1	hr			
3	Junior Account	1	hr			
4	Senior Account	1	hr			
5	Manager	1	hr			
6	Partner	1	hr			
7	Specialists	1	hr			
8	Total Base Price					

9	Option Year One (1) Price FY 2022	1	ea			
Optional Services						
10	Paraprofessional	1	hr			
11	Junior Account	1	hr			
12	Senior Account	1	hr			
13	Manager	1	hr			
14	Partner	1	hr			
15	Specialists	1	hr			
16	Total Option Year One (1) Price FY 2022					

17	Option Year Two (2) FY 2023	1	ea			
Optional Services						
18	Paraprofessional	1	hr			
19	Junior Account	1	hr			
20	Senior Account	1	hr			
21	Manager	1	hr			
22	Partner	1	hr			
23	Specialists	1	hr			
24	Total Optional Year Two (2) Price FY 2023					

LINES 8,16,24 =TOTAL PRICE OFFER (Lines 8+16+24)-->

<p>NAME & TITLE OF OFFEROR'S REPRESENTATIVE: (print or type)</p> <p>_____</p> <p>_____</p> <p>(Offeror's Name)</p>	<p style="text-align: right;">SIGNATURE & DATE:</p> <p style="text-align: right;">_____</p> <p style="text-align: right;">(Signature of Offeror's Representative) Date</p>
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**EXHIBIT A
REPRESENTATIONS AND CERTIFICATIONS
(LOCALLY ASSISTED SUPPLY/SERVICE CONTRACT)**

**** NOTE: THIS FORM MUST BE COMPLETED AND RETURNED WITH THE OFFER ****

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REPRESENTATIONS

1. Contingent Fee

Except for full-time bona fide employees working solely for the proposer, the proposer represents as part of its offer that it (Mark one with an "X"):

has has not

been employed or retained any company or persons to solicit or obtain this contract, and (Mark one with an "X"):

has has not

paid or agreed to pay any person or company employed or retained to solicit or obtain this contract any commission, percentage, brokerage, or other fee contingent upon or resulting from the award of this contract.

2. Covenant Against Gratuities

The proposer represents as part of its offer that no employee, official, or member of the Authority's Board of Directors is or will be peculiarly interested or benefited directly or indirectly in this contract. The Contractor further represents and warrants that it has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any employee, official, or member of the Authority's Board of Directors with a view toward securing favorable treatment in the awarding, amending, or evaluating the performance of any contract resulting from the solicitation. For breach of any representation or warranty in this clause, the Authority shall have the right to annul this contract without liability and/or have recourse to any other remedy it may have at law.

3. Interest of Public Officials

The offeror represents and warrants that no employee, official, or member of the Board of the Authority is or will be peculiarly interested or benefited directly or indirectly in this contract.

4. Parent Company and Identifying Data

(a) The proposer represents as part of its offer that it (Mark one with an "X"):

is is not

owned or controlled by a parent company. A parent company, for the purpose of this provision, is one that owns or controls the activities and basic business policies of the proposer. To own the offering company means that the parent company must own more than 50 percent of the voting rights in that company. A company may control an proposer as a parent even though not meeting the requirements for such ownership if the company is able to formulate, determine, or veto basic policy decisions of the proposer through the use of dominant minority voting rights, use of proxy voting, or otherwise.

(b) If the proposer is not owned or controlled by a parent company, it shall insert its own Employer's Identification Number below:

(c) If the proposer is owned or controlled by a parent company, it shall enter in the blocks below the name and main office address of the parent company, and the parent company's Employer's Identification Number.

NAME OF PARENT COMPANY AND MAIN OFFICE
ADDRESS (INCLUDE ZIP AND PHONE):

PARENT COMPANY'S EMPLOYER'S IDENTIFICATION #:

5. Type of Business

(a) The proposer represents as part of its offer that it operates as (Mark one with an "X"):

- an individual a sole proprietorship
 a partnership a corporation
 another entity _____.

(b) If incorporated, under the laws of the State of:

(c) Age of the firm: __ years, __ months

(d) Previous year's annual gross receipts:

- less than \$500K \$500K - \$2 mil. \$2 mil. - \$5 mil. more than \$5 mil.

CERTIFICATIONS

6. Certification of Independent Price Determination

(a) By submission of this offer, the proposer certifies, and in the case of a joint offer, each party thereto certifies as to its own organization, that in connection with this procurement:

(1) The prices in this offer have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor.

(2) Unless otherwise required by law, the prices which have been quoted in this offer have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to the opening (in the case of an advertised procurement) or prior to award (in the case of a negotiated procurement), directly or indirectly to any other proposer or to any competitor; and

(3) No attempt has been made or will be made by the proposer to induce any other person or firm to submit or not to submit an offer for the purpose of restricting competition.

(b) Each person signing this offer certifies that:

(1) He/she is the person in the proposer's organization responsible within that organization for the decision as to the

prices being offered herein and that he has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above; or

(2) He/she: (i) is not the person in the proposer's organization responsible within that organization for the decision as to the prices being offered herein but that he has been authorized in writing to act as an agent for the persons responsible for such decision in certifying that such persons have not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above, and as their agent does hereby so certify; and (ii) has not participated, and will not participate, in any action contrary to (a)(1) through (a)(3) above.

7. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion

(1) Proposer certifies to the best of its knowledge and belief that it and its principals:

(i) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any governmental department or agency;

(ii) have not within a three-year period preceding this offer been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes, or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(iii) are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state, or local) with commission of any of the offenses enumerated in paragraph (1)(ii) of this certification; and

(iv) have not within a three-year period preceding this offer had one or more public transactions (federal, state, or local) terminated for cause or default.

(2) Where the Proposer is unable to certify to any of the statements in this certification, the Proposer shall attach an explanation.

8. Conflict of Interest Certification

By submission of this offer, I certify that:

(a) I have read and understand the General Provisions clause entitled "Interest of Public Officials" that will be incorporated into any contract resulting from this solicitation. I further understand that the pecuniary interest in that clause includes employment relationships.

(b) I understand the Authority has for its employees that includes as an actual or possible conflict of interest whether or not a member of the employee's immediate family works for a firm doing, or seeking to do, business with the Authority.

(c) Mark one with an "X":

- To the best of my knowledge and belief, no employee of my firm is related to an Authority employee; or
- An employee of my firm is related to an Authority employee and a letter to the Contracting Officer explaining that relationship is attached to this Exhibit A.

(d) The requirements of this certification have been passed through to all first-tier subcontractors or subconsultants anticipated to be used at the time of the submission of my offer.

9. Non-Discrimination Assurance

The proposer certifies that it will not discriminate on the basis of race, color, disability, sexual orientation, national origin or sex in the performance of this contract. The proposer understands that it is required to insert the substance of this clause in all subcontracts and purchase orders. Failure by the Contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Authority deems appropriate. The proposer further agrees by submitting this offer that it will include this certificate, without modification, in all subcontracts and purchase orders.

10. Disadvantaged Business Enterprise Goals

If goals have been established, by submission of this offer, the proposer certifies that it will comply with the provisions of Exhibit G entitled "Disadvantaged Business Enterprise Provisions," and will meet such goals as are established in any ensuing contract.

11. Execution of Contract

Upon award of this solicitation by TBARTA's Board of Directors, the offeror agrees to execute the contract attached as Exhibit K.

12. Verification of Employment Status Certification

In accordance with State of Florida Executive Order Number 11-116, the offeror certifies the use of the U.S. Department of Homeland Security's E-verify system to verify the employment eligibility of all new employees hired by offeror during the contract term who perform employment duties under any resulting contract to this solicitation and (a) that any subcontracts include an express requirement that subcontractors performing work or providing services pursuant to any resulting contract to this solicitation utilize the E-verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

13. Scrutinized Companies Representation Contact Language

By executing this certification, any resulting contract, and each and every renewal (if renewal is separately provided for herein), pursuant to section 287.135, Florida Statutes, the Proposer certifies, represents, and warrants that: (a) it is not on the Scrutinized Companies with Activities in Sudan List, (b) it is not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, (c) that it does not have business operations in Cuba or Syria, and (d) that it is not participating in a boycott of Israel, and that all such certifications were true at the time it submitted its bid or proposal and as of the effective date of any renewal. Notwithstanding anything contained herein to the contrary, the Authority may disqualify any proposer or terminate the contract immediately if: (1) the Proposer is found to have submitted a false certification regarding (a) – (d) above in accordance with section 287.135(5), Florida Statutes, or (2) the Proposer is found to have been placed on the Scrutinized Companies that Boycott Israel List as that term is defined and such list is maintained pursuant to Section 287.135, Florida Statutes, or is otherwise engaged in a boycott of Israel. Such termination shall be in addition to any and all remedies available to the Authority at law. The provisions of this section shall only apply if the value of the contract is in excess of one million U.S. dollars (\$1,000,000.00).

SIGNATURE BLOCK FOR ALL REPRESENTATIONS & CERTIFICATIONS

NAME OF PROPOSER & ADDRESS (INCLUDE ZIP & PHONE)

Signature:

TYPE NAME:

DATE:

PROPOSERS MUST SET FORTH FULL, ACCURATE AND COMPLETE INFORMATION AS REQUIRED BY THIS SOLICITATION (INCLUDING THIS ATTACHMENT). FAILURE TO DO SO MAY RENDER THE OFFER NONRESPONSIVE OR UNACCEPTABLE.

EXHIBIT B SPECIAL SOLICITATION INSTRUCTIONS and CONDITIONS

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1. Introduction and Purpose of Solicitation

The Tampa Bay Area Regional Transit Authority (TBARTA), one of the largest and most dynamic public transit systems in the state of Florida, providing service throughout Hillsborough County, FL on the Gulf of Mexico side of the Tampa Bay region, is seeking responses from qualified candidates to provide auditing services.

TBARTA provides safe, affordable public transit to our community. We help guide land use decisions and support economic vitality to enhance our quality of life.

2. Proposal Preparation and Format

- (a) Proposers shall submit original proposal and one (1) CD or USB flash drive, including the exhibits and attachments listed on Page 2 of this form.
- (b) All proposal sheets and the original forms must be executed and submitted in a sealed envelope.
- (c) Unnecessarily elaborate proposals or lengthy presentations are not desired.
- (d) Proposals shall be organized as follows:
 - Section 1 Introduction and Submittals (Forms and Exhibits)
 - Section 2 Qualifications and Experience
 - Section 3 Audit Approach
 - Section 4 Price
 - Section 5 Exception

3. Number of Contracts Anticipated to be Awarded

- (a) One (1) contract award will be made.

4. Evaluation

Proposals will be evaluated for award based on the evaluation criteria provided in Paragraph 5, for a total of 1000 maximum points.

5. Evaluation Criteria

Pursuant to section 218.391, Florida Statutes, TBARTA's Board of Directors has established an audit committee

which will evaluate the proposals received in response to this solicitation and which has established the following criteria for the evaluation of audit services to be provided by a certified public accounting firm duly licensed under chapter 473, Florida Statutes, an qualified to conduct audits in accordance with government auditing standards as adopted by the Florida Board of Accountancy.

Section 1 – Introduction and Submittals (5 maximum pages) (No Points):

- A. A letter of introduction to include:
- (i) A statement of the type of firm, partnership or other teaming arrangement and members. A list and description of ownership, office location, and principal office where the majority of the Authority's work will be performed with contact information;
 - (ii) The Solicitation, Offer and Award Form;
 - (iii) A fully completed Exhibit A;
 - (iv) A fully completed Exhibit G, Attachment 1.
 - (v) Independence; Section 1 shall include a statement that it is independent of TBARTA as defined by generally accepted auditing standards/the U.S. General Accounting Office's Government Auditing Standards.
 - (vi) License to Practice in Florida; A statement should be included indicating that the firm and all assigned key professional staff, including sub-contractors, are properly registered/licensed to practice in Florida.

Section 2 Qualifications and Experience: (5 maximum pages) (400 maximum points)

The Proposer's shall demonstrate past experience and performance on comparable government engagements and experience relating to audits of public authorities. (200 maximum points)

The quality and experience of the Proposer's professional personnel to be assigned to the engagement and the quality of the Proposer's management support personnel to be available for technical consultation. Proposal shall include experience, education, supplemental training, and certifications of the assigned engagement staff. (200 maximum points)

NOTE: The quality of references will be taken into consideration.

