

EUREKA SPRINGS TRANSIT SYSTEM

BID INVITATION

Contract Number: ST 11-19

BID OPENING LOCATION: Eureka Springs City Hall 44 S. Main Street Eureka Springs, AR 72632

MAIL/DELIVER TO: Eureka Springs City Hall 44 S. Main Street Eureka Springs, AR 72632

Bid Opening Date: March 5, 2019 Time 11:00 am CST

Sealed bids for furnishing the commodity described below, subject to the Conditions on Page 2 of this bid invitation will be received at the above-noted mail and delivery locations until the above-noted bid opening date and time, and then publicly opened at the above-noted bid opening location. Bids must be submitted on this form, with attachments when appropriate (see attached checklist), or bids will be rejected. Late bids and unsigned bids will not be considered.

In compliance with this Bid Invitation and subject to all the Conditions thereof, the undersigned offers and agrees to furnish any and all items upon which prices are quoted, at the price set opposite each item.

Company Name: \_\_\_\_\_ Name (Type or Print): \_\_\_\_\_
Address: \_\_\_\_\_ Title: \_\_\_\_\_
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_ Phone: \_\_\_\_\_ Fax: \_\_\_\_\_
E-Mail: \_\_\_\_\_

Federal Tax ID or Social Security No.: \_\_\_\_\_ Signature: \_\_\_\_\_
Signature must be legible, original (not photocopied) and in ink.
Unsigned bids will be rejected.

Contract for furnishing One (1) with a possibility for two (2), 29' Trolley with politicians' platform at pricing set forth on the attached Bid Quotation Form. The successful vendor/manufacturer shall accept orders for the period specified subject to chassis availability and acceptance for the order by the manufacturer.

FOB: EUREKA SPRINGS TRANSIT SYSTEM
137 W. Van Buren
Eureka Springs, AR 72632

The Invitation for Bids, Specifications, Bid Quotation Form, Bid Provisions and Federal Certifications are parts to the contract and by reference are incorporated herein. Bidders must be licensed by the Arkansas Motor Vehicle Commission and have a current Arkansas Dealers license. Should there be any conflict between information set forth in the Bid Conditions on page 2 and information set forth elsewhere in this bid package, the latter shall prevail. It shall be understood that by submission of bid that bidder agrees to all terms and conditions herein stated and specified. If the bid is found acceptable by the Eureka Springs Transit System (ESTS) and the Arkansas Department of Transportation (Department), in whole or in part, it will be considered a contract agreement bound under said terms and conditions. The parties hereto agree that the laws of the State of Arkansas shall govern this contract in all things.

Bids must be submitted in a sealed envelope with "29" TROLLEY BID: ST 11-19" prominently displayed

**BID CONDITIONS****Contract No. ST 11-19**

1. **ACCEPTANCE AND REJECTION:** ESTS reserves the right to reject any or all bids, to accept bids in whole or in part (unless otherwise indicated by bidder, to waive any informalities in bids received, to accept bids on materials or equipment with variations from specifications where efficient of operation will not be impaired, and to award a bid that will best serve the interest of ESTS.
2. **PRICES:** Unless otherwise stated in the Bid Invitation, the following will apply: (1) the unit price shall be bid, (2) the price should be stated in units of quantity specified (feet, each, lbs., etc.), (3) the price must be F.O.B. destination specified in bid, (4) price must be firm and not subject to escalation, (5) bid must be firm for acceptance for 60 days from bid opening date. Discounts from bid price will not be considered in making awards.
3. **BID BONDS AND PERFORMANCE BONDS:** None required.
4. **TAXES:** ESTS is not exempt from Arkansas State Sales and Use Taxes, or local option city/county sales taxes, when applicable, and bidders are responsible to the State Revenue Department for such taxes. These taxes should not be included in bid prices, but where required by law, will be paid by ESTS as an addition thereto, and should be added to the billing to ESTS.
5. **"ALL OR NONE" BIDS:** Not applicable to this request for bids.
6. **SPECIFICATIONS:** Complete specifications should be attached for any substitution or alternate offered, or where amplification is necessary. Bidder's name must be placed on all attachments to the bid.
7. **EXCEPTIONS TO SPECIFICATIONS:** Any exceptions to the bid specifications must be stated in the bid. Any exceptions to manufacturer's published literature must be stated in the bid, or it will be assumed that bidder is bidding exactly as stated in the literature.
8. **BRAND NAME REFERENCES:** All brand name references in bid specifications refer to that commodity or its equivalent, unless otherwise stated in Bid Invitation. Bidder should state brand or trade name of item being bid, if such name exists.
9. **FREIGHT:** All freight charges should be included in bid price. Any change in common carrier rates authorized by the Interstate Commerce Commission will be adjusted if such change occurs after the bid opening date. Receipted common carrier bills that reflect ICC authorized rate changes must be furnished.
10. **SAMPLES, LITERATURE, DEMONSTRATIONS:** Samples and technical literature must be provided free of any charge within 14 days of ESTS request, and free demonstrations within 30 days, unless ESTS extends time. Failure to provide as requested within this period may cause bid to be rejected. Samples, literature and demonstrations must be substantially the same as the item(s) being bid, unless otherwise agreed to by ESTS. Samples that are not destroyed will be returned upon request at bidder's expense. Samples from successful bidders may be retained for comparison with items actually furnished.
11. **GUARANTY:** Unless otherwise indicated in Bid Invitation, it is understood and agreed that any item offered or shipped on this bid shall be newly manufactured, latest model and design, and in first class condition; and that all containers shall be new, suitable for storage or shipment and in compliance with all applicable laws relating to construction, packaging, labeling and registration.
12. **BACKORDERS OR DELAY IN DELIVERY:** Backorders or failure to deliver within the time required may constitute default. Vendor must give written notice to ESTS, as soon as possible, of the reason for any delay and the expected delivery date. ESTS has the right to extend delivery if reasons appear valid. If reason or delivery date is not acceptable, vendor is in default.
13. **DEFAULT:** All commodities furnished will be subject to inspection and acceptance by ESTS after delivery. Default in promised delivery or failure to meet specifications authorizes ESTS to cancel award or any portion of same, to reasonably purchase commodities or services elsewhere and to charge full increase, if any, in cost and handling to defaulting vendor. Applicable bonds may be forfeited.
14. **ETHICS:** *"It shall be a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a public contract upon an agreement of understanding for a commission, percentage, brokerage, or contingent fee, except for retention of bona fide employees or bona fide established commercial selling agencies maintained by the contractor for the purpose of securing business."* (Arkansas Code, Annotated, Section 19-11-708).

# ESTS

## BID CHECKLIST

The following list will be used to determine if the bid is complete.

