



**REQUEST FOR PROPOSAL (RFP)  
Generators Project  
RFP #25-T040A**

The Fort Worth Transportation Authority operating as (“Trinity Metro”) outlines the following schedule:

<b>RFP Release Date:</b>	<b>August 20, 2025</b>
<b>Proposal Submission Deadline:</b>	<b>October 9, 2025</b>
<b>REVIEW THE FULL SCHEDULE OF EVENTS IN SECTION 2</b>	
<b>DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL:</b>	<b>5.35%</b>
<b>DAVIS-BACON WAGE DETERMINATION:</b>	<b>TX20250026</b>

**Preamble:**

The Fort Worth Transportation Authority, operating as Trinity Metro, is a regional transportation authority of the State of Texas, created pursuant to Chapter 452 of the Texas Transportation Code and confirmed by a public referendum on November 8, 1983. Trinity Metro provides public transportation services within the city limits of Fort Worth, Forest Hill, and River Oaks. Such services include fixed bus routes, mobility impaired transportation service (Paratransit services), carpool/vanpool services, ON-DEMAND and commuter rail (operating as TEXRail and Trinity Railway Express (TRE)). A one-half of one percent (\$.0050) sales tax is dedicated to supporting Trinity Metro’s public transportation program. Trinity Metro is also the recipient of Federal Transit Administration (FTA) capital grants and Texas Commission on Environmental Quality grants.

Trinity Metro is governed by an eleven-member Board of appointed officials. Eight Board members are appointed by the Fort Worth City Council and 3 Board members are appointed by the Tarrant County Commissioners Court, in accordance with Subchapter N., Sec. 452.562 (c) – (f) of the Transportation Code. The Board sets policy through standing and ad hoc committees, and establishes broad business goals and policies for management. The President & Chief Executive Officer reports to the Board, and is responsible for implementation of Board policies and day-to-day operations of Trinity Metro.

This Request for Proposal (RFP) neither creates nor implies any obligation on the part of the Trinity Metro to award a contract or to pay any costs incurred in the preparation or submittal of any Proposal.

**Trinity Metro  
801 Grove Street  
Fort Worth, Texas 76102**

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### Section 1 Minimum Requirements

NAME	FORM DESCRIPTION	FORM NUMBER	SUBMIT WITH OFFER?
Cover Page	Solicitation Number, Title, Due Date	None	<b>YES</b> <input type="checkbox"/>
Section 2	Schedule of Events	None	
Section 3	Instruction to Proposers	None	
Section 4	Evaluation and Response	None	
Section 5	Scope of Work	None	
Section 6	Special Provisions	None	
Section 7	Federal Contract and Other Requirements	None	
Section 8	Disadvantaged Business Enterprise (DBE)	None	
Section 9	Trinity Metro Safety, Security and Emergency	None	
Section 10	Attachments and Amendments	F1	<b>YES</b> <input type="checkbox"/>
	DBE Compliant Statement	F2	<b>YES</b> <input type="checkbox"/>
	Schedule of DBE Utilization	F3	<b>YES</b> <input type="checkbox"/>
	Good Faith Effort Documentation	F4	<b>YES</b> <input type="checkbox"/>
	Good Faith Effort Information Requests	F5	<b>YES</b> <input type="checkbox"/>
	Confirmation Letter/Intent to Subcontract	F6	<b>YES</b> <input type="checkbox"/>
	Certification of Contractor Regarding Debarment, Suspension, and Other Responsibility Matters	F7	<b>YES</b> <input type="checkbox"/>
	Conflict of Interest Acknowledgement and Certification	F8	<b>YES</b> <input type="checkbox"/>
	Certification of Compliance with Restriction on Lobbying	F9	<b>YES</b> <input type="checkbox"/>
	Business Questionnaire & List of References	F10	<b>YES</b> <input type="checkbox"/>
	List of References for Similar Projects	F11	<b>YES</b> <input type="checkbox"/>
	Affidavit of Non-Collusion	F12	<b>YES</b> <input type="checkbox"/>
	Prohibition of Contracts with Companies Boycotting Israel	F13	<b>YES</b> <input type="checkbox"/>
	Federal Tax Liability and Recent Felony Convictions Certification	F14	<b>YES</b> <input type="checkbox"/>
	Buy America Certification	F15	<b>YES</b> <input type="checkbox"/>
	Base Price Proposal	F16	<b>YES</b> <input type="checkbox"/>
	Trinity Metro Safety, Security and Emergency	F17	<b>YES</b> <input type="checkbox"/>
	Bond	F18	<b>YES</b> <input type="checkbox"/>
	Offer and Contract Signature		<b>YES</b> <input type="checkbox"/>
	Attachment A		<b>YES</b> <input type="checkbox"/>
	Attachment B – Davis Bacon Wage Determination		
	Attachment C – WH – 347		

**NOTE: FAILURE TO SUBMIT ALL REQUESTED ITEMS ABOVE, PROPERLY COMPLETED, CAN BE CAUSE FOR REJECTION OF YOUR FIRM'S SUBMITTAL!!!**

## Section 2 Schedule of Events

EVENTS	DATE	TIME
RFP Release Date	August 20, 2025	3:00 PM
Pre-Proposal Meeting & Walkthrough <b>(MANDATORY)</b> Address: 1600 E. Lancaster Fort Worth, Texas 76102 *** Please bring a safety vest***	September 9, 2025	02:00 PM
Deadline for Submission of Written Questions (1)	September 25, 2025	5:00 PM
<b>Proposal Submission Deadline</b>	<b>October 9, 2025</b>	<b>2:00 PM</b>
Receipt of Proposals Location: Virtual - Microsoft TEAMS	October 9, 2025	3:00 PM
Interviews/Demonstrations from Most Qualified Proposers ( <i>if necessary</i> )(2)	TBD	
Trinity Metro Board Meeting to Recommend Contract Approval (3)	November 2025	
Contract Executed (4)	November / December 2025	

(1) Questions will be received in writing by e-mail. No questions will be answered verbally.

(2) The Trinity Metro reserves the right not to conduct oral demonstrations and/or interviews and select a Contractor based on written proposals only.

(3) The Evaluation Committee's recommendation of contract award is scheduled for Board presentation by the date above; however, Trinity Metro reserves the right to change the award date.

(4) Trinity Metro reserves the right to change the contract execution date.

## Section 3 Instructions to Proposers

### 3.1 Downloading RFP and Submission of Proposals

RFP documents can be downloaded from Trinity Metro's website and the Proposals can be submitted electronically on Bonfire or in hard copy to the address listed below.

<https://www.procuretm.org/procurements>

A person or firm submitting a proposal in response to this RFP is a "Proposer." A Proposer who enters into a Contract under this RFP is referred to as "Contractor." Sealed proposals must be delivered by the date and time outlined in the Schedule of Events in Section 2. Proposers shall submit one original, one copy, and all of the required Proposal documents. All Proposal documents shall be in a sealed package, addressed as shown below, bearing the Proposer's name and address and clearly marked as follows:

Trinity Metro  
Attn: PROCUREMENT  
801 Grove Street  
Fort Worth, TX 76102  
RFP 25-T040A Generators Project

Proposers can also submit proposals electronically using the Trinity Metro electronic bidding portal, Bonfire, at:

<https://ridetm.bonfirehub.com/portal/?tab=openOpportunities>

**All proposals, electronic or hard copy, must be submitted by the date stated in the schedule of events.** It is the sole responsibility of the Proposer to ensure timely delivery of the proposal. Trinity Metro will not be responsible for failure of service on the part of the U.S. Post Office, courier services, electronic difficulties, or any other form of delivery service chosen by Respondent.

**Proposals arriving late for any reason will not be accepted.**

**3.2 For uniformity, all Proposers must submit information in the order and format requested in this RFP.** Failure to do so may cause the proposal to be deemed nonresponsive to the RFP. Information requested in the RFP that the Proposer deems privileged and confidential, may be submitted in a separate envelope marked "Privileged and Confidential Information." Trinity Metro will use its best efforts to protect such information from disclosure to the extent allowable by law. There will be no release of information until (a) the selection process is complete and a Contract has been executed or (b) Trinity Metro has formally terminated this procurement.

### **3.3 Exceptions to Any Portion of the Solicitation Requirements**

***All exceptions, conditions, and limitations (collectively, "exceptions") taken to or imposed on the terms and conditions of the RFP (including, without limitation, any of its attachments or other parts of the RFP) shall be clearly identified and submitted with Proposer's proposal. Each exception shall specifically reference each paragraph(s) and/or specific part(s) of the RFP to which the exception is taken.***

***Proposer shall provide rationale in support of the exception and fully explain its impact, if any, on its performance of or obligations under the procurement.***

***Proposers are cautioned to limit exceptions. In Trinity Metro's sole and absolute judgment, exceptions may be determined to be so fundamental as to cause rejection of the proposal for not responding to the requirements of the RFP.***

***All exceptions will be considered during the evaluation process. Exceptions made after Contract award may result in proposal being rejected.***

### **3.4 Basis for Contract Negotiation**

A contract, if any, awarded under this RFP is defined herein as "the Contract" or "this Contract." The terms, conditions, representations, warranties, and other provisions of this RFP will be incorporated into and will form the bulk of the Contract, except to the extent otherwise expressly confirmed in writing signed by Trinity Metro. Thus, this RFP and the Proposer's proposal shall be used as the basis for contract negotiation. The RFP does not commit Trinity Metro to procure or award any contract for the scope of work described herein.

### **3.5 Mandatory Pre-Proposal Meeting & Site Walkthrough**

Attendance at the Pre-Proposal Meeting, as scheduled in Section 2: Schedule of Events, is mandatory. Failure to attend will result in disqualification of your proposal. During this meeting, Trinity Metro will provide an overview of the project, outline the qualification requirements and evaluation process, and address any questions arising from the review of the RFP. Immediately following the presentation, a Site Walkthrough will be conducted.

### **3.6 Rejection and Selection of Proposals; Modification of the RFP**

1. Trinity Metro reserves the right to reject any or all proposals.
2. If a Contract is awarded, the selection of the proposal and Proposer shall conform to the requirements of applicable law and shall, in Trinity Metro's sole discretion, be in the best interests of Trinity Metro.
3. Trinity Metro reserves the right to:
  - a. Amend, modify, or withdraw this RFP;
  - b. Revise any requirements under this RFP;
  - c. Require supplemental statements of information from any Proposer;
  - d. Extend the deadline for submission of responses hereto;
  - e. Negotiate or hold discussions with any Proposer to correct insufficient responses that do not completely conform to the instructions contained herein;
  - f. Waive any nonconformity with this RFP;
  - g. Cancel, in whole or in part, this RFP if Trinity Metro deems it is in its best interest to do so;
  - h. Request additional information or clarification of information provided in the proposal without changing the terms of the RFP; and
  - i. Waive any portion of the selection process in order to accelerate the negotiation of a Contract with a Proposer that meets the requirements under applicable law and this RFP for an award.

Trinity Metro may exercise the foregoing rights at any time without notice and without liability to any Proposer or any other party for expenses incurred in the preparation of proposals or otherwise. Proposals will be prepared at the sole cost and expense of the Proposer.

4. Nothing stated at any time, by any representative of Trinity Metro, will effect a change in, or constitute an addition to, this RFP unless confirmed in writing through an Addenda issued by Trinity Metro to this RFP.
5. The Proposer agrees to keep confidential its response and any information received from Trinity Metro.
6. All information submitted in response to the RFP shall become the property of Trinity Metro, and as such, may be subject to public review as public records.
7. Proposer acknowledges and agrees that Trinity Metro will not be liable for any costs, expenses, losses, damages (including damages for loss of anticipated profit), or liabilities incurred by the Proposer or any member thereof as a result of, or arising out of its submitting a proposal, negotiating changes to such proposal, or Trinity Metro's acceptance or non-acceptance of the proposal.
8. Trinity Metro shall control the release of all public information concerning the procurement under this RFP, including selection announcements and Contract awards. Those desiring to release information to the public must receive prior written approval from an authorized representative of Trinity Metro.
9. Neither Trinity Metro nor any of its officers, agents, consultants, or employees shall be responsible for the accuracy of any information provided as part of this RFP (including appendices). All Proposers are encouraged to independently verify the accuracy of any information provided. The use of this information in the preparation of a proposal is at the sole risk of the Proposer.
10. The Proposer shall not collude in any manner or engage in any practices with any other Proposer(s), which may restrict or eliminate competition or otherwise restrain trade. Violation of this instruction will cause Trinity Metro to reject the Proposer's submittal. This prohibition is not intended to preclude joint ventures or subcontracts.
11. All proposals must be the original work product of the Proposer. The copying, paraphrasing, or other use of substantial portions of the work product of another Proposer is not permitted. Failure to adhere to this instruction will cause Trinity Metro to reject the proposal. The successful Proposer will be required to enter into Contract by signature on separate Contract documents, which will be prepared by Trinity Metro from information in the RFP and the successful Proposer's proposal.
12. In accordance with Article 8-103 of Trinity Metro's Procurement Policy, "All protests relating to advertising of solicitation notices, alleged improprieties or ambiguities in solicitation documents, deadlines, bid openings or awards, and all other solicitation, bid or award-related procedures or actions must be made in writing and submitted to the

President/CEO, or designee, within ten (10) business days of (1) the bid opening for a construction contract or (2) date of award for other types of contracts.”

### **3.7 Response to Communications and Request for Clarification**

It is the responsibility of the proposer to examine the entire RFP package and seek clarification of any scope of work, specification item, requirement, or any other matter that it finds unclear. Furthermore, the Proposer must check the proposal for accuracy before submission. All requests for clarifications or changes shall be submitted in writing in time to be received in accordance with the Schedule of Events outlined in Section 2.

Trinity Metro will not respond to oral requests. Only written requests for questions and/or clarifications, will be acceptable (email and/or email attachments will be accepted). All questions and/or clarifications requests shall be sent to the attention as identified below. Only written responses from Trinity Metro in the form of addenda to this RFP shall be official, and all other forms of communication with any officer, employee or agent of Trinity Metro shall not be binding.

All questions and/or clarifications and/or request for a change to any of the specifications shall be fully supported with technical data, test results, or other pertinent information evidencing that the exception will result in a condition equal to or better than that required by the RFP, without substantial increase in cost or time requirements. Any responses to such written requests shall be provided by Trinity Metro in the form of an addendum.

All questions or request for clarifications regarding the services required shall be submitted in writing and/or email (no phone inquiries will be accepted) and addressed to:

Sarah Rogers, Project Manager  
Trinity Metro  
801 Grove Street  
Fort Worth, Texas 76102  
E-mail: [contractmgmt@ridetm.org](mailto:contractmgmt@ridetm.org)

**Proposers shall not contact members of the Evaluation Committee or Board of Directors concerning this RFP. Any proposers violating this provision may be disqualified from consideration in this RFP.**

### **3.8 Addenda and Attachments to RFP**

This RFP has been posted on Trinity Metro’s website and Trinity Metro’s electronic bidding portal, Bonfire, for your convenience. Any attachments, addendums, clarifications or further instructions to Proposers, whether as a result of questions raised by Proposers or matters initiated by Trinity Metro will also be posted when issued. It is the Proposer’s responsibility to ensure that the entire RFP package, in its latest version, is reviewed prior to submittal of a proposal.

### **3.9 Contract Award**

Trinity Metro reserves the right for any reason or no stated reason to postpone, accept, or reject any and/or all proposals, to waive any irregularities in proposals received, and award

the Contract(s) in accordance with applicable law and this RFP. Trinity Metro reserves the right to make multiple awards.

Trinity Metro shall consider all elements entering into the determination of the responsiveness of the proposal and the responsibility of the Proposer. Any proposal which is incomplete, conditional, obscure, or which contains additions not called for or irregularities of any kind, may be cause for rejection of the Proposal.

The Contract may be awarded within 90 calendar days from the date upon which proposals were received or such other date as is specified in the Schedule of Events above in this RFP. No award shall be made for a proposal Trinity Metro determines to be non-responsive or to a Proposer Trinity Metro determines to be not responsible.

If a single proposal is received, Trinity Metro will conduct a price and/or cost analysis of the proposal. A price analysis is the process of examining and evaluating a price submitted without examining in detail the separate cost elements and the profit included in the cost proposal. A price analysis through comparison to other similar procurements shall be based upon an established or competitive price of the elements used in the comparison. The comparison shall be made to a purchase of similar quantity and involving similar specifications. Where a difference exists, a detailed analysis shall be made of this difference and costs associated thereto. Trinity Metro has the right to enter into a negotiated procurement should only a single proposal be received.

Where it is impossible to obtain a valid price analysis, it may be necessary for Trinity Metro to conduct a cost analysis of the proposal price.

### **3.10 Disadvantaged Business Enterprise Requirements**

Trinity Metro has a policy to involve Disadvantaged Business Enterprises (DBEs) to the maximum extent feasible in all phases of its procurement practices. DBE firms are encouraged to respond to this RFP, and joint ventures with DBE firms are also encouraged. Trinity Metro can provide assistance in the identification of DBE firms.

### **3.11 Non-Collusion Affidavit**

Proposer shall submit, with its proposal, an affidavit stating that neither Proposer nor its agents, nor any other party on its behalf, has paid or agreed to pay, directly or indirectly, any person, firm, or corporation, any money or valuable consideration for assistance in procuring or attempting to procure the Contract that may result from this RFP, and further agrees that no such money or consideration will be hereafter paid. This affidavit shall be on the form provided by Trinity Metro, which is made a part of this RFP.

### **3.12 Proposer's Texas Government Code Certifications**

Pursuant to the provisions of the Texas Government Code cited below, Proposer represents, warrants, and affirms the following, and Proposer covenants that if circumstances relevant to any of the following change during the term of a contract that may be awarded to Proposer under this RFP, Proposer will promptly notify Trinity Metro of such change.