Section 3 Audit Approach: (3 maximum pages) (300 maximum points)

The overall approach taken to complete the audit including the time table set to complete all the necessary work. (125 maximum points)

Approach demonstrates the Proposer understanding of the required tasks and deliverables, possess a clear confirmation of Proposer's intent to complete all task, and presents all deliverables and final audit reports by the timelines established. (125 maximum points)

The adequacy of proposed staffing shall have a plan for various segments of the engagement. Proposal shall plan for continuity of staff (if there is a change of staff from year to year). The proposer shall have effective utilization of staff scheduling to maximize the amount of work completed with minimal disruption of TBARTA staff. (50 maximum points)

Section 4 Price: (1 maximum page) (300 maximum points)

Section 5 – Exceptions (No Percentage).

Exceptions to, or variances from, any portion of the solicitation, including the Statement of Work, contract terms and conditions, etc., supplemental Contractor Agreements, shall not be considered unless the offeror specifically identifies them in this section. Exceptions are, however, strongly discouraged and may not be accepted by the Authority. As with price, offerors are strongly encouraged to contact the Purchasing Agent well in advance of the deadline for receipt of offers with any proposed changes to the Authority's terms and conditions.

NOTE: TBARTA may choose to conduct oral interviews and make a final Contract award based on the above criteria following information received at those interviews.

No TBARTA employee, officer, or agent, including any member of the audit committee, may participate in the selection, award, or administration of a TBARTA contract if a real or apparent conflict of interest would exist. Such a conflict would exist when any of the following parties has a material financial or other interest in a firm selected for award: any employee, officer, or agent of TBARTA; any member of his/her immediate family; his/her partner; or an organization employing or about to employ any of the preceding. Any interest as owner or stockholder of one percent (1%) or less in such a firm shall not be deemed to be a material financial interest, but serving as director, officer, proposer, or employee of such an organization would be deemed a material interest.

6. Selection Procedure

- (a) The selection procedure shall follow section 218.391, Florida Statutes.
- (b) The audit committee established by the TBARTA Board of Directors will = evaluate technical proposals **applying the evaluation factor(s) above.**
- (c) The audit committee will rank, in order of preference, no fewer than three (3) firms deemed to be the most highly qualified to perform the required services after considering the factors established above and will provide its ranking and recommendation to TBARTA's Board of Directors. If fewer than three (3) firms apply, the audit committee will rank the responding firms.
- (d) The TBARTA Board of Directors, or its designee, may inquire of qualified firms as to the basis of compensation, select one of the firms recommended by the audit commit, and negotiate a contract pursuant to section 218.391, Florida Statutes.
- (e) **The final selection and award of contract will be made by the TBARTA Board of Directors, in its sole and absolute discretion.**

7. Questions Concerning the Solicitation

(a) Questions and requests for clarification relating to this solicitation, shall be submitted in writing, to the contact person identified in the solicitation by mail, facsimile or commercial courier, at least three (3) working days in advance of the scheduled conference to allow sufficient time for responses to be considered and prepared by the Authority. Questions concerning the solicitation that are not addressed at the conference, if one is held, shall be submitted in writing no later than five (5) working days in advance of the offer submission due date and time, which is the minimum time required for the Authority's reply to reach offerors before the offer submission due date and time, as required by the "Acknowledgement of Amendments to the Request for Proposals" clause. Questions received less than five (5) working days in advance of the offer submission due date and time will be responded to only if the Authority determines that the question and its response would have a material and substantive impact on the solicitation.

(b) Questions submitted related to the Terms and Conditions shall be addressed in negotiations with the firm deemed to be the most highly qualified and selected for negotiations.

8. Evaluation of Option Pricing

- (a) Failure of a Proposer to provide pricing for all "Line Items" may be cause for rejection of the proposal as unacceptable. Proposers should insert "N/C", for items provided at "no charge" to the Authority.

- (b) The quantities specified in the Schedule as “Estimated” are the Authority’s best estimates only and are to be used as a basis for assessing price.
- (c) Also, to be eligible for award the Proposer must provide pricing for “Option Years.” In evaluating and assigning price points, option pricing shall be considered.

9. Incorporation of Proposer’s Proposal

The successful proposer’s proposal will be incorporated into the resulting contract, by reference or full text. This includes any revisions and supplements through the date set for submission of best and final offers, if applicable.

10. Order of Precedence:

In the event of any inconsistency between the provisions of the solicitation, the inconsistency shall be resolved by giving precedence in the following order:

- (1) the Form of Contract (Exhibit K);
- (2) Representations and Certifications (Exhibit A; Form A-01);
- (3) Special Solicitation Instructions and Conditions (Exhibit B; Form B-01);
- (4) Solicitation Instructions and Conditions (Exhibit C; Form C-05);
- (5) Special Provisions (Exhibit D; Form D-01);
- (6) General Provisions (Exhibit F); and
- (7) the specifications or statement of work (Exhibit H);
- (8) Disadvantaged Business Enterprise Provisions (Exhibit G); and
- (9) the Cover Sheet (Form CS-01).

EXHIBIT C
SOLICITATION INSTRUCTIONS AND CONDITIONS
(REQUEST FOR PROPOSALS)

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1. Preparation of Offers

(a) Proposers are expected to examine the Schedule, solicitation instructions, Special Provisions, General Provisions, all drawings, specifications, the statement of work, and all other provisions of, and exhibits to, the solicitation, whether incorporated by reference or otherwise, prior to the submission of offers. Failure to do so will be at the proposer's risk.

(b) Each proposer shall furnish the information required by the solicitation. Proposers shall sign and print or type their name on the form provided by the Authority for submitting an offer and each continuation sheet on which they make an entry. Erasures or other changes must be initialed by the person signing the offer. Offers signed by an agent of the proposer (other than an officer or a partner of the proposer) are to be accompanied by evidence of the agent's authority (unless such evidence has been previously furnished to the Authority).

(c) Pricing for the goods or services offered shall be provided by proposers in the format required by the Authority. Where goods are being offered, the prices offered shall include packing unless otherwise specified. In case of any discrepancy between a unit price and any extended or total price, the unit price will be presumed to be correct, subject, however, to correction to the same extent and in the same manner as any other mistake.

(d) Offers for property or services other than those specified in the Schedule will not be considered unless specifically authorized in the solicitation.

(e) The proposer must state a definite time for delivery of goods or for performance of services unless otherwise specified in the solicitation. All measurements shall be in the system of weights and measures in common usage in the United States, and pricing shall be in U.S. dollars.

(f) In computing any period of time for the solicitation or any resulting contract, "days" means calendar days, and the day of the event from which the designated period of time begins to run shall not be included, but the last day shall be included unless it is a Saturday, Sunday, or Federal or State of Florida holiday, in which event the period shall run to the end of the next business day.

(g) Proposers are responsible for all costs with preparing of the Proposals, participating in the RFP process. TBARTA not be responsible to any Proposer for such costs.

2. Confidential Data

Each proposer shall clearly mark each page of the offer that contains trade secrets or other confidential commercial or financial information which the proposer believes is exempt from disclosure under Chapter 119 Florida Statutes. If a Proposer fails to clearly mark such information, or marks its entire proposal as a confidential trade secret, the Authority

will be under no obligation to treat such information as confidential or exempt under Chapter 119, Florida Statutes. Evaluation and disclosure of information marked according to the requirements of this section will be determined by the Authority in accordance with the Florida laws, rules and regulations.

3. Explanation to Proposers

Any explanation desired by a proposer regarding the meaning or interpretation of the solicitation, drawings, specifications, etc., must be requested in writing from the Authority's Contracting Officer and with sufficient time allowed for a reply to reach proposers before the submission of offers. Oral explanations or instructions given before the award of any contract, at any pre-proposal conferences or otherwise, will not be binding on the Authority. Any information given to a proposer concerning an interpretation of the solicitation will be furnished to all proposers as an amendment to the solicitation, if such information is necessary to proposers in submitting offers on the solicitation or if the lack of such information would be prejudicial to uninformed proposers.

4. Pre-Proposal Conference and Questions Concerning the Solicitation

(a) A pre-proposal conference may be held for all interested parties to discuss the solicitation requirements.

(b) Questions and requests for clarification relating to this solicitation, shall be submitted in writing, to the contact person identified in Block 3 of the Solicitation Offer and Award form by mail, facsimile or commercial courier, at least three (3) working days in advance of the scheduled conference to allow sufficient time for responses to be considered and prepared by the Authority. Questions concerning the solicitation that are not addressed at the conference, if one is held, shall be submitted in writing no later than five (5) working days in advance of the offer submission due date and time, which is the minimum time required for the Authority's reply to reach proposers before the offer submission due date and time, as required by the "Acknowledgement of Amendments to the Request for Proposals" clause.

5. Acknowledgment of Amendments to Request for Proposals

(a) If this solicitation is amended, then all terms and conditions, which are not modified, remain unchanged.

(b) Proposers shall acknowledge receipt of any amendment to this solicitation: (1) by signing and returning the amendment; or (2) by identifying the amendment number and date in the space provided for this purpose on the form for submitting an offer. The Authority must receive the acknowledgment by the time and at the place specified for receipt of offers.

6. Submission of Offers

(a) Offers and modifications thereof shall be enclosed in sealed envelopes or sealed cartons and submitted to the Authority at the address specified in the solicitation. The proposer shall show the hour and date specified in the solicitation for receipt of offers, the solicitation number, and the proposer's name, address, and telephone number on the face of the envelope or carton.

(a) Electronic (email, facsimile) offers will not be considered unless authorized by the solicitation; however, proposers may be modified or withdrawn by written, electronic (email, facsimile) notice, provided such notice is received prior to the hour and date specified for receipt of offers.

(b) Samples of items, when required, must be submitted within the time specified and, unless otherwise specified in the solicitation, at no expense to the Authority. If not destroyed by testing, samples will be returned at the proposer's request and expense, unless otherwise specified in the solicitation

(c) Each copy of the offer shall include the legal name of the proposer and a statement whether the proposer is a sole proprietorship, a corporation, or any other legal entity. An offer from a corporation shall further give the state of incorporation.

7. Late Submissions, Modifications and Withdrawals of Offers

Any offer received at the office designated in the solicitation after the exact time specified for receipt, and any modification or withdrawals of offers, will not be considered unless it is the only offer received on the date specified for receipt of offers.

(a) The only acceptable evidence to establish:

(1) the date of mailing of a late offer or modification sent either by registered or certified mail is the U.S. Postal Service postmark on both the envelope and wrapper and on the original receipt from the U.S. Postal Service. If neither postmark shows a legible date, the offer, modification or withdrawal shall be deemed to have been mailed late. The term "postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter machine impression, that is readily identifiable without further action as having been supplied and affixed on the date of mailing by an employee of the U.S. Postal Service. Therefore, proposers should request the postal clerk to place a hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper; and

(2) the time of receipt at the Authority is the time-date stamp of the Authority on the offer wrapper or other documentary evidence of receipt maintained by the Authority.

(3) the date of mailing of a late offer, modification, or withdrawal sent by U. S. Postal Service Express Mail Next Day Service - Post Office to Addressee is the date entered by the post office receiving clerk on the "Express Mail Next Day Service - Post Office to Addressee" label and the postmark on the envelope or wrapper and on the original receipt from the U. S. Postal Service. "Postmark" has the same meaning as defined in paragraph (d)(1) of this provision. Therefore, proposers should request the postal clerk to place a legible hand cancellation bull's-eye "postmark" on both the receipt and the envelope or wrapper.

8. Authority-Furnished Property

No material, labor, or facilities will be furnished by the Authority unless otherwise provided for in the solicitation.

9. Discounts

(a) Prompt payment discounts will not be considered in evaluating offers for award, unless otherwise specified in the solicitation. However, offered discounts will be taken if payment is made within the discount period, even though not considered in the evaluation of offers.

(b) In connection with any discount offered for prompt payment, time shall be computed from (1) the date of completion of performance of the services or delivery of the supplies to the carrier if acceptance is at a point of origin, or date of delivery at destination or port of embarkation if delivery and acceptance are at either of these points, or (2) the date the correct invoice or voucher is received in the office specified by the Authority, if the latter is later than the date of performance or delivery. For the purpose of computing the discount earned, payment shall be considered to have been made on the date of the Authority's check.