BID INVITATION - Filled Out and Signed in ink (**the Original, No Copies**)

BID QUOTATION FORM - Completed

APPENDIX A - Each page initialed

APPENDIX B - Each page initialed and last page filled out, signed in ink, and notarized

ATTACHMENTS:

- Copy of Arkansas Dealers License
- Copy of Altoona Bus Testing Certification (Whole test must be provided)
- Copy of Bus Manufacturer's FMSVV Certification (or Certification that FMSVV does not apply)
- Copy of Buy America documentation
- Copy of DBE Approval Certification
- Copy of Debarment and Suspension Certification
- Copy of Lobbying Certification
- Copy of Overall Federal Regulation Compliance
- Brochure – Model(s) bid
- Floor Plan Drawings
- Weight Analysis for each floor plan
- TVM Certification
- Dealer Federal ID# for excluded party listing
- Dealer Full Name (same listed with Federal ID#)
- DUNS number

**INVITATION FOR BIDS (IFB)**  
**Federal Transit Administration Grant Program**  
**BID Number: ST 11-19**

FOR THE FOLLOWING ITEM

**29' Trolley Transit Vehicle**  
**Suitable for Public Transportation**

**Contact Agent for Specifications**

**Kenneth "Smitty" Smith, Transit Director**  
**Eureka Springs Transit System**  
**137 W. Van Buren**  
**Eureka Springs, AR 72632**

**479-253-9572**  
**479-253-8272 (fax)**  
**[smitty@cityofeurekasprings.org](mailto:smitty@cityofeurekasprings.org)**

**BID QUOTATION SHEET**  
**Bid Number: ST 11-19**  
**29' Trolley Vehicle as Specified Hereinafter**  
*(All bid pricing shall be rounded to the nearest dollar (\$).)*

**Bid Price:** \$ \_\_\_\_\_ per unit

**Best Delivery time\* from receipt of order (number of calendar days):** \_\_\_\_\_

\*Delivery time will be considered when awarding this Bid.

**Vehicle Information**

**Year:** \_\_\_\_\_

**Make:** \_\_\_\_\_

**Model:** \_\_\_\_\_

**Warranty:** \_\_\_\_\_

**Warranty Center:** \_\_\_\_\_

**Warranty Information**

**Chassis:** \_\_\_\_\_

**Body/Conversion:** \_\_\_\_\_

**Other:** \_\_\_\_\_

For bid to be considered responsive all items on this Bid Quotation must be bid and a delivery date acceptable to the Eureka Springs Transit System (ESTS) must be stated. All exceptions, equals, or alternates must have prior written approval in accordance with Annex A of this Request For Bids. The ESTS reserves the right to reject bid pricing on any and all items.

The undersigned offers and agrees to furnish any and all items upon which prices are quoted, at the price set opposite each item.

**Business Name (Print):** \_\_\_\_\_

**Bidders Name (Print):** \_\_\_\_\_

**Title (Print):** \_\_\_\_\_

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

Signature must be original and in ink. Unsigned bids will be rejected.

## **PURPOSE OF SPECIFICATIONS**

This item shall be a vehicle suitable for public transportation. The intent for these specifications is to set forth the minimum performance for a commercial body-on-chassis transit trolley. The vehicle shall be a standard production trolley, which will be used to transport the general public living in urban and rural areas. When equipped with an optional wheelchair lift and securement devices, this vehicle shall accommodate various seating combinations for both ambulatory and non-ambulatory passengers and will be required to operate on all types of neighborhood streets and rural roads in hilly terrain with frequent starts and stops.

All parts not specifically mentioned which are necessary in order to provide a complete vehicle, shall, at a minimum, conform in strength, quality of material and workmanship to what is provided by the automotive industry generally. All equipment and parts shall be new and conform in strength; quality of material and workmanship to those approved by and generally utilized by the automotive industry and meets all applicable standards.

The vehicle manufacturer must strictly comply with chassis OEM standards and specifications for installation and application of all products, equipment, components, and any other items placed in or upon the chassis. Vehicle and modifications must comply with all Federal Motor Vehicle Safety Standards.

## **CLASSIFICATION OF VEHICLE CHASSIS AND SERVICE LIFE**

The most current production year model chassis available shall be used for this vehicle and shall be of the appropriate GVWR rating by the OEM to accommodate the final GVWR established for the completed unit by the after-market vehicle manufacturer. **At no time during the after-market manufacturing process shall the original chassis be modified in any way.**

**The useful life standard established for this vehicle is 12 years/200,000 miles, and requires the like-type model vehicle proposed to be, or have been, tested at the FTA Bus Testing Facility in this category or a higher service life category.**

## Primary Specifications

Access Plate	Shall install an access plate above fuel tank to allow easy access to fuel sender unit.
Air Conditioning	Front air conditioning system shall be the OEM's largest available BTU output system for the chassis used. An additional air conditioning system shall be installed following the chassis OEM approved design and installation standards to augment the chassis OEM system. The additional system shall provide an output of no less than 100,000 BTU. All hoses, fittings and clamps shall comply with SAE specification-J2064 Type D and be of a Quik-Click design or equivalent.
Aisle Width	Aisle width may vary according to seating configuration with a minimum of 15 inches.
Alignment	Full and complete front-end alignment shall be performed by an OEM authorized dealer service center after the manufacturing process has been completed and prior to delivery. Copy of the certificate shall be provided upon delivery.
Alternator	OEM Dual 150-amp alternators shall be supplied.
Battery System	Battery system shall be a dual battery system supplied with heavy duty commercial use batteries that provide a minimum 1250 CCA. The battery storage compartment shall be located in an enclosed compartment to the side of the vehicle incorporating a sliding tray for ease of access and shall not extend beyond or below a line horizontal to the stepwell.
Body Design	Body may be either a fiberglass reinforced plastic body incorporated structural steel reinforcements designed to meet all FMVSS requirements or a metal sheeting material attached to a structural safety cage designed to meet all FMVSS requirements. All joints shall comply with FMVSS 221.
Braking System	Wheel Brakes should be 4 wheel disc brakes that meet OEM for the GVWR of the vehicle. The Parking brake must be an air system that can be activated by the driver from the seat
Bumpers	Vintage cow catcher is to be retained in the front. Manufacturer shall install a rear bumper designed and built of a 12-gauge or heavier metal and mounted to the frame outward from the body so as to protect the rear body panels from a collision at 5 mph or less.
Chassis	29' Feet in length with a GVWR rating of 14,200 to 22,000 lbs. A Freightliner Chassis is preferred.

