

April 6, 2020

Request for Bids TO-20-18

Transit Bus Tire Lease

Topeka Metropolitan Transit Authority (Metro) is requesting bids from qualified firms to provide transit bus tires under a lease contract.

Contractor Responsibilities

- Furnish and maintain a replacement supply of tires for Metro’s bus fleet as described below. This information is subject to change and is provided herein only for information about Metro’s current bus fleet. Each vehicle has six (6) wheels and is used for public transportation of passengers.

<u>Metro Current Bus Fleet</u>				
<i>Number of Buses</i>	<i>Year/Make/Model</i>	<i>Average Annual Mileage Per Bus</i>	<i>Tire Size</i>	<i>Load Range</i>
16	2011 Gillig Low Floor	37,414	B305/85R22.5	J
9	2013 Glaval	18,225	LT225/75R16	E
10	2014 Gillig Low Floor	37,977	B305/85R22.5	J

- Be regularly engaged in the manufacture and lease of original tread tires for public transit buses.
- Furnish a list of city transit properties presently and recently serviced under tire lease contracts.
- Assume responsibility for all material, accessories and warranty used in the furnishing of tires, whether the same is manufactured by the Contractor or purchased ready-made, from a source outside the Contractor’s company.
- Deliver new tires of the appropriate size and type to any North American bus manufacturer within sixty (60) days upon request of Metro should Metro decide to purchase any new vehicles. The tires shall, upon delivery to the North American bus manufacturer, become subject to the terms and conditions of this contract. Any tires lost, stolen, or damaged while in the possession of the vehicle manufacturer, or other seller, or while the vehicle is being delivered to Metro, shall be paid for by Metro on the basis set forth in the Contract. If any such vehicles equipped with tires furnished by Contractor shall be driven overland instead of being shipped, Metro shall pay Contractor for use of such tires at the billing.
- Furnish new tires to replace any existing Metro tires as of the inception of the contract and thereafter throughout the contract term, as tires are rendered permanently unfit for use. All tires will be uniquely, individually, and sequentially branded on both side walls, and shall be new, and of safe and usable condition; used, retread, or recapped tires will not be accepted.

- Provide valve stems, caps, cores, repair patches, groove cutter blades, and any tools needed for airing, checking, and repairing tires by Metro employees. Contractor shall provide Metro with a regroover at no additional charge for the life of this contract, if the tires provided under this contract are regroovable.
- Maintain an adequate supply of tires for each wheel on each bus, plus a reasonable number of spare tires; spare stock will be determined by Metro and the Contractor. In the event of a manufacturing delay in tires due to a strike, the Contractor shall, to the extent reasonably practicable, notify Metro so that additional spare stock can be put in place.
- Submit evidence of performance characteristics, with particular emphasis on the expected mileage on original tread on its proposed tires in a city transit property of like geographical location using the same model buses. If Contractor does not have any history for these bus models, Contractor shall provide tire mileage life for similar vehicles and indicate year, make and model of said vehicles. Contractor shall submit three (3) references which have been active for a period of more than one year, and include reference's name, address, telephone number, e-mail address, contact person, date of installation, and actual average mileage performance of each tire type.
- Maintain ownership and title to all leased tires and equipment, unless and until a tire is purchased by Metro as provided for in this contract. In such case, Metro will acquire ownership to said tires, and Contractor makes no warranty as to the merchantability, condition or fitness for continued use of said tires.
- All tires and appurtenances shall be delivered to the Metro maintenance facility unless otherwise directed by Metro and agreed upon by Contractor. All freight and delivery charges shall be paid by Contractor.
- Be excused from deliveries or delay in deliveries if such failure to deliver or delay in delivery shall be caused by war, acts of terrorism, strikes, lockouts, or other labor disturbances, or other similar causes beyond Contractor's reasonable control. This provision is subject to applicable restrictions imposed by any Federal agency or by any other Federal governmental authority.
- Provide to Metro, by tire group, monthly reports that include at a minimum:
 - A. Original tread accumulated mileage performance by tire group for tires removed from service during that period.
 - B. The average tire mileage for each specific type of tire in Metro's fleet.
 - C. A productivity report indicating all tires removed from service, separating tires affecting the average and tires not affecting the average.
 - D. Tire loss reports based on monthly counts and annual inventories, except in the case of new vehicle delivery loss, in which case loss claim must be presented within sixty (60) days of loss.
- Make available to Metro, upon request, any other reports or statistics that Contractor has available.
- Be cognizant and supportive of the strict fulfillment of Metro's obligation to Goodyear under its current contract. As such, the tires in possession of or identified for use by Metro upon expiration of the current contract shall be used in accordance with said contract.
- At its expense (including Kansas waste tax), be responsible for disposal of Contractor's tires and appurtenances rendered unfit for service and permanently removed from Metro vehicles.