10. Award of Contract

(a) The contract will be awarded by TBARTA Board of Directors, in its sole and absolute discretion, to that responsible responsive proposer selected as the most highly qualified and who submits pricing that is determined to be fair and reasonable. Award of this contract will only be made to the Proposer which is responsive in all respects to the RFP requirements, and where the Proposer is determined to be a responsible Proposer, a determination that shall be made solely at the discretion of TBARTA's Board of Directors. In order to be considered for award, the Proposer affirms and declares:

- A) The Proposer has the capacity to do business within the State of Florida.
- B) The Proposer has the capability to assure completion of the required services within the time specified under this contract.
- C) The Proposer presently has the necessary facilities, financial resources and licenses to complete the contract in a satisfactory manner and within the required time.
- D) The Proposer is of lawful age and that no other person, firm or corporation has any interest in this proposal or the contract proposed to be entered into.
- E) The Proposer is not in arrears to the TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY upon debt or contract and is not defaulting as surety or otherwise, upon any obligation to the TAMPA BAY AREA REGIONAL TRANSPORTATION AUTHORITY.
- F) No member, officer, or employee of TBARTA during his tenure or for two years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof.
- G) To be "qualified" by TBARTA, the Proposer must have all State and Local licenses as legally required that are necessary to perform and complete the work as called for herein.
- H) The Proposer is not on the Comptroller General's list of ineligible Providers.

11. Rights of TBARTA in Request for Proposal Process

TBARTA may investigate the qualifications of any Proposer under consideration. TBARTA may require confirmation of information furnished by a Proposer, and require additional evidence of qualifications to perform the Services described in this RFP. In addition to any rights conveyed by Florida law, TBARTA specifically reserves the right to:

- Disqualify any Proposer in accordance with Instruction to Proposers
- Reject any or all of the Proposals, in its sole and absolute discretion
- Remedy errors in the RFP
- Cancel the entire RFP
- Issue subsequent RFP
- Rank firms and negotiate with the highest ranking firms
- Select the proposal(s) it believes will serve the best interest of TBARTA
- Appoint evaluation committees to review Proposals
- Seek the assistance of outside technical experts to review Proposals
- Approve or disapprove the use of particular Subcontractors and Suppliers
- Establish a short list of Proposers eligible for discussions after review of written Proposals
- Solicit best and final offers (BAFO) from all or some of the Proposers
- Determine whether or not a Proposer is a responsible Proposer
- Reject any part of a proposal
- Negotiate with any, all, or none of the Proposers
- Award a contract to one or more proposers
- Accept other than the lowest priced Proposal
- Request any necessary clarifications or proposal data without changing the terms
- Disqualify the Proposal(s) upon evidence of collusion with intent to defraud or other illegal practices on the part of the Proposer(s)
- Waive any informalities or irregularities in any Proposal, to the extent permitted by law

This RFP does not bind or commit TBARTA to enter into a contract with any of the Proposers and does not create any property interest or expectation of any award.

- (a) The Authority may accept any item or group of items of any offer, unless the proposer qualifies the offer by specific limitations. Unless otherwise provided in the solicitation, offers may be submitted for any quantities less than those specified, and the Authority reserves the right to make an award on any item for a unit quantity less than the quantity offered at the unit prices offered unless the proposer specifies otherwise in the offer.
- (b) A written award (or acceptance of offer) which is mailed, sent electronically, or otherwise furnished to the successful proposer within the time for acceptance specified in the solicitation shall be deemed to result in a binding contract without further action by either party.
- (c) The Authority may award a contract based on the initial price received from the highest evaluated proposer without discussion.
- (d) Any financial data submitted with any offer hereunder or any representation concerning facilities or financing will not form a part of any resulting contract; provided, however, that if the resulting contract contains a clause providing for price reduction for defective cost or pricing data, the contract price will be subject to reduction if cost or pricing data furnished hereunder is incomplete, inaccurate, or not current.

12. Cancellation of Solicitation

This solicitation may be cancelled by the Authority before or after receipt of offers or proposals (as applicable) in the sole discretion of the Authority.

13. Access to Records

- A) The Proposer agrees to provide TBARTA or any authorized representatives access to any books, documents, papers and records of the Provider which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
- B) The Proposer agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- C) The Proposer 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 Proposer agrees to maintain same until TBARTA or any duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

14. Omission

Notwithstanding the provision of drawings, technical specifications or other data by TBARTA, the Proposer shall have the responsibility of supplying all details required to make an accurate proposal of services offered even though such details may not be specifically mentioned in the specifications.

15. Code of Ethics

With respect to this proposal, if any proposer violates or is a party to a violation of Chapter 112, Part III, Florida Statutes Code of Ethics for Public Officers and Employees, such proposer may be disqualified from performing the work described in this proposal or from furnishing the goods or services for which the proposal is submitted and shall be further disqualified from submitting any future proposals for work or for goods or services.

16. Public Entity Crimes

In accordance with Section 287.133, Florida Statutes, a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals on leases or real property to a public entity, may not be awarded or perform work as a proposer, supplier, subproposer, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.0 17 for Category Two for a period of 36 months from the date of being placed on the convicted vendor list.

17. Protest Procedures

- A. Right to Protest – Any Interested Party, defined as a party that is an actual or prospective bidder or offer or whose direct economic interest would be affected by the award or failure to award the contract at issue. (does not include subcontractors), who has submitted a timely bid or proposal in response to a TBARTA procurement solicitation and has a material interest in the decision being protested, who wishes to protest a TBARTA decision or intended decision concerning a contract award, shall submit a written Notice of Protest with TBARTA's CEO/ED. The Notice of Protest must be signed by the person who signed the bidder's or proposer's response to TBARTA's procurement solicitation and be submitted within seventy-two (72) hours after the issuance of the notice of TBARTA's decision or intended decision. The Notice of Protest shall state with particularity the name and address of the protesting party and its relationship to the procurement sufficient to establish that the protest is being filed by an Interested Party. If the Notice of Protest is submitted electronically, the protester must submit a hard copy to TBARTA's CEO/ED within twenty-four (24) hours of submitting the electronic copy. The protester shall file a formal written protest within ten (10) days after the date of the submittal of the Notice of Protest. The formal written protest shall state with particularity the identity of the contact person for the protester, including name, title, address, telephone, fax, and email address; identification of the procurement; the basis of the protest, including the facts and law upon which the protest is based; a statement of the specific relief requested; and a notarized affirmation by the protester (if an individual) or by an

owner or officer of the protester (if not an individual) as to the truth and accuracy of the statements made in the protest submittal; and providing any supporting documentation. If the formal written protest is submitted electronically, the protester must submit a hard copy of the executed formal written protest to TBARTA's CEO/ED within twenty-four (24) hours of submitting the electronic copy unless the CEO/ED waives such requirement. Failure to file a Notice of Protest or failure to file a formal written protest within the time periods set forth above shall constitute a waiver of protest.

- B. Providing a Bond – Any firm or person who files a protest shall file with TBARTA, at the time of filing the formal written protest, a bond payable to TBARTA in an amount equal to one percent of the estimate of the total value of the contract or \$5,000, whichever is less. Such bond shall be conditioned upon payment of all costs which may be adjusted against the protester upon the conclusion of the protest proceedings. If the protest determination is not in favor of the protester, TBARTA shall recover all costs, damages and charges incurred by it during the protest, excluding attorneys' fees. Upon payment of such costs and charges by the person or firm protesting the decision or intended decision, the bond shall be returned.
- C. Consideration of Protest – TBARTA's CEO/ED will consider all protests of a TBARTA decision or intended decision concerning a bid solicitation or a contract award where the protester has complied with the requirements of subsections A and B of this Section. When the CEO/ED is a member of the committee that makes a recommendation or intended decision, the CEO/ED shall designate a Department Director to consider the protest. The CEO/ED or his/her designee shall not consider any protest presented orally, not presented in a manner complying with section 5.03.A., or not presented within the time limits set forth in section 5.03.A. The CEO/ED or his/her designee shall ordinarily provide the protester and all other bidders with a written determination of the protest within fifteen (15) days of receiving a formal written protest that meets all of the requirements of section 5.03. The CEO/ED may gather additional information, including but not limited to, information from witnesses, or may request additional information from the protester if he/she deems it necessary or appropriate in rendering a decision on the protest. The CEO/ED may extend the determination period if additional time is required to gather and evaluate information necessary for the decision or for other good cause. The CEO/ED's or his/her designee's decision is final. The CEO/ED or his/her designee may provide an opportunity to resolve the protest by mutual agreement between the parties within seven days, excluding Saturdays, Sundays and legal holidays, of TBARTA's receipt of the formal written protest.
- D. Stay of Procurement During Protests – There shall be no stay of the bid process or the procurement during protests.
- E. Notice to Bidders – Bid tabulations with recommendations will be posted on a bulletin board maintained at TBARTA's principal place of business for purposes of posting bid tabulations. Upon receipt of a formal written protest, TBARTA will give notice of the protest to all bidders, or if the bid already was awarded at the time the protest was filed with TBARTA, only to the successful bidder. When a protest results in a delay of an award of the contract pending the disposition of the protest, the bidder or bidders whose bids might become eligible for award will be requested, before expiration of the time for acceptance of their bids (with consent of sureties, if any) to extend the time for acceptance so as to avoid the need for re-advertisement and re-bidding.
- F. Reconsideration of Determination – Any protester may submit a request for reconsideration within seven (7) days of the written determination only if data or information becomes available that was not previously known or available to the protester prior to the written determination of the protest, or there has been an error of law. Such request must specify the newly available data, information or the error. The CEO/ED may then reconsider his/her determination and have another five (5) days to issue a determination on the request for reconsideration.

**EXHIBIT D
SPECIAL PROVISIONS**

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1. Type of Contract

- a) This is a firm fixed price indefinite quantity, indefinite delivery contract for the supplies and/or services specified elsewhere in the contract.
- b) Except for any limitations on quantities, which may be specified elsewhere in this contract, there is no limit on the number of orders that may be issued.
- c) Orders issued during the effective period of this contract, but not completed within that period, shall be completed by,
- d) The Contractor within the time specified in the order. The contract shall govern the Contractor's and Authority's rights and obligations with respect to that order, to the same extent as if the order were completed during the contract's effective period.

2. Ordering

- (a) Any services to be furnished under this contract shall be obtained by the issuance of orders. The Contracting Officer and his designated representative(s) are the only individuals with the authority to place orders against this contract.
- (b) All orders are subject to the terms and conditions of this contract. In the event of conflict between an order and this contract, the contract shall control.
- (c) Orders may be issued by electronic mail with an attached order.

3. Availability of Funds

Funds are not presently available for performance under this contract beyond the current fiscal year. The Authority's obligation for performance of this contract beyond the current fiscal year is contingent upon the availability of appropriated funds from which payment for contract purposes can be made.

4. Term of Contract

The term of contract shall be for three (3) years from award of contract with (2) two, one (1) year options.

5. Exercise of Option

- (a) The Authority may exercise the option listed on the Schedule of this contract by written notice to the Contractor within the term of the contract. If feasible, the Authority shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Authority to an extension, and any absence of notice shall not affect the validity of any exercise of the option to extend the term of this contract.

- (b) If the Authority exercises this option, the extended contract shall be considered to include this option provision.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed five (5) years from contract award.

6. Invoicing and Payment

Invoices may be submitted once per month and shall conform to policies or regulations adopted from time to time by the Authority. Invoices shall be legible and shall contain, as a minimum, the following information: (1) the contract and order number (if any); (2) a complete itemization of all costs including quantities ordered and delivery order numbers (if any); (3) any discounts offered to the Authority under the terms of the contract; (4) evidence of the acceptance of the supplies or services by the Authority; (5) unique traceable invoice number(s); and (6) any other information necessary to demonstrate entitlement to payment under the terms of the contract. Failure to provide the above critical information may result in the rejection and return of the invoice for resubmission with complete data.

Subject to the withholding provisions of the contract, payment shall be made after the Authority's receipt of a properly prepared invoice, in accordance with the Prompt Payment Act

Invoices shall be paid within forty five (45) days of the Authority's receipt of a proper invoice. To ensure timely processing of payments, all invoices must be sent to the attention of Accounts Payable by mail or by email. The Agencies' addresses and email addresses are listed below.

Progress payments will be allowed where a determination of work performed can be verified by TBARTA's Project Manager and where the schedule extends beyond a two-week period. TBARTA reserves the right to hold back all or part of payments due until any defective work is corrected or cured. This holdback shall not constitute a breach by TBARTA. If defective work cannot be cured or Contractor refuses to cure defective work upon request by TBARTA within a reasonable time as specified herein, TBARTA may use the holdback payments as partial liquidated damages for cost and expenses to cure the defective work. However, TBARTA has the right to seek additional damages beyond the holdback payments to cure defective work caused by the Contractor to the extent allowed by law.

The Contractor agrees to pay each subcontractor under this contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the contract receives from TBARTA. The contractor agrees further to return retainage payments to each subcontractor within 10 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of TBARTA.