1. **Sec. 2252.152.** Proposer is not engaged in business with Iran, Sudan, or a foreign terrorist organization, as prohibited by Section 2252.152 of the Texas Government

Code, and Proposer is not identified on the list created by the Texas Comptroller of Public Accounts as a company known to have contracts with or provide supplies or services to Iran, Sudan, or a foreign terrorist organization.

2. **Sec. 2271.002.** Either (a) Proposer does not and will not for the duration of the Contract boycott Israel or (b) the verification required by Section 2271.002 of the Texas Government Code does not apply to this procurement.
3. **Chapter 2274.** Either (a) Proposer does not and will not for the duration of the Contract, have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association or (b) the verification required by Section 2274.002 of the Texas Government Code does not apply to this procurement.
4. **Section 2276.002.** Either (a) Proposer does not and will not for the duration of the Contract boycott energy companies or (b) the verification required by Section 2276.002 of the Texas Government Code does not apply to this Agreement.
5. **Section 2252.908** If Section 2252.908 of the Texas Government Code applies to this procurement, and if Proposer is awarded a Contract, Proposer will submit to Trinity Metro a Certificate of Interested Parties (Form 1295) before the execution of the Contract. Refer to the information at the Texas Ethics Commission's website for instructions on registering and completing Form 1295.

### 3.13 Force Majeure

1. **Definition:** An Event of Force Majeure is defined as acts of God; earthquake, unusually severe weather, flood and any other natural disaster; civil disturbance, strikes and labor disputes; fires and explosions; war and other hostilities; embargo; or failure of third parties, including suppliers or subcontractors, to perform their obligations to the Contractor due to a force majeure event described above.
2. Economic hardship, changes in market conditions, or insufficient funds do not constitute an Event of Force Majeure, and an Event of Force Majeure does not excuse an obligation to make a payment required under this Contract.
3. If Contractor cannot perform some of its obligations due to an Event of Force Majeure, it must nevertheless continuously and diligently carry out and complete all of its obligations not prevented by the Event of Force Majeure.
4. **Notice of Delay.** If Contractor is delayed in the performance of the Services due to an Event of Force Majeure or otherwise, Contractor must in a prompt manner upon receiving knowledge of such delay give written notice thereof to Trinity Metro and furnish Trinity Metro information concerning the cause of the delay and its approximate anticipated length and demonstrating, if applicable, that the delay is due to an Event of Force Majeure.
5. **Sole Relief.** If an Event of Force Majeure occurs, provided Contractor has complied with all applicable notice requirements regarding a request for relief under this

section, Contractor is excused from performance of its obligations under this Contract, but only for the time and to the extent that such performance is actually prevented by the Event of Force Majeure. When Contractor is able to resume performance of its obligations, it shall immediately give Trinity Metro written notice to that effect and promptly resume performance under this Contract. The relief offered by this Force Majeure provision is the exclusive remedy available to Contractor with respect to an Event of Force Majeure, and no claim for damages shall be made by either party for delays resulting from an Event of Force Majeure.

6. Continuing Delays. Trinity Metro may terminate this Contract if: (a) Contractor's failure to perform under this Contract due to an Event of Force Majeure impairs the material benefits of this Contract to Trinity Metro; and (b) Contractor does not resume performance in accordance with this Contract within ten (10) business days following Trinity Metro's giving notice to Contractor of Trinity Metro's intent to terminate this Contract.

### **3.14. Buy America Compliance**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7.

The proposer must submit to Trinity Metro the appropriate Buy America certification with its Proposal. Proposals that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

Buy America requirements flow down Trinity Metro to Contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

### **3.15 Bonds**

Proposal bonds/Proposal Guarantee is five percent (5%) of Price Proposal and shall be included with the Proposal package on the required day and time as described in Section 2 Schedule of Events. Performance and Payment bonds shall be submitted upon award of the contract and shall be free and clear of any encumbrances and submitted within ten days of receipt of the contract for signature.

**Performance Bond (100%) and Payment Bond (100%) will be required upon contract execution.**

## Section 4 Evaluation Criteria

Proposals will be evaluated by a selection committee of individuals from TRINITY METRO and other departments. TRINITY METRO intends to evaluate the proposals generally in accordance with the criteria listed below. TRINITY METRO may invite proposers to make a presentation and be interviewed by the committee as part of the selection process.

Contractors' qualifications shall be evaluated using the following criteria:

	<b>Max Points</b>	<b>Max Pages</b>
<b>A. Letter of Introduction / Cover Letter</b>	Not Counted	2
<b>B. Contractor's Experience &amp; Qualifications</b> <ul style="list-style-type: none"> <li>• Provide a description of the Qualifications and Experience of the Proposer to provide the services of comparable generator installation projects.</li> <li>• Credentials of proposed personnel</li> <li>• References: at least three references from past or current clients focusing on the quality of fabricated products</li> </ul>	30	23
<b>C. Technical Approach &amp; Execution Plan</b> <ul style="list-style-type: none"> <li>• Clearly articulated methodology</li> <li>• Understanding of Critical Path Items</li> <li>• Risk Mitigation Strategies</li> </ul>	25	
<b>D. Pricing and Cost Effectiveness</b> <ul style="list-style-type: none"> <li>• Competitive Pricing</li> <li>• Clear Labor Rates</li> <li>• Realistic Resource Estimates</li> <li>• Pricing Most Advantageous to Trinity Metro</li> </ul>	20	
<b>E. Project Schedule &amp; Availability</b> <ul style="list-style-type: none"> <li>• Ability to quickly mobilize</li> <li>• Detailed Project Schedule</li> <li>• Procurement timelines for generator and related equipment</li> <li>• Demonstrated capacity to meet or exceed required project completion timelines</li> </ul>	25	
<b>F. DBE Utilization</b>	Pass/Fail	Not Counted
<b>G. Audited Financial Statements Requirement</b> Respondents must submit a complete copy of their audited financial statements for the most recent fiscal year as part of their proposal. These statements should include: <ul style="list-style-type: none"> <li>• Independent auditor's report</li> <li>• Balance sheet</li> <li>• Income Statement (Profit and Loss)</li> <li>• Statement of cash flows</li> <li>• Notes to the financial statements</li> </ul> If audited financials are not available, respondents must provide a written explanation and submit reviewed or compiled financial statements prepared by an independent certified public accountant (CPA).	Pass/Fail	Not Counted
<b>H. Appendix B - Required Forms and Certifications</b>	Pass/Fail	Not Counted
<b>Total Points</b>	<b>100</b>	
Total Pages (not including resumes, references, and forms)		25
Trinity Metro's selection committee reserves the right to request additional information from proposers, request oral presentation, or ask proposers to appear before the selection committee to clarify their proposal.		

## Section 5 Scope of Work

**Project Title:** Trinity Metro – HRP Facility Generator Procurement

### Purpose

The purpose of this solicitation is to procure a qualified contractor to provide comprehensive services for the procurement, delivery, installation, and commissioning of a permanent diesel-powered standby generator at the Trinity Metro HRP Facility. The installed generator will serve as an emergency backup power source, ensuring continuous operation of critical building systems and communication equipment in the event of a power disruption. The selected contractor will manage all associated site preparation, electrical integration, permitting, inspections, and project closeout requirements in compliance with applicable codes and standards.

This project is being completed in accordance with the technical specifications titled "**Trinity Metro – 801 Grove Street Building Generator & HRP Facility Generator Replacement**", dated **July 25, 2024**, prepared by Freese and Nichols, Inc. Contractors must review and reference all applicable sections of the specifications when preparing their proposal, including but not limited to:

- Division 03: Cast-in-Place Concrete (Section 03 30 00.01)
- Division 26: Electrical and Generator Requirements (Sections 26 05 00 through 26 36 00)
- Division 31: Earthwork (Section 31 23 10)
- Division 32: Fencing and Exterior Improvements (Section 32 31 19)

### Scope of Work

#### A. Site Preparation and General Construction

- Conduct preliminary site assessment and marking of all utility locations.
- Perform removal of existing vegetation, debris, and minor structures as required.
- Prepare site including grading, compaction, and stabilization to ensure proper drainage and firm foundation for the generator pad.
- Construct concrete pad per generator manufacturer's specifications and Section 03 30 00.01 of the technical specs, including reinforcement, dimensions, and thickness for generator support.
- Provide necessary erosion and sediment control measures throughout construction in accordance with local codes and the project specifications.
- Implement spill containment and disposal procedures in compliance with environmental regulations.

#### B. Generator Procurement and Installation

Contractor shall procure, deliver, and install two-diesel standby generator system meeting or exceeding the following specifications:

- **Rating:** Minimum 150kW standby power, 3-phase, 480V, 60Hz

- **Fuel System:** Integral diesel fuel tank with minimum 24-hour runtime capacity at full load; fuel level monitoring system required
- **Enclosure:** Factory-assembled, weatherproof, corrosion-resistant enclosure meeting sound attenuation requirements of maximum 75 dB at 23 feet
- **Cooling and Exhaust:** Radiator-cooled engine, critical-grade muffler, and vibration isolators
- **Battery Charger:** Automatic battery charger and battery warmer
- **Engine Starting System:** 12-volt electric start with auto-start capabilities
- **Controls:** Programmable digital control panel for automatic operation, diagnostics, testing, load management, and alarm annunciation
- **Transfer Switch:** Automatic Transfer Switch (ATS) rated at generator output, NEMA 3R enclosure, service entrance rated, UL 1008 listed
- **Safety and Compliance:** System must comply with UL2200, NFPA 110 Level 1 standards, and local/state electrical codes
- **Warranty:** Minimum 2-year full warranty for generator and associated equipment
- **Documentation:** Provide comprehensive Operation & Maintenance (O&M) manuals, startup commissioning report, and warranty certificates
- **Submittal Requirements:** Submit all product data, shop drawings, and certifications for approval prior to installation

All equipment and installation procedures must comply with specifications provided in Division 26 of the July 25, 2024 technical specification set.

### C. Electrical Integration

- Provide all necessary conduit, wiring, connections, and labeling to connect generator and ATS to existing facility power infrastructure.
- Coordinate all electrical shutdowns, tie-ins, and connections with Trinity Metro operations and local utility (e.g., Oncor).
- Provide grounding and bonding per NEC Article 250 and applicable local codes.
- Conduct load bank testing and full-system commissioning in the presence of Trinity Metro personnel and provide written results and certifications.
- Include utility coordination documentation with permitting and inspection requirements.

### D. Permitting, Coordination, and Close-Out

- Secure all required permits and approvals from local jurisdictions and utility providers.
- Schedule and conduct required inspections.
- Ensure site cleanup, debris removal, and final site restoration including topsoil placement and grass seeding in disturbed areas.
- Submit comprehensive project documentation including final as-built drawings, equipment manuals, warranty documents, and maintenance recommendations.
- Conduct a pre-construction kickoff meeting with Trinity Metro and third-party inspectors if applicable.
- Hold weekly progress meetings with the Owner's representative to report on schedule, issues, and coordination.

## Specifications

- Demolition and site clearing per local code and Division 31 standards
- Removal of generators into a specified location on Trinity Metro property in order to comply with Procurement Rules and regulations.
- Concrete pad construction per Division 03 specifications
- Procurement and commissioning of standby diesel generator system per Division 26 specs
- Installation and connection of electrical infrastructure including conduit, ATS, and labeling
- Utility coordination, permitting, and inspections
- Installation of metal fencing and gates per Division 32 requirements
- Site restoration and erosion control
- Project documentation and training
- Environmental protection and spill prevention measures

## Workmanship and Warranty

All work shall adhere to industry standards, manufacturer guidelines, and applicable local, state, and federal regulations. Contractor shall provide a minimum one-year warranty covering all labor, installation services, and workmanship from the date of final acceptance. Equipment and materials shall carry the manufacturer's standard warranties, clearly outlined in submitted documentation. Final acceptance shall include completed commissioning and signed off inspection documentation. Liquidated damages may apply for failure to complete work within the contractual timeline.

## Proposal Expectations

- Completed Labor Bid Chart.
- Technical narrative detailing approach, timeline, equipment procurement, and resource allocation.
- Manufacturer specifications and cut-sheets for proposed generator and related equipment.
- Reference information for three comparable projects completed within the past five years.
- Submittal of a detailed project schedule within 10 days of Notice to Proceed.
- Signed acknowledgment of receipt and understanding of referenced technical specification document.

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## Additional Notes

- Mandatory site walkthrough at the Pre-Proposal Meeting and a mandatory final Walkthrough coordinated through Trinity Metro Project Management.
- Contractor to provide crane and lifting equipment for generator placement.
- Contractor is responsible for maintaining a safe and secure jobsite per OSHA standards throughout the duration of the project.
- Contractor must maintain a superintendent or project manager on-site or on-call during all active construction periods.

## Section 6 Special Provisions

### 6.1 Contract Award

This will be a Fixed-Price Contract. The contract period will be for two (2) years. Delivery and performance shall be made only as authorized after funding appropriations and program approval have been granted by Trinity Metro's Board of Directors. If the Contract is for a term of more than one (1) year, and if necessary funding appropriation/program approval is not granted, the Contract will be canceled for all unfunded or unapproved periods.

### 6.2 Expenses & Invoicing

Contractor shall submit monthly invoices for Services delivered, completed and accepted, via email to Trinity Metro's Accounts Payable department at [accountspayable@ridetm.org](mailto:accountspayable@ridetm.org) and copy the Department Representative listed under Notices in the contract. The invoice will consist of the contract number, purchase order number, line item number, item description, quantity, units, unit price, and total line item amount. Each invoice shall also include supporting documentation for all eligible expenditures.

Upon award of contract, you will be required to submit monthly compliance audits for the purpose of Disadvantaged Business Enterprise (DBE) utilization tracking. You will be contacted by the DBE Administrator and issued an initial log-in with instructions on how to comply with this requirement.

Approved invoices amounts will be paid net 30 days from the invoice date. Invoice payments will be made either by check or via Electronic Funds Transfer (EFT) to Contractor's designated banking institution. EFT payments are Trinity Metro's desired method of payment. Appropriate Vendor and EFT forms will be provided to Contractor at time of execution of this agreement.

### 6.3 Selection Procedure

1. Proposals received after date and time specified in Section 2 are not eligible and shall not be considered for award of the Contract.
2. An Evaluation Committee shall evaluate each proposal that was submitted on time and the evaluation shall be based on the criteria listed Section 4. The sum total points scored on both qualifications and price will be considered in award of a contract. Following this initial evaluation, the Evaluation Committee may make a recommendation to the Board of Director(s) concerning award of contract without further discussion with Proposers. The top rated Proposers may be asked to make an oral presentation to the evaluation team for the purpose of further clarification and evaluation of their proposals.
3. Oral presentations, if required, shall be conducted to solicit information to enable the Evaluation Committee to evaluate the capability of the applicable Proposer regarding the desired goods and/or services. If Trinity Metro notifies a Proposer that an oral presentation is required, Trinity Metro shall inform the Proposer of the schedule, order and procedure for the presentation, including its content, time limits, identity of the presenters, and use of handouts and visual aids. Trinity Metro may tape record and/or videotape any presentation.

4. If demonstrations are scheduled, the representatives of the Proposer and of its pertinent necessary proposed subcontractors or subconsultants shall be present at the demonstration. During the demonstration, the Evaluation Committee may advise the Proposer of deficiencies in the process and shall allow the Proposer to satisfy the requirements, questions, or concerns by submitting an amended final proposal. The Proposer may decide not to modify its proposal and may inform the Evaluation Committee that the proposal is firm and final.
5. Notwithstanding the foregoing, Trinity Metro at its sole option may elect to forego demonstration presentations. Consequently, all proposals shall be comprehensive and clear. No Proposer shall rely upon the opportunity to present additional or clarifying information at a later time.
6. The Evaluation Committee shall not disclose any information included in a proposing firm's Proposal Documentation to another firm, and shall not disclose any information for the purpose of bringing one firm's Proposal Documentation up to that of a competitor's Proposal Documentation.
7. If amended final proposals are accepted, the Evaluation Committee shall reevaluate each of the final proposals, including those deemed final at a demonstration, if any. Final proposals shall be evaluated on the same criteria used in the first evaluation.
8. The Evaluation Committee may recommend the top ranked Proposer to the Board of Director(s), who shall make the final selection.
9. Award of contract shall be made to the responsive, responsible Proposer whose proposal is determined to provide the best value to Trinity Metro based on the evaluation criteria set forth in Section 4.

#### **6.4 Open Records**

All proposals become the property of Trinity Metro and are subject to the Texas Public Information Act (PIA). Proposers must familiarize themselves with the provisions of the PIA. In no event shall Trinity Metro, or any of its agents, representatives, proposers, directors, officers, or employees be liable to a Proposer for the disclosure of all or any portion of a proposal. If Trinity Metro receives a request for public disclosure of all or any portion of a proposal, Trinity Metro will endeavor to notify the Proposer of the request. If a Proposer has special concerns about information which it desires to make available to Trinity Metro but which it believes constitutes a trade secret, proprietary information or other information excepted from disclosure, it shall identify those portions of its proposal by clearly and prominently marking it "**CONFIDENTIAL.**" The basis of the claim of confidentiality shall be stated in the proposal adjacent to the marked information. Blanket statements regarding the confidentiality of information may not be sufficient to protect the confidentiality of information submitted. A Proposer is encouraged to seek counsel regarding any information it seeks to keep confidential. In no event shall any of Trinity Metro's directors, employees, administrator, consultants, or agents be liable for the disclosure of any materials or information submitted in a Proposal.

### 6.5 Proposer's Acknowledgement

By submitting a proposal, the Proposer unequivocally acknowledges that the Proposer has read and fully understands this RFP, and that the Proposer has asked questions and received satisfactory answers from Trinity Metro regarding any provisions of this RFP with regard to which the Proposer desires clarification.

