



This Invitation for Bid consists of these parts:

1. All Sections of the Invitation for Bid.
2. Bid Form (Attachment A).
3. Underground Storage Tank Spill Prevention Procedures (Attachment B).
4. Sample Contract (Attachment C).
5. Scope of Work (Exhibit 1 to Sample Contract).
6. Insurance Requirements (Exhibit 2 to Sample Contract).
7. Schedule of Deliveries for Ultra Low Sulfur Diesel Fuel (Exhibit 3 to Sample Contract).
8. Federal Transit Administration (FTA) Requirements, Conditions, and Certifications (Exhibit 4 to Sample Contract).
9. Disadvantage Business Enterprise (DBE) Certification (Exhibit 5 to Sample Contract).
10. Debarment and Suspension Certification (Exhibit 6 to Sample Contract).
11. Lobbying Certification (Exhibit 7 to Sample Contract).
12. FTA Master Grant Agreement (United States of America Department of Transportation Federal Transit Administration Master Agreement) which is incorporated in this IFB and can be found at [www.valleymetro.com](http://www.valleymetro.com) or <http://www.fta.dot.gov/documents/16-Master.pdf>.

**END OF PAGE.**

**GREATER ROANOKE TRANSIT COMPANY (d/b/a VALLEY METRO)  
INVITATION FOR BID (IFB) #19-GRTC-0122 FOR  
ULTRA LOW SULFUR DIESEL FUEL**

**SECTION 1. PURPOSE.**

Greater Roanoke Transit Company (GRTC) is seeking the procurement from one (1) entity of Ultra Low Sulfur Diesel (ULSD) with zero biodiesel on a guaranteed fixed differential price. Such guaranteed fixed differential price for ULSD will be added to the NYMEX New York Harbor Heating Oil Futures per Gallon. Such ULSD fuel shall be delivered to the GRTC facility located at 1108 Campbell Avenue, SE, Roanoke, Virginia. The GRTC facility has two 12,000 gallon below ground storage tanks at that location.

GRTC invites any qualified Bidder to respond to this IFB by submitting a Bid for such work, service, and/or items consistent with the terms and conditions herein set forth.

**SECTION 2. BACKGROUND.**

GRTC has a fleet of 50 diesel vehicles which includes 7 commuter coaches, 4 trolleys, 3 pick-ups and 37 fixed route buses. GRTC's vehicles transport passengers from Blacksburg, Salem, Vinton, and the City of Roanoke. The fuel consumption for GRTC is estimated at 430,000 gallons of fuel used each fiscal year.

**SECTION 3. DESCRIPTION OF SERVICES AND/OR ITEMS REQUIRED.**

A description and/or listing of the services and/or items that the Successful Bidder(s) will be required to provide to GRTC under this IFB are those that are set forth below, and/or referred to on any way in the IFB, Sample Contract, purchase order, any terms and conditions, and/or any attachments referred to in this IFB. Each Bidder shall carefully read and review all such documents.

- A. The Successful Bidder shall be required to supply Greater Roanoke Transit Company with Ultra Low Sulfur Diesel Fuel (ULSD or ULS Diesel) with zero biodiesel. The following shall apply to all such diesel fuel:
1. ULSD or ULS Diesel must be a general purpose, middle distillate fuel for diesel engines requiring low emission, ULS diesel fuel. The diesel fuel shall have a maximum sulfur content of 15 parts per million (ppm), a maximum aromatic hydrocarbons content of 10%, and a minimum cetane number of 40. Sulfur content of 0.5% or less. The diesel fuel furnished must comply with all applicable ANSI, ASTM, EPA, Fuel Authority, OSHA, health, local, state, and federal rules, regulations, specifications, codes and requirements. Diesel fuel supplied must be free from contamination. At any time during the full term of the resultant Contract, GRTC reserves the right to modify the Contract to allow for knowledge, and advancements and or any Federal and/or State changes to the specifications, requirements, and/or regulations specified.
  2. Estimated monthly volume is 35,833 gallons; 430,000 gallons for twelve (12) months.