7. Warranty of Service

- (a) "Acceptance" as used in this clause, means the act of an authorized representative of the Authority by which the Authority assumes for itself, or as an agent of another, ownership of existing and identified supplies, or approves specific services, as partial or complete performance of the contract. "Correction," as used in this clause, means the elimination of a defect.
- (b) Notwithstanding inspection and acceptance by the Authority or any provision concerning the conclusiveness thereof, the Contractor warrants that all services performed under this contract will, at the time of acceptance, be free from defects and conform to the requirements of this contract. The Contracting Officer shall give written notice of any defect or nonconformance to the Contractor within 45 days after discovery of the defect. This notice shall state either (1) that the Contractor shall correct or re-perform any defective or nonconforming services, or (2) that the Authority does not require correction or re-performance.
- (c) For a period of 180 days after the date of Acceptance by TBARTA, known hereafter as the "Warranty Period", Contractor is required to correct or re-perform, it shall be at no cost to the Authority, and any services corrected or re-performed by the Contractor shall be subject to this clause to the same extent as work initially performed. If the Contractor fails or refuses to correct or re-perform, the Contracting Officer may, by contract or otherwise, correct or replace with similar services and charge to the Contractor the cost occasioned to the Authority thereby, or make an equitable adjustment in the contract price.

8. Insurance Requirements

(a) Before performing any contract work, the successful Proposer shall procure and maintain, during the life of the contract, unless otherwise specified, insurance to be determined by TBARTA. The policies of insurance shall be primary and written on forms acceptable to TBARTA and placed with insurance companies approved and licensed by the Insurance Department in the State of Florida in accordance with all laws, and meet a minimum financial **AM Best rating** of no less than:

- “A - Excellent: FSC VII.”

Insurance certificates are to be provided to the Procurement and Contracts Administration Department as part of the bid response.

(b) The following amounts and types of insurance are the minimum requirements of the Contractor/Vendor. The required policies of insurance shall be performable in Hillsborough County, Florida, and shall be construed in accordance with the laws of the State of Florida. TBARTA reserves the right but not the obligation to revise any insurance requirement, or reject any insurance coverage which fails to meet the criteria stated herein at any time. TBARTA reserves the right to require Contractor/Vendor to provide and pay for any other insurance coverage TBARTA deems necessary, depending upon the possible exposure to liability or loss. These insurance requirements shall not limit the liability of the Contractor/Vendor. TBARTA does not represent these types or amounts of insurance to be sufficient or adequate to protect the Contractor/Vendor's interests or liabilities, but are merely minimums.

(c) To document required insurance is in effect, Certificates of Insurance shall be provided to TBARTA during the life of the contract or work performed. No work shall commence under the Contract unless and until the required Certificates of Insurance are provided and approved by TBARTA. The required certificates shall be supplied with your proposal, on or within seven (7) calendar days of the Authority's request.

(d) Required insurance shall be documented by Certificates of Insurance which provide that TBARTA will be notified at least 10 days in advance of cancellation, non-renewal or adverse changes. If notice provision is not provided by the insurance policies, Contractor/Vendor is responsible for such notification directly to TBARTA Procurement and Contracts Administration Department.

(e) Renewal Certificates of Insurance must be provided to TBARTA at least 10 days prior to expiration of current coverages so that there shall be no interruption in the service due to lack of proof of insurance coverages required of the Contractor/Vendor.

Should at any time the Contractor not maintain the insurance coverages required of it, TBARTA may either cancel or suspend delivery of goods or services as required by Contractor/Vendor or, at its sole discretion, shall be authorized to purchase such coverage and charge the Contractor/Vendor for such coverages purchased. TBARTA shall be under no obligation to purchase such insurance or be responsible for the coverages purchased or the responsibility of the insurance company/companies used. The decision of TBARTA to purchase such insurance coverages shall in no way be construed to be a waiver of its rights. Contractor/Vendor is responsible for providing or requiring the same insurance and conditions for any subcontractors utilized for this project.

Notices and Certificates shall be issued to:

TAMPA BAY AREA REGIONAL TRANSIT AUTHORITY
Procurement Department
4350 West Cypress Street, Suite 700
Tampa, FL 33607

(f) Except for workers' compensation coverage and professional liability coverage, the Contractor/Vendor's policies shall be endorsed to name TAMPA BAY AREA REGIONAL TRANSIT AUTHORITY (TBARTA) as an additional insured to the extent of their interests arising from this agreement, contract or lease.

(g) The Contractor/Vendor is responsible for the amount of any deductibles, self-insurance or self-insured retentions.

(h) Insurance required of the Contractor/Vendor shall be considered Primary and Non-Contributory, and insurance or self-insurance retention of TBARTA be considered excess, as may be applicable to claims which arise out of the Hold Harmless, Payment on Behalf of TBARTA, Insurance, Certificates of Insurance and any Additional Insurance provisions of this agreement, contract or lease.

(i) Workers' Compensation and Employers' Liability Insurance shall be maintained in force during the term of this Contract for all employees, subcontractors, or other persons engaged in the work under this contract, and shall not be less than:

Coverage A: Workers Compensation	Statutory benefits
Coverage B: Employers Liability	\$100,000 Limit Each Accident
	\$500,000 Limit Disease Aggregate
	\$100,000 Limit Disease Each Employee

(j) Commercial General Liability insurance with Occurrence Form shall be maintained by the Contractor/Vendor. Coverage shall include bodily injury and property damage liability for premises, operations, products and completed operations, personal & advertising injury, independent contractors, contractual liability covering this agreement, contract or lease, broad form property damage, and property damage resulting from explosion, collapse or underground (x,c,u) exposures with the following minimum limits:

- \$1,000,000 each occurrence for bodily injury and property damage
- \$1,000,000 general aggregate (Per Job – Projects over \$100,000)
- \$1,000,000 products completed operations aggregate
- \$1,000,000 personal & advertising injury

The Contractor/Vendor shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Commercial General Liability Policies of the Insurance Services Office. Excess or Umbrella Insurance Coverage may be used to make up the difference between the policy limit of the underlying policy and the total amount of coverage required.

(k) Business Automobile Liability Insurance with Occurrence Form shall be maintained by the Contractor/Vendor for the ownership, maintenance and use of all its owned, non-owned, leased or hired vehicles with limits of not less than:

- \$1,000,000 Combined Single Limit Each Accident Bodily Injury and Property Damage

The Contractor/Vendor shall purchase and maintain coverage on forms no more restrictive than the latest editions of the Business Auto Policies of the Insurance Services Office. Excess or Umbrella Insurance Coverage may be used to make up the difference between the policy limit of the underlying policy and the total amount of coverage required.

(l) Umbrella Liability Insurance or Excess Liability Insurance, if used to reach the limits of liability required, shall be follow form any underlying insurance and in compliance with underlying requirements, including Additional Insured Provisions.

OTHER PROVISIONS *in this section, only those that have a check mark are required*

- Project Specific Aggregate/Per Job Aggregate/Per Location Aggregate**
Provides that the General Aggregate applies separately to the project under contract.
- Waiver of Subrogation**
All of Contractor/Vendor's insurance policies, except Professional Liability, will waive rights of recovery against the RWG.
- Professional Liability/Errors & Omissions Liability**
Insurance shall be maintained for professional services rendered in accordance with this contract:
 - \$1,000,000 Limit Per Occurrence

Insurance will be maintained for at least two (2) years from the termination of this contract with no change of the retroactive date on this insurance coverage. If there is a change that reduces or restricts the coverage carried during the contract, TBARTA must be notified within 10 days of the change.
- Pollution/Environmental Impairment Liability Coverage**
Pollution/environmental Impairment Liability Insurance are to be purchased to cover pollution and/or environmental impairment which may arise from this agreement or contract. The coverage period shall be extended beyond the date of the completed project, until the expiration date of the performance bond. If claims-made the retro date shall be prior or equal to the effective date of the contract. The coverage shall include a "tail" or discovery, or continuous renewal of

coverage for a period of 3 years following the completion of the project. Coverage will be provided for non-owned disposal sites utilized for this project.

- \$1,000,000 Limit Per Occurrence

Builder's Risk:

Builder's Risk Insurance is to be purchased to cover subject property under construction for special perils of loss (including wind, theft and sinkhole). Coverage shall include:

- No coinsurance.
- On-site and off-site storage.
- Transit and installation risks, if such coverages are not separately provided.
- Flood: If property being constructed is located in a Special Flood Hazard Area (SFHA) or flood risk exists, flood insurance must be provided to be provided.
- Deductible: the Contractor/Vendor is responsible for any applicable deductibles.
- Insured Parties: the Builder's Risk Insurance is to be endorsed to cover the interest of all parties, including the agency and all contractors and subcontractors.
- Waiver of Occupancy Endorsement: coverage should be continued if the agency occupies or partially occupies the facility under construction during such activity.
- Machinery/Equipment Endorsement: when the Contract calls for the installation of machinery or equipment, coverage must be provided during transit, installation, and testing.
- Installation Floater Coverage: insurance is to be purchased when Builder's Risk insurance is inappropriate, or when Builder's Risk insurance will not respond, to cover damage or destruction to renovations, repairs or equipment being installed or otherwise being handled or stored by the Contractor/Vendor, including off-site storage, transit and installation. The amount of coverage should be adequate to provide full replacement value of the property, repairs, additions or equipment being installed, otherwise being handled or stored on or off premises. All risks coverage is preferred.

Cyber Liability

Required for products or services that involve website or other electronic data or systems to include Data Breach, Media content, Privacy Liability, and Network Security. Contractor shall maintain limits of:

- \$1,000,000 per occurrence.

If coverage is claims-made, the retroactive date shall be prior or equal to the effective date of any contract with TBARTA. The coverage shall include a "tail" or Discovery, or continuous renewal of coverage for a period of three (3) years following the completion of the project.

If work includes systems or other design work, Professional Liability/Errors & Omissions Liability shall also be provided.

Crime/Employee Dishonesty/Employee Fidelity Bond Coverage

Crime/Employee Dishonesty/Fidelity insurance is to be purchased or extended to cover Dishonest Acts of the Contractor/Vendor's employees on TBARTA's premises resulting in the loss to the member. Dishonest Acts include theft of monies, securities, vehicles, materials, supplies, equipment, tools, etc., especially property necessary to work performed.

Garage Liability Coverage

Garage Liability Insurance is to be purchased to cover the Contractor/Vendor and its employees for its garage and related operations while TBARTA's vehicles are in the care, custody and control of Contractor/Vendor.

Garage Liability coverage may be provided in place of Automobile and General Liability coverages, but shall have equal coverage provisions in favor of the TBARTA.

Limits of Liability	
Bodily Injury & Property Damage Liability	
Each Occurrence	\$3,000,000

Garagekeepers' Coverage (Legal Liability Form)

Garagekeepers' Liability Insurance is to be purchased to cover the Contractor/Vendor's liability for damage or loss, including comprehensive and collision risks, to TBARTA's vehicles while in the care, custody, and control of the Contractor/Vendor.

Limits of Liability – Equal to full value of vehicles and equipment.

9. Key Personnel

The Contractor shall not remove or reassign any key personnel, without submitting a written request to and obtaining written consent from the Contracting Officer prior to taking such action. However, the Contractor shall, if requested to do so by the Contracting Officer, remove or reassign any key personnel not acceptable to the Authority. For performance of this contract the key personnel are those persons whose names are specified in the Contractor's proposal.

10. Contract Identification Number

The contract number shall be clearly displayed on all correspondence, invoices and submittals.

**EXHIBIT F
GENERAL PROVISIONS
(SERVICES CONTRACT)**

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1. Definitions

As used throughout this contract, the following terms shall have the meaning set forth below:

- (a) The term "the Authority" means the TAMPA BAY AREA REGIONAL TRANSIT AUTHORITY or TBARTA
- (b) The term "Contract" means the contract to be awarded as a result of this solicitation, which shall consist of the Contract Documents and any duly executed addenda thereto.
- (c) The term "Contractor" means the successful Proposer(s) which have been awarded a contract as a result of this solicitation.

The term "Contracting Officer" means the person administering this contract on behalf of the Authority or his duly appointed successor; and the term includes, except as otherwise provided in this contract, the authorized representative of the Contracting Officer acting within the limits of his authority.

(d) In computing any period of time established under this contract, "days" means calendar days, and the day of the event from which the designated period of time begins to run shall not be included, but the last day shall be included unless it is a Saturday, Sunday, or Federal or State of Florida holiday, in which event the period shall run to the end of the next business day.

