

CITY OF ST JOSEPH

REQUEST FOR PROPOSAL

NO RFP2020-06

Page 1 of 16

Proposals Must Be Received No
Later Than

Time: 4:00PM Date: 10/22/2019

For Information Contact

Purchasing

at (816) 271-5330

This document constitutes a request for sealed bids, including prices, from qualified individuals and organizations to furnish those services and/or items as described herein.

Proposals must be mailed or delivered to the Division of Purchasing, 1100 Frederick Avenue Room 201, St. Joseph, MO 64501.

Commercial Automobile and General Liability Insurance

This form must be completed, signed and returned with the proposal.

Please have the Bid Name and Number on the outside of the sealed proposals.

The offeror must provide all information required in this document pursuant to the specifications attached and included herein.

The offeror hereby agrees to provide the services and/or items at the prices quoted, pursuant to the attached terms and conditions of Request for Proposal or Invitation to Bidders and Terms and Conditions of Purchase, and further agrees that when this document is countersigned by an authorized official of the City of St. Joseph, a binding contract, as defined herein, shall exist between the offeror and the City of St. Joseph.

SIGNATURE REQUIRED

Offeror's Signature: _____ Offeror's Printed Name: _____ Title: _____

Company Name: _____ Date of Proposal: _____

Mailing Address: _____ Telephone: _____

City: _____ State: _____ Zip: _____

Email Address: _____

Social Security or Federal Tax No _____

NOTICE OF AWARD (This section for City of St. Joseph use only)

Requisition No. _____

This proposal is accepted by the City of St. Joseph as follows:

Purchase Order _____

Buyer

Purchasing Agent

Date

CITY OF ST. JOSEPH
PURCHASING DIVISION
TERMS AND CONDITIONS OF REQUEST FOR PROPOSAL
OR INVITATION TO BIDDER

1. PREPARATION OF BIDS

- a. Bidder's are expected to examine the specifications, delivery schedule, bid prices and all instructions of the Request for Proposal or Invitation to Bid. Failure to do so will be at bidder's risk. In case of a mistake in extension, the unit price(s) will govern.
- b. Any manufacturer's names, trade names, brand names, information and/or catalogue numbers listed in a specification are for information and are not intended to limit competition. The bidder may offer any brand which meets or exceeds the specification for any item. If bids are based on equivalent products, indicate on the bid form the manufacturer's name and model number. The bidder shall explain in detail the reasons why the proposed equivalent will meet the specifications and not be considered an exception thereto. Bids which do not comply with these requirements are subject to rejection. Bids lacking any written indication of intent to bid on alternate brands will be received and considered in complete compliance with the specifications as listed on the bid forms.
- c. All supplies and equipment offered in a bid must be new and of current production unless the Request for Proposal or Invitation to Bidder clearly specifies that used or reconditioned supplies or equipment be offered.
- d. Firm fixed prices shall be bid and include all packing, handling and shipping charges.
- e. Unless otherwise indicated, prices quoted shall be firm for acceptance for ninety days (90) from bid opening and for the specified contract period.

2. TAX EXEMPTION

- a. Do not bill federal tax. Certificate number 44-6000256.
Do not bill state tax. Certificate number 12493457.

3. SUBMISSION OF BIDS

- a. A bid submitted by a bidder must (1) be manually signed by the bidder on the Purchasing Division's Request for Proposal or Invitation to Bidder, (2) contain all requested information, (3) be priced as required, (4) be sealed in an envelope or container, (5) be attached to a security deposit if required, and (6) be delivered to: the Purchasing Division, 1100 Frederick, Room 201; St. Joseph, MO 64501, and officially clocked in no later than the exact time and date specified on the Request for Proposal or Invitation to Bidder.
- b. The sealed envelope or container containing a bid should be clearly marked on the outside left corner with (1) the official Price Inquiry number and (2) the official closing date and time.
- c. Submission of this bid constitutes an assignment by the bidder to the City of all rights, title and interest in and to all causes of action it may have under the antitrust laws of the United States or the State of Missouri, which causes of action have accrued or will accrue as the result of or in relation to the particular good or services purchased or procured by it in fulfillment of any contract with the City arising from this bid.