### 6.6 Incorporation of Proposer's Proposal

1. Trinity Metro reserves the right to incorporate all or portions of the successful Proposer's proposal including any revisions and supplements into the Contract by reference or in full.
2. If, after Contract award, it is discovered that changes were agreed to in writing during negotiations, but were not incorporated into the resulting Contract, such changes shall be considered administrative in nature and incorporated by unilateral modification at no change in the Contract cost or price, or other terms and conditions. To satisfy the contract requirements, Proposer shall adhere to the price and other terms accepted by Trinity Metro.
3. Notwithstanding the foregoing, no portions of the proposal that conflict with, limit, impair, or otherwise diminish the benefits afforded to Trinity Metro under this RFP shall be deemed incorporated into the Contract only if such provisions are expressly approved by Trinity Metro in writing.

### 6.7 Insurance Requirements

The Contractor shall, at all times during the term of this Contract and extended terms thereof, provide and maintain the following types of insurance protecting the interests of Trinity Metro and the Contractor with limits of liability not less than those specified below.

1. **Comprehensive Automobile Liability** insurance or its equivalent, covering all owned, hired and non-owned vehicles used in connection with the work performed under this contract with combined single limits for bodily injury and property damage liability of not less than \$1,000,000.
2. **Commercial General Liability** insurance or its equivalent, providing limits of not less than \$2,000,000 for bodily injury and property damage per occurrence with a general aggregate of \$2,000,000 and a products and completed operations aggregate of \$2,000,000. There shall not be any policy exclusions or limitations for the following:
  - Contractual Liability covering Contractor's obligations herein
  - Personal Injury Advertising Liability
  - Explosion, Collapse & Underground Property Damage Hazard
  - Medical Payments
  - Fire Damage Legal Liability

- Broad Form Property Damage
  - Liability for Independent Contractors
3. **Workers' Compensation Insurance** or its equivalent, providing benefits comparable to those provided under the Workers' Compensation Act of the State of Texas and/or any other State or Federal law or laws applicable to the Contractor's employees performing work under this contract. Employer's Liability Insurance with limits of liability of not less than \$1,000,000 each accident, \$1,000,000 each employee for disease and \$1,000,000 policy limit for disease. This insurance shall be endorsed with a Waiver of Subrogation Endorsement, waiving the carrier's right of recovery under subrogation or otherwise from Trinity Metro.
  4. **Certificates of Insurance** - Before commencing execution of this contract, the Contractor shall mail Certificates of Insurance satisfactory to Trinity Metro (or, as and when Trinity Metro may direct, copies of the policies endorsements or actual insurance policies) at the address in Section 3 evidencing that insurance as required by paragraph (a), and all subparagraphs to (a) above, is in force, stating policy number dates of expiration and limits of liability thereunder. All copies of policies and Certificates of Insurance submitted to Trinity Metro shall be in form and content acceptable to Trinity Metro.
  5. **Approval of Forms and Companies** - All coverage described in this contract shall be in a form and content satisfactory to the Contracting Officer. No party subject to the provisions of this contract shall violate or knowingly permit to be violated any of the provisions of the policies of insurance described herein. All insurance shall be provided by insurance companies with a Best's Rating of A- or better.
  6. **Additional Insured Endorsement** - The policy or policies providing Commercial General Liability, Automobile Liability, and as otherwise required above shall be endorsed to name Fort Worth Transportation Authority, their directors, officers, representatives, agents and employees as Additional Insured as respect to operations performed by or on behalf of the Contractor in performance of this contract. The policy shall also be endorsed to name other interests as directed by Trinity Metro. The policies shall be primary and non-contributory.
  7. **Notice of Cancellation or Material Changes** - Policies and/or Certificates shall specifically provide that a thirty (30) day notice of cancellation, non-renewal, or material change be sent to Trinity Metro.
  8. **Multiple Policies** - The limits of liability as required above may be provided by a single policy of insurance or a combination of primary, excess or umbrella liability policies. But in no event shall the total limit of liability of any one occurrence or accident be less than the amount shown above.
  9. **Deductibles** - Companies issuing the insurance policies and the Contractor shall have no recourse against Trinity Metro for payment of any premiums or assessments for any deductibles, as all such premiums and deductibles are the

sole responsibility and risk of the Contractor.

10. **Subcontractors** - If any part of the work is sublet, Contractor shall require any and all subcontractors performing work under this contract to carry workers' compensation insurance, in accordance with paragraph (a) above. The Contractor shall determine any other types of insurance and the limits of liability that Contractor shall deem appropriate and adequate to protect the interests of Trinity Metro. In the event a subcontractor is unable to furnish any insurance required under this Contract, the Contractor shall endorse the subcontractor as an Additional Insured or become an Alternate Employer. The Contractor shall obtain and furnish to Trinity Metro certificates of Insurance evidencing subcontractors' workers' compensation insurance coverage. If a subcontractor's certificate of Workers' compensation insurance expires during the period of performance, Contractor shall obtain a renewal certificate. All certificates of workers' compensation insurance shall be maintained by the Contractor for a period of not less than 1 year. All other insurance certificates for subcontractors shall be furnished to Trinity Metro upon request.
11. **No Release** - The carrying of the above-described coverage shall in no way be interpreted as relieving the Contractor of any other responsibility or liability under this agreement or any applicable law, statute, regulation or order.

#### **6.8 Interest of Members of Trinity Metro**

No member of the governing body of Trinity Metro, other officer, employee or agent of Trinity Metro who exercises any functions or responsibilities in connection with the carrying out of the activities to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract.

#### **6.9 Interest of Other Local Public Officials and State Officials**

No person who exercises any functions or responsibilities in the review or approval of the carrying out of activities to which this Contract pertains, shall have any personal interest, direct or indirect, in this Contract. No part of the proceeds shall be paid directly or indirectly to any officer or employee of the State of Texas as wages, compensation or gifts in exchange for acting as officer, agent, employee, subcontractor, or Proposer to Trinity Metro in connection with any work contemplated or performed relative to this Contract.

#### **6.10 Interest of Members, Or Delegates to Congress**

In accordance with 18 U.S.C. Section 431, no member of, or delegate to, the Congress of the United States shall be admitted to any share or part of this Contract, or to any benefit arising there from.

#### **6.11 Interest of the Proposer**

The Proposer represents, warrants, and covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Contract. The Proposer further covenants that no person having such interest shall be employed in the performance of this Contract.

**6.12 Authority to Enter Contract**

The Proposer has all requisite power and authority to conduct its business and to execute, deliver, and perform services specified in the RFP and any Contract that may be issued. The Proposer warrants that the individuals who have signed the Proposal have the legal right and authority to bind the Proposer.

**6.13 Authorization of Proposal**

If the Proposal is made by an individual doing business under an assumed name, the Proposal shall so state. If the Proposal is made by a partnership, the full name and addresses of each member and the address of the partnership shall be given and the Proposal shall be signed by one member thereof. If the Proposal is made by a corporation, it shall be signed in the corporate name by an authorized officer. If the Proposal is made by a joint venture, the full name and address of each member of the joint venture shall be given and the Proposal shall be signed by each venture. Form(s) is included to be filled out and submitted with Proposal.

**6.14 Subcontract Approval**

Proposer shall include in all subcontracts and supply contracts for services or materials under the Contract a provision making the subcontractor(s) subject to all provisions stipulated in the Contract. The Proposer shall be fully responsible for all services performed and materials supplied by any subcontractor or supplier.

**6.15 Cost/Price Analysis**

Trinity Metro reserves the right to conduct a cost or price analysis for any purchase or service. Trinity Metro may be required to perform a cost/price analysis when competition is lacking for any purchase. Sole source procurements or procurements which result in a single proposal received, will be subject to a cost/price analysis, which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of the data to determine the effect on proposal prices. Trinity Metro may require a pre-award audit, and potential Proposers shall be prepared to submit data relevant to the proposed work which will allow Trinity Metro to sufficiently determine that the proposed price is fair, reasonable, and in accordance with Federal, State, and local regulations. Procurements resulting in a single proposal will be treated as a negotiated procurement and Trinity Metro reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price. If both parties cannot agree upon a negotiated price, Trinity Metro reserves the right to reject the single proposal.

All Contract change orders or modifications will be subject to a cost analysis.

**6.16 Pricing**

The price quoted in any proposal submitted shall include all necessary cost to complete the services in accordance with the specifications. Anything omitted from such specifications, which are clearly necessary, shall be considered a portion of such cost although not directly specified or called for in the specifications. Proposer shall note discounts.

**6.17 Prompt Payment**

The Proposer agrees to pay each subcontractor for satisfactory performance of its contract no later than 30 days from receipt of each payment the Proposer receives from Trinity

Metro. Any delay or postponement of payment from the above reference may occur only for good cause following written approval of Trinity Metro. This clause applies to both DBE and non DBE subcontractors. If the Proposer determines the work to be unsatisfactory, it shall notify Trinity Metro immediately, in writing, and state the reasons. Failure to comply with this requirement would be construed to be a breach of contract and subject to contract termination.

#### **6.18 Additional Services Request**

Trinity Metro reserves the right to request services under this RFP that may not be specifically identified within the Scope (“Additional Services”). Proposers are encouraged to identify and provide supporting statements and price information for any other area(s) of services not listed in the Scope that may be related to Additional Services and the work of Trinity Metro.

#### **6.19 RFP/Proposed Contract Alterations**

No alterations or variables in the terms of the RFP and /or of the Proposed Contract shall be valid or binding upon Trinity Metro unless authorized in writing by Trinity Metro.

#### **6.20 Assignability**

Any public agency (i.e., city, district, public agency, municipality, and other political subdivision or any FTA-funded entity) shall have the option of participating in any award made as a result of a Proposal and/or contract at the same prices, terms and conditions as contained in the Contract. Trinity Metro reserves the right to assign any or all portions of goods or services awarded under this RFP and/or Contract. This assignment, should it occur, shall be agreed to by Trinity Metro and Proposer. Once assigned, each agency will enter into its own contract and be solely responsible to the Proposer for obligations to the service assigned. Trinity Metro’s right of assignment will remain in force over the contract period or until completion of the contract including options, whichever occurs first. Trinity Metro shall incur no financial responsibility in connection with contracts issued by another public agency. The public agency shall accept sole responsibility for placing service and payments to the Proposer.

#### **6.21 Publication and Media Restrictions**

The Contractor shall not publish or reproduce subject data in whole or in part, or in any manner or form, without the advance written consent of Trinity Metro, unless Trinity Metro has released or approved the release of that data to the public.

#### **6.22 Gratuities and Kickbacks**

It shall be a breach of ethical standards for any person to offer, give or agree to give any employee or former employee, or for any employee or former employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal therefore. It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or

higher tier subcontractor or a person associated therewith, as an inducement for the award of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Trinity Metro contracts.

### **6.23 No Contingency Fees**

Contractor hereby represents that Contractor has not been retained or retained any persons to solicit or secure this Contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contract or subcontractor under Trinity Metro contracts. Trinity Metro shall have the right to annul said Contract without liability or, in its discretion, to deduct from the Contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.

### **6.24 Non-Discrimination**

It is the policy of Trinity Metro not to discriminate on the basis of age, race, sex, color, national origin, creed, religion or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy. No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in Trinity Metro contracted programs or activities, on the grounds of handicap and/or disability, age, race, color, religion, creed, sex, national origin, or any other classification protected by federal or Texas State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with Trinity Metro or in the employment practices of Trinity Metro's Contractors. Accordingly, all Proposers entering into contracts with Trinity Metro shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

### **6.25 Licensing and Permits**

The Contractor and all subcontractors shall be appropriately licensed in the State of Texas for the work required as a result of the Contract. The cost for any required licenses shall be the responsibility of the Contractor.

### **6.26 Standard of Care**

Contractor shall perform all services under this Contract in a skillful and competent manner. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the services. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the services assigned to them. The Contractor represents that it, its employees and subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the services, and that such licenses and approvals shall be maintained throughout the term of this Contract. Any person who is determined by Trinity Metro to be

uncooperative, incompetent, a threat to the adequate or timely completion of the services, a threat to the safety of persons or property, or any employee who fails or refuses to perform the services in a manner acceptable to Trinity Metro shall be promptly removed by the Contractor and shall not be re-employed to perform any of the services under this Contract.

#### **6.27 Right to Employ Other Contractors**

Trinity Metro reserves the right to purchase goods and/or services, with other Contractors in connection with these Services.

#### **6.28 Contract Amendments/Modifications/Change Orders**

No changes to this RFP, Proposer's proposal, or the Contract shall be approved unless appropriate parties of Trinity Metro authorize the change. All changes shall be made by executed written agreement between the parties.

Trinity Metro shall not incur any costs due to any unauthorized changes made by Contractor.

#### **6.29 Tax Exemption**

Trinity Metro is exempt under this solicitation from all Federal, State, municipal and local taxation. A copy of tax exempt certification(s) will be provided to the successful proposer upon request. This provision supersedes any language pertaining to payment of taxes that may appear elsewhere in this solicitation.

#### **6.30 Attorney Fees**

In the event Trinity Metro deems it necessary to take legal action to enforce any provision of the contract, and Trinity Metro prevails, Contractor shall pay all expenses of such action including Trinity Metro's attorney fees and costs at all stages of the litigation.

#### **6.31 Ineligible Contractors and Subcontractors**

Any entity, firm, partnership, or person appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for Contractor under this Contract. If Contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this Contract.

#### **6.32 Indemnification**

A. Notwithstanding anything contained in the Contract to the contrary and to the fullest extent permitted by applicable law, Contractor shall indemnify, protect, defend and hold harmless Trinity Metro, its consultants, Trinity Railway Express, and their respective representatives, officers, directors, shareholders, partners, Board Members, members, managers, employees, affiliates, assignees, agents and contractors (other than Contractor and its Subcontractors and Suppliers) (collectively, the "Indemnitees") from and against all claims, liabilities, damages, losses, injuries to person or property, death, liens, investigations, causes of action, administrative proceedings, suits, judgments, fees (including, but not limited to, attorneys' fees and expert fees), and expenses, of any nature, kind or description, directly or indirectly, arising out of, caused by, resulting from, or sustained or incurred in connection with (in whole or in part), (1) the Work performed hereunder, or any part thereof, (2) Contractor's failure to comply with the Contract, (3) the

use, occupancy or presence of Contractor, its Subcontractors, Suppliers, employees or agents on or about the Work Site, or (4) any act or omission of Contractor, any Subcontractor, any Supplier, anyone directly or indirectly employed by any of the foregoing, or anyone that any of the foregoing control or exercise control over (“Indemnity Claims”), but not to the extent caused by any negligent act or omission solely attributable to Trinity Metro or anyone directly or indirectly employed by Trinity Metro.

B. Notwithstanding anything contained in the Contract to the contrary and to the fullest extent permitted by all applicable laws, Contractor shall be solely liable for and shall indemnify, protect, defend and hold harmless the Indemnitees from and against all Indemnity Claims of any nature, kind or description, directly or indirectly, arising out of or resulting from bodily injury to, or sickness, disease or death of, any employee, agent or representative of Contractor or any of its Subcontractors, Supplier or any other person, directly or indirectly employed by any of the foregoing, or anyone that any of the foregoing control or exercise control over regardless of fault or negligence by an Indemnitee (“Employee Claims”). THE OBLIGATIONS OF CONTRACTOR UNDER THIS INDEMNIFICATION SHALL APPLY TO ALL EMPLOYEE CLAIMS, EVEN IF SUCH EMPLOYEE CLAIMS ARE CAUSED IN WHOLE OR PART BY THE SOLE, JOINT OR CONTRIBUTORY NEGLIGENCE OF AN INDEMNITEE, BUT NOT TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE, OR THE WILLFUL MISCONDUCT, OF AN INDEMNITEE. TO THE EXTENT IT MAY LAWFULLY DO SO, CONTRACTOR WILL NOT ASSERT, AS TO ANY CLAIM MADE BY TRINITY METRO UNDER THIS SECTION, ANY DEFENSE IT MAY HAVE UNDER TEXAS WORKERS’ COMPENSATION STATUTE. NO COURT OR JURY FINDINGS IN ANY EMPLOYEE CLAIM PURSUANT TO ANY WORKERS’ COMPENSATION ACT OR THE FEDERAL EMPLOYER’S LIABILITY ACT AGAINST A PARTY TO THIS AGREEMENT MAY BE RELIED UPON OR USED BY TRINITY METRO OR BY CONTRACTOR IN ANY ATTEMPT TO ASSERT LIABILITY AGAINST THE OTHER PARTY.

C. If any legal limitations now or hereafter in effect affect the validity or enforceability of the indemnification obligations under this article, such legal limitations are made a part of the indemnification obligation to the minimum extent necessary to bring the indemnification into conformity with the requirements of such limitations, and as so modified the indemnification obligations shall continue in full force and effect. The indemnification obligations under this Section shall not be limited to or by damages, compensation or benefits payable under insurance policies, workers’ compensation acts, disability benefit acts or other employee benefits acts.

D. Trinity Metro has the right to appoint defense counsel, at its own expense, to associate in the defense of any contested claim. Trinity Metro will cooperate fully with Contractor in the defense of all claims. Trinity Metro’s election to appoint defense counsel will not affect Contractor’s obligation to indemnify and hold harmless Trinity Metro from and against all claims to the extent set forth in the Contract. When defending Trinity Metro against claims, Contractor will retain counsel experienced in defending such claims and mutually agreeable to both Trinity Metro and Contractor. Trinity Metro will not unreasonably withhold, condition, or delay its consent to Contractor’s choice of counsel. Contractor will not settle any claims in a manner that would impose any expense, penalty, obligation, or limitation on Trinity Metro without Trinity Metro’s prior written consent.

### **6.33 Applicable Law and Jurisdiction**

The Contract, as well as the rights, obligations and remedies of the parties, shall be governed by the laws of the State of Texas. Whenever there is no applicable state statute or decisional precedent governing the interpretation of or disputes arising under or related to the Contract, then federal common law, including the law developed by federal boards of contract appeals, the United States Court of Federal Claims, the United States Claims Court, and the Comptroller General of the United States, shall govern. Any suit or action arising from the Contract shall be commenced and prosecuted in the courts of Tarrant County, Texas or the United States District Court for the Northern District of Texas, as applicable, and the parties agree to submit to the exclusive jurisdiction and venue of these courts.