- Submit a monthly invoice to Metro showing activity during the previous month for each type of tire. Metro shall pay the invoice within thirty (30) days of receipt.
- Provide Metro with a “Scrap Tire Letter of Agreement,” which shall become an addendum to the Contract. The letter shall allow Metro to mount uncut scrap tires on out-of-service buses, or buses to be sold, said scrap tires to be provided to Metro at no cost.

Metro Responsibilities

- Perform services including wheel changes, mounting and dismounting, regrooving, and repair of flats as required so that tires may be kept in proper operating condition.
- Keep tires inflated to conform to the approved standards of the Tire and Rim Association of America; vehicles shall be equipped with the sizes and types of rims of sufficient strength to permit inflation necessary for the load-carrying capacity required, and spaced to conform to the approved standards of the Tire and Rim Association of America.
- Determine at all times when tires are to be removed from vehicles; in the event of a dispute, Metro’s determination shall be final. All tires determined to be permanently unfit for further use shall be returned to Contractor promptly by Metro.
- Furnish safe, suitable, enclosed and secure space for the storage and maintenance of spare tires and tires unfit for further service.
- Service tires in accordance with accepted industry practices.
- Keep garage floors and parking areas clean and free of nuts, bolts, metal, wire, etc.
- Investigate misalignment and other conditions reported by Contractor and correct as necessary.
- Provide necessary air and electrical outlets for tire service equipment.
- Remove tires from the front wheels at approximately half their useful life and mount them on the rear wheels; existing spare stock shall be applied prior to application of new inventory.
- Keep the mileage record of each bus and furnish Contractor with a list of each vehicle and the actual mileage for each vehicle each month. This report shall be completed at the end of each month and sent to Contractor by the 15th of the following month. This report will be used by Contractor in calculating the monthly billing.
- Notify Contractor thirty (30) days prior to any sale or disposition of any of Metro's vehicles equipped with Contractor's tires and, unless Contractor requests otherwise, Metro shall purchase the unused mileage in each leased tire and for any leased tires which remain in stock after such vehicles have been sold or disposed of which cannot be used on other vehicles in Metro's fleet. Payment for the unused tire mileage acquired by Metro under this paragraph shall be on the basis set forth in the contract.
- Should Metro purchase new vehicles, Metro will purchase said vehicles without tires, and equip said vehicles with Contractor’s tires.

Run-Out Period

Upon expiration of this contract, and only in the event that Metro changes suppliers, Metro has the right to further extend this contract, by serving thirty (30) days prior written notice to Contractor, and continue to use all tires furnished by Contractor under this contract, which are in Metro's possession on the expiration date of the contract, for a period of up to 36 months from said expiration date, commonly and hereinafter referred to as the "Run-Out Period."

All terms, conditions and provisions of this contract, as previously amended and extended, shall remain in full force and effect during said Run-Out Period, except that Contractor shall be relieved of any requirement to furnish Metro with new tires, or access to repair materials, during said Run-Out Period, unless requested by Metro and agreed to by Contractor. Metro shall continuously use such tires insofar as practicable in its regular service until such tires are rendered permanently unfit for service during said Run-Out Period.

The price billed during the Run-Out Period will be the average Fixed Price in effect for the six-month period immediately preceding the beginning of the Run-Out Period. New and unused tires at the end of the original contract period shall be returned to Contractor, at no cost to Metro, and shall not be available for use during the Run-Out Period.

