



**IFB # 205-21-08
BRT SNOW REMOVAL SERVICES**

Issue Date: 12/7/2021
Procurement Specialist: Tonya Thompson
Using Department: Facilities
Virtual Pre-Bid Meeting Date & Time: 12/14/2021, 10:00 am, EST
Pre-Bid Meeting Virtual Link:
<https://meetings.ringcentral.com/j/1455415667>

Pre-Bid Meeting Phone Access:

Dial: US: +1(470)8692200 (US East)
+1(646)3573664
+1(773)2319226 (US North)
+1(312)2630281
+1(346)9804201
+1(469)4450100 (US South)
+1(623)4049000 (US West)
+1(650)2424929
+1(720)9027700 (US Central)
+1(213)2505700

Meeting ID: 145 541 5667

Site Visit Location, Dates & Time: Site visits will begin at Staples Mill East Bound Station then participants will travel to the Allison Street Station

1st Site Visit: December 16, 2021, 10:30 am
2nd Site Visit: December 17, 2021, 10:30 am

Question Deadline: December 21, 2021 no later than 10:00 am EST
No phone calls will be accepted.
Questions submitted via email ONLY to:
Tonya Thompson at
Tonya.Thompson@ridegrtc.com

IFB Due Date & Time: January 5, 2022 no later than 2:00 pm EST

Virtual Bid Opening Date & Time: January 6, 2022 at 10:00 am, EST

Bid Opening Virtual Link: <https://meetings.ringcentral.com/j/1484616386>

Bid Opening Phone Access:

For higher quality, dial a number based on your current location.

Dial: US: +1(646)3573664
+1(773)2319226 (US North)
+1(312)2630281
+1(470)8692200 (US East)
+1(650)2424929
+1(720)9027700 (US Central)
+1(213)2505700
+1(346)9804201
+1(469)4450100 (US South)
+1(623)4049000 (US West)

Meeting ID: 148 461 6386

Resolution to Award at Board Meeting	January 18, 2022
Basis of Award:	Lowest Responsive and Responsible Bidder
Initial Term:	Five-year
Renewal Options:	None
Estimated Contract Signing Date:	January 19, 2022
Notice to Proceed Date:	January 20, 2022

SIGNATURE SHEET

The signature sheet must be included as a part of the Bidder's bid submission. If the signature sheet is not completed and signed, GRTC may not consider the bid for award. The bidder's signature below certifies that this bid submitted complies with, and the bidder agrees to be legally bound by all terms and conditions set forth in this Invitation for Bids. The undersigned hereby represents and warrants that the undersigned is duly authorized to sign and submit the bid on behalf of the Bidder.

Any contract resulting from this solicitation may be executed in several counterparts, each of which will be deemed an original and which together shall constitute one and the same instrument. Counterpart signatures need not be on the same page and shall be deemed effective upon receipt. In addition, the parties' consent to execution of this Agreement by electronic signature and the parties agree that any such signature so executed shall be as effective as a manually executed signature. Any party executing this Agreement by electronic signature hereby expressly agrees under the Virginia Uniform Electronic Transactions Act that a signed copy of this Agreement exchanged by email or other electronic means shall constitute an electronic signature to an electronic record.

Upon the award of this solicitation, this **Signature Sheet** along with all supporting attachments, exhibits, the bidder's bid form, and terms and conditions will become the contract document as a result of this Invitation for Bids.

Company Name:	
Authorized Person's Name:	
Authorized Person's Title:	
Phone Number:	
Email Address:	
Federal Ein/SSN:	
Authorized Person's Signature	
Date Signed:	

Company Name:	GRTC Transit System
Authorized Person's Name:	
Authorized Person's Title:	
Phone Number:	804-358-3871
Authorized Person's Signature	
Date Signed:	

SBSD-DBE CERTIFIED DISADVANTAGED BUSINESS ENTERPRISE:	() Yes () No
If yes, Certification Number:	
SBSD-SWAM CERTIFIED SWAM BUSINESS ENTERPRISE:	() Yes () No
If yes, Certification Number:	

PART I STATEMENT OF WORK

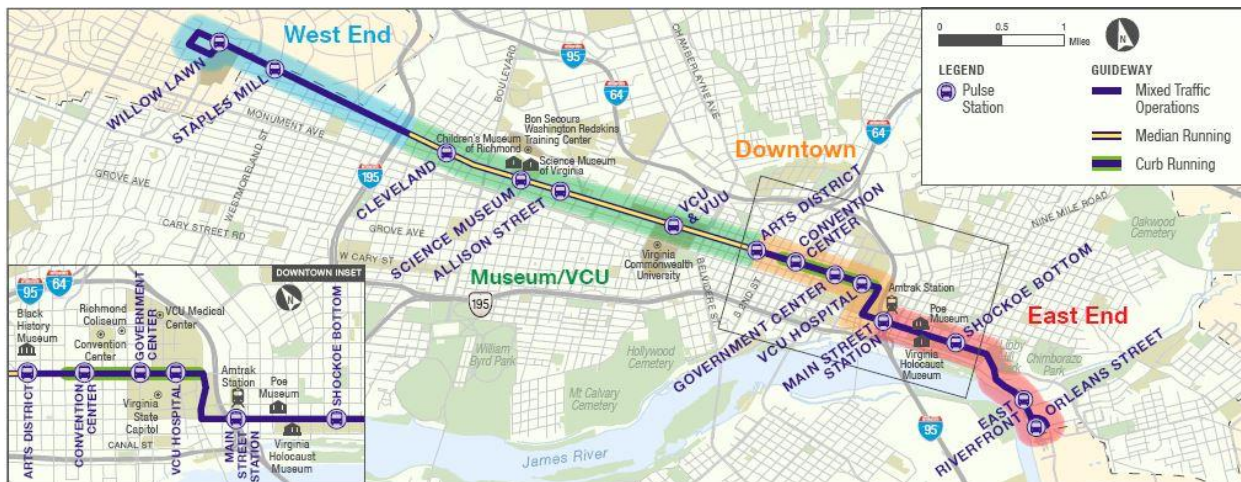
1. Background

1.1. GRTC is the primary public transportation provider for the Richmond region. The Pulse improves reliability and transit times for transit riders and support economic development throughout the Broad Street Corridor. Hours of operation are 5:30 AM to 1:00 AM on weekdays and from 6:00 AM to 1:00 AM on weekends and holidays.