### **6.34 Contract Order of Precedence**

A. The General Provisions, Special Provisions, Scope of Work, Contract attachments and exhibits are essential to the Contract. All are intended to be complementary and to provide for completed work suitable for its intended use. A requirement occurring in one is as binding as though occurring in all. Where Plans and Specifications describe portions of the Work in general terms, but details are incomplete or silent, it is understood that only the best general practice is to prevail and that only new Materials and first-quality workmanship are to be used. Omissions of details of Work that are manifestly necessary to carry out the intent of the Contract, or that are customarily performed, shall not relieve Contractor from the obligation to perform such Work. Notes on Plans are part of the Plans. No reliance shall be placed on dimensions scaled from any Plans.

B. The documents referenced below are in descending order of precedence. Any conflict between any of the documents shall be resolved in favor of the document with higher precedence.

- Contract Form
- Federal Provisions
- Request for Proposal
- Proposal Response

C. Contractor shall immediately notify Trinity Metro, in writing, of any ambiguity or conflict within or between documents, any error, omission, lack of necessary detailed description, or a detail, which is a potential code violation, which is discovered in the Specifications or Plans and request clarification and direction. Trinity Metro will provide clarification and direction as required to fulfill the intent of the specifications. Proceeding without the required notification and request for clarification or instruction shall be at Contractor's risk.

## Section 7 Federal Contract and Other Requirements

If (1) the consideration payable by Trinity Metro under the Contract shall be funded in whole or in part by federal funds, or (2) if goods or services under the Contract are components of or otherwise pertain to a project funded in whole or in part by federal funds, or (3) in all other cases required by applicable law, the provision of this Section 7 shall apply and are part of the Contract.

### 7.1 No Obligation by the Federal Government.

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

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

### 7.2 Program Fraud and False or Fraudulent Statements or Related Acts.

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

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 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

3. The Contractor agrees to include the above two clauses in each subcontract 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.

### 7.3 Access to Records.

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

2. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
3. Where the Purchaser is a State and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
4. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
5. Where any Purchaser which is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
6. 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.
7. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

#### **7.4 Federal Changes.**

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

## 7.5 Termination Provisions.

**1. Termination for Convenience** Trinity Metro, by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

**2. 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, Trinity Metro may terminate this contract for default. Trinity 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 or 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 Trinity Metro.

**3. Opportunity to Cure** Trinity Metro in its sole discretion may, in the case of a termination for breach or default, allow the Contractor 30 – 60 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 Trinity 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 Trinity Metro setting forth the nature of said breach or default, Trinity Metro shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Trinity Metro from also pursuing all available remedies against Contractor and its sureties for said breach or default.

**4. Waiver of Remedies for any Breach** In the event that Trinity Metro elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by Trinity Metro shall not limit Trinity Metro's remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

## 7.6 Civil Rights (EEO, Title VI & ADA).

1. *Nondiscrimination* - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the 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.

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

a. *Race, Color, Creed, National Origin, Sex* - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, 'Office of Federal Contract Compliance Programs,

Equal Employment Opportunity, Department of Labor,' 41 C.F.R. Parts 60 *et seq* ., (which implement Executive Order No. 11246, 'Equal Employment Opportunity,' as amended by Executive Order No. 11375, 'Amending Executive Order 11246 Relating to Equal Employment Opportunity,' 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, 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.

b. *Age* - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

### **7.7 Disadvantaged Business Enterprises (DBE)**

1. The Federal Fiscal Year goal has been set by Trinity Metro in an attempt to match projected procurements with available qualified disadvantaged businesses. Trinity Metro goals for budgeted service contracts, bus parts, and other material and supplies for Disadvantaged Business Enterprises have been established by Trinity Metro as set forth by the U.S. Department of Transportation Regulations 49 C.F.R. Part 26 and are considered pertinent to any contract resulting from this Request for Proposal. A specific DBE goal was assigned to the contract, and has been clearly stated in the proposal, and if the Contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBE in the work provided, Trinity Metro may declare the Contractor non-compliant and in breach of the contract.

a. *Policy* - It is the policy of the U.S. Department of Transportation and Trinity Metro that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, will have the maximum opportunity to participate in the performance of Contract financed in whole or in part with federal funds under the agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to the contract.

The Contractor agrees to ensure that DBE as defined in 49 CFR Part 26, have the maximum opportunity to participate in the whole or in part with federal funds provided under the agreement. In this regard, the Contractor will take all necessary and reasonable steps in accordance with the

regulations to ensure that DBE have the maximum opportunity to compete for and perform subcontracts. The Contractor will not discriminate on the basis of race, color, national origin, religion, sex, age or physical handicap in the award and performance of subcontracts. It is further the policy of Trinity Metro to promote the development and increase the participation of businesses owned and controlled by disadvantaged persons. DBE involvement in all phases of Trinity Metro procurement activities is encouraged.

b. DBE obligation - The Contractor and its subcontractors agree to ensure that disadvantaged businesses have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under the Agreement. In that regard, all Contractors and subcontractors will take all necessary and reasonable steps in accordance with 49 CFR Part 26 as amended, to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts.

c. Where the Contractor is found to have failed to exert sufficient reasonable and good faith efforts to involve DBE's in the work provided, Trinity Metro may declare the Contractor noncompliant and in breach of contract.

d. The Contractor will keep records and documents for a reasonable time following performance of The Contract to indicate compliance with Trinity Metro's DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of Trinity Metro and will be submitted to Trinity Metro upon request.

e. Trinity Metro will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation.

### **7.8 Incorporation of FTA Terms.**

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in [FTA Circular 4220.1G](#) 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 FTA requests which would cause Trinity Metro to be in violation of the FTA terms and conditions.

### **7.9 Energy Conservation.**

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.

### **7.10 Suspension and Debarment**

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

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

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

The certification in this clause is a material representation of fact relied upon by Trinity Metro. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Trinity Metro, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

### **7.11 Disputes**

Trinity Metro and the contractor will attempt to resolve disputes or disagreements promptly. In order to do so, Trinity Metro and the contractor will create an issue resolution ladder which will outline initial responsibility for discussion and resolution, as well as secondary and further responsibility.

If a dispute or disagreement cannot be resolved through discussions between Trinity Metro's representative and the contractor's representative as designated on the issue resolution ladder, the contractor's senior representative and Trinity Metro's senior representative, upon the request of either party, shall meet as soon as conveniently possible, but in no case later than ten (10) days after such a request is made, to attempt to resolve such dispute or disagreement. Prior to any meetings between the senior representatives, Trinity Metro and the contractor shall exchange relevant information that will assist the parties in resolving their dispute or disagreement.

If after the meeting, the senior representatives determine that the dispute or disagreement cannot be resolved on terms satisfactory to both parties, the parties shall submit the dispute or disagreement to non-binding mediation. The mediation shall be conducted by a mutually agreeable impartial mediator, or if the parties cannot so agree, a mediator designated by the American Arbitration Association ("AAA") pursuant to its Construction Industry Mediation Rules, or if the dispute or disagreement is not for a construction contract, those mediation rules most applicable to the type of contract. The mediation will be governed by and conducted pursuant to a mediation agreement negotiated by the parties or, if the parties cannot so agree, by procedures established by the mediator. The venue for any required mediation shall be Tarrant County, Texas unless otherwise agreed to by the parties.

[Any claims, disputes, or controversies between the parties which have not been resolved in accordance with the procedures set forth in subsections 8-104 (1)-(3) of the Trinity Metro Procurement Policy shall be decided by arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association (AAA) then in effect, or if the dispute or disagreement is not for a construction contract, those mediation rules most applicable to the type of contract. If the matter or matters in dispute exceed \$1,000,000, then arbitration proceedings shall be held before three members of an arbitration panel selected pursuant to AAA Rules. The venue for any required arbitration shall be Tarrant County, Texas unless otherwise agreed to by the parties.]

Notwithstanding the procedures identified in subsections 8-104 (1)-(4) of the Trinity Metro Procurement Policy, then Trinity Metro shall have the general ability and authority, when negotiating the terms and conditions of any contract to be entered into with any entity, to negotiate for the inclusion of dispute resolution procedures in such contract. Such dispute resolution procedures may vary from contract to contract, provided that, at a minimum, the procedures

require that a meeting of senior representatives, mediation, and/or formal alternative dispute resolution procedures be followed before any party may file suit against, or initiate an arbitration proceeding against, Trinity Metro for an alleged breach of contract claim.

**7.11.1 Performance During Dispute** - Unless otherwise directed by Trinity Metro, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

### **7.12 Claims for Damages**

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

### **7.13 Remedies**

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

### **7.14 Rights and Remedies**

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

#### **1. Definitions for Purposes of the section**

The term “days” refers to working days when Trinity Metro’s administrative offices are open for normal operations.

The term “interested party” means any person (a) who is an actual Proposer or prospective Proposer in the procurement involved, and (b) whose direct economic interest would be affected by the award of the contract or by a failure to award the contract.

Note – The Federal Transit Administration (FTA) will be notified by Trinity Metro of all formal, written protests, when FTA funds are involved.

2. Trinity Metro will hear and consider a bona fide protest regarding its procurement actions. It is anticipated that the majority of protests will be evaluated and finally decided by Trinity Metro. Accordingly, Trinity Metro intends to provide a thorough review of all bona fide protests. Trinity Metro’s primary concern, however, is the timely procurement of needed capital equipment, supplies or services. It does not intend to allow the filing of protests to unnecessarily delay the procurement process, especially if the protest involved is vexatious or frivolous in nature. Notwithstanding the availability of these protest procedures, any interested party is encouraged to exhaust all methods described in this section of resolving an issue before filing a formal protest with Trinity Metro. In its consideration of a protest, Trinity Metro reserves the right to give due

consideration to the good faith efforts of the protestor to resolve the issue involved through informal methods.

### 3. Submission of Protest

Any interested party may file a protest with Trinity Metro on the basis that Trinity Metro has failed to comply with applicable Federal or State Regulations or with Trinity Metro's procurement process. The protest shall be filed in accordance with the timing requirements set forth in subsection D. "Types of Protests and Timing" of this section, and shall include: The name, phone number, e-mail and address of the protestor.

The RFP and proposed contract number of the proposal. A statement of grounds for the protest, a statement as to what relief is requested, and in particular the Federal or State law or Trinity Metro process alleged to have been violated. This statement shall be accompanied by any supporting documentation the protesting party desires Trinity Metro to consider in making its decision.

Protest shall be submitted to:

Aya Ealy  
Director of Procurement  
Trinity Metro  
801 Grove Street  
Fort Worth, TX 76102  
Email: [Contractmgmt@ridetm.org](mailto:Contractmgmt@ridetm.org)

### 4. Types of Protests and Timing

The requirement for timely filing of protest with Trinity Metro will depend upon the type of protests involved. Trinity Metro will consider the following three types of protest by interested parties:

#### a. Protest regarding proposal

Any protest regarding the proposal shall be filed no later than five (5) business days before proposal due date. Any protest filed after that date regarding the proposal will not be considered by Trinity Metro. This type of protest would include any claim that the proposal contained exclusionary or discriminatory specification, any challenge to the basis of award, or any claim that the proposal documents or the proposal process violated applicable Federal or State law, or that Trinity Metro failed to follow its procurement process in the proposal.

#### b. Protests regarding Requirements and Responsiveness.

Any protest regarding the requirements and responsiveness of proposal by Trinity Metro shall be filed with Trinity Metro no later than five (5) business days after receipt of letter of notification of non-responsiveness. Any protest filed after such date regarding the requirements and responsiveness will not be considered by Trinity Metro.

This type of protest would include any challenge to determinations by Trinity Metro of the responsiveness of or the responsibility of a Proposer, or any claim that the requirements and responsiveness of proposal violated Federal or State law or Trinity Metro's procurement process.

#### c. Protest Regarding Receipt of Non-Award Notification

Any protest regarding the award of the contract shall be filed no later than five (5) business days after receipt of Non-Award Notification. Any protest regarding the award of the contract filed after that date will not be considered by Trinity Metro.

This type of protest will only be entertained by Trinity Metro if the protestor is able to demonstrate that the party awarded the contract fraudulently represented itself as a responsible Proposer of that Trinity Metro violated Federal or State regulations or its Procurement Process in the award of the contract.

## 5. Trinity Metro's Response

Trinity Metro will notify the protestor upon timely receipt of a protest and may, where appropriate, request additional information from the protestor. Trinity Metro may, at its discretion, meet with protestor to review the matters raised by the protest. Trinity Metro's consideration of the particular types of protests will, except as otherwise stated in subsection 2. "Decisions by Trinity Metro" of this section E. "Authority Response" proceed in accordance with the following provisions:

### a. Types of Protests

#### i. Protest regarding proposal

Upon receipt of a timely filed protest regarding the proposal, Trinity Metro will postpone the opening until resolution of the protest. No additional proposals will be accepted during the period of postponement.

If the protest regarding the proposal involves a claim of unduly restrictive or exclusionary specifications, Trinity Metro will, in evaluation of the protest, consider both the specific need of Trinity Metro for the feature or item challenged and any effects on competition of including the specifications regarding that feature or item. If Trinity Metro determines that such feature or item was included in the specification in order to meet justified and valid transit needs of Trinity Metro, and was not unduly restrictive of competition or designed to exclude a particular competitor, then Trinity Metro will have grounds to deny the protest.

#### ii. Protest regarding requirement and responsiveness

Upon receipt of a timely filed protest regarding the requirements responsiveness, Trinity Metro will suspend its evaluation of all proposals submitted until resolution of the protest, if Trinity Metro determines that the protestor has established that there are reasonable doubts regarding the responsiveness of a proposal or the responsibility of a Proposer or regarding Trinity Metro's compliance with Federal or State Regulations or its procurement process.

#### iii. Protests after non-award notification

Upon receipt of a timely filed protest regarding the non-award notification Trinity Metro will not proceed with Contract, if necessary, until the resolution of the protest if Trinity Metro determines that the protestor has established a prima facie case that the Contract was awarded fraudulently or in violation of that Federal or State Regulations or Trinity Metro's procurement process.

### b. Decisions by Trinity Metro

As indicated above, in most instances Trinity Metro will suspend the procurement process upon receipt of a bona fide protest. However, Trinity Metro reserves the right, notwithstanding the

pendency of a protest, to proceed with the appropriate action in the procurement process or under the Contract in the following cases:

- i. Where the item to be procured is urgently required;
- ii. Where Trinity Metro determines that the protest was vexatious or frivolous; or
- iii. Where delivery or performance will be unduly delayed or other undue harm will occur, by failure to make the award promptly.

After reviewing the protest submitted under this section, Trinity Metro will issue a written decision of the basis of the information provided by the protestor, the results of any meetings with protestor, and Trinity Metro's own investigation. If the protest is upheld, Trinity Metro will take appropriate action to correct the procurement process and protect the rights of the protestor, including re-proposal, revised evaluation of proposal or Trinity Metro determinations, or termination of the contract. If the protest is denied, Trinity Metro will lift any suspension imposed and proceed with the procurement process.

#### **7.16 Byrd Anti-Lobbying Amendment,**

31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] Contractors who apply or bid for an award of \$100,000 or more shall file the certification required (F8) by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to Trinity Metro.

#### **7.17 Clean Air**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The Contractor agrees to report each violation to Trinity Metro and understands and agrees that Trinity Metro will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

2. The 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.

#### **7.18 Clean Water**

1. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 *et seq.* The Contractor agrees to report each violation to Trinity Metro and understands and agrees that Trinity Metro will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

2. The 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.

### **7.19 Americans with Disabilities Act of 1990 (ADA)**

The Contractor agrees to comply with the requirements of 49 U.S.C. § 5301(d) which expresses the federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The Management Company also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which requires the provision of accessible facilities and services, and with the following federal regulations, including any amendments thereto:

1. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;
2. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;
3. Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
4. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;
5. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;
6. U.S. GSA regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19;
7. U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;
8. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and
9. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

### **7.20 Equal Opportunity and Affirmative Action**

1. Contractor shall comply fully with the requirements of Executive Order Numbers 11246 as amended, 11625, 11701, and 11758 relating to employment practices. If applicable, the provisions of 41 CFR 60-1.4, 60-250.4, and 60-741.4 are hereby incorporated by reference, and Contractor agrees to adhere to said regulations. In the performance of its services, Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, age, marital status, sex, or national origin.

2. Contractor/ Subcontractor Assurance. Trinity Metro agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Third Party Contractor and agrees to obtain the agreement of each of its Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs:
3. Contractor, and each Subcontractor must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 CFR Part 26;
4. The Contractor, and each Subcontractor must take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable;
5. Failure by the Contractors or Subcontractors to carry out the requirements of this subparagraph 12.e(4)(ii) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable; and
6. The following remedies, or such other remedy as Trinity Metro deems appropriate, include, but are not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Contractor, or Subcontractor from future bidding as non-responsible.

#### **7.21 Veterans Preference**

As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and

Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

#### **7.22 Electronic and Information Technology**

Trinity Metro agrees that reports or information it provides to or on behalf of the Federal Government will use electronic or information technology that complies with the accessibility requirements of:

- (1) Section 508 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794d, and
- (2) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194.

### **7.23 Safe Operation of Motor Vehicles**

#### **1. Distracted Driving, Including Text Messaging While Driving.**

a. Contractor and their subcontractors are encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by contractor, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the contract, or when performing any work for or on behalf of the contract;

b. Contractor agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving. Contractors are encouraged to include this provision in each subconsultant agreement.

#### **2. Seat Belt Use.**

Contractors and their subcontractors are encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented, or personally owned vehicles.