(e) The term "Contract Documents" shall mean and refer to the RFP and all schedules and exhibits attached thereto including all duly executed and issued addenda, Supplier's Best and Final Offer (BAFO) and Supplier's Response

2. Independent Contractor

The Contractor at all times shall be an independent contractor. The Contractor shall be fully responsible for all acts and omissions of its employees, subcontractors, and their suppliers, and shall be specifically responsible for sufficient supervision and inspection to ensure compliance in every respect with the contract requirements. There shall be no contractual relationship between any subcontractor or supplier of the Contractor and the Authority by virtue of this contract. No provision of this contract shall be for the benefit of any party other than the Authority and the Contractor.

3. Composition of Contractor

If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and severally liable hereunder.

4. Subcontractors and Outside Consultants

(a) Any subcontractors and outside associates or consultants required by the Contractor in connection with the services covered by the contract will be limited to such individuals or firms as were specifically identified and agreed to by the Authority in connection with the award of this contract. Any substitution in such subcontractors, associates, or consultants will be subject to the prior approval of the Contracting Officer.

(b) The Contractor shall not employ any subcontractor or other person or organization (including those who are to furnish the principal items of materials or equipment whether initially or as a substitute), against whom TBARTA may have reasonable objection. A subcontractor or other person or organization identified in writing to TBARTA by Contractor prior to the Notice of Award and not objected to in writing by TBARTA prior to the Notice of Award will be deemed acceptable to TBARTA. Acceptance of any subcontractor, other person or organization by TBARTA, shall not constitute a waiver of any right of TBARTA to reject defective work. If TBARTA after due investigation has reasonable objection to any subcontractor, other person or organization proposed by the Contractor after the Notice of Award, Contractor shall submit an acceptable substitute and the contract price shall not, be adjusted. The Contractor shall not be required to employ any Subcontractor, other person or organization against whom Contractor has reasonable objection.

(c) TBARTA may furnish to any subcontractor or other person or organization, to the extent practicable, evidence of amounts paid to Contractor on account of specific work done.

(d) All work performed by a subcontractor will be pursuant to an appropriate agreement between the Contractor and the subcontractor which specifically binds the subcontractor to the applicable terms and conditions of the contract documents for the benefit of TBARTA.

5. Compliance with Public Records Law

Pursuant to section 119.0701, Florida Statutes, for any tasks performed by Contractor on behalf of TBARTA, Contractor shall: (a) keep and maintain all public records, as that term is defined in chapter 119, Florida Statutes ("Public Records"), required by TBARTA to perform the work contemplated by this Agreement; (b) upon request from TBARTA's custodian of public records, provide TBARTA with a copy of the requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the costs provided in chapter 119, Florida Statutes, or as otherwise provided by law; (c) ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the term of this Agreement and following completion or termination of this Agreement, if Contractor does not transfer the records to TBARTA in accordance with (d) below; and (d) upon completion or termination of this Agreement, (i) if TBARTA, in its sole and absolute discretion, requests that all Public Records in possession of Contractor be transferred to TBARTA, Contractor shall transfer, at no cost, to TBARTA, all Public Records in possession of Contractor within thirty (30) days of such request or (ii) if no such request is made by TBARTA, Contractor shall keep and maintain the Public Records required by TBARTA to perform the work contemplated by this Agreement. If Contractor transfers all Public Records to TBARTA pursuant to (d)(i) above, Contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements within thirty (30) days of transferring the Public Records to TBARTA and provide TBARTA with written confirmation that such records have been destroyed within thirty (30) days of transferring the Public Records. If Contractor keeps and maintains Public Records pursuant to (d)(ii) above, Contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to TBARTA, upon request from TBARTA's custodian of public records, in a format that is compatible with the information technology of TBARTA. If Contractor does not comply with a Public Records request, or does not comply with a Public Records request within a reasonable amount of time, TBARTA may

pursue any and all remedies available in law or equity including, but not limited to, specific performance. The provisions of this section only apply to those tasks in which Contractor is acting on behalf of TBARTA.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

**Telephone number: 813-282-8200 E-mail address: susan.ebner@tbarta.com
Mailing address: Attn: Public Records Department 4350 West Cypress Street,
Suite 700, Tampa, FL 33607.**

6. Standards of Performance

The Contractor shall perform all services required by this contract in accordance with high professional standards prevailing in the Contractor's field of work.

7. Changes

- (a) The Contracting Officer may, at any time, by written order, make changes within the scope of the services to be performed. However, no such change shall serve to increase the maximum contract amount as awarded by TBARTA's Board of Directors ("Contract Total"), to give the Contractor a claim for any compensation that would exceed the Contract Total, nor to increase the Contract Term as set forth in Exhibit D. In the event any change would result in an increase in the Contract Total or Contract Term, Contractor shall notify TBARTA within seven (7) days in writing. The written notice shall state in all capital, bold letters that the change order would result in an increase in the Contract Total and/or Contract Term and shall include a statement outlining the reasons for the change, a complete description of the change, and detailed description of all matters related thereto. Such notice must be submitted and approved by TBARTA's Board of Directors at a duly noticed public meeting prior to performing any work contemplated by the change order.
- (b) No services for which an additional cost or fee will be charged by the Contractor shall be furnished without the prior written authorization of the Contracting Officer and no such additional costs or fees shall serve to increase the Contract Total.

8. Suspension of Work

- (a) The Contracting Officer may order the Contractor in writing to suspend all or any part of the work for such period of time as he may determine to be appropriate for the convenience of the Authority.
- (b) Contractor shall not be entitled to any claim for additional compensation or damages on account of hindrances or delays in the work from any cause whatsoever, including any delays or hindrances caused by TBARTA suspending all or any part of the work to be performed.

9. Excusable Delays

- (a) Except for defaults of subcontractors at any tier, the Contractor shall not be in default because of any failure to perform this contract under its terms if the failure arises from (1) acts of God or of the public enemy, (3) fires, (4) floods, (5) epidemics, (6) quarantine restrictions, (7) strikes, (8) freight embargoes, and (9) severe weather events directly affecting the performance under the contract. In each instance, the failure to perform must be beyond the control and without the fault or negligence of the Contractor.
- (b) Upon request of the Contractor, the Contracting Officer shall ascertain the facts and extent of the Contractor's failure to perform. If the Contracting Officer determines that any failure to perform results from one or more of the causes above, the schedule of services may be revised subject to all other rights of the Authority under the Contract.

10. Ownership of Information

(a) All data, technical information, materials gathered, originated, developed, prepared, used or obtained in the performance of the contract, including, but not limited to, all reports, surveys, plans, charts, literature, brochures, mailings, recordings (video and/or audio), pictures, drawings, analyses, graphic representations, software computer programs and accompanying documentation and print-outs, notes and memoranda, written procedures and documents, regardless of the state of completion, which are prepared for or are a result of the services required under this contract shall be and remain the property of the TBARTA and shall be delivered to TBARTA upon 30 days' notice by TBARTA. With respect to software computer programs and/or source codes developed for TBARTA, the work shall be considered "work for hire", i.e., TBARTA, not the contractor or subcontractor, shall have full and complete ownership of all software computer programs and/or source codes developed. To the extent that any of such materials may not, by operation of law, be a work made for hire in accordance with the terms of this contract, contractor or subcontractor hereby assigns to TBARTA all right, title and interest in and to any copyright, and TBARTA shall have the right to obtain and hold in its own name any copyrights, registrations and any other proprietary rights that may be available.

(b) Should the contractor anticipate bringing pre-existing intellectual property into the project, the intellectual property must be identified in the proposal. Otherwise, the language in the first paragraph of this section prevails. If the contractor identifies such intellectual property ("Background IP") in its proposal, then the Background IP owned by the contractor on the date of the contract, as well as any modifications or adaptations thereto, remain the property of the contractor. Upon contract award, the contractor or contractor shall grant TBARTA a non-exclusive, royalty free license to use any of the contractor's/contractor's Background IP delivered to TBARTA for the purposes contemplated by the contract.

11. Examination and Retention of Records

(a) If this is a cost-reimbursement type, incentive, time and materials, labor hour, or price re-determinable contract, or any combination thereof, the Contractor shall maintain, and the Authority shall have the right to examine, all books, records, documents, and other evidence and accounting procedures and practices sufficient to reflect properly all direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of this contract. Such right of examination shall include inspection at all reasonable times at the Contractor's plants, or such parts thereof, as may be engaged in or maintain records in connection with the performance of this contract.

(b) If the Contractor submitted certified cost or pricing data in connection with the pricing of this contract or if the Contractor's cost of performance is relevant to any change or modification to this contract, the Authority shall have the right to examine all books, records, documents, and other data of the Contractor related to the negotiation, pricing, or performance of such contract, change, or modification for the purpose of evaluating the costs incurred and the accuracy, completeness, and currency of the cost or pricing data submitted. The right of examination shall extend to all documents necessary to permit adequate evaluation of the costs incurred and the cost or pricing data submitted, along with the computations and projections used therein.

(c) The materials described in (b) and (c), above, shall be made available at the office of the Contractor at all reasonable times for inspection, audit, or reproduction until the expiration of three (3) years from the date of final payment under this contract, except that:

(1) if this contract is completely or partially terminated, the records relating to the work terminated shall be made available for a period of three (3) years from the date of any final settlement or final decision or judgment in any litigation; and

(2) records which relate to appeals under the Disputes Clause of this contract or litigation, or the settlement of claims arising out of the performance of this contract, shall be made available until such appeals, litigation, or claims have been resolved.

(d) The Contractor shall insert a clause containing all the provisions of this clause, including this paragraph (e), in all subcontracts exceeding \$10,000 hereunder, altered to reflect the proper identification of the contracting parties and the Authority under the contract.

12. Inspection

(a) The Contractor shall provide and maintain an inspection system acceptable to the Authority covering the services under this contract. Complete records of all inspection work performed by the Contractor shall be maintained and made available to the Authority during contract performance and for as long afterwards as the contract requires.

(b) The Authority has the right to inspect and test all services called for by the contract, to the extent practicable, at all times and places during the term of the contract. The Authority shall perform inspections and tests in a manner that will not unduly delay the work.

(c) If any of the services do not conform with contract requirements, the Authority may require the Contractor to perform the services again in conformity with contract requirements, at no increase in contract amount. When the defects in services cannot be corrected by re-performance, the Authority may (1) require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and (2) reduce the contract price to reflect the reduced value of the services performed.

(d) If the Contractor fails promptly to perform the services again or to take the necessary action to ensure future performance in conformity with contract requirements, the Authority may (1) by contract or otherwise, perform the services and charge to the Contractor any cost incurred by the Authority that is directly related to the performance of such service or (2) terminate the contract for default or (3) reduce the contract price for the work not done by Contractor.

13. Notice of Labor Disputes

(a) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of this contract, the Contractor immediately shall give notice, including all relevant information, to the Contracting Officer.

(b) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract under which a labor dispute may delay the timely performance of this contract; except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute, the subcontractor shall immediately notify the next higher tier subcontractor or the Contractor, as the case may be, of all relevant information concerning the dispute.

14. Licenses and Permits

The Contractor shall, without additional expense to the Authority, be responsible for obtaining any necessary licenses, permits, and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to the performance of the work or to the products or services to be provided under this contract including, but not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

15. Compliance with the Law

The Contractor shall comply with all federal, state, county, and local laws, rules and/or regulations, and lawful orders of public authorities including those set forth in the Contract Documents that, in any manner, could bear on the Contract. Omission of any applicable laws, ordinances, rules, regulations, standards or orders by TBARTA in the Contract Documents shall be construed as an oversight and shall not relieve the Contractor of its obligations to comply with such laws fully and completely. Upon request, the Contractor shall furnish to TBARTA certificates of compliance with all such laws, orders and regulations.

16. Federal, State, and Local Taxes

The Authority is exempt from Florida state and local sales and use taxes, and any such taxes included on any invoice or voucher received by the Authority shall be deducted from the amount of the invoice or voucher for purposes of payment.

17. Publicity Releases

All publicity releases or releases of reports, papers, articles, maps, or other documents in any way concerning this contract or the work hereunder which the Contractor or any of its subcontractors desires to make for purposes of publication in whole or in part, shall be subject to approval by the Contracting Officer prior to release.

18. Removal of Contract Personnel

(a) By assigning a person to work under this contract, the Contractor agrees to be responsible for the behavior of that person during contract performance.

(b) The Contractor acknowledges that the Authority has the right to require the removal of any Contractor or subcontractor employee that the Contracting Officer determines, at his sole discretion, to be negatively effecting performance of work under the contract. Examples of such behavior include: (1) conduct which poses a threat to the

safety of anyone working under the contract; (2) conduct which is disruptive to contract performance; (3) careless work performance; and (4) other behavior determined by the Contracting Officer to be objectionable or unduly hindering contract performance. Notwithstanding the foregoing, nothing contained herein shall be construed as the Authority having any control or direction over the Contractor's employees, including but not limited to directing safety of such employees.