3. Deliveries shall be made in 7,500 gallon transport tankers for GRTC. At GRTC's discretion one delivery during the term of any resultant Contract shall be 15,000 gallons.
  4. Delivery for GRTC is 1108 Campbell Ave. SE., Roanoke, VA.
  5. The location has two 12,000 gallon underground storage tanks (USTs) for the ULSD fuel and each delivery shall be distributed evenly to both.
- B. The Successful Bidder shall guarantee proper delivery of the ULSD fuel to GRTC in the final quantities set forth in any resultant Contract, at the **guaranteed fixed differential price(s)** set forth in such Contract, and at the times set forth in the Schedule of Deliveries set forth in such Contract. If Successful Bidder fails to comply with any of these GRTC may obtain such fuels from other sources and such Bidder shall be responsible to GRTC for any increased amounts and other costs GRTC pays for such fuels.
- C. Any resulting Contract, if there is one, will be awarded to the Successful Bidder for GRTC's respective commodity with the lowest responsive and responsible **guaranteed fixed differential price**, which term is defined as the amount the Successful Bidder will charge GRTC per gallon for items such as freight, margin, federal L.U.S.T fee, oil spill fee, Virginia tank storage fund, and any and all fees and costs associated with delivering ULSD fuel to GRTC's designated location. Such respective **guaranteed fixed differential price(s)** will be added to the respective NYMEX price for the New York Harbor Heating Oil Futures per gallon in order to arrive at the total price per gallon for ULSD fuel that GRTC will be charged for the term of any resultant Contract. The respective price per gallon will be determined as of a date selected by GRTC within 30 days after the date of any bid award. GRTC will select NYMEX New York Harbor Heating Oil Futures price per gallon during that time period and notify the Successful Bidder of the date and price per gallon selected by GRTC and the approximate amount of gallons of ULSD fuel GRTC will require for the term of any resultant Contract. The Successful Bidder shall be responsible for locking in (proper procurement of) the NYMEX New York Harbor Heating Oil Futures price per gallon for the term and approximate amount of gallons of any resultant Contract. The fuel price per gallon for the Contract period shall then be the sum of the awarded **guaranteed fixed differential price** per gallon added to GRTC's selected NYMEX price for the New York Harbor Heating Oil Futures price per gallon for the respective commodity and that total will be the total amount per gallon that the Successful Bidder will be able to charge to and receive from GRTC for the sale and delivery to GRTC for the amount of ULSD fuel that GRTC will require during the term of any resultant Contract. Such final amount is sometimes referred to as the guaranteed fixed price forward value(s). The final amount of gallons of ULSD fuel to be provided to GRTC will be determined between GRTC and the Successful Bidder when developing a mutually agreed upon Schedule of Deliveries for the respective commodity.
- D. GRTC reserves the right to test the fuel quality before, during, and after unloading. If the fuel fails to meet or exceed specifications and/or is contaminated, the fuel will be rejected and the Successful Bidder shall be responsible for all costs associated with removal of the fuel and must replace it within one working day after a replacement request is made, or such other time period as specified by GRTC. If not, GRTC may obtain replacement fuel and such Bidder shall be responsible to GRTC for all costs related to such matters.

- E. Quantities. All quantities listed herein are ESTIMATES ONLY and final guaranteed quantities will be determined between GRTC and the Successful Bidder when developing a mutually agreed upon Schedule of Deliveries. GRTC shall be a priority customer of the Successful Bidder and be entitled to receive GRTC's fuel on a priority basis.
- F. All deliveries shall be Transport Delivery by Tank Trucks of 7,500 gallons for ULSD fuel. At GRTC's discretion one delivery during the term of any resultant Contract shall be 15,000 gallons.
- G. Environmental Management. The Successful Bidder shall be responsible for complying with all federal, state, and local environmental regulations relating to transportation, handling, storage, spillage and any other aspect of providing the services and fuels referred to in this IFB.
- H. The Successful Bidder shall provide GRTC, prior to execution of any resultant Contract, with such Bidder's spill prevention and response procedures.
- I. The Successful Bidder shall notify GRTC of any concerns or problems identified at the delivery site within 24 hours of delivery of the fuel.
- J. GRTC is exempt from federal and state motor fuel and excise tax. Tax Exempt documentation will be made available to the Successful Bidder. The fuels obtained pursuant to the IFB will be sold and delivered to a tax exempt entity for use by such entity in accordance with the provisions of the Virginia Code regarding fuel taxes.
- K. Successful Bidder shall comply with GRTC's Spill Prevention Procedures, which are made a part hereof and incorporated herein by reference. A copy of such Spill Prevention Procedures is attached to this IFB as Attachment B.
- L. Each Bidder may be requested to provide to GRTC, and will do so within five (5) days of such request, the MSDS for each fuel to be provided to GRTC.

#### **SECTION 4. TERM OF CONTRACT OR TIME OF PERFORMANCE.**

The Successful Bidder(s) shall start the performance of any resultant Contract as of July 1, 2019, and fully and completely perform the Contract for the period of twelve (12) consecutive months, July 1, 2019, through June 30, 2020, all in accordance with the Contract provisions.

#### **SECTION 5. PAYMENT FOR SERVICES.**

Payment(s) to the Successful Bidder(s) shall be made in accordance with the provisions of the resultant Contract, subject to final approval by GRTC's General Manager.