### **7.24 Prohibition on certain telecommunications and video surveillance services or equipment.**

1. In accordance with 2 CFR 200.216, Trinity Metro is prohibited from purchasing certain telecommunications and video surveillance services or equipment. As such, Contractor agrees not to purchase any telecommunications and/or video surveillance services or equipment produced by the companies listed below or any subsidiary or affiliate of such entities for this contract. Fort Worth Transportation Authority is prohibited from obligating or expending loan or grant funds to:

a. Procure or obtain;

b. Extend or renew a contract to procure or obtain; or

c. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

(iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

2. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

### **7.25 Davis- Bacon and Copeland Anti-Kickback Acts**

49 U.S.C. § 5333(a)

40 U.S.C. §§ 3141 – 3148

29 C.F.R. part 5

18 U.S.C. § 874

29 C.F.R. part 3

Applicable to: Construction contracts over \$2000.

#### Background and Application

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, et seq. and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). ‘Construction,’ for purposes of the Acts, includes “actual construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (see 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below. The clause language is drawn directly from 29 CFR 5.5(a) and any deviation from the model clause below should be coordinated with counsel to ensure the Acts’ requirements are satisfied.

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

Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part

hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (3) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and
- (2) The classification is utilized in the area by the construction industry; and
- (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day

period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if

known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the

recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to

paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) Withholding - FWTA shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, FWTA may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid.

Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed

a copy of all payrolls to FWTa for transmission to the Federal Transit Administration as requested. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and

Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination.

Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than

the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract.

Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C.1001.

#### **7.26 Contract Work Hours and Safety Standards Act**

Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the

wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in 64 surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

## 7.27 Bonding

### Construction – Special Requirements

The following Federal laws and regulations impose requirements that may affect FTA assisted construction projects:

#### (1) Bonding

FTA requires bonds for All construction contracts exceeding the simplified acquisition threshold must use bonds for financing unless FTA determines that other arrangements adequately protect the Federal interest under 2 CFR 200.326. Otherwise, the minimum bonding requirements include:

##### (a) Bid Guarantee:

A bid guarantee equivalent to five percent (5%) of the bid price. The bid guarantee must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute any required contractual documents within the specified timeframe.

##### (b) Performance Bond:

A performance bond on the contractor's part for one hundred percent (100%) of the contract price. A performance bond is a bond executed in connection with a contract to secure the fulfillment of all the contractor's requirements under a contract.

##### (c) Payment Bond:

A payment bond on the contractor's part for one hundred percent (100%) of the contract price. A payment bond is a bond executed in connection with a contract to assure payment as required by the law of all persons supplying labor and material in the execution of the work provided for under a contract. FTA, however, has determined that payment bonds in the following amounts are adequate to protect FTA's interest and will accept a local bonding policy that meets the following minimums:

###### 1. Less Than \$1 Million:

Fifty percent (50%) of the contract price if the contract price is not more than \$1 million.

###### 2. \$1 Million or More but Less than \$5 Million:

Forty percent of the contract price if the contract price is more than \$1 Million but not more than \$5 million; or

3. \$5 Million or More:

Two and one-half million dollars if the contract price is more than \$5 Million.

## Section 8 Disadvantaged Business Enterprise (DBE)

Trinity Metro has a policy to involve Disadvantaged Business Enterprises (DBE) to the maximum extent feasible in all phases of its procurement practices. Trinity Metro's DBE Program, Certification and Utilization forms are included in Section 10. DBE firms are encouraged to respond to this RFP, and joint ventures with DBE firms are also encouraged.

**DBE Goal for this Solicitation is: 5.35%**

**Policy Statement.** It is the policy of the Department of Transportation that Disadvantaged Business Enterprises as defined in 49 CFR Part 26 shall have the opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this agreement.

TO ATTAIN THESE POLICY OBJECTIVES, TRINITY METRO HAS SET DBE SUBCONTRACTING GOALS FOR DBE SUBCONTRACT PARTICIPATION. EACH INVITATION FOR BID (IFB) OR REQUEST FOR PROPOSAL (RFP) WILL SPECIFY WHAT THE DBE SUBCONTRACTING GOAL IS FOR THAT PROCUREMENT.

**DBE Obligation.** Trinity Metro and its contractors agree to ensure that DBE as defined in 49 CFR Part 26 have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, Trinity Metro and its contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that DBEs have the opportunity to compete for and perform contracts. Trinity Metro and its contractors shall not discriminate on the basis of race, color, religion, sex, age or national origin, in the award and performance of DOT-assisted contracts.

**Disadvantaged Business Enterprise (DBE)** DBE are for-profit small businesses where socially and economically disadvantaged individuals own at least a 51% interest and control management and daily business operations.

African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans and women are presumed to be socially and economically disadvantaged.

Other individuals can be characterized as socially and economically disadvantaged on a case-by-case basis.

To participate in the program, a small business owned and controlled by socially and economically disadvantaged individuals must receive DBE certification from their relevant state or local transportation agency. *NOTE: this is not a federal certification and is not applicable to federal contracts.*

Irrespective of what the size standard is, a firm cannot exceed the size of \$20.41 million and still be seen as a *Small Business*. This size limit is periodically adjusted for inflation.

Trinity Metro is a member of a unified certification program administered by the North Central Texas Regional Certification Agency (NCTRCA).

**Failure to achieve DBE contract goals.** If the contractor fails to carry out the contract utilizing at least the same percentage of DBE participation shown on its successful bid or proposal, the contract payments may be reduced at TRINITY METRO's option as a liquidated damage, and not

as a penalty, by the amount equal to the mathematical dollar difference between the total contract amount multiplied by the DBE percentage goal and the actual dollar amount of documented DBE participation in the contract. However, any authorized adjustment in the percentage of DBE participation approved by Trinity Metro may be substituted in this formula for the DBE percentage goal as originally established.

**Exception.** Where the contract will be for procurement of a standard manufactured item or other similar procurement not open to subcontracting opportunities, and no certified DBE has submitted a Proposal, Trinity Metro may consider a Proposal which does not fully comply with the DBE requirements.

Trinity Metro has a written document that fully describes its DBE policy and program. The document is available upon request from Trinity Metro DBE Administrator, 801 Grove Street, Fort Worth, Texas 76102.

**DBE ASSISTANCE ORGANIZATIONS** Trinity Metro can provide assistance in identification of DBE firms:

Trinity Metro  
ATTN: Sonya Harris  
801 Grove Street  
Fort Worth, Texas 76102  
(817) 215-8717  
[Sonya.Harris@RideTM.org](mailto:Sonya.Harris@RideTM.org)

North Central Texas Regional Certification Agency  
624 Six Flags Drive Suite # 216  
Arlington, Texas 76011  
(817)640-0606  
(817) 640-6315 (fax)  
[www.nctrca.org](http://www.nctrca.org)

**Technical Assistance** Provided by:  
Tarrant County Asian American Chamber of Commerce  
1818 E. Pioneer #100  
Arlington, Texas 76010  
(817) 797-9144

Fort Worth Metropolitan Black Chamber of Commerce  
1150 South Freeway, Suite 211  
Fort Worth, Texas 76104  
(817) 531-6538  
(817) 332-6438 FAX  
[www.fwmbcc.org](http://www.fwmbcc.org)

Dallas Fort Worth MBDA Business Center  
8828 N. Stemmons Freeway, Ste 550 B  
Dallas, TX 75247  
United States  
214-920-2436

Texas Unified Certification Program [www.dot.state.tx.us/business/tucpinfo.htm](http://www.dot.state.tx.us/business/tucpinfo.htm)  
Fort Worth Hispanic Chamber of Commerce  
1327 North Main Street  
Fort Worth, Texas 76106-8576  
(817) 625-5411  
(817) 625-1405 FAX  
[www.fwhcc.org](http://www.fwhcc.org)

American Indian Chamber of Texas  
11245 Indian Trail  
Dallas, Texas 75229  
972-241-6450

Fort Worth Business Assistance Center (BAC)  
1150 South Freeway  
Fort Worth, Texas 76104  
(817) 871-6006  
(817) 871-6031 FAX  
[www.fwbac.com](http://www.fwbac.com)

### **COMPLIANCE REQUIREMENTS**

Compliance with the DBE Policy and Program of Trinity Metro is essential in order for a Proposer to be eligible for the contract under this solicitation. Compliance consists of: (a) meeting or exceeding the DBE percentage participation goals established for this solicitation; or (b) demonstrating good faith efforts to meet such participation goals; or (c) demonstrating that the solicitation comes within the exception to the DBE percentage participation goals as being a procurement for a standard manufactured item, or other similar procurement not open to sub-contracting opportunities.

In order to demonstrate compliance through its "good faith efforts" to obtain the DBE percentage participation goals, a Proposer must submit with its proposal sufficient information to enable Trinity Metro to determine that the efforts made by the Proposer to obtain DBE participation were such efforts that a Proposer actively and aggressively sought to meet the goals. Actions or efforts which are merely "pro forma" or "going through the motions" do not constitute good faith efforts to obtain the participation of DBEs. Similarly, even efforts which are sincerely motivated but which, given all circumstances relevant to the particular solicitation, could not be reasonably expected to produce a level of DBE participation sufficient to meet the goal do not constitute good faith efforts. In determining whether a Proposer has made a good faith effort to obtain the DBE participation percentage goal, Trinity Metro will not only look at the kinds of efforts that the Proposer has made, but also the quality and intensity of these efforts.

To assist Trinity Metro in making the required judgment concerning fulfillment of good faith efforts, the Department of Transportation has prepared a list illustrating the kinds of actions which would indicate that a Proposer has made a good faith effort. These kinds of efforts include:

- (i) Proposer attended pre-Proposal meetings scheduled by Trinity Metro to inform DBEs of contracting and subcontracting opportunities;
- (ii) Proposer selected portions of the work to be performed by certified DBEs in order to increase the likelihood of meeting the DBE goal (including, where appropriate, breaking down contracts into economically feasible units to facilitate DBE participation);

- (iii) Proposer advertised in general circulation, trade association, and/or minority focus media concerning the sub-contracting opportunities;
- (iv) Proposer provided written notice to a reasonable number of specified DBEs that their interest in the procurement was being solicited, in sufficient time to allow such DBEs to participate effectively;
- (v) Proposer followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested;
- (vi) Proposer provided interested DBEs with adequate information about the plans, specifications and requirement of the solicitation;
- (vii) Proposer negotiated in good faith with interested DBEs, not rejecting DBEs as unqualified without sound reasons based on their investigation of the capabilities;
- (viii) Proposer made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance required by Trinity Metro or the Proposer as prime Contractor;
- (ix) Proposer effectively used the services of available minority community organizations; minority contractor groups; local, state and federal minority business assistance offices; and other organizations that provide assistance in the recruitment and placement of DBEs (such as those DBE Assistance Organizations listed above).

This is not intended to be an inventory or checklist. DOT does not require Trinity Metro to insist that any Proposer do any particular one or any combination of the items on this list. It is not intended to be an exclusive or exhaustive list of all actions a Proposer, acting in good faith actively and aggressively seeking to obtain DBE participation would make. Other types of efforts or factors may be relevant in appropriate cases.

In the event that the proposer failed to meet the DBE requirements of this solicitation Trinity Metro will provide the proposer/offeror an opportunity for administrative reconsideration prior to awarding the contract.

(1) As part of this reconsideration, the proposer/offeror must submit in writing to Aya Ealy, Director of Procurement, written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. This must be submitted within 5 days after Trinity Metro has notified apparent successful proposer that they have not met the requirements of meeting the goal or making a good faith effort.

(2) The proposer/offeror will have the opportunity to meet in person with the Director of Procurement to discuss the issue of whether it met the goal or made adequate good faith efforts to do so.

(3) Trinity Metro will send the proposer/offeror a written decision on reconsideration, explaining the basis for finding that the proposer did or did not meet the goal or make adequate good faith efforts to do so.

(4) The result of the reconsideration process is not administratively appealable to the Department of Transportation.

**COMPLIANCE DOCUMENTATION**

In order to demonstrate compliance with Trinity Metro DBE Policy and Program it is essential that full documentation be submitted at the time of the proposal. This documentation consists of completion of the relevant statements appearing on Section 10 of this RFP packet, and attaching additional relevant documentation and information where specified.

Trinity Metro's DBE COMPLIANCE STATEMENT and Trinity Metro's SCHEDULE OF DBE UTILIZATION must be completed by all Proposers. Trinity Metro GOOD FAITH EFFORT DOCUMENTATION must also be completed by a Proposer who does not meet the DBE percentage participation goals established for this procurement but who wishes to show that it complies with the policy and program because of having made "good faith efforts" to meet those goals.

Proposers who believe that bid/proposal meets the exception to the DBE Policy and Program as being one for the procurement of a standard manufactured item or other similar procurement not open to sub-contracting opportunities must, in addition, fully explain the facts on which it bases its belief that this solicitation meets the terms of that exception. Some space at the bottom of the DBE Compliance Form (above the signature lines entitled "Exception Information") has been provided for exception information. If additional space is needed to provide complete exception information, please attach additional sheets titled "DBE Compliance Statement Exception Information."

**COUNTING PARTICIPATION TOWARD MEETING DBE GOAL**

DBE participation shall be counted toward meeting goals set in accordance with DOT's DBE regulations at 49 CFR Part 26 and TRINITY METRO's program as follows:

- (i) Once a firm is determined to be a certified DBE in accordance with the provisions specified in this program, the total dollar value of the contract or subcontract awarded to it is counted toward the applicable goal, if the contract is a fixed price contract. For other types of contracts, only actual payments to the certified DBE will be counted toward the applicable goal.
- (ii) Trinity Metro or the contractor employing a certified DBE firm may count toward its goals a portion of the total dollar value of a contract with a joint venture eligible under the DBE eligibility criteria specified herein equal to the percentage of the ownership and control of the certified DBE partner in the joint venture.
- (iii) Trinity Metro or a contractor will count toward its goal only expenditures to certified DBEs that perform a commercially useful function in the work of a contract. A certified DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a certified DBE is performing a commercially useful function, TRINITY METRO or a contractor shall evaluate the amount of work subcontracted, industry practices, and other relevant factors.
- (iv) Consistent with normal industry practices, a DBE may enter into subcontracts. If a DBE contractor subcontracts a significantly greater portion of the work of the contract than would be expected on the basis of normal industry practices, the DBE shall be presumed not to be performing a commercially useful function. The DBE may present evidence to rebut this presumption to Trinity Metro. Trinity Metro's decision on the rebuttal of this presumption is final, subject to review by the Department of Transportation in instances of DOT-assisted contracts.

(v) Trinity Metro or a contractor may count toward its DBE goals expenditures for materials and supplies obtained from certified DBE suppliers and manufactures provided that the DBEs assume the actual and contractual responsibility for the provision of the materials and supplies. Trinity Metro or a contractor may count its entire expenditure to a certified DBE manufacturer (i.e., a supplier that produces goods from raw materials or substantially alters them before resale). Trinity Metro will count 60 percent of its expenditures to certified DBE suppliers that are not manufacturers, provided that such suppliers perform a commercially useful function in the supply process.

#### **Termination of DBE Subcontractor**

The Contractor shall not terminate the DBE subcontractor(s) listed in the DBE Participation Schedule (see below) without Trinity Metro's prior written consent. Trinity Metro may provide such written consent only if the Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The Contractor shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify Trinity Metro in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with Section 9 below

#### **Sanctions for Violations**

If at any time Trinity Metro has reason to believe that the Contractor is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, Trinity Metro may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

- Suspension of any payment or part due the Contractor until such time as the issues concerning the Contractor's compliance are resolved; and
- Termination or cancellation of the Contract, in whole or in part, unless the successful Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

## Section 9 Safety, Security and Emergency Requirements

Site visitors, to include contracted individuals providing services to Trinity Metro are required to comply with the following safety, security, and/or emergency guidelines:

- All providers will meet federal, state, and local regulatory guidelines related to safe practices and/or are related to safety in order to avoid hazards, potential hazards, and/or damage to Trinity Metro property.
  - Contractors and Vendors are responsible for their equipment and personnel.
- In the event of an emergency, site visitors shall follow emergency response best practices; each provider should have an emergency plan. As needed, Trinity Metro designee(s) may need to review an emergency plan for acceptance. This will depend on the area work is being conducted. Designated rallying points may be provided by Trinity Metro representatives, so please ask and include in any Job and/or Safety Briefings to be prepared in the event of an emergency evacuation.
- Contractor and vendor providers are required to notify a Trinity Metro representative, a.k.a. point of contact, after any emergency events. This may be the Procurement Department representative or designated project lead. Alternatively, Trinity Metro's Operations Radio Control Center, or Security Center shall be notified as is deemed necessary, when reporting security or safety-related events requiring Trinity Metro response. Site visitors conducting work on Trinity Metro property should know whom to notify prior to commencement of work on Trinity Metro property.
- Vendors, Contractors, and Sub-Contractors working within any Bus Lot, Train Station, and/or Transit Center are required to provide scope of work being performed to the appropriate Trinity Metro designee so details for coordinating with revenue service vehicles (trains, buses, cutaways, and vans) paths and schedules will not disrupt any transit service.
- Trespassing and/or unauthorized site work is prohibited. This is especially more significant whenever the need arises to be within 25 feet of any railroad track rail unless on public right away such as platforms or grade crossings. Roadway Worker Protection requirements per federal law (49 CFR Part 214) may require successful completion of training and authorized access. Any work within 25 feet of railroad track REQUIRES prior approval under the RWP requirements per 49 CFR Part 214. Disruptions to commuter passenger railroad operations is unacceptable and may be subject to federal fines.
- Depending on the nature of the work being performed, Trinity Metro may require submission of a safety plan, security plan, and/or emergency plan subject to review and acceptance by the Chief Safety Officer or Director of Security or other designee.
- In the event of any accident or incident resulting in injury to any individual or damage to any Trinity Metro property, a safety stand down may be required. Accordingly, when deemed necessary, corrective action and preventive measures(s) subject to approval or acceptance by the Chief Safety Officer or Director of Security or other designee may be required prior to resuming work on behalf of Trinity Metro or on Trinity Metro property.
- Larger scale projects and procurement of equipment may deem it necessary to comply with Safety and Security Certification Program requirements.
- Questions regarding safety, security, and/or emergency requirements may be directed to Trinity Metro's Procurement designee or lead Project Manager.