(c) Upon receipt of written notice from the Contracting Officer that an employee is to be removed, the Contractor agrees to remove immediately that person from doing any further work on the contract, and to cause that person to be removed from the worksite. The Contractor agrees that it is not entitled to any additional costs it may incur as a result of the removal of the person named by the Contracting Officer.

19. Soliciting or Accepting Gifts

Pursuant to section 112.3148(3), Florida Statutes, no TBARTA employee shall solicit anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, when they know, or with the exercise of reasonable care should know, that it is given to influence a vote or other official action.

20. Prohibited Interest

No member, officer, or employee of TBARTA or of a local public body during his tenure or two years thereafter shall have any interest, direct or indirect, in this contract or the proceeds thereof, except as provided by law.

21. Termination

The Contract may be terminated with or without cause in accordance with the provisions below.

(a) Termination for Convenience: For and in consideration of \$10.00, if TBARTA determines that it is in its best interest to do so, TBARTA may terminate the Contract without cause upon thirty (30) days' written notice to the Contractor. If TBARTA terminates the Contract pursuant to this subsection, Contractor shall promptly submit to TBARTA its costs to be paid on work performed up to the time of termination. If the Contractor has any property belonging to TBARTA in its possession, Contractor shall account for the same and dispose of it as directed by TBARTA.

(b) Termination for Default: TBARTA may terminate the Contract for cause at any time immediately upon written notice to the Contractor, if: (1) the Contractor fails to fulfill or abide by any of the terms or conditions specified in the Contract Documents; (2) the Contractor fails to perform in the manner called for in the Contract Documents; or (3) the Contractor does not provide services in accordance with the requirements of the specifications in the Contract Documents. In its sole discretion, TBARTA may allow the Contractor an appropriately short period of time in which to cure a defect in performance or non-performance. In such case, TBARTA's written notice of termination to the Contractor shall state the time period in which cure is permitted and other appropriate conditions, if applicable. Should this Agreement be terminated by TBARTA for cause under this Section, Contractor shall be liable for all expenses incurred by TBARTA in reprocurring elsewhere the same or similar items or services offered by Contractor. Any such termination for default shall not in any way operate to preclude the Authority from also pursuing all available remedies against Contractor and its sureties for said breach or default. The Contractor may terminate the Contract for cause if TBARTA fails to fulfill or abide by any duties or conditions specified in the Contract Documents, provided that Contractor must first provide notice of the alleged breach to TBARTA and give TBARTA thirty (30) days written notice to cure the alleged breach. If TBARTA cures the alleged breach or is making a good faith effort to cure said breach during the thirty (30) day cure period, Contractor may not terminate this Agreement.

(c) If it is later determined by the Authority that the Contractor's failure to perform is a result of Force Majeure, the Authority may, in its sole and absolute discretion, may allow Contractor to continue performance under a new time for performance or treat the termination as if terminated without cause under Paragraph 21(a) above.

(d) In the event TBARTA, in its sole discretion, determines that sufficient budgeted funds are not available to appropriate for payments due to Contractor under this Agreement, TBARTA shall notify Contractor of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without any penalty or expense to TBARTA.

22. Resolution of Contract Claims, Disputes

(a) Claims and Disputes Authority to Resolve. All claims or disputes by a Contractor against the Authority relating to a contract shall be submitted in writing to the Contracting Officer for a determination.

(b) Definition. Claims and disputes include controversies arising under a Contract and those based upon breach of contract, mistake, misrepresentation or other cause of contract modification, termination or rescission.

(c) Notice of Claim or Dispute. The Contractor shall submit a Notice of Claim or Dispute in writing within ten (10) days of issue giving rise to claim or dispute. The date of the issue shall include when the contractor knew of the issue or should have known of the issue that gave rise to the claim or dispute.

(d) Notice Requirements. The Notice of Claim or Dispute shall include at a minimum:

- (1) the Notice of Claim or Dispute shall be titled "Notice of Contract Claim or Notice of Contract Dispute";
- (2) name and address of the contractor;
- (3) name of the attorney and firm representing contractor, if applicable;
- (4) identification of the contract; and
- (5) Reasons for the claim or dispute.

(e) Failure to timely submit Notice. Failure to submit the Notice of Claim or Dispute within ten (10) days of the issue that gave rise to the dispute or claim will result in the claim or dispute being rejected by the Authority without further consideration. The date of the issue shall include when the contractor knew of the issue or should have know of the issue that gave rise to the claim or dispute.

(f) Delivery. A Notice of Claim or Dispute shall be sent via hand delivery or certified mail. **Electronic forms of delivery are not an acceptable means of delivery.** The contractor is solely responsible for verifying that the Notice of Claim or Dispute was received in a timely manner. Notice of Claim or Dispute should be addressed to:

TAMPA BAY AREA REGIONAL TRANSIT AUTHORITY
Attention: Chief Executive Officer
3201 Scherer Drive
St. Petersburg, Florida 33716

(g) Timeline for Formal Written Claim or Dispute. The Formal Written Claim or Dispute shall be filed within seven (7) days after the date the Notice of Claim or Dispute is timely filed. Failure to submit the Formal Written Claim or Dispute within seven (7) days will result in the Claim or Dispute being rejected by the Authority without further consideration and the Contractor will be considered to have waived any such Claim or Dispute.

(h) Written Claim or Dispute Requirements. The Formal Written Claim or Dispute shall include at a minimum:

- (1) the Formal Written Claim or Dispute shall be titled "Formal Written Contract Claim or Dispute";
- (2) name and address of the contractor;
- (3) name of the attorney and firm representing contractor, if any;
- (4) identification of the solicitation;
- (5) reason(s) for the claim or dispute;
- (6) requested relief;
- (7) the claim or dispute must demonstrate how the contractor has been aggrieved as a result of the Authority's decision and shall include the facts, argument(s), and the law upon which the claim or dispute is made;
- (8) documents to substantiate the basis or ground for the claim or dispute.

(i) No further consideration. Any documents, basis or ground(s) for the claim or dispute not set forth or provided in the formal written contract claim or dispute required under this provision shall be deemed waived.

(j) Written determination. The Contracting Officer shall issue a decision in writing within ten (10) days of the of Claim or Dispute and shall mail to the contractor. The decision shall state the reasons for the decision reached.

(a) Administrative Remedies. This process is considered to be an administrative remedy and all contractors agrees to exhaust its administrative remedies under the Authority policies prior to seeking judicial relief of any type in connection with any matter related to the contract claim or contract dispute.

Unless otherwise directed by TBARTA, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

23. Assignment

The terms and provisions of the Contract Documents shall be binding upon TBARTA and Contractor their respective partners, successors, heirs, executors, administrators, assigns and legal representatives. However, the rights and obligations of the Contractor may not be transferred, assigned, sublet, mortgaged, pledged or otherwise disposed of or encumbered in any way without TBARTA's prior written consent. The Contractor may subcontract a portion of its obligations to other firms or parties but only after having first obtained the written approval of the subcontractor by TBARTA. TBARTA may assign its rights and obligations under the Contract Documents to any successor to the rights and functions of TBARTA or to any governmental agency to the extent required by applicable laws or governmental regulations or to the extent TBARTA deems necessary or advisable under the circumstances.

24. Governing Law & Severability

(a) The Contract Documents shall be governed by, construed and interpreted in accordance with the laws of the State of Florida. Contractor consents to jurisdiction over it and agrees that venue for any state action shall lie solely in the Thirteenth Judicial Circuit in and for Hillsborough County, Florida, and for any state actions shall lie solely in the U.S. District Court, Middle District of Florida, Tampa, Division.

(b) If any one or more of the provisions of the Contract Documents shall be held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby and the Contract Documents shall be treated as though that portion had never been a part thereof.

TAMPA BAY AREA REGIONAL TRANSIT AUTHORITY (TBARTA)
EXHIBIT H
STATEMENT OF WORK

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1. Scope of Services

Purpose

Tampa Bay Area Regional Transit Authority (TBARTA or The Authority) is releasing this Request For Proposal (RFP) to engage the services of a certified public accounting firm to provide annual year-end financial audit and related services as further described below, for the fiscal years September 30, 2018, 2019, 2020, 2021, and 2022.

Proposers are encouraged to be innovative in their proposed solutions as to provide the most cost effective solution while meeting all of the requirements outlined in this solicitation and developed during the Evaluation/Negotiation Process. Potential Proposer is encouraged to carefully review all the requirements contained herein and prepare responses accordingly.

A. General

Audits are to be performed in accordance with the provisions contained in this request for proposal. TBARTA’s fiscal year end is September 30th.

B. Work to be Performed

TBARTA and staff resources prepare the draft Comprehensive Annual Financial Report (CAFR), the notes to the financial statements, the Management Discussion and Analysis and the required supplementary information and statistical sections.

The auditor shall express an opinion on the fair presentation of its financial statements in conformity with generally accepted accounting principles.

The auditor will assist in preparation of the financial statements by consolidating and formatting the word and excel documents provided by TBARTA and staff resources.

C. Auditing Standards to be followed

The audit is to be performed in accordance with generally accepted auditing standards, Government Auditing Standards set forth for by the Comptroller General of the United States and the provisions of the U.S. Office of Management and Budget (OMB) Circular A-133, “Audits of State and Local Governments”.

D. Reporting Requirements

The following reports, with the anticipated completion dates for each year, will be issued by the independent accountant:

<i>Description of Report</i>	<i>Timing</i>
Finance & Performance Management Committee- Summary of Audit Plan	TBD
Finance & Performance Management Committee and the Full Board- Results of Audit	March Committee and Board Meeting
Financial Statements and audit opinion thereon	Prior to March 31st
Report on Investments	Prior to March 31st
Recommendations to Enhance Internal Accounting Controls	Prior to March 31st
Financial and Compliance Examination Pursuant to OMB Circular A-133 with Reports of Independent Accountants	Requesting Completion by June 30th
Report of Independent Accountants on National Transit Database Report	Prior to January 31st
Attestation Report on management's assessment of Internal Controls	Prior to March 31st

Auditors shall ensure that TBARTA's Finance & Performance Management Committee is informed of each of the following:

- The auditor's responsibility under Generally Accepted Auditing Standards
- Significant accounting policies
- Management judgments and accounting estimates
- Significant audit adjustments
- Disagreements with management
- Consultation with other accountants
- Major issues discussed with management prior to retention
- Difficulties encountered in performing the audit
- Significant written communications between the Auditor and Management
- Updates on potential new GASB Pronouncements and their effect on TBARTA.

E. Working Paper Retention and Access to Working Papers

All working papers and reports must be retained, at the auditor's expense, for a minimum of three (3) years, unless the firm is notified in writing by TBARTA of the need to extend the retention period. The auditor will be required to make working papers available, upon written request, to TBARTA or other government agencies as required.

In addition, the successful proponent shall respond to the reasonable inquiries of successor auditors and allow successor auditors to review working papers relating to matters of continuing accounting significance.

F. Budgetary Basis of Accounting

TBARTA prepares its budgets on a basis consistent with generally accepted accounting principles.

G.Magnitude of Finance Operations

TBARTA maintains their accounting records on a double entry basis using the enterprise method of accounting.

H.Date Audit May Commence

The Interim audit work may be done at any time mutually agreed upon. TBARTA will have all records ready for audit and all management personnel will be available to meet with the firm's personnel in accordance with the agreed upon time schedule.

ASSISTANCE TO BE PROVIDED TO THE AUDITOR AND REPORT PREPARATION

- Clerical Assistance
- Responsible management personnel will be available during the audit to assist the firm by providing information, documentation and explanations. The preparation of confirmations will be the responsibility of the auditor. Clerical support will be made available to the auditor for the preparation of routine letters and memoranda.
- Statements and Schedules to be prepared by the TBARTA and staff resources
- TBARTA and staff resources will prepare full financial statements and supporting schedules for the auditor as requested.
- Work Area, Telephones, Photocopying and FAX Machines
- TBARTA and staff resources will provide the auditor with reasonable workspace, desks and chairs. The auditor will also be provided with access to telephones, internet, photocopying facilities and FAX machines.
- Report Preparation

Consolidating the Excel and Word documents into the CAFR will be the responsibility of the auditor. Report printing and binding shall be the responsibility of TBARTA. The auditor will be responsible for completing the Federal Data Collection Form as part of the Single Audit requirements.

2. Technical Proposal Requirements

i. General Requirements

The proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also describe an audit approach that will meet the request for proposal requirements.