Upon expiration of the Run-Out Period, Metro shall pay for any then unused mileage remaining in such tires at the agreed upon contract price. Metro will acquire ownership to said tires, and Contractor makes no warranty as to the merchantability, condition or fitness for continued use of said tires. The amount of unused mileage for each type of tire shall be determined by subtracting the actual mileage at the end of the Run-Out Period from the average mileage of said type of tire; said average mileage will be determined by similar tires normally and permanently removed from service during the two-year period immediately preceding the expiration of the Run-Out Period.

Disposition of Tires at Contract Expiration

Upon expiration of this contract, and only in the event that Metro changes suppliers and does not elect to extend the contract under a Run-Out Period, Metro will pay for any then unused mileage remaining in tires, except new and unused tires, in its possession at that time which were received from Contractor during the contract period, at the rate in effect at the expiration of the contract. The amount of the unused mileage shall be determined by subtracting the actual mileage at the end of the contract period from the average mileage of said type of tire; said average mileage will be determined by similar tires normally and permanently removed from service during the two-year period immediately preceding the expiration of the contract period.

New and unused tires shall be returned to Contractor, at no cost to Metro. Metro will provide an inventory of tires remaining within thirty (30) days after the termination date, said inventory to be either completed with or confirmed by a representative of the Contractor. Upon Contractor's receipt of full payment, Metro will acquire ownership in and title to each such used tire as is, and Contractor makes no warranty as to the condition or fitness for continued use of said tires.

Tire Loss or Damage

Normal damage to a tire means partial or total destruction by means other than normal wear, including but not limited to irregular wear, curbing, road hazards, and misalignment. Normal damage does not include heat-related cracking of the tire in and around the bead area, and such damage is the responsibility of Contractor. Metro agrees to maintain bus suspension and steering in accordance with bus manufacturer's alignment specifications, and keep brakes properly adjusted.

Tires which are lost, stolen, or destroyed by fire, accident, or negligent/improper use, or otherwise unavailable for inspection shall be paid for by Metro at an amount not to exceed 50% of the current value of a same-size replacement tire. If Metro or Contractor can provide an auditable accounting of the tires actual mileage prior to a loss, the amount due will be prorated using the formula for damaged tires.

Metro shall pay for damaged tires which are available for inspection by paying any mileage remaining thereon at the rate then in effect. The remaining mileage shall be prorated by the following formula: percentage of tread rubber remaining multiplied by the average mileage multiplied by the applicable billing rate per tire mile. The base mileage is to be completed by Contractor on the Price Quote form and will be used only until the Contractor has established tire averages. Tire averages exclude damaged tires for which damage Metro is responsible as defined above. Once the tire average has been established, all previous invoices for damaged tires (which were based on base mileage table) shall be recalculated using the tire average; any overpayment shall be refunded to Metro, and any underpayment invoiced to Metro.

Contract Term

This will be a five-year contract. There will be no options or extensions. During the final six months of this contract, Metro may choose to issue another RFB for these services.

General Instructions

Bids must be submitted in the following format:

- 1) Cover letter signed by the individual authorized to commit the firm to perform the contract requirements, including your firm's name, address, phone, fax, and email;
- 2) Provide a description of your understanding of, and ability to fulfill the specifications and services requested in this RFB;
- 3) Provide a description of your firm's experience and qualifications. Supply at least three references with current contact information, for which you have provided the same or similar services as specified in this RFB; and,
- 4) The completed cover letter, price quote and certifications on pages 12-19.

In order to be considered for contract award, your bid must be received in the Metro office by **1:00pm on Thursday, May 7, 2020.**

Following are the evaluation criteria, listed by degree of importance. A criterion may have multiple elements with varying degrees of importance.

Qualifications and References
Quality of Product
Price

The cover letter, price quote form and the certifications on pages 12-19 are part of your bid and must be completed by all bidders. Bids that do not include the completed price quote and fully-executed certifications may not be considered. The successful bidder will be required to follow the contract clauses on pages 7-11.