2. General Location

2.1. The Pulse includes 7.5 miles of bus rapid transit service (BRT) from Rockets Landing east of downtown Richmond to Willow Lawn in Henrico County (**See figure 1 below**).

Figure 1 depicts the system alignment.



3. Purpose

3.1. GRTC is seeking a competent, qualified, and experienced company for an on-call basis snow removal services to apply pre-treatment, removal of all snow and ice from the 26 BRT station platforms and then a de-icer to help control the accumulation.

4. Scope of Work

4.1. The scope of work involves a pre-treatment prior to any snow fall, removal of all snow and ice at each of the GRTC Pulse stations from Rockets Landing East of downtown Richmond to Willow Lawn in Henrico County, then a de-icer to help control the accumulation of snow/ice fall on the platforms. The Contractor is responsible to keep up with all 26 BRT station platforms clear of snow and ice as long as precipitation is still falling.

4.2. All benches, lean rails, platforms and TVM's must be free of snow and ice. The platform must be free of snow and ice and whether it is a median station or curb side station will determine if a perimeter of 30 feet on each side of the platform area will need to be cleared or to the cross walks. Upon removal, an approved de-ice must be applied on all platforms and areas that pedestrians will be walking on.

4.3. Approved de-icer must be a calcium chloride pellets or a magnesium chloride melt.

4.4. All work will be performed diligently and in a safe, timely, professional, and workmanlike manner according to standard industry practice. The selected Contractor must use excellent quality materials, equipment, and sufficiently trained personnel. All removal services must be done by manually only, NO MECHANICAL REMOVAL IS APPROVED DUE TO ON PLATFORM EQUIPMENT.

4.4.1.Curb side stations

- 4.4.1.1. These stations will need all snow/ ice removed from the entire platform including benches, lean rails and TVM's, as well as 30 feet out from the bottom of the ramp on either side (figure A). All snow/ice is to be removed and hauled to a proper location and de-icer down to help with accumulation.

4.4.2.Median stations

- 4.4.2.1. These stations will need all snow/ice removed from the entire platform as well including all benches, lean rails and TVM's, and all the way out to either the cross walk or access gate on both sides as seen in (figure B). All snow/ice is to be removed and hauled to a proper location and de-icer down to help with accumulation.
- 4.4.2.2. There are 16 curbside platforms totaling 16,416 square feet and 10 median platforms totaling 14,931 square feet. You will find below a picture of a curbside platform & a median platform (**See Exhibit C**).

5. Requirements

5.1. General Requirements

- 5.1.1. The Contractor must furnish all personnel equipment, tools, transportation, and other necessary equipment to execute fulfill the requirement of the resulting contract.
- 5.1.2. The Contractor's bid must include a list of the type of equipment, chemicals, and removal methods the Contractor intends to use. GRTC staff has the right to request modification to comply with requirements.
- 5.1.3. The Contractor is responsible for providing a cost quote on labor for man hours at different accumulation depths such as:
 - 5.1.3.1. 1-3 inches
 - 5.1.3.2. 4-6 inches
 - 5.1.3.3. 7-12 inches
- 5.1.4. Snow removal services shall commence once the snow depth total 1 inch.
- 5.1.5. All work must be performed during non-peak BRT hours, Monday-Sunday unless alternate work hours are approved in advance by GRTC's Facilities Manager (or designee in his absence) for Construction, who will be the project manager and the Contractor's primary point of contact.
- 5.1.6. The Contractor should automatically respond based upon weather conditions and/or if contacted by the Facilities Manager (or designee in his absence).
- 5.1.7. Prior to the notice of snow within the City of Richmond area, a pre-treatment liquid de-icer or salt must be applied to designated surface area.
- 5.1.8. All salt and pre-treatment chemical applications must be approved by GRTC.
- 5.1.9. The Contactor is responsible for keeping the platforms clear of snow and ice.
- 5.1.10. All snow removal services shall be the responsibility of the Contractor.
- 5.1.11. Contractor must carry insurance as described by GRTC.
- 5.1.12. Contractor shall mobilize staff and equipment on-site prior to snowfall when greater than two (2) inches of snow is predicted. In all other instances, snow and ice control activities shall commence within in one (1) hour after the start of snowfall.
- 5.1.13. Each of the Contractor's driver/operators shall report to the assigned Location with all equipment, fuel and any other incidentals needed to provide immediate Operational Services within two hours of the predicted start time for each occurrence.

**PART II
INSTRUCTIONS TO BIDDER**

1. Bid Package

All bids must be mailed or sent by courier and delivered to:
GRTC Transit System Procurement Department

Attention: **Tonya Thompson**

301 E. Belt Boulevard

Richmond, VA 23224.

The IFB number, date, and time of Bid submission deadline, as reflected above, must clearly appear on the face of the bid package.