4. MODIFICATION OR WITHDRAWAL OF BIDS

- a. Bids may be modified or withdrawn by written or telegraphic notice received prior to the official closing date and time specified. A bid may also be withdrawn or modified in person by the bidder or his authorized representative provided proper identification is presented before the official closing date and time. Verbal phone requests to withdraw or modify a proposal will not be considered.
- b. After the official closing date and time, no bid may be modified or withdrawn.

5. BID OPENING

- a. Bid openings shall be public on the date and at the time specified on the bid form. It is the bidder's responsibility to assure that his bid is delivered at the proper time and place of the bid opening. Bids which for any reason are not so delivered will not be considered. Offers by facsimile, telegraph or telephone will not be acceptable. Bid files may be examined during normal working hours by appointment. Bid tabulations will not be provided by telephone.

6. AWARDS

- a. Unless otherwise stated in the Price Inquiry, cash discounts for prompt payment of invoices will not be considered in the evaluation of prices. However, such discounts are encouraged to motivate prompt payment.
- b. As the best interest of the City may require, the right is reserved to make awards by item, group of items, all or none or a combination thereof; to reject any and all bids or waive any minor irregularity or technicality in bids received.
- c. Awards will be made to the bidder whose bid (1) meets the specifications and all other requirements of the Price Inquiry and (2) is the lowest and best bid, considering price, responsibility of the bidder and all other relevant factors. When multiple bidders are equally responsible and qualified and submit equivalent bids, those bidders that are equally responsible and qualified and submit equivalent bids may be allowed to submit a subsequent lower bid price in accordance with a schedule established by the Purchasing Agent; such bid price must be submitted in a sealed envelope or container clearly marked on the outside left corner with (1) the official Price Inquiry number and (2) the closing date and time established by the Purchasing Agent; the submission may modify only the bid price.
- d. Each bid is received with the understanding that the acceptance in writing by the City of the offer to furnish any or all the materials, equipment, supplies or services described therein shall constitute a contract between the bidder and the City; and shall bind the bidder to furnish and deliver at the price, and in accordance with the conditions of said accepted bid and detailed specifications.
- e. The City of St. Joseph is not obligated for expenditures unless funds have been encumbered by Purchase Order or Contract. The completion of the "Notice of Award" by the City is not an authorization for shipment or to proceed with services.

7. OPEN COMPETITION

- a. It is the intent and purpose of the Division of Purchasing that the Price Inquiry permits free and open competition. However, it shall be the bidder's responsibility to advise the Purchasing Division if any language, requirements are, or any combination thereof, inadvertently restricts or limits the requirements, are, or any combination thereof, inadvertently restricts or limits the requirement to a single source or otherwise prohibits the submission of a bid. The notification should be received by the Purchasing Division at least ten days prior to the Price Inquiry closing date and time. The bidder may submit notification after the bid closing providing sufficient time is permitted for a thorough review by the Purchasing Division and its decision will be final.

The City of St. Joseph, Missouri, is soliciting proposals from qualified vendors to furnish Commercial Automobile and General Liability policies for the vehicles and property of the City of St. Joseph, Department of Public Works and Transportation/Mass Transit Division.