No advantage shall be taken by the contractor or any subcontractor in fulfilling the terms of this project due to omission of specifications by Metro. Topeka Metro's current DBE goal is 2.00%. There is no DBE goal for this contract. If your firm is a DBE, or if you will be sub-contracting with a DBE, please attach a copy of the current DBE certificate. Upon contract award, all proposals will be public record and posted to Metro's website. Metro recommends that proposers exclude any trade secret, proprietary or confidential information from their proposals.

If you have any questions concerning this RFB, or if you need clarification or additional information, please contact Richard Appelhanz. Bids should be submitted electronically. If submitting bids on paper, please provide three copies. Bids are to be sent to:

Topeka Metropolitan Transit Authority
Attn: Richard Appelhanz
201 North Kansas Avenue
Topeka, KS 66603
785-730-8621
rappelhanz@topekametro.org

Questions must be received by Metro by Thursday, April 16, 2020.

1.0 ACCESS TO RECORDS

The Contractor agrees to provide Metro, 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 CFR 633.15 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 USC 5302 and 49 CFR 633.5, which is receiving federal financial assistance through the programs described at 49 USC 5307, 5309 or 5311. 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. 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 Metro, 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 2 CFR 200.333 and 2 CFR 200.336. FTA does not require the inclusion of these requirements in subcontracts.

2.0 ASSIGNMENT AND DELEGATION

Contractor shall neither delegate any duties or obligations under this contract, nor assign, transfer, convey, sublet, subcontract or otherwise dispose of the contract or its right, duty, title or interest in or to the same, or any part thereof, without previous written consent of Metro.

3.0 BUY AMERICA

The Contractor agrees to comply with 49 USC 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7. Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(c) and 49 CFR 611.11. Rolling stock must be assembled in the United States and have over 60% domestic content for deliveries prior to FY2018, over 65% for deliveries in FY2018 and FY2019, and over 70% for deliveries in FY2020 and thereafter. A bidder or offeror must submit to Metro the appropriate Buy America certification with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier sub-contractors.

4.0 CARGO PREFERENCE

The contractor agrees: (1) to use privately owned US-Flag commercial vessels to ship at least 50% 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 contract to the extent such vessels are available at fair and reasonable rates for US-Flag commercial vessels; (2) to furnish within 20 working days following the date of loading for shipments originating within the U.S. or within 30 working days following the date of loading for shipments originating outside the U.S., a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described above to:

Division of National Cargo
Office of Market Development
Maritime Administration
Washington, DC 20590

with a copy to Metro (through the contractor in the case of a subcontractor's bill-of-lading); and, (3) 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.

5.0 CIVIL RIGHTS

- 5.1 Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 USC 2000d, Section 303 of the Age Discrimination Act of 1975, as amended, 42 USC 6102, Section 202 of the Americans with Disabilities Act of 1990, 42 USC 12132, and Federal transit law at 49 USC 5332, the contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- 5.2 Equal Employment Opportunity – The following equal employment opportunity requirements apply to the underlying contract:
 - 5.2.1 Race, Color, Creed, National Origin, Sex – In accordance with Title VII of the Civil Rights Act, as amended, 42 USC 2000e, and Federal transit law at 49 USC 5332, the contractor agrees to comply with all applicable equal employment opportunity requirements of US Department of Labor (USDOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 CFR Parts 60 et seq., and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect 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, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and

selection for training, including apprenticeship. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.

- 5.2.2 Age – In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 USC 623 and Federal transit law at 49 USC 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.
- 5.2.3 Disabilities – In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 USC 12112, the Contractor agrees that it will comply with the requirements of the US Equal Employment Opportunity Commission, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 CFR Part 1630, pertaining to employment of persons with disabilities. In addition, the contractor agrees to comply with any implementing requirements FTA may issue.
- 5.3 The contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.
- 5.4 If the contract involves federal funds, the provisions of this subsection do not apply. If the contract does not involve federal funds, and if contractor’s contracts with Topeka Metro for the current fiscal year cumulatively total more than \$5,000 and the contractor has four or more employees during the term of this contract, the contractor also agrees to observe the provisions of the Kansas Act Against Discrimination and the Kansas Age Discrimination in Employment Act and shall not discriminate against any person in the performance of work under this contract because of race, religion, color, sex, disability, national origin or ancestry. In all solicitations or advertisements for employees, the contractor shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by Topeka Metro. If the contractor fails to comply with the reporting or other requirements of the Kansas Human Rights Commission under K.S.A. 44-1031 or K.S.A. 44-1116, and amendments thereto, the contractor shall be deemed to have breached this contract and it may be canceled, terminated or suspended, in whole or in part, by Topeka Metro. If contractor is found guilty of a violation of the Kansas Act Against Discrimination or the Kansas Age Discrimination in Employment Act under a decision or order of the Kansas Human Rights Commission which has become final, the contractor shall be deemed to have breached the present contract and it may be canceled, terminated or suspended, in whole or in part, by Topeka Metro. Contractor agrees to include the binding provisions of this subsection in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