Cruise Control	The vehicle will be equipped with a standard OEM cruise control that will allow for high idle RPM.
Destination Signs	Luminator/Twin Vision electronically controlled LED front and side destination sign system. System shall include programming software or PCMCIA card.
Drive Shaft	Drive shaft will meet or exceed GVWR requirements and have Drive Shaft loops installed.
Engine	6.6 Duramax or comparable Cummins Diesel Engine. Minimum HP of 260.
Engine Compartment	The engine compartment shall be full insulated with foil faced fire retardant barrier material. There will be a firewall of 11 gauge steel between engine compartment and passenger compartment. There shall be sufficient lighting for servicing in the engine compartment.
Entrance Door	Electrically Powered two-panel outward opening entrance door with a minimum clear center opening of 26" and a minimum height of 75" from lower step to door header. Door is operated by a dash mounted switch. Door shall also have an electric exterior opening system.
Emergency Exit Windows	Emergency exit windows shall be provided. Windows shall be designed and installed in compliance with FMVSS217 and be clearly labeled.
Exhaust System	Engine exhaust system shall be routed to exit the rear of the vehicle in front of the driver side rear tire in such a manner as to channel exhaust gases away from curbside passengers to the maximum extent possible.
Fare Box	Model M4B fare box (with decorative brass features) with one V4B vault and Model MT99P-27 mounting stand. Fare box and mounting stand to be painted Kelly Green.
Fast Idle	Engine fast idle control shall be provided to permit the driver to increase engine idle RPM to a preset RPM when the transmission is in PARK or NEUTRAL position and the parking brake is set. Idle speed should automatically return to normal when the brake is released, or transmission is put in gear.
Floor Cover	Floor covering shall be a rubber or vinyl with a minimum of 1/8" thickness under passenger seats and as supplied by OEM in the driver's area. Aisle covering shall be 3/16" thick ribbed. There shall be a 2" wide "STANDEE LIMIT" strip set into the ribbed aisle covering located at the rear of the driver's seat.



Floor Material	Floor shall be an exterior grade, 7 ply, water-resistant plywood being no less than ¾" inch in thickness and securely fastened to a metal rail sub floor.
Fuel Capacity	Fuel tank capacity shall be a minimum of 50 gallons located in a protected area under the floor.
Grab Rails Stepwell	Dual grab rail shall be installed adjacent to the entrance access to aide passengers with boarding. All rails will be spiral decorative brass.
Grab Rails Ceiling	Dual grab rails shall be installed in vehicle ceiling in passenger area to provide to provide a secure hold from the front to the rear of the vehicle. These rails will have leather grap straps attached. All rails will be spiral decorative brass.
Graphics	Exterior graphics will be an approved font and color. Graphics will say, "Eureka Springs Transit System" and the vehicle will be designated "No. 12"
Heater and Defroster	Heater/defroster shall be manufacturer's standard equipment and shall be augmented by additional auxiliary rear heater(s) to achieve and maintain an interior temperature of 65 F when the ambient temperature is 0 F. Heaters will have a shut-off valve.
Insulation	Fiberglass mats, high-density polystyrene or an approved equal shall be used to insulate the entire body, sides, front, rear and roof achieving an R-5 factor or greater rating.
Interior Finish	Interior finish shall be an oak or mahogany wood of sufficient thickness and durability or adequately supported to prevent buckling.
Lights, Exterior	Shall provide exterior dome clearance lights to be mounted in a recessed area or shall have an 'armor type' protection. Shall also provide mid-body and side turn signal lights. Exterior lighting shall be LED type to include the parking lights, brake lights, turn signals, backup lights and all clearance lights.
Lights, Interior	Interior lights shall be dome mounted with a minimum of four (4) passenger courtesy and one (1) driver courtesy light. There shall be shielded or recessed stepwell lights.
Manual	Shall provide an "as built" service manual in an electronic form on a compact disc that shall be in MS Word or Adobe Format.

Metal and Metal Fasteners	All metal and metal fasteners, including any required nuts and washers, used in the manufacturing process shall be rust and corrosive resistant. Metal and metal screws exposed to the outside environmental elements shall be stainless steel or approved equal to the extent possible.
Mirrors, Internal	Interior convex rear-view mirror shall be mounted above the windshield to provide driver full view of the bus interior. The mirror will be mounted with a swivel point and will be adjustable.
Miscellaneous	(1) Pull cord stop request system with touch tape at the wheel chair stations; (2) Stretched chassis will not be accepted; and (3) A weight analysis must accompany each bid along with a certificate stating that the unit bid meets all applicable Federal Motor Vehicle Safety Standards.
Paint Exterior	Solid Paint Exterior DuPont Green 1317 to match other vehicles in fleet.
Placard	A placard shall be installed in a location clearly visible to the driver stating the maximum height restriction for the vehicle.
Politician's Platform	There will be a politician's platform on the back of the vehicle. Access will be by a door in the back of the passenger area and a gate for an exit from the vehicle. Platform will have brass rails to match interior and be at least three (3) feet in length.
Radio	Shall provide an AM/FM/CD radio with public address mode and weather resistant external speaker. Radio shall have four or more speakers installed in locations to provide uniform sound within the passenger area. External speaker shall have a separate on/off switch.
Rear Axle	The rear axle should have a ratio of at least 5.46 to one or higher to accommodate our hilly terrain.
Rust proofing	Rust proofing shall be applied to the entire underbody, including wheel housing. Undercoating shall be TST, Kendall Seal N' Sound or approved equal.
Safety Back-up Camera	A safety backup camera will be installed with a minimum 4" screen in the driver's area. Camera shall be in a recessed area or have a guard to protect it.

Safety Tape	Reflective safety tape shall be applied below the passenger window area on both the right and left sides and on the rear of the vehicle. Tape shall be 2" wide, high intensity white reflective type.
Seat - Driver	Driver's seat shall be a Air Ride Driver Seat with a right flip-up armrest and adjustable lumbar support or approved equal. Seat shall have a map pocket. Upholstery material shall be a CMI Medallion vinyl or approved equal. Seat will be black in color.
Seats - Passengers	Seats shall be vintage oak slat style. Seat bottoms will have cushions for passenger comfort. Color will be a Kelly Green. <b>Minimum Fixed seating capacity shall be twenty (27).</b>
Seats - Fold-a-ways	Two (2) fold-a-way seats mounted over left-hand wheel chair stations. Folding seats will be also work slat seats with Kelly green cushions on the bottom. <b>Fold-a-way seating capacity shall be at least four (4).</b>
Seating Diagram	Preferred seating and body diagram is enclosed with these specifications. Bidding vendors <u>shall supply</u> a seating and body diagram with their bid.
Steering Column	Steering column will be a Tilt/Telescopic Steering column.
Tires and Wheels	Shall be the OEM's premium tubeless all-season radials rated for the size and GVW, <b>also to include a spare tire and wheel</b> of the same OEM type. No carrier is required for the spare tire. Wheels will be black in color with no hub caps.
Suspension	Suspension system shall be load rated and heaviest duty available for the GVW of the vehicle provided. Stabilizer bars shall be provided on front. Rear axle suspension enhancement system MorRyde or approved equal shall be installed to improve the ride quality.
Transmission	Transmission shall be automatic shift of the type recommended by manufacturer with a heavy-duty external transmission oil cooler with a fan. A backup alarm controlled by transmission shift control in the reverse position.
Web Cutter	Premium web cutter shall be supplied with each vehicle shall be mounted in a highly visible location in the driver's area and labeled "Seat Belt & Wheelchair Securement Belt Cutter".
Wheel Housing	Wheel housing shall be no less than 16-gauge steel or equivalent gauge aluminum.

