



Purchasing Department

209 Water Street
Johnson City, TN 37601
(423) 975-2716

ADDENDUM

TO: All Prospective Vendors

FROM: Debbie Dillon,
Director of Purchasing

SUBJECT: Addendum No. 1 –RFP #6035
MTPO LRTP Update

DATE: May 18, 2016

Consider this addendum an integral part of the above referenced solicitation:

NOTE- the following due dates have been extended:

Request for Clarifications – due Monday, May 23rd BY 5:00pm EST
Proposal submittal due no later than June 3rd, 2:30pm EST

See attached 15 pages

All other specifications/requirements remain the same. **Vendor to acknowledge receipt of this addendum by initialing and returning the addendum notice with the return solicitation package or via e-mail if it has already been submitted.** Your un-opened response envelope can be returned to you for re-submittal upon request. Any questions regarding addendum submittal please contact this office.

/dd

Addendum 1

The City of Johnson City Purchasing Department, representing the Johnson City Metropolitan Transportation Planning Organization, issues the following changes for RFP #6035:

1. The due date for Request for Clarifications has been extended to Monday, May 23, 2016.
2. The due date for the proposal has been extended to Friday, June 3, 2016, at 2:30 p.m.
3. Section 3.1 – Format for Submittal is modified so that no cost is to be included with the proposal, stated as follows:

3.1 Format for Submittal

Response Package shall be presented as follows in a sealed envelope and the package contents should be printed on 8" x 11" letter sized paper:

1. Response Form, Attachment A, must be signed;
2. Cover letter of understanding of city's requirements and description of services proposed;
3. Company qualifications and past experience;
4. List of Employees to be involved in the project and their qualifications;
5. Technical Approach to Scope of Work described in RFP;
6. Any Notes or deviations;
7. Three References within the past three years;
8. Insurance Checklist, Attachment B, must be completed and signed;
9. General Contract Form, Attachment C, must be signed;
10. Lobbying Certification, Attachment H, must be signed;
11. Sub-Contracting Plan for Small Business Participation, Attachment K, must be completed.

Please ensure that the proposal package does not contain cost data.

Each proposer must submit five (5) copies and one (1) original of the Technical Proposal that shall be enclosed in a sealed envelope plainly identified in the upper left hand corner with the company's complete name and address and include in the lower left hand corner the following statement:

"Proposal in response to RFP # 6035 MTPO LRTP Update – Do Not Open."

4. Section 5.2 – Cost Proposal Evaluation is removed in its entirety.
5. Section 6 – Contract Award Process is modified to add cost negotiation procedures for highest rated firm, stated as follows:

6. CONTRACT AWARD PROCESS

Once the final scores are tabulated, the RFP Coordinator will forward the results of the proposal evaluation process back to the Evaluation Team, who will consider the results and all pertinent information available to make a recommendation about the highest rated firm. The recommendation is then submitted to the Purchasing Department.

At that time, the Purchasing Department will ask the highest rated firm to submit a cost proposal. If the consultant's first cost proposal is rejected by the City of Johnson City, the negotiating parties shall hold a second conference to discuss those points of the cost proposal which are considered unsatisfactory. The consultant shall submit a second cost proposal based upon this second conference. If the City of Johnson City rejects the consultant's second cost proposal, negotiations shall cease and commence with the second most qualified firm. If like negotiations are unsuccessful with the second most qualified firm, the City of Johnson City will undertake negotiations with the third most qualified firm and others on the selected list in sequential order.

The City Commission of the City of Johnson City, acting on behalf of the Johnson City MTPO, will grant final approval for the contract award based on the recommendation of the Evaluation Team and the highest rated firm's cost proposal, as negotiated. The City of Johnson City reserves the right to make an award without further discussion of any proposal.

After the City Commission's approval, the RFP Coordinator will issue a Notice to the selected firm. Please note that the Notice shall not create rights, interests, or claims of entitlement in either the Responder with apparent best-evaluated response or any other Responder. The RFP Coordinator will also make the RFP files available for public inspection after the contract has been awarded.

The selected firm must agree to a contract in the form of a Purchase Order issued by the Purchasing Department with the City of Johnson City, which shall include this RFP.

However, the City reserves the right, at its discretion, to add terms and conditions or to revise contract requirements in the City's best interests subsequent to this RFP process, subject to review by TDOT. No such terms and conditions or revision of contract requirements shall materially affect the basis of response evaluations or negatively impact the competitive nature of the RFP process. The Purchasing Department may determine that the Responder is non-responsive to the terms of this RFP and reject the response.