6.0 CLEAN AIR AND WATER

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC 7401 et seq., and the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor agrees to report each violation to Metro and understands and agrees that Metro will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

7.0 COMPLIANCE WITH LOCAL, STATE AND FEDERAL LAWS

Contractor shall at all times be solely responsible for complying with all applicable local, state and federal laws, ordinances and regulations in connection with the performance of this contract.

8.0 CONFIDENTIALITY

Between the date and time that proposals are due, until award of the contract by Metro, no information will be released which may have an adverse impact upon the negotiations or selection process. No information will be shared about the distinguishing characteristics or deficient characteristics of any proposal. All documents received by Metro are subject to the Kansas Open Records Act, KSA 45-215, et seq., and the Freedom of Information Act, 5 USC 552.

9.0 CONFLICT OF INTEREST

No director or employee of Topeka Metropolitan Transit Authority, during his/her tenure or within one year thereafter, shall have any interest, direct or indirect, in this contract or the proceeds thereof.

10.0 CONTRACT CHANGES

Any proposed change to this contract shall be submitted to Metro in writing for approval. No change in this contract shall be made unless Metro gives prior written approval. Contractor shall be liable for all costs, damages and/or liabilities, and for proper corrections, resulting from any specification change not properly approved in writing by Metro. Changes that have not been approved by Metro shall place Contractor in default of the contract.

11.0 DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- 11.1 This contract is subject to the requirements of 49 CFR 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%. Metro's overall 2019-2021 goal for DBE participation is 2.00%; the race neutral goal is 1.12%, and the race conscious goal is 0.88%. There is no contract goal for this procurement.
- 11.2 The contractor 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 Metro deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
 - 11.3 The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from Metro.
 - 11.4 The contractor may not hold retainage from its subcontractors.
 - 11.5 The contractor must promptly notify Metro, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Metro.

12.0 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.

13.0 EXCLUSIONARY OR DISCRIMINATORY SPECIFICATIONS

Metro will comply with the requirements of 49 USC 5323(h)(2) by refraining from using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

14.0 FEDERAL CHANGES

The contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Metro 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.

15.0 FLY AMERICA

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

16.0 INCORPORATION OF FTA TERMS

These contract provisions include, in part, certain Standard Terms and Conditions required by USDOT, whether or not expressly set forth in the included contract provisions. All contractual provisions required by USDOT, as set forth in the current version of FTA Circular C 4220.1, 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 Metro requests which would cause Metro to be in violation of the FTA terms and conditions.

17.0 INDEMNIFICATION

Contractor shall be responsible for and indemnify, defend and hold harmless Metro, its directors and employees from all demands, claims, suits and settlements for loss of or damages to property, or personal injuries, including death to persons, and from all judgments recovered, and from all expenses incurred in defending or settling said claims or suits, or enforcing this provision, including court costs and attorney fees and other expenses arising out of the errors, omissions or negligent acts of the Contractor, its employees, or agents in connection with the goods and/or services provided under this contract.

18.0 INSURANCE

Contractor shall maintain for the duration of the contract such insurance as will protect it and Metro from all claims, including Workers' Compensation, and will hold Metro harmless from, and indemnify Metro for, all claims and damages which may arise out of or result from the Contractor's operations under this contract, whether such operations are by Contractor, by a subcontractor, by anyone directly or indirectly employed by them, or by anyone for whose acts any of them may be liable. Contractor will submit certificates or other proof of insurance to Metro, naming Metro as an additional insured, upon notification of contract award.