## Section 10 Attachments and Forms

THE FOLLOWING FORMS AND CERTIFICATIONS SHALL BE COMPLETED BY PROPOSER AND SUBMITTED WITH PROPOSAL, AS SPECIFIED IN SECTION 1 MINIMUM REQUIREMENTS.

- F1 – ATTACHMENTS AND AMENDMENTS
- F2 – DBE COMPLIANT STATEMENT
- F3 – SCHEDULE OF DBE UTILIZATION
- F4 – GOOD FAITH EFFORT DOCUMENTATION
- F5 – GOOD FAITH EFFORT INFORMATION REQUESTS
- F6 – CONFIRMATION LETTER/INTENT TO SUBCONTRACT
- F7 – CERTIFICATION OF CONTRACTOR REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS
- F8 – CONFLICT OF INTEREST ACKNOWLEDGEMENT AND CERTIFICATION
- F9 – CERTIFICATION OF COMPLIANCE WITH RESTRICTION ON LOBBYING
- F10 – BUSINESS QUESTIONNAIRE & LIST OF REFERENCES
- F11 – LIST OF REFERENCES FOR SIMILAR PROJECTS
- F12 – AFFIDAVIT OF NON-COLLUSION
- F13 – PROHIBITION OF CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL
- F14 – FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTION CERTIFICATION
- F15 – BUY AMERICA CERTIFICATION
- F16 – BASE PRICE PROPOSAL
- F17 – TRINITY METRO SAFETY, SECURITY AND EMERGENCY REQUIREMENTS
- F18 – BOND
- OFFER AND CONTRACT SIGNATURE FORM
- ATTACHMENT A
- ATTACHMENT B – DAVIS BACON WAGE DETERMINATION

**NOTE: FAILURE TO COMPLETE AND RETURN THE FORMS AS INDICATED ABOVE WILL RESULT IN REJECTION OF THE BID/PROPOSAL.**

The making of a material misrepresentation of fact could be a basis for disqualification and may cause a firm to be considered for classification as an irresponsible contractor and barred from Trinity Metro work for a period not exceeding six months.

### F1 – ATTACHMENTS AND AMENDMENTS

The undersigned acknowledges receipt of attachments and amendments for The Fort Worth Transportation's solicitation **RFP 25-T040A – Generators Project**

ATTACHMENTS:

AMENDMENTS:

Failure to acknowledge receipt of all attachments and amendments may cause Proposer/Bidder to be considered nonresponsive to the solicitation.

Acknowledged receipt of each attachment and amendment must be clearly established and included with the Proposal/Bid response.

<i>Authorized Signature</i>	<i>Name of Company</i>
<i>Printed Name and Title</i>	<i>Date</i>

## F2 – DBE COMPLIANCE STATEMENT

Check the statement below that applies to your submittal.

\_\_\_\_\_ 1. **Proposal meets or exceeds DBE percentage participation goal established for this procurement.** You must submit the Schedule of DBE Utilization with proposal. If you are a certified DBE, complete the first set of questions on Schedule of DBE Utilization for yourself and submit DBE certification number. Submit DBE certification numbers for each DBE you intend to use.

\_\_\_\_\_ 2. **Proposal does not meet the DBE percentage participation goal established for this procurement, but we have made bona fide good faith efforts to reach those goals.** If this statement applies, you must submit the Schedule of DBE Utilization and the DBE Good Faith Effort Documents, along with proposal, together with all other documentation of good faith efforts which you wish TRINITY METRO to consider in evaluating your proposal. Only documentation submitted with proposal will be considered. Submit DBE certification numbers for each DBE you intend to use.

Exception Information (attach additional sheets, titled “Exception Information”, if needed):

<b>Authorized Signature</b>	<b>Name of Company</b>
<b>Printed Name and Title</b>	<b>Date</b>

Note: Failure to complete and return the DBE forms as indicated above, will result in rejection of the proposal. The making of a material misrepresentation of fact could be a basis for disqualification and may cause a firm to be considered for classification as an irresponsible contractor and barred from TRINITY METRO’s work for a period of not exceeding six months.

### F3 – SCHEDULE OF DBE UTILIZATION

\*List all DBEs expected to participate in performing on the contract resulting from this solicitation. If you have not met the DBE goal either partially or in whole, you must thoroughly complete Good Faith Efforts Documents.

\*Fill in all blanks, use N/A where necessary.

\*Contact Trinity Metro's DBE Administrator to request an availability list of certified firms or if you have additional questions.

\*Sign and Date the bottom of this form.

\*If utilizing more DBEs than space provided on this form, please make a copy and fill in additional DBE firms.

\* Any firm listed below must be certified by the NCTRCA and/or listed on TUCP web site and their corresponding certification number should be listed. No certification other than DBE will be accepted.

\* If Prime Contractor is a certified DBE, complete first section below for "self".

**\* DBE Schedules of Utilization not complying with these requirements shall be rejected as non-responsive.**

Name of <b>DBE</b> Certified Firm	
Address/City/State/Zip	
Contact Person	
Phone Number	
Email Address	
Type of Work Being Performed/NAICS Code	
Amount of Subcontract (Dollars)	
Subcontracting Tier	

Name of <b>DBE</b> Certified Firm	
Address/City/State/Zip	
Contact Person	
Phone Number	
Email Address	
Type of Work Being Performed/NAICS Code	
Amount of Subcontract (Dollars)	
Subcontracting Tier	

Name of <b>DBE</b> Certified Firm	
Address/City/State/Zip	
Contact Person	
Phone Number	
Email Address	
Type of Work Being Performed/NAICS Code	
Amount of Subcontract (Dollars)	
Subcontracting Tier	

I certify that that the information included on this Schedule of Utilization form is true and complete to the best of my knowledge and belief. I further understand and agree that is Schedule of Utilization form shall become a part of my contract with Trinity Metro.

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Representative

## F3-Part II-Schedule of Non-Certified Subcontractors

\*Fill in all blanks, use N/A where necessary.

\*If utilizing more non-certified subcontractors than space provided on this form, please make a copy and fill in additional firms.

**\*Schedules of Utilization not complying with these requirements shall be rejected as non-responsive.**

Name of <b>Non-Certified</b> Firm	
Address/City/State/Zip	
Contact Person	
Phone Number	
Email Address	
Type of Work Being Performed/NAICS Code	
Amount of Subcontract (Dollars)	
Subcontracting Tier	
Reason Certified Firm Not Used	

Name of <b>Non-Certified</b> Firm	
Address/City/State/Zip	
Contact Person	
Phone Number	
Email Address	
Type of Work Being Performed/NAICS Code	
Amount of Subcontract (Dollars)	
Subcontracting Tier	
Reason Certified Firm Not Used	

Name of <b>Non-Certified</b> Firm	
Address/City/State/Zip	
Contact Person	
Phone Number	
Email Address	
Type of Work Being Performed/NAICS Code	
Amount of Subcontract (Dollars)	
Subcontracting Tier	
Reason Certified Firm Not Used	

I certify that that the information included on this Schedule of Utilization form is true and complete to the best of my knowledge and belief.

\_\_\_\_\_  
Name/Title of Authorized Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Authorized Representative

#### F4 – GOOD FAITH EFFORT DOCUMENTATION

If the proposer did not meet or exceed Trinity Metro's DBE subcontracting goal, then the proposer must comply with Trinity Metro's DBE policy by documenting that good faith efforts were made. Please check "Yes" or "No" below if you have completed the good faith effort form, attached any related support documents, and provided any additional information/support/clarification beyond that requested in the good faith effort documents. Providing additional information is the proposers responsibility to ensure that sufficient information is provided to Trinity Metro, so that good faith efforts can be comprehensively evaluated.

We (proposer) have: \_\_\_\_\_ Yes \_\_\_\_\_ No

\_\_\_ Completely filled out this good faith effort form with signature and date.

\_\_\_ Attached any related supporting documents, and also

\_\_\_ Provided any additional information and/or documents that we deemed necessary to support and/or clarify the good faith efforts that we made.

It is the proposers' responsibility to correctly, accurately, and substantively provide all necessary information to Trinity Metro, at TRINITY METRO time of proposal submission. The information provided by the proposer must be sufficient enough for Trinity Metro to determine that the efforts made by the proposer to obtain DBE participation were such efforts that a proposer actively and aggressively seeking to meet those goals would make. Actions or efforts which are merely "pro forma" or "going through the motions" do not constitute good faith efforts to obtain the participation of DBE. Trinity Metro will look at the kinds of efforts the proposer has made, as well as the quality and intensity of those efforts.

This information will then be evaluated by Trinity Metro's DBE Liaison or a designee of Trinity Metro for good faith effort compliance. Failure to comply will render the proposal non-responsive.

If Trinity Metro determines that the apparent successful bidder/offeror has failed to meet the DBE requirements of this solicitation, Trinity Metro must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration.

As part of this reconsideration, the bidder/offeror must provide written documentation or argument within 5 business days after being notified by Trinity Metro concerning the issue of whether it met the goal or made adequate good faith efforts to do so.

Note: The DOT does not require Trinity Metro to insist that any proposer do any particular one or any combination of the items requested in DBE forms. It is not intended to be an exclusive or exhaustive list of all actions a proposer, acting in good faith, actively and aggressively seeking to obtain DBE participation would make. Other types of efforts or factors may be relevant in appropriate cases.

### F5 – GOOD FAITH EFFORT INFORMATION REQUESTS

1. Please list each and every subcontracting and/or supplier opportunity which will be available in the completion of this project, regardless of whether it is to be provided by a DBE or non-DBE (use additional sheets, if needed).

Subcontracting Opportunities		Supplier Opportunities	
1.		1.	
2.		2.	
3.		3.	
4.		4.	
5.		5.	
6.		6.	
7.		7.	
8.		8.	
9.		9.	
10.		10.	
11.		11.	
12.		12.	
13.		13.	
14.		14.	
15.		15.	

(Proposer may make as many copies of this page as needed).

**Type an X in the Yes or No Box provided**

2.	Did you obtain a list of DBE firms from Trinity Metro's DBE Department (a list may or may not have been included with the Invitation for Bid or Proposal). If one was not included, or if additional lists are needed, they can be obtained from the DBE Department upon request.	YES	<input type="checkbox"/>
		NO	<input type="checkbox"/>
3.	Did you attend the pre-proposal conference(s) scheduled by Trinity Metro? Date of Pre-Proposal Meeting: <input type="text"/>	YES	<input type="checkbox"/>
		NO	<input type="checkbox"/>
	Did you request Proposals from DBEs that also attended the pre-proposal conference?	YES	<input type="checkbox"/>
		NO	<input type="checkbox"/>
	DBE Firm/Person Contacted?		<input type="checkbox"/>
4.	Did you solicit proposals from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number 1. above by mail?	YES	<input type="checkbox"/>
		NO	<input type="checkbox"/>
5.	Did you solicit proposals from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number 1. by fax?	YES	<input type="checkbox"/>
		NO	<input type="checkbox"/>

6.	Did you solicit proposals from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number 1. above by telephone?	YES	
		NO	
7.	Did you solicit proposals from DBEs, within the subcontracting and/or supplier areas that you listed previously on question number 1. above by some other means?	YES	
		NO	
If yes, please explain:			
8.	Did you advertise in local newspapers?	YES	
		NO	
If yes, then please attach a copy(s) of advertisements, with the date advertised and list the specific newspapers that were used.			
9.	Please provide the following information for every DBE firm that you contacted by any method or that initiated contact with you, but will <i>not</i> be used on this contract:	YES	
		NO	
a.	Attach a listing of every DBE firm that you solicited a proposal from or that initiated contact with you to ask about and/or submit an unsolicited proposal to you and include their mailing address, phone and fax numbers, the date that solicitations were sent, and the method that the solicitation was sent (i.e., mail, fax, phone, personal contact, etc. . .) and please provide a DBE contact name, if you have one.		
b.	Indicate the subcontracting area(s) that you solicited proposals on from each DBE firm and/or the subcontracting area(s) for which each DBE firm submitted a proposal to you, if different from what you solicited.		
c.	If DBE firms submitted proposals, but those proposals were rejected, provide an explanation for rejecting those proposals and attach documentation to support the reason for rejecting the proposal (i.e., letters, memos, DBE proposal amount, telephone notes, meeting notes, etc.).		
d.	If a DBE firm proposal was rejected because of price, then list the DBE firm's proposal price and the name and proposal price of the subcontractor or supplier that you will use in lieu of the rejected DBE firm.		
e.	Indicate the number of times that follow-up contact was made with DBE firms after the initial solicitations of interest.		
10.	Did you contact all DBE firms that you solicited proposals from in a timely manner such that the DBE firms had at least 10 days prior to the proposal submission date to prepare and submit a proposal to you?	YES	
		NO	
If NO, please explain:			
11.	Did you negotiate in good faith with interested DBE firms by, for instance, providing timely information regarding plans and specifications, breaking down subcontracts into economically feasible units to facilitate DBE participation, maintaining accessible lines of communications, etc.?	YES	
		NO	
12.	Did you assist interested DBE firms in obtaining bonding, lines of credit, or insurance required by Trinity Metro or by you as prime contractor?	YES	
		NO	

**ADDITIONAL INFORMATION**

Please provide any additional information and/or documents that you (the proposers) deem necessary to support and/or clarify that you made good faith efforts to meet the DBE subcontracting goal (be sure to attach any support documents).

Signature:

Date:

Name / Title:

## F6 – CONFIRMATION LETTER/INTENT TO SUBCONTRACT

\*List all DBEs expected to participate in performing on the contract resulting from this solicitation. \*Fill in all blanks, use N/A where necessary. Please make copies of this form as necessary as one form is to be used for each anticipated DBE.

\*Contact Trinity Metro's DBE Administrator if you have additional questions.

\*Sign and Date the bottom of this form.

\* Any firm listed below must be certified by the NCTRCA and/or listed on TUCP web site and their corresponding certification number should be listed. No certification other than DBE will be accepted.

\* If Prime Contractor is a certified DBE, disregard this form.

\* Include any email, fax, or mail correspondence and/or telephone logs associated with intent to subcontract DBEs.

**\* DBE Schedules of Utilization not complying with these requirements shall be rejected as non-responsive.**

Name of Prime Contractor: \_\_\_\_\_

Prime Contractor Address: \_\_\_\_\_

Telephone # of Prime Contractor: \_\_\_\_\_

Name of DBE Subcontractor: \_\_\_\_\_

Address of Subcontractor: \_\_\_\_\_

Telephone # of Subcontractor: \_\_\_\_\_

DBE Certification # (Must be from one of TUCP's certifying agencies): \_\_\_\_\_

NAICS Code(s) of DBE being used for this contract: \_\_\_\_\_

Type of work being performed by DBE for this project: \_\_\_\_\_

Dollar amount and/or percentage subcontractor will be receive in connection with this contract (please indicate amount using a dollar sign or percentage: \_\_\_\_\_

Will the DBE be used as supplier? Yes  No

### **DECLARATION OF PRIME CONTRACTOR**

I hereby declare and affirm that I am the (Title of Declarant): \_\_\_\_\_

And a duly authorized representative of (Name of Prime Contractor): \_\_\_\_\_

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Subcontract form.

To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the DBE firm signed this form in the place indicated, and no material facts have been omitted.

Except as authorized by Trinity Metro's DBE Administrator at or her/his designee, the undersigned will enter into a formal agreement with the listed DBE firm for work as indicated by this form. The undersigned will, if requested, provide the DBE Administrator or designee a copy of that agreement within three (3) business days of the request.

Prime Contractor Signature: \_\_\_\_\_

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

**Subcontractor:**

I certify that I have been contacted by the above-signed Prime Contractor and have agreed on pricing subject to the prime obtaining the contract associated with this solicitation.

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

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

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

**F7 – CERTIFICATION OF CONTRACTOR REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The potential contractor for Trinity Metro contract (hereinafter "PRIMARY PARTICIPANT"), \_\_\_\_\_ certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (2) of this certification; and
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

(If the primary participant is unable to certify to any of the statements in this certification, the participant shall attach an explanation to this certification)

THE PRIMARY PARTICIPANT CERTIFIES OR AFFIRMS TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS ON 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE THERETO.

Signature:	Date:
Name / Title:	
Company Name:	

**Primary participant is required to secure from every subcontractor this same certification and shall submit such to Trinity Metro prior to such subcontractor's commencing work under this contract. Contractor may make as many copies of this schedule as needed for certification by all subcontractors.**

(If the subcontractor is unable to certify to any of the statements above in this certification, the subcontractor shall attach an explanation to this certification)

THE UNDERSIGNED SUBCONTRACTORS FOR TRINITY METRO, CERTIFY OR AFFIRM AS TO ITSELF AND ITS PRINCIPALS TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SET OUT ABOVE AND SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTAND THAT THE PROVISIONS OF 31 U.S.C. SECTIONS 3801 ET SEQ. ARE APPLICABLE TO THIS CERTIFICATION.

Signature:		Date:	
Name / Title:			
Company Name:			

Signature:		Date:	
Name / Title:			
Company Name:			

## **F8 – CONFLICT OF INTEREST ACKNOWLEDGMENT AND CERTIFICATION**

### **1. Policy**

In order to promote fairness and impartiality in Trinity Metro's procurement process, involvement in any decision making role in the solicitation, or in the awarding or administration of a resulting contract by any Related Person who might receive some Benefit is prohibited. "Related Person" is defined as any employee, officer, Executive Committee member, or agent of Trinity Metro. "Benefit" is defined as any direct or indirect pecuniary, financial, or other tangible advantage, gain, promotion, or interest growing out of or related in any manner to the solicitation or to a contract or subcontract growing out of the solicitation. Such involvement of any Related Person is also prohibited when a person bearing certain relationship to the Related Person ("Other Related Person") may receive a Benefit. Such "Other Related Person" is defined as any member of a Related Person's immediate family (a spouse, child, parent, brother or sister), a partner of any Related Person, or any person or organization which employs or is about to employ a Related Person or Other Related Person. If a Related Person or Other Related Person will or may so benefit, a prohibited conflict of interest may exist.