The proposal should address all the points outlined in the request for proposal. While **additional data may be presented, the following subjects, items #2 through 8, must be addressed.**

ii. Independence

The proposal should include a statement that it is independent of TBARTA as defined by generally accepted auditing standards/the U.S. General Accounting Office's Government Auditing Standards.

The proposal should list and describe the firm's (and; proposed subcontractors') professional relationships involving TBARTA for the past five (5) years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed audit.

iii. **License to Practice in Florida**

A statement should be included indicating that the firm and all assigned key professional staff, including sub-contractors, are properly registered/licensed to practice in Florida.

iv. **FIRM QUALIFICATIONS REQUIREMENTS**

- The size of the firm and the number of staff with governmental audit experience
- The location of the office from which the work is to be performed
- The Firm is also required to submit a copy of the report of its most recent external quality control review with a statement whether that quality control review included a review of specific government engagements.
- Provide information on the results of any federal or state desk reviews or field reviews of the audits during the last three (3) years. In addition, the firm shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with the federal and state and regulatory bodies or professional organizations.

Proposer must have experience in conducting financial audits on public transportation authorities, or other State of Florida municipalities or authorities.

The proposal should include the below:

- Confirmation that the firm meets the qualification requirements set forth in this RFP.
- The extent of experience with audits of public transportation agencies;
- The extent of experience conducting reviews in accordance with Federal Single Audit requirements;
- A list of any and all subcontractors intended to be used on this project, along with the scope of work expected to be assigned to each subcontractor and a detailed experience statement for the subcontractor in that particular area. Although there is no specific requirement, describe any plans you have for Disadvantage Business Enterprise (DBE) or Minority, Women Business Enterprise (MWBE) participation.

v. **PARTNER, SUPERVISORY AND STAFF QUALIFICATIONS AND EXPERIENCE**

Identify the principal supervisory and management staff, including engagement partners, managers, other supervisors and specialists, who would be assigned to the engagement. Provide information on the government auditing experience of each person, including information on relevant continuing professional education for the past two (2) years and membership in professional organizations relevant to the performance of this audit.

Indicate that all professionals are in compliance with the Continuing Professional Education (CPE) requirements outlined in the Government Auditing Standards 2003 revision.

Provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education, of the specific staff to be assigned to this engagement. Indicate how the quality of staff over the term of the agreement will be ensured.

vi. **SIMILAR ENGAGEMENTS WITH OTHER GOVERNMENT ENTITIES**

For the staff assigned to this project, list the most significant engagements (maximum of 5) performed in the last five years that are similar to the engagement described in this request for proposal. These engagements should be ranked on the basis of total staff hours.

Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact.

vii. SPECIFIC AUDIT APPROACH

The proposal should set forth a work plan, including an explanation of the audit methodology to be followed and to perform the services required in this request for proposals. In developing the work plan, reference should be made to such sources of information as TBARTA's budget and related materials, organizational charts, manuals and programs, and financial and other management information systems.

Proponents will be required to provide the following information regarding their audit approach:

- a. A detailed work plan and calendar that clearly indicates how the final deliverables will be completed on a timely basis.
- b. Level of staff and number of hours to be assigned to each proposed segment of the engagement.
- c. Estimated sample sizes and the extent to which statistical sampling is to be used in the engagement.
- d. Extent of use of software in the engagement.
- e. Type and extent of analytical procedures to be used in the engagement.
- f. Approach to be taken to gain an understanding of the TBARTA's internal control structure.
- g. Approach to be taken in determining laws and regulations that will be subject to audit test work.
- h. Approach to be taken in drawing audit samples for purposes of tests of compliance.

viii. IDENTIFICATION OF ANTICIPATED POTENTIAL AUDIT PROBLEMS

The proposal should identify and describe any anticipated potential audit problems, the firm's approach to resolving these problems and any special assistance that will be requested from the TBARTA staff.

ix. ITEMIZED COST PROPOSAL

- **Fee**

The Itemized Cost Proposal should contain all pricing information relative to performing the audit engagement as described in this Request For Proposal. Indicate a fee for the audit of the financial statements. The fees should contain all direct and indirect costs including all out-of-pocket expenses. Out of pocket expenses, including travel, cannot be billed as a separate item. List the fees for each of the two fiscal years ending September 30, 2018, and the one option year. The Itemized Cost Proposal should include the following information:

x. Name of Firm

Certification that the person signing the proposal is entitled to represent the Firm empowered to submit the bid and authorized to sign a contract with TBARTA.

- a. The fee for the audit of the financial statements.

- b.** Include a schedule of professional rates by partner, specialist, supervision and staff, etc. that supports the total all-inclusive maximum price.



SECTION 5: CONTRACT

AGREEMENT TO FURNISH FINANCIAL AUDIT AND RELATED SERVICES

THIS AGREEMENT is made on _____, by and between the Tampa Bay Area Regional Transit ("TBARTA"), an independent special district with its principal place of business located at 4350 West Cypress Street, Suite 700, Tampa, FL. 33607 and _____ ("Contractor"), with its principal place of business located at _____ (collectively, the "Parties").

WHEREAS, TBARTA issued a Request for Proposal No. TBARTA-002 for Financial Audit and Related Services Contract on October 24, 2018 (the "RFP"); and

WHEREAS, Contractor submitted a timely Proposal to TBARTA's RFP on November 22, 2018 ("Contractor's Response"); and

WHEREAS, TBARTA's Board of Directors awarded the RFP to Contractor at its Board of Directors Meeting on December 7, 2018, and the parties wish to set forth the terms and conditions of their agreement for a total amount listed in the Schedule ("Total Contract Price").

NOW THEREFORE, the Parties in consideration of the mutual covenants and conditions set forth herein contained, the adequacy of which is acknowledged by the Parties, agree as follows:

1. RECITALS. The above recitals are true and correct and incorporated herein by reference.
2. CONTRACT DOCUMENTS. The "Contract Documents" shall mean and refer to this Agreement, the RFP and all exhibits attached thereto including all duly executed and issued addenda (attached hereto as **Exhibit A**), any and all Price Proposal(s) (as defined below and attached as **Exhibit B**), and Contractor's Response to the RFP (**Exhibit C**). All of the foregoing are incorporated herein by reference and are made a part of this Agreement. In interpreting this Agreement and resolving any ambiguities or conflicts between this Agreement and the Exhibits, this Agreement takes precedence over the Exhibits and any inconsistency between exhibits will be resolved in the following order:

Exhibit A	RFP
Exhibit B	Final Price Proposal
Exhibit C	Contractor's Response

3. SCOPE OF SERVICES. Contractor, at the direction of TBARTA, shall furnish Financial Audit and Related Services described and in accordance with the specifications, tasks, and scope of work set forth in Exhibit A (the "Services"). It is the sole responsibility of Contractor to read the specifications and understand them.
4. EFFECTIVE DATE AND TERM OF AGREEMENT. This Agreement shall become effective and commence on the date of award by TBARTA's Board of Director's ("Effective Date") and shall remain in effect for three (3) years, and may be renewed upon mutual written agreement of the Parties for up to two (2) additional one (1) year terms.



5. TERMS OF PERFORMANCE.

5.01 **Representatives.** Prior to the start of any work under this Agreement, Contractor shall designate a primary and alternate representative, who will have management responsibility for the Services and who have authority to act on technical matters and resolve problems with the Services and the Contract Documents, to TBARTA in writing. Such designation shall include the contact information (including phone numbers) of Contractor's representative.

5.02 **Non-exclusive Contract.** TBARTA specifically reserves the right to contract with other entities for the services described in the Contract Documents or for similar services if it deems, in its sole discretion, such action to be in TBARTA's best interest.

5.03 **Contractor Responsibility.** Contractor shall provide services of first quality, and the workmanship must be in accordance with customary standards of the various trades and industries involved in the Services. The Services and the work associated therewith shall be high-quality in all respects. No advantage will be taken by Contractor in the omission of any part or detail of the Services. Contractor hereby assumes responsibility for all materials, equipment, and processes used in the Services, whether the same is manufactured by Contractor or purchased readymade from a source outside Contractor's company.

5.04 **Compliance with Laws.** Contractor shall comply with all federal, state, county, and local laws, rules and/or regulations, and lawful orders of public authorities including those set forth in this Agreement and that, in any manner, could bear on the provision of the Services under the Contract Documents. Omission of any applicable laws, ordinances, rules, regulations, standards or orders by TBARTA in the Contract Documents shall be construed as an oversight and shall not relieve Contractor of its obligations to comply with such laws fully and completely. Upon request, Contractor shall furnish to TBARTA certificates of compliance with all such laws, orders and regulations. Contractor shall be responsible for obtaining all necessary permits and licenses required for performance under the contract.

6. COMPENSATION.

In consideration of Contractor's faithful performance of this Agreement, TBARTA agrees to pay Contractor at the rates set forth and attached on Exhibit B up to and not to exceed the Total Contract Price.

6.01 **Manner of Payment.** Progress payments will be made on the basis of hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's dollar cost proposal. Interim billing shall cover a period of not less than a calendar month. The State of Florida Prompt Payment Act shall govern all payments.

6.02 **Invoices.** All invoices shall be submitted in accordance with the Florida Prompt Payment Act with all details prescribed by TBARTA, and delivered to the following address:



Tampa Bay Area Regional Transit Authority
Attention: Finance Department/Accounts Payable
Purchase Order:
3201 Scherer Drive
St. Petersburg, Florida 33716
Or E-Mail to : Accountspayable@TBARTA.net

6.03 Disputed Invoices. In the event of a disputed invoice, only that portion so contested will be withheld from payment and the undisputed portion will be paid.

7. MODIFICATION OF CONTRACT DOCUMENTS.

The Contract, including the scope, specification, and details of the Services may only be modified by written agreement of the Parties.

7.01 Written Change Orders within the Services. TBARTA may at any time, by written order, make changes within the scope of the work to be performed by Contractor under the Contract Documents. However, no such written order shall serve to increase the Total Contract Price or to give Contractor any claim for monies above the Total Contract Price. If any such change causes an increase or decrease in the estimated cost of, or the time required for, the performance of any part of the work under the Contract Documents, whether or not changed by the order, Contractor shall notify TBARTA within thirty (30) days in writing. In the case of an increase to the Total Contract Price, the written notice shall state in all capital, bold letters that TBARTA's written order would result in an increase in the Total Contract Price. Such notice must be submitted and approved prior to performing any work in accordance with the written order or changes made by TBARTA. Any change in the Total Contract Price must be approved by TBARTA's Board of Directors and Contractor shall not be entitled to any compensation for such services unless and until approved by TBARTA's Board of Directors.

7.02 No Stoppage of Work. Notwithstanding the foregoing, nothing in this clause shall excuse Contractor from proceeding with this Agreement, except for those changes which would increase the Total Contract Price.

7.03 No Increase in Costs. No services shall be performed or additional cost or fee will be charged by Contractor to TBARTA prior written consent by TBARTA.

7.04 Representative. TBARTA Purchasing Manager, Director of Procurement, Chief Financial Officer, or Chief Executive Officer are the only TBARTA representatives authorized to make changes within this Agreement, and only if such change does not serve to increase the Total Contract Price or scope of the Services. Any instructions, written or oral, given to Contractor by someone other than the TBARTA designated representative that represent a change in the RFP or any of its terms, will not be considered as an authorized change. Any action on the part of Contractor taken in



compliance with such instructions will not be grounds for subsequent payment or other consideration in compliance with the unauthorized change.

8. WARRANTIES AND COVENANTS.

8.01 Patent, Trademark, Copyright, and Trade Secret. Contractor warrants that the Services, and all goods and work associated therewith do not infringe on any patent, trademark, copyright or trade secret of any third parties and agrees to defend, indemnify and hold TBARTA, its officers, agents, employees, trustees and its successors and assigns, harmless from and against any and all liabilities, loss, damage or expense, including, without limitation, court costs and reasonable attorneys' fees, arising out of any infringement or claims of infringement of any patent, trade name, trademark, copyright or trade secret by reason of the sale or use of any goods or services purchased under this Agreement. TBARTA shall promptly notify Contractor of any such claim. TBARTA makes no warranty that the production, sale or use of goods or services under this Agreement will not give rise to any such claim and TBARTA shall not be liable to Contractor for any such claim brought against Contractor. If any invention, improvement, or discovery of the Contractor is conceived or first actually reduced to practice in the course of providing the Services under this Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Contractor agrees to notify the TBARTA immediately and provide a detailed report. The rights and responsibilities of the Contractor and TBARTA with respect to such invention, improvement, or discovery will be determined in accordance with applicable Federal laws, regulations, policies, and any waiver thereof.