7. Attachment B, Cost Proposal, has been removed.
8. This procurement now includes funding from the Federal Transit Administration, which was recently made available, and as such, additional clauses and forms have been added as Section 9, as follows:

9. FEDERAL TRANSIT ADMINISTRATION CLAUSES

The following clauses are in addition to the clauses required by the TDOT Long Range Planning office, as this procurement also includes Section 5303 funding from the Federal Transit Administration (FTA):

9.1 Fly America

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10.131 – 301-10.143, which provide that recipients and subrecipients of Federal funds and their contractors and subcontractors 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.

9.2 Cargo Requirements

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

ading.) 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.

9.3 Energy Conservation

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

The Contractor also agrees to include any applicable requirements in each subcontract, issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA.

9.4 Access to Records

The following access to records requirements apply to this Contract and Sub-Contracts issued pursuant to this Contract:

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

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

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

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

9.5 Changes to Federal Requirements

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

The Changes to Federal Requirements flows down to subcontracts, issued pursuant to this contract, appropriately to each applicable changed requirement.

9.6 No Obligation by the Federal Government

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

(2) The Contractor agrees to include the above clause in each subcontract issued pursuant to this contract, 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.

9.7 False or Fraudulent Statements or Claims

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

(2) The Contractor also acknowledges that, in accordance with 49 U.S.C. 5323(l)(1), if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, certification, assurance or representation to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract issued pursuant to this contract, 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 the provisions.

9.8 Termination

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

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

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

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

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

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

e. Termination for Convenience or Default (Architect and Engineering) The City of Johnson City / Johnson City MTPO may terminate this contract in whole or in part, for the City of Johnson City / Johnson City MTPO convenience or because of the failure of the Contractor to fulfill the contract obligations. The City of Johnson City / Johnson City MTPO shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the 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 City of Johnson City / Johnson City MTPO, 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 Contractor to fulfill the contract obligations, the City of Johnson City / Johnson City MTPO may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the City of Johnson City / Johnson City MTPO.

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

The Contractor also agrees to include these requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA, in which the prime contract exceeds \$10,000.

9.9 Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

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

By signing and submitting its response, the Responder certifies as follows:

The certification in this clause is a material representation of fact relied upon by the City of Johnson City / Johnson City MTPO. If it is later determined that the Responder knowingly rendered an erroneous certification, in addition to remedies available to the City of Johnson City / Johnson City MTPO, 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.

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 Responder further agrees to include a provision requiring such compliance in its lower tier covered transactions. The bidder or proposer agrees to comply with Federal debarment and suspension requirements and to review records for active exclusions at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR 1200.

9.10 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, U.S. DOT regulations 49 C.F.R. Part 21, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

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

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

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 621-634 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

9.11 Resolution of Disputes, Breaches, or Other Litigation

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 authorized representative of the City of Johnson City / Johnson City MTPO's Coordinator. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the MTPO Coordinator. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the MTPO Coordinator shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by the City of Johnson City / Johnson City MTPO, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the City of Johnson City / Johnson City MTPO and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the City of Johnson City / Johnson City MTPO 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 City of Johnson City / Johnson City MTPO, (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

The Contractor also agrees to include these requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA, in which the prime contract exceeds \$100,000.

9.12 Disadvantages 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%. A contract goal has not been established for this procurement.

b. The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as Johnson City MTPO deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

c. The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract (**regardless of whether or not the subcontractor is a DBE**) for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Johnson City on behalf of Johnson City MTPO (a department of the City of Johnson City).

- Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City of Johnson City on behalf of Johnson City MTPO.
- Johnson City MTPO requires the contractor to submit a completed "Prompt Payment Certification" (Attachment J) no later than 30 days after the contractor's receipt of payment from the City, as verification of the contractor's payment to its subcontractors for work related to this contract.

In addition, the contractor may not hold retainage from its subcontractors. **This clause applies to both DBE and non-DBE subcontracts.**

9.13 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 "Third Party Contracting Guidance," 49 U.S.C. chapter 53, and 49 C.F.R. 18.36 or 49 C.F.R. 19.40 – 19.48, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any City of Johnson City / Johnson City MTPO's requests which would cause the City of Johnson City / Johnson City MTPO to be in violation of the FTA terms and conditions.

The Contractor also agrees to include any applicable requirements in each subcontract issued pursuant to this contract, financed in whole or in part with Federal assistance provided by FTA.