#### **SECTION 6. GENERAL INSTRUCTIONS TO BIDDERS.**

- A. Each sealed bid must be received by GRTC by delivery to Greater Roanoke Transit Company, ATTN: Tyler Linkenhoker, Director of Procurement, 1108 Campbell Avenue, SE, Roanoke, VA 24013, at or before 2:00 P.M., local time, on February 26, 2019, at which time all Bids received will be publicly opened and read. Bids received after 2:00 p.m. will not be accepted or considered. The time of receipt shall be determined by the time clock stamp in the Administration Office, or if it is not servicing, such time shall be determined by the GRTC official who is to open the Bids. The IFB and related documents may be

obtained during normal business hours from GRTC's Director of Procurement at (540) 982-0305, Ext. 116, or from the GRTC web site at [www.valleymetro.com](http://www.valleymetro.com). The sealed envelope shall be clearly marked on the front of that envelope with the notation and completed information as follow:

**“Sealed Bid Number: 19-GRTC-0122  
ULTRA LOW SULFUR DIESEL FUEL  
Opening Date & Time: February 26, 2019 at 2:00 P.M.”**

**FAXED OR E-MAILED BIDS ARE NOT ACCEPTABLE.**

- B. **If you download this IFB from the GRTC website and intend to submit a Bid, you should notify GRTC's Director of Procurement that you have done so. However, each Bidder is solely responsible for ensuring that such bidder has the current, complete version of the IFB documents, including any addenda, before submitting a bid. GRTC is not responsible for any IFB obtained from any source other than GRTC. Contact GRTC's Director of Procurement by phone at (540) 982-0305, Ext. 116, by fax at (540) 982-2703, or by e-mail at [tlinkenhoker@valleymetro.com](mailto:tlinkenhoker@valleymetro.com).**
- C. Payment terms and delivery date(s) must be shown on the submitted Bid, if applicable.
- D. All Bids are to be submitted in accordance with all terms, conditions, rules, regulations, requirements and specifications identified in and by this IFB.
- E. Bids are to be on the Form(s) as provided with or as otherwise specified in this IFB. If a Bid form is provided, no changes are to be made to the Bid Form. Any changes to Bid amounts must be initialed.
- F. All Bids shall be signed by a person on behalf of the responding Bidder who is appropriately authorized to do so. The printed name of that authorized person should be shown as well. Any Bid submitted should be in the complete legal name of the Bidder, as listed by the State Corporation Commission. No Bid will be considered from any Bidder(s) not properly licensed as may be required by law.
- G. Bids that have been appropriately opened cannot be changed, adjusted, corrected or modified in any way other than complete withdrawal. GRTC's procedures for withdrawal of bids (whether construction or other than construction) is that set forth in §§2.2-4330(A) and (B)(1), Code of Virginia (1950), as amended which allows withdrawal of a Bid due to an error such as an unintentional arithmetic error or an unintentional omission of a quantity of service, labor or material made directly in the compilation of a Bid, which unintentional arithmetic error or unintentional omission can be clearly shown by objective evidence drawn from inspection of original service papers, documents and materials used in the preparation of the Bid. Withdrawal must be requested within two days of the Bid opening by delivering to GRTC original service papers, documents, and materials used in preparation of the Bid. Withdrawal must be requested within two (2) days of the Bid opening by delivering to GRTC the original work papers, documents, and materials used in preparation for the Bid. No Bid may be withdrawn within a period of sixty (60) days after Bid opening except for clerical errors, as set forth above.
- H. All Bids, appropriately received, will be evaluated by considering the requirements set forth in the IFB, the quality, workmanship, economy of operation, suitability for intended

purpose, delivery, payment terms and price of product or service being requested in this Bid.