2. Bid Submission

To be considered for selection, Bidders must submit a complete, sealed written response to this IFB. The package containing the bid must be clearly marked with the IFB Number and Name, and due date bid and time.

Must include the following:

- a. One paper copy of the bid.
- b. One Thumb Drive containing electronic version of the bid.

3. Bid Submission Requirements

Bids shall contain the following items, follow the exact sequence outlined below.

Bid package must be bound using a top two-hole, 4-section, 1 divider color file folder: No color preference (Exhibit A). If the Bidder is unable to obtain top two-hole folder, bid document can be top two-hole punched and bound together with binder clips.

A. Section 1 (1st left page):

1. Cover Letter

- i. Company name, address, telephone number and email address of all contact person(s) that will be associated with this project.
- ii. Provide same information as above for any subcontractors that will be associated with this project.

2. SIGNATURE SHEET (included in Attachment A)

- i. Signature of a person authorized to bind the proposing firm to the terms of the Bid.

B. Section 2 (1st right page):

1. Completed Bid Form (Attachment B)

C. Section 3 (center left page) :

1. Notice of Exception

2. Qualifications and Capabilities (no more than one page, double-sided acceptable)

- i. Names and title of key personnel proposed for the duration of the project.
- ii. Identify qualifications and organizational capabilities that will establish the Bidder as a satisfactory provider of the required work by reason of its strength and stability.
- iii. Provide the same information as above for each subcontractor.

3. Related Experience (no more than one page, double-sided acceptable)

- i. Provide a minimum of three examples of previous experience or services that are the same or similar to this project.
- ii. Provide same information for each subcontractor as requested above.

D. Section 4 (bottom right page) :

1. All Signed Attachments (Attachments C-K)

4. Postponement or Cancellation of Invitation for Bids

GRTC reserves the right to cancel the IFB at any time or change the date and time for submitting bids by announcing same prior to the date and time established for Bid submittal.

5. Addenda

Receipt and review of Addenda by each bidder must be acknowledged on the Addendum Page (**Attachment C**). All addenda must be signed and returned with each bidder's bid package.

6. Errors and Administrative Corrections

GRTC will not be responsible for any errors in Bids. Bidders will only be allowed to alter Bids after the submittal deadline in response to requests for clarifications or Best and Final Offers by GRTC. GRTC reserves the right to request an extension of the Bid period from a Bidder or Bidders.

GRTC reserves the right to allow corrections or amendments to be made that are due to minor administrative errors or irregularities, such as errors in typing, transposition or similar administrative errors. Erasures or other changes or entries made by the Bidder must be initialed by the person signing the Bid.

7. Compliance with IFB Terms and Attachments

GRTC intends to award a Contract based on the terms, conditions, and attachments contained in this IFB. Bidders are strongly advised to not take any exceptions. Bidders shall submit Bids, which respond to the requirements of the IFB. An exception is not a response to an IFB requirement. If an exception is taken, a "Notice of Exception" must be submitted with the Bid. The "Notice of Exception" must identify the specific point or points of exception and provide an alternative or alternative language.

Bidders are cautioned that exceptions to the terms, conditions, and attachments may result in rejection of the Bid.

The Notice of Exception will be used as part of GRTC's review of the Bid, and, therefore, must be made known during the bidding process.

8. Collusion

The bidder guarantees that the bid submitted is not a product of collusion with any other bidder, and no effort has been made to fix the bid price of any bidder or to fix any overhead, profit, or cost element of any bid price (Attachment G). Failure to submit the signed affidavit at the time of bid opening shall be grounds for disqualification of the bidder's offer.

If GRTC determines that collusion has occurred among bidders, none of the bids from the participants in such collusion shall be considered. GRTC's determination shall be final.

9. Pricing, Taxes and Effective Date

The price to be quoted in any bid will include all items of labor, materials, tools, equipment, delivery, and other costs necessary to fully meet the requirements of GRTC. Any items omitted, which are clearly necessary for the completion of this project, will be considered a portion of such specifications, although not directly specified.

GRTC is exempt from payment of Federal, Excise and Transportation Tax, and the Virginia Sales, Excise and Use Tax. Bidders will not include these taxes in their price(s). All other government taxes, duties, fees, licenses, permits, royalties, assessments, and charges shall be included in the proposed price.

The price quoted by the proposing firms will not change for a period of ninety (90) days, beginning from the date the Bid is opened.

10. Rejection of Bids

GRTC reserves the right to reject any or all Bids and waive any minor informalities or irregularities.

11. Exclusionary or Discriminatory Specifications

GRTC agrees that it will comply with the requirements of 49 U.S.C. Section 5323(h)(2) by refraining from using any Federal assistance awarded by the Federal Transit Administration to support procurements using exclusionary or discriminatory specifications. GRTC further agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal Statute.

12. Protest Procedures

Any protest or objection to the Conditions and Specifications will be submitted for resolution to GRTC's CEO. Each protest must be made in writing and supported by sufficient information to enable the protest to be considered. A protest or objection will not be considered by GRTC if it is insufficiently supported or if it is not received within the specified time limits.

All protests based upon restrictive specifications, alleged improprieties, or similar situations prior to Bid opening must be submitted to GRTC's CEO no later than seven (7) calendar days prior to the specified Bid opening date.

Protests arising after the opening of Bids based upon grounds that were known or should have been known will be submitted to GRTC's CEO within five (5) business days

after notification of Contract award. All protests will be considered by the Protest Review Board. The decision of the Protest Review Board is final. The Protest Review Board will consist of the Chief Executive Officer, Chief Operating Officer, and the Legal Counsel for GRTC. No further appeals will be considered. The Bidder may file a protest with FTA provided that the Bid complies fully with the requirements of FTA Circular 4220.1E.