Wheel Chair lift	An ADA lift will be mounted at the front door access on the right. Lift must be fully compliant with all ADA and FMVSS requirements and specifications. The lift shall be a Braun, Ricon or approved equal and of a type and design which provides minimum visual obstruction for the driver and have at least a 1000 lb. capacity. ADA decals shall be affixed to the outside of the vehicle as is appropriate.
Wheel Chair Securement System	Two (2) wheel chair securement systems will be provided on the left side accessible through the front door ramp. All wheel chair tie-down systems shall have self-tensioning retractors and have a button type floor system. The lap/shoulder belts shall also have retractors. Storage pouches designed to accommodate restraint belts shall be provided and shall be affixed to the inside of the vehicle. Securement systems shall be a button Q'Straint, Sure-Lok or approved equal.
Windows	All windows and windshields will be in accordance with FMVSS571.205. All passenger windows will be tinted with no less than 30% light transmission. All glass will be tempered safety glass.
Wipers and Washers	Windshield wipers/washers shall be manufacturer's standard OEM, heavy duty, intermittent and located below the window.
Wiring	Master electric panel easily accessible. Body wiring harness shall have color, function and number coded wire. All wiring harnesses shall be tested prior to installation inside the body and shall be inspected after installation to assure electrical systems and lights are functioning properly.

**NOTICE OF NONDISCRIMINATION:** The **Eureka Springs Transit System (ESTS)** complies with all civil rights provisions of federal statutes and related authorities that prohibit discrimination in programs and activities receiving federal financial assistance. Therefore, **ESTS** does not discriminate on the basis of race, sex, color, age, national origin, religion, disability, Limited English Proficiency (LEP), or low-income status in the admission, access to and treatment in the **ESTS's** programs and activities, as well as the **ESTS's** hiring or employment practices. Complaints of alleged discrimination and inquiries regarding the **ESTS** nondiscrimination policies may be directed to: Kenneth "Smitty" Smith, Director (Title VI, ADA/504 Coordinator), 137 W Van Buren, Eureka Springs, AR (479) 253-9572 or the following email address: [smitty@cityofeukasprings.org](mailto:smitty@cityofeukasprings.org)

Free language assistance for Limited English Proficient individuals is available upon request. This notice is available from the Title VI Coordinator in large print, on audiotape and in Braille. TTY (711)

**Federal Transit Administration Grant Programs  
APPENDIX A TO INVITATION FOR BID (IFB)  
TERMS, CONDITIONS, AND PROVISIONS**

**All Bidders will adhere to the following terms, conditions, and provisions:**

**Legal Requirements:** Bidders must possess, and be in compliance with, all local, state, and federal licensing and other legal requirements for the distribution and/or sales of the motor vehicles and other products proposed; and, shall submit a copy of the Arkansas Dealers License, Altoona Bus Testing Certification, Buy America documentation, and Bus Manufacturer's Certification or other documentation as may be required.

**Signatures:** All bidders must complete the Bid Quotation Form by providing all required. Each page of the Appendix A and B must be initialed and returned with the bid quotation. The Required Federal Certifications and Contractual Provisions (Appendix B) must be executed by completing and signing the last page in ink and be attested by a Notary Public.

**Specification Detail:** All bidders must provide the manufacturer's specifications in sufficient detail to determine compliance with all specifications set-forth in the advertisement for bids for chassis, body and accessories. The bidder must provide floor plan drawings of the proposed vehicle-seating configuration and weight analysis.

**Warranty and Service Center:** All bidders must have, and identify, a warranty and service location in Arkansas and staffed with factory trained personnel for all vehicles and major component equipment proposed. Further, the bidder must be able to perform or have performed warranty and service on all items not covered by original equipment manufacturer's warranty. Any such facility must have an adequate supply of parts to cover vehicle body components and related equipment (i.e., windows, seats, electrical system and lights, air conditioning, wheelchair lifts and tie down equipment).

**Deviation from Specifications:** Any deviation from specifications must be explained in detail in accordance with prescribed procedures for requesting approved alternates to the specifications. Otherwise, it will be considered that labor, materials, and equipment bid is in strict compliance with the specifications and the successful Bidder will be held responsible for meeting the specifications. The request shall specifically refer to the applicable specification paragraph.

**Bid Modification or Withdrawal:** A bid may be modified or withdrawn by the bidder's authorized representative, in person, or by written notice prior to the date/time set for bid opening. If bids are modified or withdrawn in person, the authorized representative shall make his identity known and shall sign a receipt for the bid. Written notices shall be received in the office designated in the ESTS' Bid Invitation form, no later

than the exact date/time for bid opening. After the sealed price proposals are opened, bids may not be withdrawn for 60 calendar days.

**Questions:** A bidder may discuss these specifications and any addenda with the authorized representative of ESTS. Such discussions do not, however, relieve bidders from the responsibility of submitting written, documented requests as required by these procedures. Any bidder in doubt as to the true meaning of any part of this IFB or related documents may submit a written request to ESTS for interpretation thereof.

**Alternates, Clarifications, or Exceptions:** A bidder may submit, to ESTS, requests for approved alternates, clarifications, or exceptions to the specifications.

**Bid Preparation:** Bidders shall submit one (1) copy of their bid on the prescribed form provided in this IFB along with standard floor plan schematics for the ramp equipment versions, as applicable, and all other information, material, and certifications as required by this IFB. It must be plainly marked by the bidder who will be responsible for their completeness and accuracy. All blank spaces must be filled in or noted in ink or typed or bids will be rejected. Bids having erasures or corrections must be initialed in ink by the bidder. All forms contained herein are to be completed and signed by the Authorized Signee. No changes shall be made in the wording on the forms. Bids shall be in the units specified for each item. The bidder shall enter the company name wherever so indicated and shall sign wherever so indicated. All bids must be submitted in a sealed envelope, addressed, and mailed or delivered as stated in the Department's Bid Invitation form.

**Responsibility:** ESTS will make an award only to a responsible bidder possessing the ability to perform successfully under the terms, conditions and provisions herein, as well as, the certifications required. The lowest responsive bidder must possess the ability to perform successfully and a willingness to comply with the terms, conditions, and provisions of a proposed contract. Prospective contractors must meet all of the following: financial resources adequate to perform the contract; ability to meet the required delivery schedule; satisfactory performance record; satisfactory record of integrity and business ethics; necessary organization, experience, accounting, and operational controls, and technical skills; compliance with applicable licensing and tax laws and regulations; necessary production, construction, and technical equipment and facilities, or the ability to obtain them; and, other qualifications and eligibility criteria necessary to receive an award under applicable laws and regulation.