9.14 Small Business Participation

This requirement applies to prime contractors of non-vehicle contracts who do not meet the definition of a small business, as provided in paragraph "c" below.

a. Bidders/proposers are required to specify elements of the contract or specific subcontracts that are of a size that small businesses, including but not limited to DBEs, can reasonably perform. Bidders/proposers must complete and include with bids/proposals the Attachment K **"Sub-Contracting Plan for Small Business Participation."**

b. The successful bidder/offeror will be required to promptly notify Johnson City MTPO, throughout the period of contract performance, if any planned small business participation is subsequently substituted with large businesses, and submit "Evidence of Good Faith Efforts" documentation (page 2 of the Sub-Contracting Plan for Small Business Participation form).

- c. A small business is defined as a business which:
- Is currently certified by a U.S. DOT-approved UCP as being on the UCP's DBE listing;
 - Is certified by the U.S. Small Business Administration as a small business; or
 - Provides sufficient financial documentation to Johnson City MTPO with bid/proposal to confirm that the business is eligible to be defined as a small business based on economic criteria consistent with those of 49 CFR Parts 26.65 and 26.67.

THE FOLLOWING APPLIES TO THIS SOLICITATION:

PROTEST PROCEDURE

Any protest to the award of a contract by the City of Johnson City shall be submitted in writing to the Director of Purchasing with a copy to the City Manager and delivered not later than seven (7) calendar days from the date of the city's award decision. Such protest must include a protest bond in the amount of \$350 (cashier's check payable to the City of Johnson City or Cash) submitted to the Purchasing Director before the City will consider the protest. This protest bond will serve as a guarantee by the protester of the validity and accuracy of the protest. If the protest is denied by the City Manager the bond will be retained to cover costs associated with the protest.

END OF ADDENDUM #1

Attachment H

LOBBYING

31 U.S.C. 1352

49 CFR Part 19

49 CFR Part 20

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 of Lobbying Activities," (attached), in accordance with its completion instructions (attached).

(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.

In addition, during the contract period, at the end of each calendar quarter in which there occurs any event that materially affects the accuracy of the information contained in any declaration previously filed by such reporting entity in connection with such award, contractors must file an updated Standard Form LLL noting such material change.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

This form must be signed.

Attachment I

DISCLOSURE OF LOBBYING ACTIVITIES

Complete this form to disclose lobbying activities pursuant to 31 U.S.C. 1352
(See reverse for public burden disclosure.)

Approved by OMB
0348-0046

1. Type of Federal Action: <input type="checkbox"/> a. contract <input type="checkbox"/> b. grant <input type="checkbox"/> c. cooperative agreement <input type="checkbox"/> d. loan <input type="checkbox"/> e. loan guarantee <input type="checkbox"/> f. loan insurance	2. Status of Federal Action: <input type="checkbox"/> a. bid/offer/application <input type="checkbox"/> b. initial award <input type="checkbox"/> c. post-award	3. Report Type: <input type="checkbox"/> a. initial filing <input type="checkbox"/> b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity: <input type="checkbox"/> Prime <input type="checkbox"/> Subawardee Tier _____, if known: Congressional District, if known: 4c	5. If Reporting Entity in No. 4 is a Subawardee, Enter Name and Address of Prime: Congressional District, if known:	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable: _____	
8. Federal Action Number, if known:	9. Award Amount, if known: \$ _____	
10. a. Name and Address of Lobbying Registrant <i>(if individual, last name, first name, MI):</i>	b. Individuals Performing Services <i>(including address if different from No. 10a)</i> <i>(last name, first name, MI):</i>	
11. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only:		Authorized for Local Reproduction Standard Form LLL (Rev. 7-97)

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence 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 a covered Federal action. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a followup report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, State and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in item 4 checks "Subawardee," then enter the full name, address, city, State and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number; grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, State and zip code of the lobbying registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

(b) Enter the full names of the individual(s) performing services, and include full address if different from 10 (a). Enter Last Name, First Name, and Middle Initial (MI).
11. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

According to the Paperwork Reduction Act, as amended, no persons are required to respond to a collection of information unless it displays a valid OMB Control Number. The valid OMB control number for this information collection is OMB No. 0348-0046. Public reporting burden for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, DC 20503.

Attachment J

DISADVANTAGED BUSINESS ENTERPRISE (DBE) 49 CFR Part 26 **FOR ALL SUBCONTRACTS ISSUED PURSUANT to PRIMARY CONTRACT** **Contractor's Certification of Prompt Payment**

As verification for the Disadvantaged Business Enterprises contract clause, subsection "d", Johnson City MTPO requires Contractors to submit the following certification to Johnson City MTPO after it has issued a payment to all subcontractors and suppliers, **regardless of whether or not the subcontractor/supplier is a DBE**, no later than 30 days after the contractor's receipt of payment for that work from the City of Johnson City on behalf of Johnson City MTPO (a department of the City of Johnson City).