### **2. Disclosures**

Your obligation, as a prospective contractor under this solicitation, is to disclose fully all information you have or may acquire which has to do with any such Benefit which may come to any Related Person or Other Related Person. In considering the possibility of the existence of such benefit, you also need to consider each person and firm you believe may be involved as a joint venturer, or subcontractor, or other similar role in carrying out and performing a contract with Trinity Metro pursuant to the solicitation. In other words, if you are aware of any business, financial, or other interest, or actual or potential employment relationship between any Related Person or any Other Related Person, on the one hand, and yourself or any other person or firm you believe may be involved in carrying out the contract to be awarded pursuant to this solicitation, on the other hand, you have an affirmative obligation to fully disclose that information to Trinity Metro. You are encouraged to contact the Director of Contract Administration and Procurement or Trinity Metro's General Council prior to the deadline for submitting your Response (defined as a proposal, Proposal or other response to this solicitation), make such disclosure, and request a ruling as to whether any prohibited conflict of interest does in fact exist.

In order for your Response to be considered RESPONSIVE to this solicitation, it is mandatory that you complete and execute the Acknowledgment and Certification below, and include with your Response, written disclosure of all information relative to any potential conflict of interest which may be known to you, and which you have not disclosed to Trinity Metro in writing prior to the submission of your Response.

**ACKNOWLEDGMENT AND CERTIFICATION  
(Potential Contractor)**

The undersigned potential contractor of Trinity Metro hereby acknowledges receipt and understanding of the Conflict of Interest provisions set out above; and hereby certifies that, except as heretofore or herewith fully disclosed in writing, to the best of potential contractor's knowledge and belief, no such conflict exists, or is likely to exist in the future pertaining to this procurement should the contract be awarded to potential contractor; and potential contractor further hereby promises to promptly notify Trinity Metro in writing if such knowledge or belief changes in the future.

**By:**

Signature:		Date:	
Name / Title:			

**ACKNOWLEDGMENT AND CERTIFICATION  
(Recommended Subcontractor)**

The undersigned recommended subcontractor of Trinity Metro hereby acknowledges receipt and understanding of the Conflict of Interest provisions set out above; and hereby certifies that, except as heretofore or herewith fully disclosed in writing, to the best of recommended subcontractor's knowledge and belief, no such conflict exists, or is likely to exist in the future pertaining to this procurement should the contract be awarded to recommended subcontractor; and recommended subcontractor further hereby promises to promptly notify Trinity Metro in writing if such knowledge or belief changes in the future.

**By:**

Signature:		Date:	
Name / Title:			

**Note: Proposer shall make copies of the Conflict of Interest document and Acknowledgment and Certification form and provide same to each subcontractor Proposer recommends for the contract. Proposer is required to secure an acknowledgment and certification from each subcontractor Proposer recommends and submit such certification to Trinity Metro prior to a subcontractor beginning any work under this contract.**

### F9 – CERTIFICATION OF COMPLIANCE WITH RESTRICTIONS ON LOBBYING

I, \_\_\_\_\_ (Name of certifying official), the \_\_\_\_\_  
 (Title or position of certifying official) of \_\_\_\_\_ (name of  
 company), do hereby certify on behalf of said company to Trinity Metro that:

- (1) It will not use federal funds to support lobbying.
- (2) No federal 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 any 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.
- (3) If any funds other than Federal funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with 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.
- (4) *All subcontractors and sub-recipients shall certify and disclose accordingly.*  
 This certification is a material representation of fact upon which reliance is placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S.C. 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.

By:

Signature:		Date:	
Name / Title:			

**Note: Proposer shall make copies of this blank page and obtain certification from all subcontractors that Proposer is recommending, and submit such certifications to Trinity Metro prior to such subcontractors beginning any work under this contract.**

### F10 – BUSINESS QUESTIONNAIRE

This questionnaire, the requested list of references and the authorization to release financial information are used in part to assist in determining a potential contractor's responsibility. Proposers shall submit the information with the offer. All information shall be current and traceable. Each venture of a joint venture shall submit a separate signed form.

Trinity Metro reserves the right to make additional inquiries based on information submitted, or the lack thereof. Questions concerning this questionnaire or the authorization form shall be directed to the contact person identified on the solicitation.

1. Legal Name of Proposer ("Business"):
2. List name(s) and business address of officers and directors for corporations, partners for partnerships, and ventures for joint ventures (attach additional pages as necessary):
3. Number of years in business under present business name:
4. If applicable, list all other names under which the business identified above operated in the last 5 years:
5. Annual Gross Revenue (past year): M=millions K=thousands
<input type="checkbox"/> \$100K - \$500K <input type="checkbox"/> \$500K - \$1M <input type="checkbox"/> \$1M-\$10M <input type="checkbox"/> \$10M-\$20M <input type="checkbox"/> >\$20M
6. Has the business, or any officer or partner, failed to complete a contract? <input type="checkbox"/> Yes <input type="checkbox"/> No
7. Is any litigation pending against the business? <input type="checkbox"/> Yes <input type="checkbox"/> No
8. Has the business ever been declared "not responsible" for the purpose of any governmental agency contract award? <input type="checkbox"/> Yes <input type="checkbox"/> No
9. Has the business been debarred, suspended, proposed for debarment, declared ineligible, voluntarily excluded, or otherwise disqualified from bidding, proposing or contracting? <input type="checkbox"/> Yes <input type="checkbox"/> No

10. Are there any proceedings pending relating to the business' responsibility, debarment, suspension, voluntary exclusion or qualification to receive a public contract? \_\_\_ Yes \_\_\_ No

11. Has the government or other public entity requested or required enforcement of any of its rights under a surety agreement on the basis of a default or in lieu of declaring the business in default? \_\_\_\_\_ Yes \_\_\_\_\_ No

12. Is the business in arrears on any contract or debt? \_\_\_\_\_ Yes \_\_\_\_\_ No

13. Has the business been a defaulter, as a principal, surety or otherwise? \_\_\_ Yes \_\_\_ No

14. Have liquidated damages or penalty provisions been assessed against the business for failure to complete work on time or for any other reason? \_\_\_\_\_ Yes \_\_\_\_\_ No

15. Does the business maintain a drug-free workplace? \_\_\_\_\_ Yes \_\_\_\_\_ No

16. If a "yes" response is given under questions 6-14, provide a detailed explanation including dates, reference to contract information, contacts, etc. (attach additional pages as necessary):

17. Business Identification Number (EIN, etc.)

18. Provided completed List of References for Similar Projects form. \_\_\_\_\_ Yes \_\_\_\_\_ No

19. Select whether or not your firm is classified as \_\_\_ DBE or \_\_\_ Non-DBE

20. This question is for DBE Program Classification Purposes Only

Race of Firm's Majority Owner \_\_\_\_\_

Gender of Firm's Majority Owner \_\_\_\_\_

21. NAICS code associated with this RFP:

I, individually and on behalf of the business named in this Business Questionnaire, do by my signature below, certify that the information provided in this questionnaire is true and correct. I understand that any false statements or misrepresentations regarding the business named above may result in:

1. Termination of any or all contracts which Trinity Metro has or may have with the business,
2. Disqualification of the business from consideration for contracts,
3. Removal of the business from Trinity Metro's Proposers' list and/or
4. Legal action(s) applicable under federal, state or local law.

Signature:

Date:

Name / Title:

Company Name:

### F11 – LIST OF REFERENCES FOR SIMILAR PROJECTS

*(Use additional pages as necessary)*

<b>1. Project:</b>
Date of Completion (if applicable):
Company Name:
Address:
Contact Name:
Telephone Number:
E-Mail Address:
<b>2. Project:</b>
Date of Completion (if applicable):
Company Name:
Address:
Contact Name:
Telephone Number:
E-Mail Address:
<b>3. Project:</b>
Date of Completion (if applicable):
Company Name:
Address:
Contact Name:
Telephone Number:
E-Mail Address:
<b>4. Project:</b>
Date of Completion (if applicable):
Company Name:
Address:
Contact Name:
Telephone Number:
E-Mail Address:

**F12 – AFFIDAVIT OF NON-COLLUSION**

Each member of the proposing team (**prime and subs**) shall submit a signed and notarized Form 12 – Non-Collusive Affidavit.

THE UNDERSIGNED, HAVING SUBMITTED PROPOSAL TO PROVIDE Generators Project in response to RFP 25-T040A swear that said Proposer has not directly or indirectly entered into any combination, collusion, undertaking, or agreement relative to price to be proposal by any person, or to prevent any person, or persons, or company from submitting pricing; or to entice any Proposer or Bidder to refrain from pricing for such supplies, merchandise, service, or contract, and that said proposal so made is without reference or regard to any other proposal or proposals, and without agreement, understanding or combination, either directly or indirectly, with any person or persons, with reference to such proposing in any way or manner whatsoever.

Signature:		Date:	
Name / Title:			
Company Name:			

STATE of \_\_\_\_\_

County of \_\_\_\_\_

This instrument was subscribed and sworn before me this \_\_\_\_ day of, \_\_\_\_\_, 20 \_\_\_\_.

(Personalized Seal Below)

\_\_\_\_\_  
Notary Public Signature

\_\_\_\_\_  
My Commission Expires (Date)

**Failure to properly Notarize and Return This Form with the Proposal Will Invalidate Your Proposal.**

**F13 – PROHIBITION OF CONTRACTS WITH COMPANIES BOYCOTTING ISRAEL**  
(This form must be completed and submitted with the Bid/Proposal)

House Bill 793, effective September 1, 2019, amended the Texas Government Code to add Chapter 2270, Prohibition of Contracts with Companies Boycotting Israel.

Effective September 1, 2019, a state agency and a political subdivision (which includes a transportation authority) may not enter a contract with a company for goods or services unless the contract contains a written verification from the company that; (i) it does not Boycott Israel; and (ii) will not Boycott Israel during the term of the contract.

“Boycott Israel” is defined to mean refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

“Company” is defined to mean a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit.

I, \_\_\_\_\_ (Name of certifying official), the  
\_\_\_\_\_ (Title or position of certifying official) of  
\_\_\_\_\_ (name of company), do hereby verify on behalf of said  
company to Trinity Metro that said company does not Boycott Israel and will not Boycott Israel  
(as that term is defined in Texas Government Code Section 808.001) during the term of this  
contract.

Signature:		Date:	
Name / Title:			

**F14 – FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTION CERTIFICATION**

The Federal Transportation Administration’s (“FTA”) Master Agreement dated May 2, 2024 (the “Master Agreement”) defines a “Third-Party Participant” as:

“Each participant in the Recipient’s Project ... whose work under the Project is supported with FTA funding, eligible non-federal share dedicated to the Project, or is dedicated as an in-kind contribution eligible for non-federal share. A Third Party Participant may be a Subrecipient, Third Party Contractor, Third Party Subcontractor, Lessee, or Similar Participant in the Recipient’s Project (for example, a partner in a joint development venture).”

A person, partnership, or other entity that submits a bid or proposal under this procurement (a “Proposer”) is a prospective Third Party Participant as defined in the Master Agreement. The Master Agreement requires Trinity Metro to obtain the following certifications from each prospective Third Party Participant.

The Proposer signing this form below certifies the following:

- A) The Proposer does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- B) The Proposer was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

Legal Name of Proposer: \_\_\_\_\_  
 Signature: By: \_\_\_\_\_  
 Print Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

If you cannot so certify, Trinity Metro agrees to refer the matter to the FTA and will not enter into any Third Party Agreement with a Proposer without FTA’s written approval.

Proposer cannot certify regarding Federal Tax Liability and Recent Felony Conviction.

Legal Name of Proposer: \_\_\_\_\_  
 Signature: By: \_\_\_\_\_  
 Print Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Contract Awardees are required to flow this requirement down to all lower tiers subcontractors, without regard to the value of any subagreement.

### F15 – BUY AMERICA CERTIFICATION

#### § 661.6 Certification requirements for procurement of steel or manufactured products.

If steel, iron, or manufactured products (as defined in [§§ 661.3](#) and [661.5 of this part](#)) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in [§ 661.13\(b\) of this part](#).

#### Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of [49 U.S.C. 5323\(j\)\(1\)](#), and the applicable regulations in [49 CFR part 661](#).

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

#### Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of [49 U.S.C. 5323\(j\)](#), but it may qualify for an exception to the requirement pursuant to [49 U.S.C. 5323\(j\)\(2\)](#), as amended, and the applicable regulations in [49 CFR 661.7](#).

Date \_\_\_\_\_

Signature \_\_\_\_\_

Company \_\_\_\_\_

Name \_\_\_\_\_

Title \_\_\_\_\_

[[71 FR 14117](#), Mar. 21, 2006, as amended at [72 FR 53696](#), Sept. 20, 2007]

**F16 – BASE PRICE PROPOSAL****Base Price Proposal**

<b>Item</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Total Price</b>	<b>Lead Time</b>
<b>Generator Unit</b>	[Defined spec in SOW]	_____	\$ _____	\$ _____	_____ Weeks
<b>Electrical Components</b>	[List key electrical items]	_____	\$ _____	\$ _____	_____ Weeks
<b>Mechanical Components</b>	[List mechanical parts]	_____	\$ _____	\$ _____	_____ Weeks
<b>Installation Labor</b>	[Estimated labor hours]	_____	\$ _____	\$ _____	N/A
<b>Site Preparation</b>	[Excavation, foundation, etc.]	_____	\$ _____	\$ _____	N/A
<b>Testing &amp; Commissioning</b>	[Performance evaluation]	_____	\$ _____	\$ _____	_____ Weeks
<b>Miscellaneous Costs (Please Provide Description)</b>		_____	\$ _____	\$ _____	_____
<b>Miscellaneous Costs (Please Provide Description)</b>		_____	\$ _____	\$ _____	_____
<b>Miscellaneous Costs (Please Provide Description)</b>		_____	\$ _____	\$ _____	_____
<b>Miscellaneous Costs (Please Provide Description)</b>		_____	\$ _____	\$ _____	_____
<b>TOTAL BASE PRICE:</b>				\$ _____	

**Labor Price Proposal**

Trade	Hourly Rate	Overtime Rate	Estimated Hours
General Labor	\$ _____	\$ _____	_____ Hours
Site Superintendent	\$ _____	\$ _____	_____ Hours
Concrete/Masonry	\$ _____	\$ _____	_____ Hours
Electrician	\$ _____	\$ _____	_____ Hours
Generator Technician	\$ _____	\$ _____	_____ Hours
Equipment Operator	\$ _____	\$ _____	_____ Hours
Landscape/Restoration	\$ _____	\$ _____	_____ Hours
Other (Specify): _____	\$ _____	\$ _____	_____ Hours
Other (Specify): _____	\$ _____	\$ _____	_____ Hours
Other (Specify): _____	\$ _____	\$ _____	_____ Hours
Other (Specify): _____	\$ _____	\$ _____	_____ Hours
<b>TOTAL LABOR PRICE:</b>		\$ _____	

**Warranty Options**

**Base Workmanship Warranty: 1 year (included)**

**Extended Workmanship Warranty:**

Quantity	Additional Cost
2 Years	\$ _____
3 Years	\$ _____
5 Years	\$ _____

**Manufacturer Warranty**

Item	Manufacturer	Warranty Period	Coverage Details
<b>Generator Unit</b>	_____ [Manufacturer Name]	____ YEARS	Covers defects in materials/workmanship
<b>Electrical Components</b>	_____ [Manufacturer Name]	____ YEARS	Covers key electrical failures
<b>Mechanical Components</b>	_____ [Manufacturer Name]	____ YEARS	Covers mechanical defects
<b>Other Components</b>	_____ [Manufacturer Name]	____ YEARS	[Specify coverage]

Please provide the total cost, including all applicable expenses necessary to fulfill the project requirements.	\$ _____
---	----------

Name of Firm:	PRICE TO BE QUOTED FOR TRINITY METRO
Mailing Address of Firm	Trinity Metro reserves the right to reject any and all bids for any reason deemed to be in the best interest of Trinity Metro. Trinity Metro reserves the right to accept or reject all or any part of a bid, to waive minor technicalities, and to award the bid to serve the interest of Trinity Metro best.
Signature:	
Date:	Telephone #:
Payment Terms:	Email Address:

**F17 – TRINITY METRO SAFETY, SECURITY AND EMERGENCY REQUIREMENTS**

The undersigned acknowledges and agrees to Trinity Metro's Safety, Security and Emergency Requirements as outlined in Section 9 of this Solicitation.

<i>Authorized Signature</i>	<i>Name of Company</i>
<i>Printed Name and Title</i>	<i>Date</i>

**F18 – BOND**

KNOW ALL PERSONS BY THESE PRESENTS, that \_\_\_\_\_ as Principal, and \_\_\_\_\_ as Surety, are held and firmly bound unto **The Fort Worth Transportation Authority**, hereinafter called "OWNER," in the sum of \$ \_\_\_\_\_ dollars, (not less than five percent of the total amount of the Proposal) for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, said Principal has submitted a Proposal to said OWNER to perform the WORK required under the Proposal Schedule of the OWNER's Contract Documents entitled

**Trinity Metro  
RFP # 25 – T040A Generators Project**

NOW THEREFORE, if said Principal is awarded a contract by said OWNER and, within the time and in the manner required in the "Notice Inviting Proposals" and the "Instructions to Proposers" enters into a written Agreement on the form of Agreement bound with said Contract Documents, furnishes the required certificates of insurance, and furnishes the required Performance Bond and Payment Bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect. In the event suit is brought upon this bond by said OWNER and OWNER prevails, said Surety shall pay all costs incurred by said OWNER in such suit, including a reasonable attorney's fee to be fixed by the court.