**Inquires:** Any inquiry relating to the technical aspects of the specifications should be directed to: Kenneth "Smitty" Smith, Eureka Springs Transit System, Director, 137 W. Van Buren, Eureka Springs, AR 72632, telephone (479) 253-9572, FAX (479) 253-8272, Email [smitty@cityofeurekasprings.org](mailto:smitty@cityofeurekasprings.org).

**Protests:** Protests to any decision made by ESTS may be filed in writing with ESTS; bidders must submit full documentation as to the nature of the protest and/or reasons why the action of ESTS has inhibited competition or violated its procurement regulations within fourteen (14) days.

**The successful Bidder upon award will adhere to the following terms, conditions, and provisions:**

**Term of Purchase Agreement:** The bid award prices subsequent to this bid shall be for the purchase of one (1) unit with a possibility for two (2), for a period commencing with the date of award through December 31, 2019. This contract may be extended for up to two (2) years upon mutual agreement of the parties on or before the above date of termination.

**Pre-Delivery Inspection:** The transit vehicle shall be delivered to the dealership that is awarded a contract by the ESTS complete with all necessary appurtenances and equipment, manufacturer's certificate of origin, safety inspection, and shall be ready for operation. Upon delivery of the transit vehicle to the dealership, ESTS shall be notified so that the transit vehicle can be inspected and tested before final delivery to ESTS. ESTS shall not be deemed to have accepted any transit vehicle until it has successfully passed all such tests and inspections in the sole and absolute opinion of the ESTS. ESTS will notify the dealership in writing within 15 days of receipt if the transit vehicle has/ has not been accepted. A letter of non-acceptance or a Motor Vehicle Report will furnish details of the deficiencies.

**Delivery:** Bid prices shall include delivery of all vehicles to the Eureka Springs Transit System, 137 W. Van Buren, Eureka Springs, AR 72632, include the regular warranty, any Arkansas motor vehicle safety inspection required and service regularly furnished on new vehicles sold to the public. Delivery shall be determined by signed receipt of the ESTS's designated representative at the point of delivery indicated above and may be preceded by an inspection of the unit. The vehicle shall be delivered **within the stated Delivery Time on the Bid Quotation Form** following receipt of ESTS purchase order.

**Fuel Level at Delivery:** All vehicles shall be delivered to the F.O.B. location with the fuel tank containing no less than one-quarter full according to the fuel gauge.

**Delay in Delivery:** In the event of delivery of completed transit vehicle purchased under this contract shall be necessarily delayed because of strike, injunctions, government controls, weather, or by reason of any other cause or circumstance beyond the control of the Bidder, the time of completion of delivery shall be extended by mutual agreement between ESTS and the Bidder.



**Demonstration:** ESTS reserves the right to test drive make and model of vehicles bid on prior to a contract being awarded. Samples may be demonstrator models with equipment similar, but not necessarily identical, to that listed in this specification.

**Federal Register Standard:** Any equipment furnished on a vehicle purchased under this specification for which “Federal Register Standard” has been established at time of delivery shall comply with the requirements of applicable standard and all equipment required by said standard shall be furnished whether or not it is specifically mentioned in this specification.

**Operator’s Manual:** The successful bidder shall furnish copy of Operator’s Manual published by vehicle manufacturer with each vehicle delivered.

**Advertisements:** No dealer advertisement shall be affixed to the vehicle.

**Serviced:** Each vehicle shall be completely serviced, cleaned and thoroughly inspected (in accordance with manufacturer’s required or recommended pre-delivery service) just prior to delivery to ESTS.

**Vehicle OEM Warranty** - The successful bidder shall not allow any contractors/manufacturers to perform any manufacturing process, component installation, or take any other action which will violate or otherwise cause the vehicle OEM to withdraw their full and complete warranty.

**Warranties:** The successful bidder shall furnish all warranty data for each vehicle delivered, as well as any warranty data for non-OEM components installed. The warranty data shall contain all necessary information such as make, model, serial number, etc., and shall be appropriately executed and assigned at the time vehicle is delivered to ESTS.

**Documents:** The successful bidder shall furnish, at the time of delivery to ESTS, all necessary documents required for titling and licensing the vehicle in accordance with all law and regulations. An original invoice to Eureka Springs Transit System, 137 W. Van Buren, Eureka Springs, AR 72632 must also be included. **Titling and licensing documents must reflect a first lien in favor of Arkansas Department of Transportation (Department) Public Transportation Programs Section, PO Box 2261, Little Rock, AR 72203.**

**Compliance:** The vehicle shall conform in all respects to the applicable Motor Vehicle Laws of the State of Arkansas. The vehicle shall also, at a minimum, conform to applicable Federal Motor Vehicle Safety Standards (FMVSS).

**Certification Tag:** The dealer or manufacturer shall affix a certification tag inside the vehicle that states the actual passenger design capacity including the driver.

**Eureka Springs Transit System (ESTS) shall adhere to the following:**

**Payment Schedule:** ESTS shall make payment in full within thirty (30) days after acceptance of each unit provided that the Bidder has submitted an advance notice of invoice fifteen (15) days prior to delivery of the vehicle and an official final invoice upon delivery. Bidder shall make the "Certificate of Origin" in the name of organization stipulated in the ESTS's Purchase Order.

**Qualifications for Award:** The award, if any, shall be the lowest priced responsive and responsible bidder. Responsible bidders shall be determined, in part, through the following criteria. The bidder must be a person, firm or corporation that: a) Has in operation, or has the capability to have in operation, a licensed dealership or manufacturing plant adequate to assure delivery of all equipment within the time specified under this contract; b) Has adequate engineering and/or service personnel or has the capability to have such personnel to satisfy any engineering or service problems that may arise during the warranty period; c) Has the necessary facilities and financial resources, or has the capability to obtain such facilities and resources, to complete the contract in a satisfactory manner within the required time.

**Investigations:** ESTS has the right to make such investigations as it may deem necessary to establish the competency and financial ability of any Bidder to perform the work. If, after the investigation, the evidence of competency and financial ability is not satisfactory, ESTS reserves the right to reject the Bid.

**Bidder Review Procedures:** All sections of this IFB and all supplementary documents are essential parts of the bid award and performance contract and requirements occurring in one or as though occurring in all. These specifications and all other clauses in their entirety shall be included in, and made a part of, the contract between the ESTS and the successful bidder.

**Interpretation, Changes, and Modifications:** Any interpretation, change, or modification made to the specifications by ESTS will be made only by a written addendum. A copy of such addendum will be mailed or delivered to each bidder receiving a set of documents and shall be applicable to all respective bidders.

**Bid Postponement and Amendment:** ESTS reserves the right to revise or amend the specifications. Such revisions and amendments, if any, shall be announced by addenda to this solicitation. Copies of such addenda shall be furnished to all prospective bidders. If the revisions and amendments require changes in quantities or prices bid, or both, the date set for opening bids may be postponed by such number of days as, in the opinion of the

ESTS, shall enable bidders to revise their bids. In any case, bid opening shall be at least 5 working days after the last addendum, and the addendum shall include an announcement of the new date, if applicable, for opening bids.