Certification

"I certify that no retainage has been held on the subcontractor or supplier and the subcontractor or supplier named below has been paid in accordance with subsection "d" of the Disadvantaged Business Enterprises clause, which is part of the contractor's contract with the City of Johnson City/Johnson City MTPO."

1. ITB / RFP Number: _____
2. Project Description: _____
3. Subcontractor / Supplier Name: _____
4. Subcontractor / Supplier Payment Date: _____

If payment was not made, please explain: _____

Signature: _____ Title: _____

Date: _____

Printed Name: _____

Contractor Name: _____

This certification is for Johnson City MTPO's information only and does not place any obligations on the part of Johnson City MTPO with regard to any part, including but not limited to, any subcontractor and Contractor's surety.

Attachment K

Sub-Contracting Plan for Small Business Participation

Bidder/Proposer Information

Name of Firm: _____

Address of Firm: _____

Phone Number of Firm: _____

Name of Firm Representative: _____

Title of Firm Representative: _____

Signature of Firm Representative: _____

Small Business Subcontract Estimates

List each estimated subcontract for supplies or type of work, and estimated dollars for each.

Supplies or Type of Work to be Subcontracted	Estimated Dollar Amount
1.	\$
2.	\$
3.	\$
4.	\$
5.	\$
6.	\$

If supplies or services are projected to be subcontracted to small businesses, but large businesses are subsequently substituted or the prime contractor self-performs the work, documentation of good faith efforts (see page 2, herein) to utilize small businesses must be provided the City of Johnson City Purchasing Department within 7 days of such substitution by the prime contractor, and prior to payment by the City to the contractor. The City's Purchasing Department, in coordination with the Johnson City MTPO, will determine, within 7 days of receipt of contractor's good faith efforts, whether to approve the contractor's good faith efforts.

If good faith good faith efforts are not approved by the City of Johnson City, the contractor may appeal to the City Manager, in writing, within 7 days from notification of such non-approval, may provide documentation to support its appeal. The contractor may request to be heard in person, and such meeting will occur within 10 days of a request. The decision of the City Manager regarding approval or non-approval of good faith efforts shall be final.

If good faith efforts are not approved, the contractor must pay liquidated damages in the amount of 10% of the amount of substituted small business subcontract work to the City within 30 days.

Evidence of Good Faith Efforts

Methods Used to Solicit Small Business Participation for this Project
--

Check all that apply, and attach requested supporting documents to form.

- FAX (include a sample of the fax, and transmittal logs identifying each small business firm solicited based on each fax number, with clearly visible dates)
- Telephone (telephone log showing the name of each small business called, the telephone contact date, and brief, applicable notes about each call)
- Mail (include a sample letter and copies of letters which were returned as undeliverable)
- E-mail (include copy of E-mail sent and distribution list)
- Website address (if solicitation placed on website) and dates solicitation appeared on website
- Advertisement place in _____ on _____ (attach copy of ad which includes specific ITB/RFP and ad date)
- Small contract opportunities – bidder/proposer broke contract down into smaller units to facilitate small business participation (include list of smaller contract opportunities)
- Written notices (bidder/proposer provided written notice of subcontracting opportunity, including information about the plans, specifications, and requirements of the subcontract, in a manner reasonably calculated to inform small businesses)
- Sufficient time (bidder/proposer allowed sufficient time for small businesses to participate effectively)

Small Business	Dollars Small Business Quoted	Type of Work Small Business Quoted	Reason Small Business Not Selected (check as applicable)
1.	\$		<input type="checkbox"/> Quote Too High <input type="checkbox"/> Quote Not Complete <input type="checkbox"/> Other (please attach explanation)
2.	\$		<input type="checkbox"/> Quote Too High <input type="checkbox"/> Quote Not Complete <input type="checkbox"/> Other (please attach explanation)
3.	\$		<input type="checkbox"/> Quote Too High <input type="checkbox"/> Quote Not Complete <input type="checkbox"/> Other (please attach explanation)
4.	\$		<input type="checkbox"/> Quote Too High <input type="checkbox"/> Quote Not Complete <input type="checkbox"/> Other (please attach explanation)
5.	\$		<input type="checkbox"/> Quote Too High <input type="checkbox"/> Quote Not Complete <input type="checkbox"/> Other (please attach explanation)

Contractor will have information available to the City for review upon request, including copies of quotes, on the above small business quotes not selected.