A. Protest Bond

Any Bidder wishing to protest the awarding of a contract by GRTC to the apparent most responsive and responsible Bidder will be required to furnish, at its own expense, a protest bond in the amount of one-half of one percent (.5%) of the total bid before GRTC will consider the protest. This protest bond will serve as a guarantee by the Bidder of the validity and accuracy of the protest. Failure to provide this bond may result in GRTC denying the Bidder's protest. If the Protest Review Board denies the Bidder's protest, the bond will be used by GRTC to recover the costs and damages incurred because of the protest and the resulting delay in the provision of services. The bond will be either a cashier's check or certified check made payable to GRTC.

B. Review Process

Except as otherwise provided in this Contract, any Protest concerning a question of fact arising under this Contract which is not disposed of by agreement shall be decided by a Protest Board comprised of GRTC's Chief Executive Officer, Chief Operating Officer, and the Legal Counsel for GRTC. This board shall reduce their decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the Protest Board shall be final, unless determined by a court of competent jurisdiction to have been fraudulent, capricious, arbitrary, so grossly erroneous as necessarily to imply bad faith, or not supported by substantial evidence. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a Protest hereunder, the Contractor shall proceed diligently with the performance of the Contract and in accordance with the Protest Board's decision.

This clause does not preclude consideration of law questions in connection with decisions provided for in this clause, provided that nothing in this Contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

13. Small, Women-Owned, and Minority Business Enterprise (SWAM) Participation

There is no **SWAM participation goal** on this contract. GRTC is committed to the establishment, preservation, and strengthening of SWAMs.

GRTC encourages Bidders to take all necessary and reasonable steps to ensure that SWAMs can equally compete for and perform services on the contract through partnerships, joint ventures, subcontracts, and participation in any subsequent supplemental contracts.

If the Bidder intends to subcontract a portion of the services on the project, it is encouraged to contact SWAMs to solicit their interest, capability, and qualifications. A searchable list of SWAM-certified vendors is available at the web site, <https://directory.sbsd.virginia.gov/#/> (enter NIGP code, check the box and hit search).

**PART II
BID EVALUATION AND CONTRACT AWARD**

1. General

- A. Any contract resulting from this solicitation shall be between GRTC and the Contractor responsible for providing the goods and/or performing the services described herein. GRTC is not party to defining the division of work between the Contractor and its Subcontractors, if any, and the Specifications and/or Scope of Services have not been written with this intent.

2. Eligibility for Award

To be eligible for award, Bidders must be responsive and responsible.

- A. Responsive Bids are those complying in all material aspects of the solicitation, both as to the method and timeliness of submission and as to the substance of the resulting Contract. Bids that do not comply with all the terms and conditions of the solicitation may be rejected as non-responsive.
- B. Responsible Bidders are those prospective Contractors who, at a minimum, must:
1. have adequate financial resources, as required during performance of the Contract.
 2. are able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments.
 3. have a satisfactory record of past performance.
 4. have necessary technical capability to perform.
 5. certify that they are not on the U.S. Comptroller General's list of ineligible Contractors.
 6. are qualified as a contractor or regular provider of the services being offered.
 7. are otherwise qualified and eligible to receive an award under applicable laws and regulations.

3. Cost or Price Analysis

GRTC reserves the right to conduct a cost or price analysis for any purchase. GRTC may be required to perform a cost analysis when competition is lacking for any purchase. Sole source procurements which result in a single Bid being received will be subject to a cost analysis which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of data to determine the effect on Bid prices. GRTC may require a Pre-Award Audit and potential Contractors shall be prepared to submit data relevant to the proposed work which will allow GRTC to sufficiently determine that the bid price is fair, reasonable, and in accordance with Federal, State and local regulations. Procurements resulting in a single Bid will be treated as a negotiated procurement and GRTC reserves the right to negotiate with the single Bidder to achieve a fair and reasonable price. If a negotiated price cannot be agreed

upon by both parties, GRTC reserves the right to reject the single Bid. Contracts change orders or modifications will be subject to a cost analysis.

If only one bid is received in response to the IFB, a detailed cost analysis of three (3) contracts, if available, awarded to the bidder within the past two (2) years may be requested of the single bidder. A cost/price analysis and evaluation and/or audit may be performed of the bid in order to determine if the price is fair and reasonable.

4. Execution of Contract and Notice to Proceed

The Bidder to whom GRTC intends to award the Contract shall sign the Contract and return it to GRTC. Upon authorization by GRTC's Board of Directors, or designee, the Contract will be countersigned. Upon receipt by GRTC of any required documentation and submittals by the Bidder, a Notice to Proceed may be issued, if appropriate.

5. Public Disclosure of Bids

GRTC is subject to the Virginia Freedom of Information Act. Therefore, the contents of this IFB and the Bidder's bid submitted in response to this IFB shall be considered public documents and are subject to the Virginia FOIA statutes. As such, all Bids submitted to GRTC will be available for inspection and copying by the public after the selection process has been concluded. There are, however, various items that may be exempt under public disclosure laws. If any proprietary, privileged, or confidential information or data is included in the Bidder's Bid, each page that contains this information or data should be marked as such (e.g., "Proprietary," "Confidential," "Business Secret," or "Competition Sensitive") to indicate your claims to an exemption provided in the Virginia FOIA. It is GRTC's sole right and responsibility, however, to make the determination whether these items are exempt or not exempt under the Virginia FOIA statutes. All data, documentation and innovations developed as a result of these contractual services shall become the property of GRTC.