19.0 INTEREST OF CONGRESS

No member of or delegate to the Congress of the United States of America shall be admitted to any share or part of this contract or to any benefit arising therefrom.

20.0 LOBBYING

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR 20.110, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a Member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 USC 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 USC 1352. Such disclosures are forwarded from tier to tier, up to Metro.

21.0 NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

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

22.0 PATENT INFRINGEMENT

Contractor agrees that it will, at its own expense, defend all suits and all proceedings instituted against Metro, if such suits and proceedings are based on any claim that the materials or equipment provided by Contractor, or any part thereof, or any tool, article or process used in the manufacture thereof, constitutes an infringement of any patent. Metro will give Contractor prompt notice in writing of any suit or proceeding, and will give Contractor all needed information, assistance and authority to enable Contractor, through its legal counsel, to defend the same.

23.0 PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

- 23.1 The contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801, et seq. and US DOT regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to this project. Upon execution of this contract, the contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to this contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the contractor to the extent the Federal Government deems appropriate.
- 23.2 The contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307 on the contractor, to the extent the Federal Government deems appropriate.
- 23.3 The contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

24.0 RECYCLED PRODUCTS

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

25.0 SEAT BELT USE

In accordance with the provisions of Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 USC 402 note, by adopting and promoting on-the-job seat belt use policies and programs for its employees and other personnel that operate company owned or rented vehicles or personally owned vehicles, and by including a "Seat Belt Use" provision in each third-party agreement related to the project.

26.0 SUSPENSION AND DEBARMENT

In accordance with 2 CFR Parts 180 and 1200, the contractor is required to verify that none of its principals or affiliates: 1) is included on the federal government's suspended and debarred list; 2) is proposed for debarment, declared ineligible, voluntarily excluded or disqualified; 3) within three years preceding this proposal, has not been convicted of or had a civil judgment rendered against them for (a) commission of fraud or criminal offense pertaining to performing a public transaction, (b) violation of any federal or state antitrust statute, or (c) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; 4) is indicted or charged by a governmental entity for any of the charges in 3) above; and 5) has had any public transaction terminated for cause or default within three years preceding this proposal. The contractor is required to include this requirement in any subcontracts related to this contract. By signing and submitting its proposal, the proposer certifies that the certification in this clause is a material representation of fact relied upon by Metro. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to verify that none of its principals or affiliates is included on the federal government's suspended and debarred list at any time throughout the period of this contract. The proposer further agrees to include a provision requiring the same compliance in its subcontracts related to this contract.

27.0 TERMINATION

Termination for Convenience – Metro may terminate this contract, in whole or in part, at any time by written notice to the contractor when it is in the Metro'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 Metro to be paid to the contractor. If the contractor has any property in its possession belonging to Metro, the contractor will account for the same, and dispose of it in the manner Metro directs.

Termination for Default – If the contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the contractor fails to perform in the manner called for in the contract, or if the contractor fails to comply with any other provisions of the contract, Metro 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 Metro 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, Metro, after setting up a new delivery of performance schedule, may allow the contractor to continue work, or treat the termination as a termination for convenience.

Opportunity to Cure – Metro in its sole discretion may, in the case of a termination for breach or default, allow the contractor ten (10) days in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to Metro'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 Metro setting forth the nature of said breach or default, Metro shall have the right to terminate the contract without any further obligation to the contractor. Any such termination for default shall not in any way operate to preclude Metro from also pursuing all available remedies against contractor and its sureties for said breach or default.

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

Termination for Default – If the contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, Metro may terminate this contract for default. Metro shall terminate by delivering to the contractor a Notice of Termination specifying the nature of the 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 this contract. 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 Metro.