PROPOSAL SCHEDULE

RFP Advertisement	September 22, 2019
Proposals Due	October 22, 2019, 4:00PM
Award of Services	November 4, 2019
Effective Date of Coverage	December 1, 2019

GENERAL REQUIREMENTS

1. Proposals will be accepted only from insurance companies having a policyholder's rating and financial rating acceptable to the City of St. Joseph. In the case of the Surplus Line Market, it must meet all qualifications of the State Surplus Line Law or be a recognized specialist in insuring public transit systems. The City of St. Joseph prefers policies with a Best's Rating of A- or above. Unrated companies or companies with a rating of B+ may be acceptable; however, proposers of such companies must provide details of financial condition and reinsurance arrangements.
2. The City of St. Joseph requires policies with a 120-day notice of cancellation or material change in coverage.
3. An insurance binder must be issued to the City prior to the effective date of the policy. All complete policies must be delivered within thirty (30) days of the effective date of the policy.
4. This request for proposal does not commit the City to pay any cost incurred in preparation of proposals to this request or to procure or contract for services. All Proposals shall be deemed final, conclusive, and irrevocable. No Proposal shall be subject to correction or amendment for any error or miscalculation. No Proposal shall be withdrawn without the consent of the city. The City of St. Joseph may require any proposer selected to participate in negotiations and to submit additional price, technical or other revisions to their proposal as may result from negotiations. Neither the commencement nor cessation of negotiations shall constitute rejection of the Proposal or a counteroffer on the part of the City. The City of St. Joseph reserves the right to award the insurance coverage to its best advantage. The City of St. Joseph reserves the right to reject any and all proposals or to waive technical defects as it may deem desirable.
5. No oral interpretation will be made to any Proposer as to the meaning of the RFP. Any oral communication will be considered unofficial and non-binding to the City. Requests for interpretation must be made in writing to the reference contact listed in this document.
6. The City may accept one part or type of coverage, or any combination thereof, of any Proposal unless Proposer specifically qualifies its offer by stating that the Proposal must be taken as a whole.
7. The Proposer certifies that it has no business or personal relationship with any companies or persons that could be considered as a conflict of interest or potential conflict of interest to the City.

INSURANCE PLAN SPECIFICATIONS

A minimum of one-year rate guarantee must be quoted. Additional consideration will be given to multiple year rate guarantees.

Policy must be in effect December 1, 2019.

Named Insured:

St. Joseph Transit/City of St. Joseph Mass Transit Division

Additional Insured:

First Transit, Inc

Transit Management of St. Joseph, Inc. (with respect to liability arising out of the management and operations of the named insured)

City of St. Joseph, Missouri

Employee Census and Loss Run Report available upon request.

PROPOSAL SUBMISSION

Proposers are required to comply with all applicable Federal clauses (Attachment D). Federal Clauses must be completed, signed and returned with each proposal. Potential vendors that do not include the signed Federal Clauses with the proposal will be considered non-responsive.

Questions regarding the request may be submitted to Tammy Bembrick, Purchasing Agent at tbembrick@stjoemo.org.

Two (2) copies, one of them being unbound, must be submitted in a sealed envelope marked With the request Name and Number on the outside to the following address no later than 4:00pm on October 22, 2019:

City of St. Joseph, MO
Purchasing Agent
1100 Frederick Avenue, Room 201
St. Joseph, Missouri 64501

ANNUAL PREMIUM QUOTE SHEET

Insurance Carrier _____

COMPREHENSIVE GENERAL LIABILITY

(For premises outlined in Attachment C)

	LIMIT	PREMIUM
Each Occurrence Limit	\$5,000,000	
General Aggregate Limit	\$5,000,000	
Personal & Advertising Injury Limits	\$5,000,000	
Products – Aggregate Limit	\$5,000,000	
Fire Damage Limit	\$50,000	
Medical Expense Limit	\$5,000	
TOTAL General Liability Premium		

COMPREHENSIVE AUTOMOBILE (TRANSIT BUS and SERVICE UNITS) BI & PD LIMITS

(For vehicles detailed in Attachment A)

	LIMIT	PREMIUM
Liability, per accident	\$5,000,000	
Uninsured Motorist, per person/BI	\$25,000	
Uninsured Motorist, per accident/BI	\$50,000	
	DEDUCTIBLE	PREMIUM
Specified Perils	\$1,000	
Specified Perils	\$5,000	
Collision	\$1,000	
Collision	\$5,000	
TOTAL Automobile Premium with \$1,000 deductible		
TOTAL Automobile Premium with \$5,000 deductible		