**Public Bid Opening:** Bids shall be publicly opened and read aloud at the time and place indicated in the ESTS Bid Invitation. Their content, including documents marked proprietary, shall be made public for the information of bidders and other interested parties, who may be present, either in person or by representatives.

**Award of Contract:** Any award will be made by written notice to the successful Bidder within sixty (60) days after the opening of the bids. Bids must therefore remain valid for sixty (60) days from date of the bid opening.

**Responsiveness:** ESTS shall determine responsiveness by the Bidder's adherence to the specifications as defined herein or by addenda; completeness of bid, and satisfactory submittal of fully executed bid forms and certifications and bid and performance bonds. Responsiveness to this bid shall also be determined by the Bidder's substantiation of qualifications, including consideration of past performance.

**Bid Rejection:** ESTS reserves the right to waive any and all minor bid informalities or irregularities received, or to reject, for good and compelling reasons, any and all bids submitted. Conditional bids, or those which take exceptions to the specifications, will be considered nonresponsive and will be rejected.

**Single Bid Response:** If only one bid is received in response to the invitation for bids, a detailed cost proposal may be requested of the single bidder. A cost/price analysis and evaluation and/or audit may be performed of the cost proposal in order to determine if the price is fair and reasonable.

**Addenda:** Addenda issued by ESTS prior to the bid opening shall be binding as if written into the original IFB.

**Bid Evaluation Criteria:** Acceptance of any bid is subject to the approval of the Arkansas Department of Transportation (Department). The Department shall review and evaluate all bids submitted.

**Federal Transit Administration Grant  
FTA BID Number: ST 11-19**

**APPENDIX B TO INVITATION FOR BID (IFB)**

**REQUIRED FEDERAL CERTIFICATIONS AND CONTRACTUAL PROVISIONS**

The Bidder shall comply with the following requirements. The term "System" shall mean the Eureka Springs Transit System. The term "Department" shall mean the Arkansas Department of Transportation.

**Conflict of Interest:** The Bidder hereby certifies that no employee, officer, or agent of the grantee shall participate in the selection or in the award or administration of a contract if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when: a) The employee, officer, or agent; b) Any member of his immediate family; c) His or her partner; or d) An organization which employs, or is about to employ, has a financial or other interest in the firm selected for award. The Agency's officers, employees or agents shall neither solicit nor accept gifts, gratuities, favors, or anything of monetary value from Bidders, potential Bidders, or parties to sub-agreements.

**Prohibited Interest:** The Bidder hereby certifies that no member, officer, employee of the Agency during his or her tenure or for one (1) year thereafter shall have any interest, direct or indirect, in any bid award or the proceeds therefrom.

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

**Cargo Preference :** Use of United States-Flag Vessels - The bidder agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of -lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.) c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**Fly America Requirements:** The Bidder agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

**Recovered Materials** The bidder agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

**Energy Conservation:** The Bidder 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.

**Clean Water:** For any contract exceeding \$100,000, the Bidder agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Bidder agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Bidder also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**Motor Vehicle Pollution Requirements:** The Bidder hereby certifies that: 1) The horsepower of the vehicle is adequate for the speed, range and terrain in which it will be required to operate and also to meet the demands of all auxiliary power equipment. 2) All gases and vapors emanating from the crankcase of a spark ignition engine are controlled to minimize their escape into the atmosphere. 3) Visible emission from the exhaust will not exceed No. 1 on the Ringlemann Scale when measured six inches from the tail pipe with the vehicle in steady operation. 4) When the vehicle has been idled for three minutes and then accelerated to 80% of the rated speed under load, the capacity of the exhaust will not exceed No. 2 on the Ringlemann Scale for more than five (5) seconds, and not more than No. 1 on the Ringlemann Scale thereafter.

**Bus Testing:** The Bidder [Manufacturer] agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following: 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final

acceptance of the first vehicle. 2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public. 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing. 4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components. The Bidder understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

**Pre-Award and Post-Delivery Audit Requirements:** The Bidder agrees to comply with 49 U.S.C. § 5323(1) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications: (1) Buy America Requirements: The Bidder shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly. (2) Solicitation Specification Requirements: The Bidder shall submit evidence that it will be capable of meeting the bid specifications. 3) Federal Motor Vehicle Safety Standards (FMVSS): The Bidder shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

**Lobbying:** Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Bidders who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

The undersigned [Bidder] 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement. (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)] (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 subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

**Access to Records:** The following access to records requirements apply to this Contract: Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Bidder agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Bidder which are directly pertinent to this contract for the purposes of making audits,

examinations, excerpts and transcriptions. Bidder also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Bidder access to Bidder's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. 2. Where the Purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Bidder agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Bidder, access to the Bidder's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000. 3. Where the Purchaser enters into a negotiated contract for other

than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Bidder agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Bidder which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. 4. Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Bidder shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection. 5. The Bidder agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. 6. The Bidder 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 Bidder agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11). 7. FTA does not require the inclusion of these requirements in subcontracts.

**Federal Changes:** Bidder 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. Bidder's failure to so comply shall constitute a material breach of this contract.

**Clean Air:** For any contract exceeding \$100,000, (1) the Bidder agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Bidder agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. (2) The Bidder also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

**Recycled Products - Recovered Materials:** The Bidder agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

**Davis-Bacon and Copeland Anti-Kickback Acts:** (1) Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR



part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Bidder and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Bidder and its sub-bidders at the site of the work in a prominent and accessible place where it can be easily seen by the workers. (ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed. (B) If the Bidder and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the Bidder, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that

additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Bidder shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the Bidder does not make payments to a trustee or other third person, the Bidder may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Bidder, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Bidder to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination. (B) If the Bidder and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the Bidder, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to

paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (2) Withholding - The Eureka Springs Transit System shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Bidder under this contract or any other Federal contract with the same prime Bidder, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Bidder, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics,

including apprentices, trainees, and helpers, employed by the Bidder or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Eureka Springs Transit System may, after written notice to the Bidder, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. (3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the Bidder during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Bidder shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Bidders employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (ii)(A) The Bidder shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Eureka Springs Transit System for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime Bidder is responsible for the submission of copies of payrolls by all subcontractor. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Bidder or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination

incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section. (D) The falsification of any of the above certifications may subject the Bidder or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The Bidder or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the Bidder or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the Bidder, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12. (4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Bidder as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Bidder is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Bidder's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Bidder will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed

pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Bidder will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30. (5) Compliance with Copeland Act requirements - The Bidder shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract. (6) Subcontracts - The Bidder or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Bidder shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5. (7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a Bidder and a subcontractor as provided in 29 CFR 5.12. (8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract. (9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Bidder (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives. (10) Certification of eligibility- (i) By entering into this contract, the Bidder certifies that neither it (nor he or she) nor any person or firm who has an interest in the Bidder's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