6. Conflicts of Interest and Non-Competitive Practices

A. **Conflict of Interest** – Contractor, by submitting a Bid to GRTC to perform or provide work, services, or materials, has thereby covenanted that it has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any interest, which conflicts in any manner or degree with the work, services, or materials required to be performed and/or provided under this Contract and that it shall not employ any person or agent having any such interest. In the event that Contractor or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to GRTC and take action immediately to eliminate the conflict or to withdraw from this Contract, as GRTC may require.

B. **Contingent Fees and Gratuities** – Contractor, by submitting a Bid to GRTC to perform or provide work, services, or materials, has thereby covenanted:

1. No person or selling agency except bona fide employees or designated agents or representatives of Contractor has been or will be employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid; and no gratuities, in the form of entertainment, gifts, or otherwise, were offered or given by Contractor or any of its agents, employees, or representatives, to any official, member or employee of GRTC or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

Part III
GENERAL TERMS AND CONDITIONS

1. Term

- a. This Agreement shall be effective as of the Effective Date and, unless earlier terminated or cancelled, shall continue in effect for two Contract Years thereafter (the "Initial Term").
- b. At the end of the Initial Term, this Agreement shall expire unless GRTC, in its sole discretion, provides written notice to Contractor of its intent to renew this Agreement for an additional period of two Contract Years (a "Renewal Term").
- c. For the avoidance of doubt, in no event shall the Term hereof exceed four Contract Years.

2. Services

Performance of Services - Contractor shall perform the services described in Attachment A hereto (the "Services"), at the GRTC Facilities ("Facilities") or such other locations as may be set forth on Attachment A. Contractor shall perform the Services on an ongoing basis during the Term, in accordance with the schedule, if any, set forth on Attachment A. Performance hereunder shall be governed by the terms and conditions of this Agreement, and GRTC's or Contractor's use of pre-printed forms for any purpose shall be for administrative convenience only. All Services shall be performed in strict accordance with the terms and conditions of this Agreement, including the schedule, if applicable. GRTC reserves the right, upon reasonable notice to Contractor, to audit and observe Contractor's performance hereunder at the facility where the Services are being performed. Time is of the essence for the performance of all Services.

3. Materials and Equipment

Contractor shall provide all materials, tools and equipment ("Supplies") that may be necessary for the proper performance of the services, without additional compensation. Contractor shall be responsible for and shall bear the risk of loss or damage to its Supplies while at GRTC's facilities unless such loss or damage results from the gross negligence of GRTC or its employees or agents. Contractor shall require all of its personnel to waive all claims against GRTC for lost or damaged Supplies and shall indemnify GRTC against any claims arising in connection with lost or damaged Supplies belonging to any Contractor personnel. Nothing herein shall require Contractor to indemnify GRTC against any claims demonstrated by Contractor to have resulted solely from GRTC's negligence or willful misconduct.

4. Additional Services and Purchase Orders

4.1. Additional Services

In addition, from time to time during the Term, GRTC may, but is not obligated to, request that Contractor provide services in addition to the Services set forth on Attachment A, but of the same general type as the Services, or provide Services at a facility leased or owned by GRTC but not listed on Attachment A (collectively called "Additional Services"). When GRTC desires Contractor to perform Additional Services, GRTC shall issue a Purchase Order to Contractor.

Upon receipt of a Purchase Order, Contractor shall promptly provide a quote for the requested services. Contractor's quote shall become a part of this Agreement and Contractor shall be obligated to perform the services described in the request when the Contractor receives written acceptance of Contractor's quote to GRTC. Contractor shall not begin performance until the purchase order has been issued to the Contractor.

4.2. Purchase Orders

GRTC may use its purchase order to request Additional Services or facilitate payment for all.

5. Acceptance of Work

5.1. Completion of Services - GRTC shall be deemed to have accepted the Services as complete upon the satisfaction of all the following conditions, as applicable:

- 5.1.1. Any performance tests specified by GRTC shall have been completed by Contractor in conformance with such specifications, the results of which shall have been accepted by GRTC.
- 5.1.2. The Services shall be 100% complete, unless and to the extent GRTC agrees otherwise in writing.
- 5.1.3. Contractor shall have delivered to GRTC all documents required to be delivered to GRTC pursuant to this Agreement.
- 5.1.4. Contractor shall have delivered to GRTC a notice signed by Contractor certifying that all of the preceding conditions set forth in this Section have been satisfied.
- 5.1.5. There shall exist no event of default, or an event which, with the passage of time or the giving of notice or both, would constitute an event of default pursuant to this Agreement; and
- 5.1.6. GRTC shall have delivered written notice to Contractor of its acceptance of the Services, as described below.

6. Compensation

GRTC shall compensate Contractor for the performance of the Services and purchase of Goods in accordance with the fees and rates set forth on Attachment B (the "Compensation").

The Compensation represent the full and complete compensation for the proper performance of the Services, and include compensation for all services, labor, supervision, transportation, supplies and Goods necessary for the performance of the Services and for all taxes (except sales and use taxes, if any), fees, fringe benefits, insurance, profit and overhead in connection with Contractor's performance of the Services.

7. Invoices and Payment

7.1. Invoice

Contractor shall submit an invoice to GRTC, Accounts Payable, at ap@ridegrtc.com each month for the Services performed and Goods provided during the immediately preceding month. **All invoices must have a GRTC Purchase Order number on the invoice.** No advance payment shall be made or accepted for Services performed or Goods provided by Contractor pursuant to this Agreement. Contractor's invoices shall include the applicable purchase order number and must be accompanied by all required documentation to support all charges, including, but not limited to, originals of GRTC-approved time sheets, and, as applicable, a copy of the Service Order or Contractor's Offer, invoices for subcontractor services and Goods. All applicable rebates and discounts shall be identified separately on Contractor's invoice. Any invoice submitted to GRTC in an improper format or without the required information or documentation will be returned unpaid to Contractor for correction and resubmission.