Attachment A
Fleet Roster
(As of May 1, 2019)

Internal Unit #	Type	Year	Make	Model	Seat Cap.*	Value	Mileage	VIN
324	Fixed	2003	Gillig	LowFloor	19/2	\$75,000	659,644	15GGE181631090569
325	Fixed	2003	Gillig	LowFloor	19/2	\$85,000	635,994	15GGE181231090570
326	Fixed	2003	Gillig	LowFloor	19/2	\$85,000	666,445	15GGE181431090571
327	Fixed	2003	Gillig	LowFloor	19/2	\$85,000	662,534	15GGE181631090572
328	Fixed	2003	Gillig	LowFloor	19/2	\$85,000	747,668	15GGE181831090573
429	Fixed	2004	Gillig	LowFloor	19/2	\$110,000	617,292	15GGE291341090714
430	Fixed	2004	Gillig	LowFloor	19/2	\$110,000	629,219	15GGE291541090715
431	Fixed	2004	Gillig	LowFloor	19/2	\$110,000	560,358	15GGE291741090716
432	Fixed	2004	Gillig	LowFloor	19/2	\$110,000	614,923	15GGE291941090717
433	Fixed	2004	Gillig	LowFloor	19/2	\$110,000	697,369	15GGE291041090718
434	Fixed	2004	Gillig	LowFloor	19/2	\$110,000	576,223	15GGE291241090719
435	Fixed	2004	Gillig	LowFloor	19/2	\$110,000	623,308	15GGE291941090720
536	Fixed	2005	Gillig	LowFloor	19/2	\$130,000	627,578	15GGE291051090932
537	Fixed	2005	Gillig	LowFloor	19/2	\$130,000	585,147	15GGE291251090933
538	Fixed	2005	Gillig	LowFloor	19/2	\$130,000	607,503	15GGE291451090934
539	Fixed	2005	Gillig	LowFloor	19/2	\$130,000	571,888	15GGE291651090935
540	Fixed	2005	Gillig	LowFloor	19/2	\$130,000	625,952	15GGE291851090936
541	Fixed	2005	Gillig	LowFloor	19/2	\$130,000	548,932	15GGE291X51090937
1242	Fixed	2012	Gillig	LowFloor	19/2	\$185,000	263,451	15GGE2714C1092358
1243	Fixed	2012	Gillig	LowFloor	19/2	\$185,000	286,184	15GGE2716C1092359
1744	Fixed	2017	Ford	E450	15/2	\$67,000	3,431	1FDFE4FS8HDC55877
1945	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	7,099	15GGE2710K3093526
1946	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	7,560	15GGE2712K3093527
1947	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	8,218	15GGE2714K3093528
1948	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	7,296	15GGE2716K3093529
1949	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	6,792	15GGE2712K3093530
1950	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	8,184	15GGE2714K3093531
1951	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	6,891	15GGE2716K3093532
1952	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	8,214	15GGE2718K3093533
1953	Fixed	2019	Gillig	LowFloor	19/2	\$420,000	7,175	15GGE271XK3093534
Shop Truck	Service	2010	Ford	4x4 F350	n/a	\$11,000	57,862	1FTWF31509EA70098
2007 Van	Service	2007	Chev	Uplander	n/a	\$2,000	108,282	1GNDV23W17D163975
2009 Van	Service	2010	Nissan	Quest	n/a	\$4,000	91,592	5N1BV28469N100936
2005 Van	Service	2005	Dodge	Caravan	n/a	\$1,000	95,781	1D4GP24R85B316520
2018 Van	Service	2018	Dodge	Caravan	n/a	\$25,000	3,350	2C4RDGBG4JR262674

*Passenger Seat Capacity/Wheelchair Securement Positions
Shaded vehicles are currently in storage and not in revenue service.