**Contract Work Hours and Safety Standards:** (1) Overtime requirements - No Bidder or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. (2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the Bidder and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Bidder and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section. (3) Withholding for unpaid wages and liquidated damages - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Bidder or subcontractor under any such contract or any other Federal contract with the same prime Bidder, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Bidder, such sums as may be determined to be necessary to satisfy any liabilities of such Bidder or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section. (4) Subcontracts - The Bidder or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors include these clauses in any lower tier subcontracts. The prime Bidder shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

**No Obligation by the Federal Government:** (1) The Purchaser and Bidder acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Bidder, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract. (2) The Bidder agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**Program Fraud and False or Fraudulent Statements or Related Acts:** (1) The Bidder 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 Bidder 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 Bidder 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 Bidder to the extent the Federal Government deems appropriate. (2) The Bidder also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Bidder, to the extent the Federal Government deems appropriate. (3) The Bidder 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.

**Termination: a. Termination for Convenience (General Provision)** The Eureka Springs Transit System may terminate this contract, in whole or in part, at any time by written notice to the Bidder when it is in the Government's best interest. The Bidder shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Bidder shall promptly submit its termination claim to Eureka Springs Transit System to be paid the Bidder. If the Bidder has any property in its possession belonging to the Eureka Springs Transit System, the Bidder will account for the same, and dispose of it in the manner the Eureka Springs Transit System directs. **b. Termination for Default [Breach or Cause] (General Provision)** If the Bidder does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Bidder fails to perform in the manner called for in the contract, or if the Bidder fails to comply with any other provisions of the contract, the Eureka Springs Transit System may terminate this contract for default. Termination shall be effected by serving a notice of termination on the Bidder setting forth the manner in which the Bidder is in default. The Bidder will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Eureka Springs Transit System that the Bidder 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 Bidder, the Eureka Springs Transit System, after setting up a new delivery of performance schedule, may allow the Bidder to continue work, or treat the termination as a termination for convenience. **c. Opportunity to Cure (General Provision)** The Eureka Springs Transit System in its sole discretion may, in the case of a termination for breach or default, allow the Bidder ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Bidder fails to remedy to Eureka Springs Transit System's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Bidder of written notice from Eureka Springs Transit System setting forth the nature of said breach or default, Eureka Springs Transit System shall have the right to terminate the Contract without any further obligation to Bidder. Any such termination for default shall not in any way operate to preclude Eureka Springs Transit System from also pursuing all available remedies against Bidder and its sureties for said breach or default. **d. Waiver of Remedies for any Breach** In the event that Eureka Springs Transit System elects to waive its remedies for any breach by Bidder of any covenant, term or condition of this Contract, such waiver by Eureka Springs Transit System shall not limit Eureka Springs Transit System's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

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

**f. Termination for Default (Supplies and Service)** If the Bidder fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Bidder fails to comply with any other provisions of this contract, the Eureka Springs Transit System may terminate this contract for default. The Eureka Springs Transit System shall terminate by delivering to the Bidder a Notice of Termination specifying the nature of the default. The Bidder will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Bidder was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

**g. Termination for Default (Transportation Services)** If the Bidder fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Bidder fails to comply with any other provisions of this contract, the Eureka Springs Transit System may terminate this contract for default. The Eureka Springs Transit System shall terminate by delivering to the Bidder a Notice of Termination specifying the nature of default. The Bidder will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the Bidder has possession of Recipient goods, the Bidder shall, upon direction of the Eureka Springs Transit System, protect and preserve the goods until surrendered to the Recipient or its agent. The Bidder and Eureka Springs Transit System shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the Bidder was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Eureka Springs Transit System.

**h. Termination for Default (Construction)** If the Bidder refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Bidder fails to comply with any other provisions of this contract, the Eureka Springs Transit System may terminate this contract for default. The Eureka Springs Transit System shall terminate by delivering to the Bidder a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Bidder and its sureties shall be liable for any damage to the Recipient resulting from the Bidder's refusal or failure to complete the work within specified time, whether or not the Bidder's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work. The Bidder's right to proceed shall not be terminated nor the Bidder charged with damages under this clause if - 1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Bidder. Examples of such causes include: acts of God, acts of the Recipient, acts of another Bidder in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. the Bidder, within [10] days from the beginning of any delay, notifies the Eureka Springs Transit System in writing of the causes of delay. If in the judgment of the Eureka Springs Transit



System, the delay is excusable, the time for completing the work shall be extended. The judgment of the Eureka Springs Transit System shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of the Bidder's right to proceed, it is determined that the Bidder was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient. **i. Termination for Convenience or Default (Architect and Engineering)** The Eureka Springs Transit System may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Bidder to fulfill the contract obligations. The Eureka Springs Transit System shall terminate by delivering to the Bidder a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Bidder shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Bidder to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Bidder shall be liable for any additional cost incurred by the Recipient. If, after termination for failure to fulfill contract obligations, it is determined that the Bidder was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient. **j. Termination for Convenience of Default (Cost-Type Contracts)** The Eureka Springs Transit System may terminate this contract, or any portion of it, by serving a notice of termination on the Bidder. The notice shall state whether the termination is for convenience of the Eureka Springs Transit System or for the default of the Bidder. If the termination is for default, the notice shall state the manner in which the Bidder has failed to perform the requirements of the contract. The Bidder shall account for any property in its possession paid for from funds received from the Eureka Springs Transit System, or property supplied to the Bidder by the Eureka Springs Transit System. If the termination is for default, the Eureka Springs Transit System may fix the fee, if the contract provides for a fee, to be paid the Bidder in proportion to the value, if any, of work performed up to the time of termination. The Bidder shall promptly submit its termination claim to the Eureka Springs Transit System and the parties shall negotiate the termination settlement to be paid the Bidder. If the termination is for the convenience of the Eureka Springs Transit System, the Bidder shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the Eureka Springs Transit System determines that the Bidder has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the Bidder, the Eureka Springs Transit System, after setting up a new work schedule, may allow the Bidder to continue work, or treat the termination as a termination for convenience.

**Suspension and Debarment:** This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Bidder is required to verify that none of the Bidder, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or

disqualified as defined at 49 CFR 29.940 and 29.945. The Bidder is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the Eureka Springs Transit System. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Eureka Springs Transit System, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**Federal Privacy Act Requirements:** The following requirements apply to the Bidder and its employees that administer any system of records on behalf of the Federal Government under any contract: (1) The Bidder agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Bidder agrees to obtain the express consent of the Federal Government before the Bidder or its employees operate a system of records on behalf of the Federal Government. The Bidder understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract. (2) The Bidder also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

**Civil Rights:** The following requirements apply to the underlying contract: (1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Bidder agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Bidder agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue. (2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract: (a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Bidder agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Bidder agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment

advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Bidder agrees to comply with any implementing requirements FTA may issue. (b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Bidder agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Bidder agrees to comply with any implementing requirements FTA may issue. (c) **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Bidder agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Bidder agrees to comply with any implementing requirements FTA may issue. (3) The Bidder also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**Free Competitive Bidding Affidavit:** Bidder has not, either directly, or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the bid submitted herein.