7.2. Payment

GRTC shall pay all undisputed portions of properly documented invoices within 30 days after receipt of Contractor's invoice. If GRTC disputes any portion of an invoice, GRTC shall provide written notice to Contractor indicating the reason GRTC is withholding any amount, and GRTC shall pay the undisputed portion of the invoiced amount. Neither the payments made to Contractor, nor the method of such payments, shall be deemed GRTC's acceptance of the Services or Goods, nor shall they relieve Contractor of its obligations to perform the Services and deliver the Goods in strict compliance with the requirements herein.

8. Contractor Personnel and Facility Requirements

8.1. Personnel

Contractor shall provide the Services through duly licensed and fully trained and competent personnel or approved subcontractors having a skill level appropriate for the tasks assigned to them ("Contractor Personnel"). No subcontractor shall perform Services hereunder unless approved in advance by GRTC. Contractor shall use best efforts to ensure the continuity of all Contractor Personnel providing Services. Contractor shall not charge GRTC for the time associated with training any new Contractor Personnel. GRTC, in its sole discretion, shall have the right upon written notice to Contractor to require Contractor to remove any of Contractor's Personnel from the performance of the Services for any reason.

8.2. Facility Requirements

GRTC shall provide reasonable access to its Facilities for Contractor Personnel provided such Contractor Personnel comply with GRTC's safety and health environmental rules, as well as any Facility-specific site requirements which may be provided by GRTC to Contractor.

9. Change Orders

GRTC may at any time, by written notice to Contractor from the Contract Administrator, make changes in, additions to or deletions from the scope of the Services by issuing a written change order ("Change Order"). Contractor shall perform the Services as so changed. Contractor shall not honor any oral request for a change and shall not be entitled to an equitable adjustment with respect to any work that is not authorized by a Change Order from GRTC's Contract Administrator. All Services performed pursuant to a Change Order shall be subject to all the applicable terms and conditions herein

10. Equitable Adjustments

If any Change Order results in an increase or decrease in the Charges or time required to perform the Services, an equitable adjustment will be made, at the sole discretion of GRTC, to the Charges, schedule or both, and the Agreement will be modified in writing accordingly. Every Change Order may require a cost analysis to determine the reasonableness of the proposed change.

All changes to the Agreement that are a result of legislation or regulations that become effective after the date of proposal and prior to final completion, which might require an adjustment to the Charges, upward or downward, shall be evaluated by both parties. An adjustment to the Charges shall be negotiated between the Contract Administrator and the designated representative of Contractor.

Any claim by Contractor for an equitable adjustment under this Section **Error! Reference source not found.** must be asserted within 14 calendar days from the date of receipt by Contractor of the notification of change. The request for equitable adjustment must be in writing and state the general nature and monetary extent of the claim. The Contract Administrator may require additional supporting documents and cost or price analysis to determine the validity of the claim.

No claim by Contractor for an equitable adjustment hereunder will be allowed if asserted after final payment under this Agreement. No claim will be allowed for any costs incurred more than 20 calendar days before Contractor gives written notice, as required in this section.

Contractor shall continue to perform the Services in accordance with this Agreement, without delay or interruption, during any period that GRTC is considering a request for an equitable adjustment and during the pendency of any dispute over an equitable adjustment. GRTC shall notify Contractor of its decision regarding the equitable adjustment in writing. Failure by GRTC and Contractor to agree upon an equitable adjustment shall not constitute a basis for Contractor to suspend performance of the Services but shall be resolved pursuant to Dispute Resolution.

11. Warranties

Contractor warrants that it has experience and expertise in performing services of the type required herein and that the Services performed hereunder shall (a) be performed in strict accordance with all conditions and requirements herein, (b) be performed in strict accordance with all applicable laws and regulations, (c) be performed in a diligent and workmanlike manner by qualified and skilled personnel appropriately supervised and (d) reflect the highest level of care, skill, knowledge and judgment required or reasonably expected of providers of comparable services.

12. Remedies

If GRTC discovers that any Services either prior to or after acceptance by GRTC performed by Contractor fail to conform to the above warranties, then Contractor shall, at GRTC's option and at no cost to GRTC, promptly correct or re-perform such non-conforming Services so that they conform to the above warranties. The re-performed Services shall be subject to the same warranties as the original Services. Without limiting the generality of the preceding sentence, Contractor shall provide all labor, engineering, supervision, equipment, tools and materials necessary to remedy the nonconformity and shall bear all expenses in connection therewith. Contractor shall perform its remedial obligations hereunder in a timely manner consistent with GRTC's reasonable requirements. If Contractor fails or is unable to do so, GRTC may remedy the nonconforming Services and Contractor shall reimburse GRTC for any remedial costs and expenses (including GRTC internal costs) GRTC may incur.

13. Suspension

Upon oral or written notice from GRTC, Contractor shall suspend all or any part of its performance hereunder for such time as GRTC may direct. Any oral notice of suspension shall be confirmed in writing. GRTC shall not be liable for the cost of any unauthorized work performed by Contractor during any period of suspension, and upon receipt of GRTC's suspension notice, Contractor shall neither place further orders nor enter further subcontracts relating to the suspended performance. A suspension by GRTC pursuant to this Section shall be considered a change by GRTC for which Contractor may be entitled to an equitable adjustment in the Charges in accordance with the procedures above.