8.02 Covenants against Gratuities. Contractor warrants that he or she has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any official or employee of TBARTA with a view toward securing favorable treatment in the awarding, amending, or evaluating performance of contract.

9. ASSIGNABILITY AND SUBCONTRACTING.

9.01 The terms and provisions of this Agreement shall be binding upon TBARTA and Contractor their respective partners, successors, heirs, executors, administrators, assigns and legal representatives.

9.02 Written Approval Required. The rights and obligations of Contractor may not be transferred, assigned, sublet, mortgaged, pledged or otherwise disposed of or encumbered in any way without TBARTA's prior written consent. Contractor may subcontract a portion of its obligations to other firms or parties but only after having first obtained the written approval of the subcontractor by TBARTA.

9.03 Responsibility for Subcontractor. If Contractor's assignee or subcontractor fails to perform in accordance with the terms of its assignment or subcontract, Contractor shall complete or pay to have completed the work which the assignee or subcontractor



failed to complete at no additional cost to TBARTA. In the event of any noncompliance by any of the subcontractors, Contractor shall be directly and wholly responsible for the noncompliance and shall bear all attributable costs.

9.04 Assignment by TBARTA. TBARTA may assign its rights and obligations under this Agreement to any successor to the rights and functions of TBARTA or to any governmental agency to the extent required by applicable laws or governmental regulations or to the extent TBARTA deems necessary or advisable under the circumstances.

9.05 E-Verify. Contractor shall utilize the U.S. Department of Homeland Security's E-Verify System to verify the employment eligibility of: (a) all persons employed by Contractor throughout the term of this Agreement; and (b) all persons, including subcontractors, retained or hired by Contractor, regardless of compensation, to perform work on the services provided pursuant to this Agreement.

10. DELAY IN PERFORMANCE/FORCE MAJEURE.

10.01 Time of the Essence. The timely receipt of services and deliveries to TBARTA is essential. If all deliverables are not received on time, TBARTA may cancel the unfilled portion of this Agreement for cause, purchase substitute requirements elsewhere, and recover from Contractor any increased costs and damages thereby incurred by TBARTA.

10.02 Force Majeure. Contractor shall be entitled to a reasonable extension of time from TBARTA for the delays resulting from damage to Contractor's and/or TBARTA's property caused by fire, lightning, earthquakes, tornadoes, and other extreme weather conditions, power failures, riots, acts of war, strikes or lockouts beyond the control of Contractor and its subcontractor ("Force Majeure"). Any delay other than one mentioned above shall constitute a breach of Contractor's obligations under the Contract Documents.

10.03 Unavoidable Delay. If completion of any requested service, and all deliverables thereunder, is unavoidably delayed, TBARTA may extend the time for completion for a determined number of days of excusable delay. A delay is unavoidable only if the delay was not reasonably expected to occur in connection with or during Contractor's performance; was not caused directly or substantially by negligent errors, omissions, or mistakes of Contractor, its subcontractor, or its Contractors or their agents; was substantial; and, in fact, caused Contractor to miss delivery dates and could not adequately have been guarded against by contractual or legal means.

10.04 Notification. Contractor will notify TBARTA as soon as Contractor has, or should have, knowledge that an event has occurred which will delay completion of a requested service. Within five (5) working days, Contractor will confirm such notice in writing, furnishing as much detail as is available and including any request for extension of time. Contractor shall supply, as soon as such data is available, any reasonable proofs that are required by TBARTA to make a decision on any request for extension. TBARTA will



examine the request and any documents supplied by Contractor and will determine if Contractor is entitled to an extension and the duration of such extension. TBARTA will notify Contractor of its decision in writing. It is expressly understood and agreed that Contractor will not be entitled to any extension and the granting of such extension is in the sole discretion of TBARTA. It is further expressly understood that Contractor shall not be entitled to any damages or compensation, and will not be reimbursed for any losses, on account of delays resulting from any cause.

11. TERMINATION OF AGREEMENT.

This Agreement may be terminated with or without cause and without penalty in accordance with the provisions below.

11.01 Without Cause. For and in consideration of \$10.00, in hand paid, If TBARTA determines that it is in its best interest to do so, TBARTA may terminate this Agreement without cause or penalty upon thirty (30) days' written notice to Contractor. If TBARTA terminates this Agreement pursuant to this subsection, Contractor shall promptly submit to TBARTA its costs to be paid on work performed up to the time of termination. If Contractor has any property belonging to TBARTA in its possession, Contractor shall account for the same and dispose of it as directed by TBARTA.

11.02 With Cause. TBARTA may terminate this Agreement with cause and without penalty at any time immediately upon written notice to Contractor, if: (1) Contractor fails to fulfill or abide by any of the terms or conditions specified in the Contract Documents; (2) Contractor fails to perform the Services in the manner called for in the Contract Documents; or (3) Contractor does not provide the Services in accordance with the requirements of the specifications in the Contract Documents. In its sole discretion, TBARTA may allow Contractor an appropriately short period of time in which to cure a defect in performance or non-performance. In such case, TBARTA's written notice of termination to Contractor shall state the time period in which cure is permitted and other appropriate conditions, if applicable. Contractor may terminate this Agreement for cause if TBARTA fails to fulfill or abide by any duties or conditions specified in the Contract, provided that Contractor must first provide notice of the alleged breach to TBARTA and give TBARTA thirty (30) days written notice to cure the alleged breach. If TBARTA cures the alleged breach or is making a good faith effort to cure said breach during the thirty (30) day cure period, Contractor may not terminate this Agreement.

11.03 Re-procurement. Should this Agreement be terminated by TBARTA for cause under this Section, Contractor shall be liable for all expenses incurred by TBARTA in re-procuring elsewhere the same or similar items or services offered by Contractor.

11.04 Force Majeure. If it is later determined by TBARTA that Contractor's failure to perform was a result of a Force Majeure, TBARTA may allow Contractor to continue performance under a new time for performance or treat the termination as if terminated without cause under Section 11(a) of this Agreement.



11.05 Appropriation. In the event TBARTA, in its sole discretion, determines that sufficient budgeted funds are not available to appropriate for payments due to Contractor under this Agreement, TBARTA shall notify Contractor of such occurrence and this Agreement shall terminate on the last day of the current fiscal period without any penalty or expense to TBARTA.

11.06 Waiver of Remedies for any Breach. In the event that TBARTA elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Agreement, such waiver by TBARTA shall only be valid if set forth in writing and shall not limit TBARTA's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Agreement.

12. DISPUTES, BREACHES, DEFAULTS, OR OTHER LITIGATION.

12.01 Disputes. Contractor's disputes arising in the performance of this Agreement shall be decided in writing by TBARTA's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, Contractor mails or otherwise furnishes a written appeal to TBARTA's Chief Executive Officer. In connection with any such appeal, Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of TBARTA's Chief Executive Officer shall be binding upon Contractor and Contractor shall abide by the decision.

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

12.03 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 TBARTA or Contractor shall constitute a waiver of any right or duty afforded any of them under this Agreement, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

12.04 Attorneys' Fees. In the event of legal action or other proceeding arising under this Agreement, TBARTA shall be entitled to recover from Contractor all its reasonable attorneys' fees and cost incurred by TBARTA in the prosecution or defense of such action, or in any post-judgment or collection proceedings and whether incurred before suit, at the trial level or at the appellate level. This shall include any bankruptcy proceedings filed by or against Contractor. TBARTA also shall be entitled to recover any reasonable attorneys' fees and costs incurred in litigating the entitlement to attorneys' fees and costs, as well as in determining the amount of attorneys' fees and costs due to TBARTA. The reasonable costs to which TBARTA will be entitled include costs that are taxable under any applicable statute, rule, or guideline, as well as costs of investigation, copying costs, electronic discovery costs, mailing and delivery charges,



costs of conducting legal research, Contractor and expert witness fees, travel expenses, court reporter fees and mediator fees, regardless of whether such costs are taxable under any applicable statute, rule or guideline.

13. INDEMNIFICATION

13.01 Indemnification. The parties recognize that Contractor is an independent Contractor. Contractor agrees to assume liability for and indemnify, hold harmless, and defend TBARTA, its board members, officers, employees, agents and attorneys of, from, and against all liability and expense, including reasonable attorneys' fees, in connection with any and all claims, demands, damages, actions, causes of action, and suits in equity of whatever kind or nature, including claims for personal injury, property damage, equitable relief, or loss of use, arising out of the execution, performance, nonperformance, or enforcement of this Agreement, whether or not due to or caused by the negligence of TBARTA, its board members, officers, employees, agents, and/or attorneys excluding only the sole negligence of TBARTA, its officers, employees, agents, and attorneys. This includes claims made by the employees of Contractor against TBARTA, and Contractor hereby waives its entitlement, if any, to immunity under Section 440.11, Florida Statutes. Contractor's liability hereunder shall include all attorneys' fees and costs incurred by TBARTA in the enforcement of this indemnification provision. Notwithstanding anything contained herein to the contrary, this indemnification provision shall not be construed as a waiver of any immunity from or limitation of liability to which TBARTA is entitled to pursuant to the doctrine of sovereign immunity or Section 768.28, Florida Statutes. The obligations contained in this provision shall survive termination of this Agreement, however terminated, and shall not be limited by the amount of any insurance required to be obtained or maintained under this Agreement.

13.02 Control of Defense. Subject to the limitations set forth in this provision, Contractor shall assume control of the defense of any claim asserted by a third party against TBARTA arising from or in any way related to this Agreement and, in connection with such defenses, shall appoint lead counsel, in each case at Contractor's expense. Contractor shall have the right, at its option, to participate in the defense of any third party claim, without relieving Contractor of any of its obligations hereunder. If Contractor assumes control of the defense of any third party claim in accordance with this paragraph, Contractor shall obtain the prior written consent of TBARTA before entering into any settlement of such claim. Notwithstanding anything to the contrary in this provision, Contractor shall not assume or maintain control of the defense of any third party claim, but shall pay the fees of counsel retained by TBARTA and all expenses including experts' fees, if (i) an adverse determination with respect to the third party claim would, in the good faith judgment of TBARTA, be detrimental in any material respect of TBARTA's reputation; (ii) the third party claim seeks an injunction or equitable relief against TBARTA; or (iii) Contractor has failed or is failing to prosecute or defend vigorously the third party claim. Each party shall cooperate, and cause its agents to cooperate, in the defense or prosecution of any third party claim and shall furnish or cause to be furnished such records and information, and attend such conferences, discovery proceedings, hearings, trials, or appeals, as may be reasonably requested in connection therewith.



14. INSURANCE. Before beginning any work under this Agreement, including any pre-staging or assigning personnel, Consultant shall obtain insurance as specified in Exhibit D of the RFP at Contractor’s sole expense and shall provide TBARTA with proof of insurance as specified therein. Contractor shall obtain all required insurance terms in favor of TBARTA and shall maintain such insurance throughout the entire term of this Agreement.

15. MISCELLANEOUS PROVISIONS

15.01 Entire Agreement

The Contract Documents, including all exhibits, constitute the entire agreement between the parties with respect to the subject matter hereof and supersedes all previous written or oral negotiations, agreements, proposals and/or understandings. There are no representations or warranties unless set forth in the Contract Documents.

15.02 Notices

All notices required or made pursuant to this Agreement shall be made in writing and sent by certified U.S. mail, return receipt requested, addressed to the following:

To TBARTA:

Tampa Bay Area Regional Transit Authority
Attn: Director of Procurement
3201 Scherer Drive
St. Petersburg, FL 33716

To Contractor:

With required copy to:

Alan S. Zimmet, Esq.
Bryant Miller Olive P.A.
One Tampa City Center, Suite 2700
Tampa, FL 33602

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this Section 15.02.

15.03 Severability

If any one or more of the provisions of the Contract Documents shall be held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby and the Contract Documents shall be treated as though that portion had never been a part thereof.



15.04 Modification

The Contract Documents may not be amended or altered without prior written approval by TBARTA. 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 Documents and signed by TBARTA.

15.05 Headings and Section References

The headings and section references in this Agreement are inserted only for the purpose of convenience and shall not be construed to expand or limit the provisions contained in such sections.

15.06 Authorization

Both parties to this Agreement represent and warrant that they are authorized to enter into this Agreement without the consent and joinder of any other party and that the parties executing this Agreement have full power and authority to bind their respective parties to the terms hereof.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be duly executed on the date first above written.

CONTRACTOR:

By: _____
Duly Authorized Designee

TBARTA:

By: _____
David Green, CEO

WITNESS:

By: _____

Approved as to form:

By: _____