**Non-Collusion Certification:** The Bidder attests that he or she is the person responsible within its firm for the final decision as to the price of this bid and further attest that: 1) The price of this bid has been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition with any other Vendor, Bidder or potential Bidder. 2) Neither the price nor the amount of this bid has been disclosed to any other firm or person who is a Bidder or potential Bidder on this project and will not be so disclosed prior to bid opening. 3) No attempt has been made or will be made to solicit, cause or induce any firm or person to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid or other form of complimentary bid. 4) The bid of its firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complimentary bid. 5) Its firm has not offered or entered a subcontract or agreement regarding the purchase of materials or services from any firm or person, or offered, promised or paid cash of anything of value to any firm or person, in consideration for an agreement or promise by any firm or person or person to refrain from bidding or to submit a complementary bid on this project. 6) Its firm has not offered or promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value to any firm or person, whether in connection to any other project, in consideration for my firm's submitting a complementary bid, or agreeing to do so, on this project. 7) The Bidder has made a diligent inquiry of all members, officers, employees, and agents of its firm with responsibilities relating to the preparation, approval, or submission of its firm's bid and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, act or other conduct inconsistent with any of the statements and representations made in this affidavit.

**Breaches and Dispute Resolution:** All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where Bidders violate or breach contract terms, and provide for such sanctions and

penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures. **Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the Arkansas Department of Transportation (ArDOT) Chief Legal Counsel. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Bidder mails or otherwise furnishes a written appeal to the Department's Chief Legal Counsel. In connection with any such appeal, the Bidder shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the Department's Chief Legal Counsel shall be binding upon the Bidder and the Bidder shall abide by the decision. **Performance During Dispute** - Unless otherwise directed by Agency, the Bidder shall continue performance under this Contract while matters in dispute are being resolved. **Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage. **Remedies** - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the Agency and the Bidder 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 Bidder 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.

**Transit Employee Protective Provisions:** (1) The Bidder agrees to the comply with applicable transit employee protective requirements as follows: (a) **General Transit Employee Protective Requirements** - To the extent that FTA determines that transit operations are involved, the Bidder agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Bidder agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause. (b) **Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities** - If the contract involves transit operations financed in whole or

in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Bidder agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Bidder agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter. (c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Bidder agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto. (2) The Bidder also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

**Disadvantaged Business Enterprises:** a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. **The agency's overall goal for DBE participation is 3.4%.** b. The Bidder shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Bidder shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the Bidder 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 **Eureka Springs Transit System** deems appropriate. Each subcontract the Bidder signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)). The successful Bidder/Offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance. d. The Bidder is required to pay its subcontractor performing work related to this contract for satisfactory performance of that work no later than 30 days after the Bidder's receipt of payment for that work from the **Eureka Springs Transit System**. In addition, **the Bidder may not hold retainage from its subcontractors** e. The Bidder must promptly notify the **Eureka Springs Transit System** whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The Bidder may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the **Eureka Springs Transit System**.

**Disadvantaged Business Enterprises - Transit Vehicles Manufacturers:** The Bidder hereby certifies that as a condition of being authorized to bid on FTA-assisted transit vehicle procurements that said manufacturer of transit vehicles proposed has complied with the requirements of 49 CFR part 26 Section 26.49. The transit vehicle manufacturer makes the certification required by Section 26.49 if they have submitted the goal this section requires, and FTA has approved it or not disapproved it.

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

**These required Federal certifications and contractual provisions for vehicle procurement by the Department under the Federal Transit Administration Grant Programs must be completed, signed, and notarized in order that the bid shall be considered complete.**

**In signing this document, I declare under penalties of perjury that the certifications and assurances, and any other statements made by me, are true and correct.**

Printed Name of Company/Organization \_\_\_\_\_

Printed Name of Bidder/Authorized Agent \_\_\_\_\_

Signature of Bidder/Authorized Agent \_\_\_\_\_

Title of Bidder/Authorized Agent \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Notary Public: \_\_\_\_\_

My commission expires:\_\_\_

**All information is required and must be submitted on this form or the bid will be rejected.**

## Lobbying Certification

**(Required Form for Procurements of \$100,000 or More)  
(Vendor certifies)**

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

The undersigned [Contractor] 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date



**Debarment and Suspension Certification**  
**(Required Form for Procurements of \$25,000 or more)**  
**(Vendor certifies)**

The prospective participant certifies by submission of this Offer that neither it nor its "principals," as defined by the U.S. Department of Transportation, is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

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

**THE BIDDER, \_\_\_\_\_, CERTIFES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF EACH STATEMENT OF ITS CERTIFCATION AND EXPLANATION, IF ANY. IN ADDITION, THE BIDDER OR OFFERER UNDERSTANDS AND AGREES THAT THE PROVISIONS OF 31 U.S.C., SECTIONS 3801, ET SEQ., APPLY TO THIS CERTIFICATION AND EXPLANATION, IF ANY.**

\_\_\_\_\_  
Signature of the Bidder Authorized Official

\_\_\_\_\_  
Name and Title of the Bidder Authorized Official

Date \_\_\_\_\_

**DBE APPROVAL CERTIFICATION**

I hereby certify that the Offeror has complied with the requirements of 49 CFR 23.67, Participation by Disadvantaged Business Enterprises in DOT Programs, and that its goals have not been disapproved by the Federal Transit Administration.

\_\_\_\_\_ Signature of the Offeror’s Authorized Official

\_\_\_\_\_ Name and Title of the Offeror’s Authorized Official

\_\_\_\_\_ Date

## **CERTIFICATE OF COMPLIANCE WITH BUS TESTING REQUIREMENT**

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

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

1. \_\_\_\_ The buses offered herewith have been tested in accordance with 49 CFR Part 665 on \_\_\_\_\_(date). The vehicles being sold should have the identical configuration and major components as the vehicle in the test report, which must be submitted with this Offer. If the configuration or components are not identical, the manufacturer shall provide with its Offer a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
2. \_\_\_\_ The manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), and submits with this Offer the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.
3. \_\_\_\_ The vehicle is a new model and will be tested and the results will be submitted to Procuring Agency prior to acceptance of the first bus.

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

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

## **BUY AMERICA CERTIFICATION**

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

### **Certificate of Compliance**

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

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

### **Certificate of Non-Compliance**

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

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Certification requirement for procurement of buses, other rolling stock and associated equipment.**

*Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_

*Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)*

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company Name \_\_\_\_\_

Title \_\_\_\_\_