14. Indemnification

To the greatest extent permitted by law, Contractor shall indemnify and hold harmless GRTC, Old Dominion Transit Management Company, their elected officials, officers, officials, agents, and employees (each, an "Indemnatee"), from and against any and all claims, actions, causes of action, losses, liabilities, damages (including punitive damages), costs and expenses, including reasonable attorneys' fees, arising out of a claim or claims an Indemnatee may incur in connection with this Agreement or any of the Services supplied hereunder, whether such claims arise in contract, tort or otherwise. This indemnification obligation shall include, but is not limited to, all claims against GRTC by Contractor's subcontractors or Contractors, or an employee or former employee of Contractor or its subcontractors; and Contractor, by mutual negotiation, expressly waives all immunity and limitation on liability, as respects to GRTC only, under any industrial insurance act, other Worker's Compensation act, disability benefit act, or other employee benefit act of any jurisdiction which would otherwise be applicable in the case of such claim. This indemnification obligation shall also obligate Contractor to protect, indemnify, defend, and save harmless the Indemnitees from any and all claims or lawsuits alleging a violation of a third party's copyright or patent rights arising out of or in connection with Contractor's provision of Services and Goods under this Agreement. Notwithstanding anything provided in this section, GRTC retains the right to provide its own defense against any suits, claims, or actions, and to assess any costs of such defense to Contractor, including attorney's fees, expert witness fees, and court costs.

Assumption of Defense. Contractor shall, at GRTC's option, assume the defense of the Indemnitees in all legal or claim proceedings arising out of, in connection with, or incident to the indemnification obligation set forth in Paragraph 1 above and shall pay all defense expenses, including reasonable attorney's fees, expert fees, and costs incurred by the Indemnatee on account of such litigation or claims

15. Insurance

Contractor shall obtain, pay for and keep in force during the Term hereof, and thereafter as provided, the coverages in the amounts listed in Exhibit B. All insurance policies shall be written with a company or companies licensed to conduct business within the Commonwealth of Virginia and holding a current Best's Key Rating of A- VII or better. Contractor shall name GRTC, and Old Dominion Transit Management Company, as additional insureds on General, Business Automobile and Excess or Umbrella liability policies by endorsement to the policies. Insurance policies shall be endorsed to give GRTC 30 days written notice (10 days in case of Workers Compensation) of cancellation for any reason, non-renewal or material change in coverage or limits. In case of non-payment of premium by Contractor, GRTC retains the right, but is not obligated, to pay any premiums and deduct such amounts from any payments due Contractor.

There shall be no exclusions for punitive damages in the General or Business Automobile policies.

Complete, certified copies of all insurance policies applicable to this Agreement shall be sent to GRTC within 60 days of each inception or anniversary date, so that these insurance policies may be reviewed by GRTC. Until copies of policies are received, Evidence of Coverage in the form of an original Certificate of Insurance shall be submitted to GRTC. Contractor also agrees to have deficiencies in the insurance policies amended as per the directions of GRTC or its representatives.

16. Records, Reports and Audits

16.1. Records

During the Term of this Agreement, Contractor shall keep and maintain (a) complete and accurate records, in accordance with Generally Accepted Accounting Principles (GAAP), books of account, reports and other data necessary for the proper administration of this Agreement, including all rebate programs and any other special pricing program extended to Contractor by any subcontractors in connection with the Agreement and (b) all data, documents, reports, contracts and supporting materials relating to this Agreement as the Federal Government may require. Contractor shall retain such records and all other written materials prepared by Contractor, during the Term of this Agreement and for three years after the expiration, termination, or cancellation of this Agreement and for any additional time required by governmental authorities with jurisdiction over Contractor.

16.2. Reports

Contractor agrees to provide to the FTA those reports required by U.S. DOT's grant management rules and any other reports the Federal Government may require. In addition, Contractor shall, upon request, provide GRTC with satisfactory reports and documentation of Contractor's compliance with the Agreement

16.3. Right to Audit

Federal, state, local or GRTC designated auditors shall have the right, upon reasonable notice to Contractor, during the Term of this Agreement and for three years following the expiration, termination, or cancellation hereof, to audit and inspect Contractor's books, records, and other materials with respect to Compensation and Services. Contractor shall require its subcontractors to agree to allow GRTC to audit and inspect such subcontractors' books and records pertaining to Compensation and Services during the Term of this Agreement and for three years following the expiration, termination or cancellation of this Agreement or any agreement between Contractor and such subcontractor. If any audit or inspection reveals an error or irregularity in the Compensation payable to Contractor hereunder or a breach of the warranty hereof, an appropriate adjustment shall be made (a) by Contractor within 30 days after the conclusion of the audit or inspection or (b) at GRTC's option, by GRTC to amounts properly due Contractor hereunder. Contractor shall permit GRTC, and if federally funded, the FTA and the Comptroller General of the United States, or a duly authorized representative, to inspect all work, materials, payrolls, and other data and records involving the Agreement at Contractor's facility.

17. Termination and Cancellation

GRTC Rights to Termination - GRTC may terminate this Agreement at its sole discretion and for any or no reason upon 30 days' prior written notice to Contractor. This Agreement is subject to financial assistance provided by the U.S. Department of Transportation, the Virginia Department of Rail and Public Transportation, and the City of Richmond. If expected or actual funding is withdrawn, reduced, or limited in any way during the Term of this Agreement, GRTC may, upon written notice to Contractor, terminate this Agreement in whole or in part.

Right to Cancel for Default - Either party may cancel this Agreement effective immediately upon written notice to the other in the case of bankruptcy, insolvency, or appointment of custodian, receiver, trustee, or liquidator of the other party, or a breach by the other party of any of the terms and conditions of this Agreement, without prejudice to any other rights or remedies the non-breaching party may have, provided the breaching party fails to remedy such breach within 30 days of receiving notice of such breach.