COVER SHEET

Proposer Information

Company Name _____

Address _____

City, State, Zip _____

Main Phone _____

Contact Person Information

Name _____

Job Title _____

Phone _____

Alt. Phone _____

Email _____

Signature _____

Date: _____

PRICE QUOTE

<u>Fixed Rate Per Tire Per Mile</u>					
Bus Year/Make/Model Tire Size	Year 1	Year 2	Year 3	Year 4	Year 5
2011 Gillig Low Floor B305/85R22.5					
2013 Glaval LT225/75R16					
2014 Gillig Low Floor B305/85R22.5					

Additional Charges:

_____ \$ _____
 _____ \$ _____

Maximum Percentage Increase:

Year 2 _____

Year 3 _____

Year 4 _____

Year 5 _____

Complete your price quote in one of two ways:

- 1) Complete a price quote for each year of the contract.
- 2) Complete a price quote for the first year of the contract and show the maximum percentage increase for years 2-5.

List all applicable charges on page 1 of the price quote. Any charge other than those listed on the price quote will not be paid.

Topeka Metro is tax exempt. Do not include sales tax in your proposed price.

BUY AMERICA CERTIFICATION

Proposer will certify either compliance or non-compliance, not both. This certification must be submitted with the proposer's response.

Certificate of Compliance with 49 USC 5323(j)

The bidder hereby certifies that it will meet the requirements of 49 USC 5323(j), and the applicable regulations in 49 CFR Part 661 and any amendments thereto.

Signature: _____

Name & Title: _____

Company: _____

Date: _____

Certificate of Non-Compliance with 49 USC 5323(j)

The bidder hereby certifies that it cannot comply with the requirements of 49 USC 5323(j) and 49 CFR 661.5, but it may qualify for an exception pursuant to 49 USC 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

Signature: _____

Name & Title: _____

Company: _____

Date: _____

DISADVANTAGED BUSINESS ENTERPRISES (DBE) CERTIFICATION

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%. Metro’s overall 2019-2021 goal for DBE participation is 2.00%; the race neutral goal is 1.12%, and the race conscious goal is 0.88%. There is no contract goal for this procurement.

The contractor 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 Metro deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor’s receipt of payment for that work from Metro.

The contractor may not hold retainage from its subcontractors.

The contractor must promptly notify Metro, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of Metro.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

FLY AMERICA CERTIFICATION

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, which provide that recipients and sub-recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

LOBBYING CERTIFICATION

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

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions. See 49 CFR 20.100.

(3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 USC. 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 USC 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. See 49 CFR 20.400.]

The undersigned 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 USC 3801, et seq, apply to this certification and disclosure, if any.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

NON-COLLUSION CERTIFICATION

This is my sworn statement to certify that this proposal was not made in the interest of or on behalf of any undisclosed entity. This proposal is not collusive.

This proposer has not been a party to any agreement or collusion in restraint of freedom of competition by agreement to bid a fixed price, to refrain from bidding, or otherwise. This proposer has not, directly or indirectly, by agreement, communication or conference with anyone, attempted to induce action prejudicial to the interest of Topeka Metropolitan Transit Authority, or of any proposer, or anyone else interested in the proposed contract.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____

SUSPENSION / DEBARMENT CERTIFICATION
In regard to 2 CFR Parts 180 and 1200

In accordance with 2 CFR Parts 180 and 1200, the contractor is required to verify that none of its principals or affiliates:

- 1) is included on the federal government's suspended and debarred list;
- 2) is proposed for debarment, declared ineligible, voluntarily excluded or disqualified;
- 3) within three years preceding this proposal, has been convicted of or had a civil judgment rendered against them for (a) commission of fraud or criminal offense pertaining to performing a public transaction, (b) violation of any federal or state antitrust statute, or (c) embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
- 4) is indicted or charged by a governmental entity for any of the charges in 3) above; and
- 5) has had any public transaction terminated for cause or default within three years preceding this proposal.

The contractor is required to include this requirement in any subcontracts related to this contract.

By signing and submitting its proposal, the proposer certifies that the certification in this clause is a material representation of fact relied upon by Metro. If it is later determined that the proposer knowingly rendered an erroneous certification, in addition to remedies available to Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The proposer agrees to verify that none of its principals or affiliates is included on the federal government's suspended and debarred list at any time throughout the period of this contract. The proposer further agrees to include a provision requiring the same compliance in its subcontracts related to this contract.

Signature: _____

Name and Title: _____

Company Name: _____

Date: _____