Attachment B
Service Description

The City of St. Joseph, Department of Public Works and Transportation/Mass Transit Division, commonly known as St. Joseph Transit, is managed by First Transit. All personnel are employees of Transit Management of St. Joseph, Inc., a sub-corporation of First Transit. All vehicles and facilities are the property of the City of St. Joseph. St. Joseph Transit operates Fixed Route Deviation bus service.

Service area: 8 bus routes operate within the city limits of St. Joseph, MO
1 of these bus routes provides service to Elwood, KS, on-demand

Service days and hours: Mon –Fri, 5:15 AM – 9:15 PM (16 buses in service during peak)
Saturday 8:15 AM – 7:15 PM (11 buses in service during peak)
Closed Sundays and major holidays

FY 2020 estimated total miles: 825,000

FY 2020 estimated revenue hours: 65,000

FY 2020 estimated farebox revenue: \$290,000

Attachment C
Property Locations and Description

2 buildings located at 702 S 5th St “Administration and Maintenance Building”

Office and shop are attached: Office = 5,243 sq ft; Shop = 2,989 sq ft

Storage Building = 8,730 sq ft

Parking lot = 9,600 sq ft

1 building located at 611 Angelique “Transfer Center”

Office and waiting area = 1,176 sq ft



Attachment D Federal Clauses

No Federal Government Obligation to Third Parties

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

Program Fraud and False or Fraudulent Statements or Related Acts

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

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

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

Access to Third Party Contract Records

Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.

Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of

Attachment D Federal Clauses

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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

Changes to Federal Requirements

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

Civil Rights and Equal Opportunity

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h)(3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e *et seq.*, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment

Attachment D Federal Clauses

advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

3. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 *et seq.*, U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 *et seq.*, the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 *et seq.*, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

Incorporation of FTA Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any AGENCY requests which would cause AGENCY to be in violation of the FTA terms and conditions.

Termination

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

Termination for Default. If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the AGENCY may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

Attachment D Federal Clauses

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

Opportunity to Cure. The AGENCY, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions.

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

Waivers for Remedies for any Breach. In the event that AGENCY elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by AGENCY shall not limit AGENCY's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Disadvantage Business Enterprise (DBE)

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. 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 AGENCY deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the AGENCY makes to the Contractor per 49 C.F.R. § 26.29(a).

The DBE participation goal for this contract is set at 0%.

Attachment D Federal Clauses

VIOLATION AND BREACH OF CONTRACT

Rights and Remedies of the AGENCY. The AGENCY shall have the following rights in the event that the AGENCY deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

Rights and Remedies of Contractor. Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the AGENCY, the Contractor expressly agrees that no default, act or omission of the AGENCY shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the AGENCY directs Contractor to do so) or to suspend or abandon performance.

Remedies. Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the AGENCY will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the AGENCY takes action contemplated herein, the AGENCY will provide the Contractor with sixty (60) days written notice that the AGENCY considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes. The AGENCY and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within the AGENCY and the Contractor's organization.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with the AGENCY's direction or decisions made thereof.

Performance during Dispute. Unless otherwise directed by AGENCY, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Attachment D Federal Clauses

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

Remedies. Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the AGENCY and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the AGENCY is located.

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

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees:

- 1) It will not use any violating facilities;
 - 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities";
 - 3) It will report violations of use of prohibited facilities to FTA; and
 - 4) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).
-

Energy Conservation

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

Attachment D Federal Clauses

Lobbying Restrictions

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an the City of St. Joseph , a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any the City of St. Joseph , a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature of Potential Bidder's Authorized Official

Name and Title of Potential Bidder's Authorized Official

Date

Attachment D Federal Clauses

Debarment, Suspension, Ineligibility and Voluntary Exclusion

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award
- c) Proposed for debarment from participation in any federally assisted Award;d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

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

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

Signature of Potential Bidder's Authorized Official

Name and Title of Potential Bidder's Authorized Official

Date