In the event either party shall engage the services of an attorney or other professional due to the default of the other party, the defaulting (non-prevailing) party shall pay all legal costs

and fees, including attorney fees, incurred by the non-defaulting (prevailing) party in enforcing its rights.

Effect of Termination or Cancellation

When Contractor receives notice of termination or cancellation, it shall (a) discontinue its performance of the Services in accordance with GRTC's instructions, (b) not place further orders or enter into further subcontracts relating to the terminated Services, (c) to the extent possible terminate all existing orders with its Contractors and any subcontracts, and (d) settle all outstanding liabilities and all claims arising out of such termination of orders and subcontracts, with the consent of GRTC's Contract Administrator or other expressly designated representative.

After termination or cancellation, GRTC shall have no further liability other than to pay for Services performed and conforming Goods delivered prior to the effective date of termination or cancellation.

Neither termination nor cancellation shall affect any rights either party may have with respect to any Goods delivered or Services performed prior to termination or cancellation, any pending dispute, or any rights either party may have with respect to any breach occurring prior to termination or cancellation.

18. Dispute Resolution

Intent. It is the intention of the parties to make a good faith effort to resolve, without resort to litigation, any dispute, controversy or claim arising out of or relating to this Agreement or any breach hereof (a "Dispute") according to the procedures set forth herein; provided, however, that the procedures set forth herein shall not preclude either party from exercising any right of termination or cancellation of the Agreement as provided herein or as available at law or in equity.

Procedure. Contractor shall address any question or claim arising from this Agreement in writing to the Contract Administrator within ten calendar days of the date in which Contractor discovers or has reason to discover the question or claim. Unless Contractor receives a written notification with the determination of the Contract Administrator prior to the tenth day following the Contract Administrator's receipt of the question or claim, such question or claim is denied. In the event Contractor disagrees with any determination or decision of the Contract Administrator, Contractor may, within five calendar days of the date of such determination or decision, appeal the determination or decision in writing to the Chief Executive Officer of GRTC (the "CEO"). Such written notice of appeal shall include all documents and other information necessary to substantiate the appeal. The CEO shall review the appeal and transmit a decision or determination in writing. The decision will be considered final. Appeal to the CEO shall be a condition precedent to litigation hereunder.

Mediation and Arbitration. If a Dispute cannot be settled through direct discussions, the parties shall first endeavor to settle the dispute in an amicable manner by mediation. Thereafter, any unresolved controversy or claim arising out of or relating to this Agreement, or breach thereof, may be settled by arbitration, and judgment upon the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The parties may seek to resolve disputes pursuant to arbitration but are not required to do so. Nothing in this Section precludes any party from seeking further relief once the required alternative dispute resolution efforts have failed.

Performance During Dispute. Subject to the rights of the parties to cancel this Agreement or suspend their performance as set forth in this Agreement, Contractor shall continue to perform its obligations under this Agreement during the pendency of any Dispute; provided,

however, that GRTC may seek preliminary and permanent injunctive relief, including specific performance or other interim or permanent relief, if the Dispute involves risk to the safety or security of persons or property, if in GRTC's judgment such relief is necessary to prevent injury or damage; provided further, that despite any such action by GRTC, the parties shall continue to proceed in good faith in the dispute procedures outlined herein.

19. Force Majeure

Events of Force Majeure. Neither GRTC nor Contractor shall be liable for its failure to perform or for any delay in performance of its obligations hereunder to the extent that such performance is delayed or prevented by circumstances beyond its reasonable control, without its fault or negligence and that despite its reasonable efforts is unable to overcome (a "Force Majeure Event"). Either party's right to be excused pursuant to the preceding sentence shall be conditioned upon the party experiencing the Force Majeure Event providing prompt written notice to the other party of the occurrence of the Force Majeure Event. This written notification shall give a full and complete explanation of the Force Majeure Event and its cause, the status of the Force Majeure Event, and the actions the party is taking and proposes to take to overcome the Force Majeure Event. Subject to the foregoing conditions, events that may constitute Force Majeure Events include, but are not limited to, acts of God; unusually severe weather conditions; war; riots; requirements, actions, or failures to act on the part of governmental authorities; inability despite due diligence to obtain required licenses, permits or approvals; fire; damage to or breakdown of necessary facilities; or unusual transportation delays or accidents. Strikes and other labor difficulties are not Force Majeure Events. The party experiencing the Force Majeure Event shall exercise due diligence to overcome any Force Majeure Event.

Force Majeure Procedure. The party experiencing the Force Majeure shall exercise due diligence in endeavoring to overcome and mitigate any resulting delay in, or prevention of, its performance. If Contractor is experiencing the Force Majeure, it shall, in addition to the above actions, implement any applicable contingency plan. The party experiencing the Force Majeure shall also give prompt written notification to the other party, which notice shall include a full and complete explanation of the Force Majeure and its cause, the status of the Force Majeure, and the actions such party is taking and proposes to take to overcome and mitigate any resulting delay in, or prevention of, its performance.

Termination for Extended Force Majeure. If Contractor's ability to perform hereunder is delayed or prevented, in whole or in part, for a period of 4 consecutive days as a result of an event of Force Majeure, GRTC shall have the right, at its sole option, to terminate this Agreement, in whole or in part, by giving written notice of termination to Contractor. Such termination shall be effective upon Contractor's receipt of such notice and without regard to whether the event of Force Majeure ends prior to the date on which the termination becomes effective.