SIGNED AND SEALED, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(SEAL) \_\_\_\_\_ (SEAL) \_\_\_\_\_  
(Principal) (Surety)

By: \_\_\_\_\_ By: \_\_\_\_\_  
(Signature) (Signature)

### OFFER AND CONTRACT SIGNATURE FORM

The undersigned ("Proposer") hereby offers to furnish goods and/or services for the contract identified below in strict compliance with the terms, specifications, and conditions of the contract solicitation and, if applicable, any amendments or modifications thereto, all as described on the List of Solicitation Documents attached to and made a part of this document for all purposes (collectively, the "Solicitation Documents") at the prices set out in the undersigned's response to the Solicitation Documents, subject only to modifications, if any, expressly accepted on the Terms and Conditions Acceptance Form attached to and made a part of this document for all purposes.

If and when Trinity Metro executes this Offer and Contract Signature form, the Solicitation Documents, this Offer and Contract Signature Form, and the attachments hereto (the "Contract Documents") shall be a contract between the undersigned and Trinity Metro, on the terms set forth in the Contract Documents, effective as of the date executed by Trinity Metro (the "Effective Date").

This Contract may be terminated by either party with or without cause by providing thirty (30) days written notice to the other party to this Contract. Trinity Metro will not incur any penalties and fees other than for services performed prior to the effective termination date.

Contract No. \_\_\_\_\_ Initial Contract Term: \_\_\_\_\_ to \_\_\_\_\_

[THE BLANKS ABOVE MUST BE COMPLETED BY TRINITY METRO]

Proposer's Legal Name: \_\_\_\_\_

Point of Contact: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Email Address: \_\_\_\_\_

The person executing this document on behalf of Proposer represents and warrants that he or she has full power and authority enter into the Contract Documents on Proposer's behalf and bind Proposer to all of its obligations thereunder.

By: \_\_\_\_\_, authorized signatory

Print name: \_\_\_\_\_ Print title: \_\_\_\_\_

**FORT WORTH TRANSPORTATION AUTHORITY,  
dba TRINITY METRO**

By: \_\_\_\_\_ Effective Date: \_\_\_\_\_

Print name: \_\_\_\_\_ Print title: \_\_\_\_\_

## ATTACHMENT A

This Attachment A is attached to and forms a part of the Offer and Contract Signature form for Contract No. \_\_\_\_\_.

1. Proposal (the "Solicitation") issued by Fort Worth Transportation Authority, dba Trinity Metro, dated \_\_\_\_\_, 20\_\_\_\_\_.
2. [List all amendments, if any, to the Proposal, by name and date of issuance].

### TERMS AND CONDITIONS ACCEPTANCE FORM

\_\_\_\_\_ 's signature on the Offer & Contract

[INSERT BIDDER'S/PROPOSER'S LEGAL NAME IN THIS BLANK] Signature Form to which this Terms & Conditions Acceptance Form is attached certifies Proposer's complete acceptance of the terms and conditions of the Solicitation Documents, subject only to those Proposed Modifications listed below (and on attached additional pages, if any) **that have been accepted by Trinity Metro as signified by the initials of an authorized Trinity Metro signatory in the column headed "Accepted (For Trinity Metro's Use)".**

Proposed Modifications will not be accepted or effective without the express written approval of Trinity Metro in the "Accepted" column. All proposed modifications must be clearly explained, reference the Solicitation Documents provision(s) that Proposer proposes to modify and clearly state any proposed modified language and/or proposed additional terms, and a draft of the Solicitation Documents must be included that provisionally incorporates Proposer's proposed modifications, with proposed additions double-underlined and proposed deletions struck through.

Note: Unacceptable proposed modifications may remove Bidder's/Proposer's Proposal from consideration for award. Trinity Metro shall be the sole judge on the acceptance or rejection of proposed modifications, and its decision shall be final. If a Proposal is returned with proposed modifications that are not expressly accepted by Trinity Metro, the Solicitation Documents shall not be modified and the Contract Documents shall be binding without giving any force to the unaccepted modifications.

Check one of the following responses (if no response is checked or if no Proposed Modifications are listed, Bidder's/Proposer will be deemed to take no exceptions):

\_\_\_\_\_ Bidder/Proposer takes no exceptions to the RFP 25-T040A and Contract Documents.

\_\_\_\_\_ Bidder/Proposer proposes the following modifications to the Solicitation, as further specified in the draft proposed Contract Documents included herewith: (Feel Free to Add Additional Pages)

<b>Section/Page</b>	<b>Term, Condition, or Specification</b>	<b>Proposed Modification</b>	<b>Accepted (For Trinity Metro use only)</b>

## ATTACHMENT B – DAVIS – BACON WAGE DETERMINATION

"General Decision Number: TX20250026 01/03/2025

Superseded General Decision Number: TX20240026

State: Texas

Construction Type: Heavy

Counties: Johnson, Parker and Tarrant Counties in Texas.

Heavy Construction Projects (Including Water and Sewer Lines)

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(1).

<p>If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:</p>	<p>Executive Order 14026 generally applies to the contract. The contractor must pay all covered workers at least \$17.75 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2025.</p>
--	--

<p>If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:</p>	<p>Executive Order 13658 generally applies to the contract. The contractor must pay all covered workers at least \$13.30 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2025.</p>
--	---

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <http://www.dol.gov/whd/govcontracts>.

Modification Number    Publication Date  
 0                            01/03/2025

PLUM0146-002 01/01/2024

	Rates	Fringes
PLUMBER/PIPEFITTER.....	\$ 38.28	12.81

SUTX1990-041 06/01/1990

	Rates	Fringes
CARPENTER.....	\$ 10.40 **	\$3.64
Concrete Finisher.....	\$ 9.81 **	
ELECTRICIAN.....	\$ 13.26 **	
Form Setter.....	\$ 7.86 **	
Laborers:		
Common.....	\$ 7.25 **	
Utility.....	\$ 8.09 **	
PAINTER.....	\$ 10.89 **	
Pipelayer.....	\$ 8.43 **	
Power equipment operators:		
Backhoe.....	\$ 11.89 **	3.30
Bulldozer.....	\$ 10.76 **	
Crane.....	\$ 13.16 **	3.30
Front End Loader.....	\$ 10.54 **	
Mechanic.....	\$ 10.93 **	

Scrapper.....\$ 10.00 \*\*

Reinforcing Steel Setter.....\$ 10.64 \*\*

TRUCK DRIVER.....\$ 7.34 \*\*

-----  
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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\*\* Workers in this classification may be entitled to a higher minimum wage under Executive Order 14026 (\$17.75) or 13658 (\$13.30). Please see the Note at the top of the wage determination for more information. Please also note that the minimum wage requirements of Executive Order 14026 are not currently being enforced as to any contract or subcontract to which the states of Texas, Louisiana, or Mississippi, including their agencies, are a party.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (iii)).

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The body of each wage determination lists the classifications

and wage rates that have been found to be prevailing for the type(s) of construction and geographic area covered by the wage determination. The classifications are listed in alphabetical order under rate identifiers indicating whether the particular rate is a union rate (current union negotiated rate), a survey rate, a weighted union average rate, a state adopted rate, or a supplemental classification rate.

#### Union Rate Identifiers

A four-letter identifier beginning with characters other than ""SU"", ""UAVG"", ?SA?, or ?SC? denotes that a union rate was prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2024. PLUM is an identifier of the union whose collectively bargained rate prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2024 in the example, is the effective date of the most current negotiated rate.

Union prevailing wage rates are updated to reflect all changes over time that are reported to WHD in the rates in the collective bargaining agreement (CBA) governing the classification.

#### Union Average Rate Identifiers

The UAVG identifier indicates that no single rate prevailed for those classifications, but that 100% of the data reported for the classifications reflected union rates. EXAMPLE: UAVG-OH-0010 01/01/2024. UAVG indicates that the rate is a weighted union average rate. OH indicates the State of Ohio. The next number, 0010 in the example, is an internal number used in producing the wage determination. The date, 01/01/2024 in the example, indicates the date the wage determination was updated to reflect the most current union average rate.

A UAVG rate will be updated once a year, usually in January, to reflect a weighted average of the current rates in the collective bargaining agreements on which the rate is based.

#### Survey Rate Identifiers

The ""SU"" identifier indicates that either a single non-union rate prevailed (as defined in 29 CFR 1.2) for this classification in the survey or that the rate was derived by

computing a weighted average rate based on all the rates reported in the survey for that classification. As a weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SUFL2022-007 6/27/2024. SU indicates the rate is a single non-union prevailing rate or a weighted average of survey data for that classification. FL indicates the State of Florida. 2022 is the year of the survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 6/27/2024 in the example, indicates the survey completion date for the classifications and rates under that identifier.

?SU? wage rates typically remain in effect until a new survey is conducted. However, the Wage and Hour Division (WHD) has the discretion to update such rates under 29 CFR 1.6(c)(1).

#### State Adopted Rate Identifiers

The ""SA"" identifier indicates that the classifications and prevailing wage rates set by a state (or local) government were adopted under 29 C.F.R 1.3(g)-(h). Example: SAME2023-007 01/03/2024. SA reflects that the rates are state adopted. ME refers to the State of Maine. 2023 is the year during which the state completed the survey on which the listed classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. The date, 01/03/2024 in the example, reflects the date on which the classifications and rates under the ?SA? identifier took effect under state law in the state from which the rates were adopted.

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#### WAGE DETERMINATION APPEALS PROCESS

1) Has there been an initial decision in the matter? This can be:

- a) a survey underlying a wage determination
- b) an existing published wage determination
- c) an initial WHD letter setting forth a position on a wage determination matter
- d) an initial conformance (additional classification and rate) determination

On survey related matters, initial contact, including requests for summaries of surveys, should be directed to the WHD Branch of Wage Surveys. Requests can be submitted via email to

davisbaconinfo@dol.gov or by mail to:

Branch of Wage Surveys  
 Wage and Hour Division  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, DC 20210

Regarding any other wage determination matter such as conformance decisions, requests for initial decisions should be directed to the WHD Branch of Construction Wage Determinations. Requests can be submitted via email to BCWD-Office@dol.gov or by mail to:

Branch of Construction Wage Determinations  
 Wage and Hour Division  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, DC 20210

2) If an initial decision has been issued, then any interested party (those affected by the action) that disagrees with the decision can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Requests for review and reconsideration can be submitted via email to dba.reconsideration@dol.gov or by mail to:

Wage and Hour Administrator  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
 U.S. Department of Labor  
 200 Constitution Avenue, N.W.  
 Washington, DC 20210.

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END OF GENERAL DECISION"

# Davis-Bacon and Related Acts Weekly Certified Payroll Form

(For Contractor's Optional Use; See Instructions at [www.dol.gov/whd/forms/wh347instr.htm](http://www.dol.gov/whd/forms/wh347instr.htm))



Unless otherwise noted, the information requested is specific to the named project below.  
Persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Rev. January 2025  
OMB No.: 1235-0008  
Expires: 01/31/2028

SUBMISSION OF FINAL DBRA CERTIFIED PAYROLL FORM

PRIME CONTRACTOR

SUBCONTRACTOR

PROJECT NAME				PROJECT NO. or CONTRACT NO.			CERTIFIED PAYROLL NO.		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME													
PROJECT LOCATION				WAGE DETERMINATION NO.			WEEK ENDING DATE		PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS ADDRESS													
(1A)	(1B)	(1C)	(1D)	(1E)	(2)	(3)	(4)				(5)	(6A)	(6B)	(6C)	(7A)	(7B)	(8)			(9)		
WORKER ENTRY NO.	WORKER LAST NAME	WORKER FIRST NAME	WORKER MIDDLE INITIAL	WORKER IDENTIFYING NO.	(J) JOURNEYWORKER (RA) REGISTERED APPRENTICE	LABOR CLASSIFICATION	ST = STRAIGHT TIME OT = OVERTIME	(TOP) DAYS OF WORK WEEK (BOTTOM) DATES				TOTAL HOURS WORKED FOR WEEK	HOURLY WAGE RATE PAID FOR ST AND OT	TOTAL FRINGE BENEFIT CREDIT	PAYMENT IN LIEU OF FRINGE BENEFITS	GROSS AMT EARNED	GROSS AMT EARNED FOR ALL WORK	DEDUCTIONS FOR ALL WORK			NET PAY TO WORKER FOR ALL WORK	
								HOURS WORKED EACH DAY										TAX WITH-HOLDINGS	FICA	OTHER (MUST SPECIFY, SEE INSTRUCTIONS)		TOTAL DEDUCTIONS
							ST															
							OT															
							ST															
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While use of Form WH-347 itself is optional, covered contractors and subcontractors performing work on Federal or federally assisted construction contracts are required by the DBRA regulations and the contract clauses to submit payroll information on a weekly basis. The Copeland Act (40 U.S.C. § 3145) requires contractors and subcontractors performing work on Federal or federally financed construction contracts to, on a weekly basis, "furnish a statement on the wages paid each employee during the prior week." U.S. Department of Labor (DOL) Regulations at 29 C.F.R. § 5.5(a)(3)(ii) require contractors and subcontractors to submit weekly certified payrolls to the appropriate Federal agency if the agency is a party to the contract (or, if the agency is not such a party, to the applicant, sponsor, owner, or other entity, as the case may be, that maintains such records, for transmission to the Federal agency). Each certified payroll must be accompanied by a signed "Statement of Compliance" (e.g., page 2 of the WH-347 or another document with identical wording) indicating that the certified payrolls are accurate and complete, and that each laborer or mechanic has been paid not less than the required Davis-Bacon prevailing wage rate(s) (including any fringe benefits) for the work performed. DOL and contracting agencies receiving this information review the information to determine whether workers have received legally required wages and fringe benefits.

**Public Burden Statement**

We estimate that it will take an average of 55 minutes to complete this collection, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. If you have any comments regarding these estimates or any other aspect of this collection, including suggestions for reducing this burden, send them to the Administrator, Wage and Hour Division, U.S. Department of Labor, Room S3502, 200 Constitution Avenue, N.W. Washington, D.C. 20210 (over)

PROJECT NAME	PROJECT NO. or CONTRACT NO.	PAYROLL NO.	PRIME CONTRACTOR'S/SUBCONTRACTOR'S BUSINESS NAME
PROJECT LOCATION	WEEK ENDING DATE	CERTIFYING OFFICIAL'S NAME AND TITLE	

I paid or supervised the payment of the laborers or mechanics working on the above project during the stated time period. I certify the following:

- The payroll information submitted with this statement is correct and complete for the above project during the above period, and the wage and fringe benefit rates paid to the workers, including credit taken for the reasonably anticipated costs of a bona fide fringe benefit plan, fund or program, are not less than the applicable wage and fringe benefits rates for the classification(s) of work actually performed, as specified in the wage determination(s) incorporated into the contract.
- All regular payrolls and all other basic records that the contractor is required to maintain for this payroll period are complete and accurate and will be made available upon request from the agency or the Department of Labor.
- The classifications reported for each laborer or mechanic are the classification(s) of work that each worker actually performed.
- Any workers paid as apprentices during the above period are duly registered in a bona fide apprenticeship program registered with the Office of Apprenticeship, Employment and Training Administration, United States Department of Labor ("OA"), or a State Apprenticeship Agency ("SAA") recognized by Department of Labor. I have verified the registered apprenticeship program information provided below as accurate and applicable to any apprentices identified on page 1 of this form.

APPRENTICESHIP PROGRAM NAME	REGISTERED	NAME OF LABOR CLASSIFICATION
	<input type="checkbox"/> OA <input type="checkbox"/> SAA	
	<input type="checkbox"/> OA <input type="checkbox"/> SAA	
	<input type="checkbox"/> OA <input type="checkbox"/> SAA	

- Fringe benefits have been paid in cash and/or to bona fide fringe benefit plans, funds, or programs. Where the contractor is claiming an hourly credit for their contributions to or reasonably anticipated costs of a bona fide fringe benefit plan, fund, or program, provide plan information and the hourly credit claimed for each worker listed on the previous page of this form.

**HOURLY CREDIT FOR FRINGE BENEFITS**

*If an amount is listed in (6B) on the first page of this certified payroll form, enter the hourly credit claimed under each plan name, type and number for each worker and check whether the plan is funded or unfunded.*

NAME OF WORKER	FB NAME	FB NAME	FB NAME	FB NAME	FB NAME	FB NAME	FB NAME	FB NAME	FB NAME	FB NAME	TOTAL HOURLY CREDIT
	FB TYPE	FB TYPE	FB TYPE	FB TYPE	FB TYPE	FB TYPE	FB TYPE	FB TYPE	FB TYPE		
	PLAN NO.	PLAN NO.	PLAN NO.	PLAN NO.	PLAN NO.	PLAN NO.	PLAN NO.	PLAN NO.	PLAN NO.		
	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	<input type="checkbox"/> Funded <input type="checkbox"/> Unfunded	
	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	\$
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	\$
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	Hourly Credit	\$
	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$
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	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$	\$

- All workers on the project have been paid the full weekly wages earned, and no rebates or deductions have been or will be made either directly or indirectly, other than permissible deductions as defined in 29 CFR part 3.

ADDITIONAL REMARKS

SIGNATURE OF CERTIFYING OFFICIAL	DATE	TELEPHONE NUMBER	EMAIL ADDRESS
		(____) ____ - ____	

THE WILLFUL FALSIFICATION OF ANY OF THE ABOVE STATEMENTS MAY SUBJECT THE CONTRACTOR OR SUBCONTRACTOR TO CIVIL OR CRIMINAL PROSECUTION (SEE SECTION 1001 OF TITLE 18 AND SECTION 3729 OF TITLE 31 OF THE UNITED STATES CODE), AS WELL AS DEBARMENT FROM FUTURE FEDERAL AND FEDERALLY-ASSISTED CONTRACTS. INFORMATION REPORTED IN CERTIFIED PAYROLLS MAY BE SUBJECT TO DISCLOSURE IN RESPONSE TO A FREEDOM OF INFORMATION ACT REQUEST.