- I. Bids are to be submitted on the type, brand, make, and/or kind of product and/or services requested or its approved equal, to be solely determined by GRTC, unless otherwise specified. Should a Bid be for a product and/or service as an equal, the name, make, model and type of that which is being Bid must be clearly stated. The Bid must also be accompanied by descriptive literature of the product or service bid to allow for evaluation. Failure to provide this information may result in the Bid being considered non-responsive and may not be considered.
- J. If an award is made for the item(s) and services requested, a notice of award will be made which will be posted to a file in the GRTC's Purchasing Department, telephone (540) 982-0305 Ext.116, and notification of such award will be made available for Public review in the GRTC Administrative Office, 1st Floor Lobby at 1108 Campbell Avenue, SE, Roanoke, VA 24013. A Contract, if awarded to the Successful Bidder(s), will be issued and sent to the address shown on such Bidder's Bid response. If the remittance address is other than the address on the Bid, it must be clearly noted and explained in the Bid.
- K. All items identified in this IFB are to be quoted and provided **F.O.B. DESTINATION – INSIDE DELIVERY**, unless otherwise stated in this IFB.
- L. GRTC reserves the right to cancel this IFB or reject any or all Bids, to waive any informalities in any Bid, and to purchase any whole or part of the items and/ or services listed in the IFB.
- M. Bidder shall notify in writing GRTC's Director of Procurement if any of Bidder's owners, officers, employees, or agents, or their immediate family members, is currently or has been in the past year, an employee of the City of Roanoke, GRTC, First Transit, or Southwestern Virginia Transit Management Company (SVTMC) or has any responsibility or authority with the City or GRTC that might affect the procurement transaction or any claim resulting there from. If so, please provide GRTC's Director of Procurement with the complete name and address of each such person and their connection to the City of Roanoke and/or GRTC. Each Bidder is advised that the Ethics in Public Contracting and Conflicts of Interests Act of the Code of Virginia, as set forth in this IFB, apply to this IFB. Such information should be provided in writing before the Bid opening date or may also be provided with the Bid response.
- N. Each Bidder shall have all licenses and approvals as may be required by local, state, and federal laws and regulations, and provide proof to GRTC of such compliance prior to any execution of any resultant contract.
- O. **Bid Submittals SHALL include:**
  - 1. Page 1, Invitation for Bid, signed by the Bidder.
  - 2. GRTC Bid Form, signed by the Bidder (Attachment A).
  - 3. DBE Certification (Exhibit 5 to Sample Contract).
  - 4. Debarment and Suspension Certification (Exhibit 6 to Sample Contract).
  - 5. Lobbying Certification (Exhibit 7 to Sample Contract).

Failure to do so may result in the Bid being determined as non-responsive.

Questions or concerns may be addressed by contacting the GRTC's Director of Procurement at (540) 982-0305 Ext. 116, by email at [tlinkenhoker@valleymetro.com](mailto:tlinkenhoker@valleymetro.com) or reply to:

Greater Roanoke Transit Company  
ATTN: Tyler Linkenhoker, Director of Procurement  
1108 Campbell Avenue, SE  
Roanoke, VA 24013

- P. Ethics in Public Contracting. The provisions, requirements, and prohibitions as contained in Sections 2.2-4367 through 2.2-4377, of the Virginia Code, pertaining to bidders, offerors, contractors, and subcontractors are applicable to this IFB.
- Q. Conflict of Interests Act. The provisions, requirements, and prohibitions as contained in Sections 2.2-3100, et seq., of the Virginia Code are applicable to this IFB.
- R. The procurement provisions of the Code of the City of Roanoke (1979), as amended, Sections 23.2-1, et seq., as well as the applicable Federal Transit Administration and VDRPT regulations apply to this IFB, unless specifically modified herein.
- S. GRTC may request additional information, clarification, or presentations from any of the Bidders after review of the Bids received.
- T. GRTC is not liable for any costs incurred by any Bidder in connection with this IFB or an response by any Bidder to this IFB. The expenses incurred by a Bidder in the preparation, submission, and presentation of the Bid are the sole responsibility of the Bidder and may not be charged to GRTC.
- U. General and/or technical questions regarding the Scope of Work, items required, and/or procurement questions under this IFB may be directed to Tyler Linkenhoker, Director of Procurement, via e-mail at [tlinkenhoker@valleymetro.com](mailto:tlinkenhoker@valleymetro.com), or faxed to (540) 982-2703.
- V. Each Bidder is required to state if it has ever been debarred by any federal, state, or local government. If so, please give the details of each such matter and include this information with Bidder's response.
- W. When entering into any delivery site to make deliveries or perform work, the Successful Bidder(s) shall be liable for any damages to GRTC's property at the delivery site or injury to any persons or entities caused by the acts or omissions of such Bidder or of its employees, agents, or subcontractors.
- X. The Successful Bidder shall be responsible for prompt, thorough, and proper cleanup of all spillage, per EPA and DEQ specifications, such Bidder's spill plan, and GRTC's spill plan.
- Y. Each Bidder who is a stock or non-stock corporation, limited liability company, business trust, or a limited partnership or other business entity, other than an individual, shall be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity if required by law. Each such Bidder shall include in its bid response the



Identification Number issued to it by the Virginia State Corporation Commission (SCC) and shall list its business entity name as it is listed with the SCC. Any Bidder that is not required to be authorized to transact business in the Commonwealth as a domestic or foreign business entity as required by law shall include in its bid response a statement describing why the Bidder is not required to be so authorized. (See Va. Code Section 2.2-4311.2).

- Z. Any interpretation, correction, or change of the IFB will be made by an addendum. Interpretations, corrections or changes of this IFB made in any other manner will not be binding and Bidders must not rely on such interpretations, corrections, or changes. GRTC's Director of Procurement will issue Addenda. **However, each Bidder is solely responsible for ensuring that such Bidder has the current complete version of the bid documents prepared for this matter, including any addenda issued by GRTC, and that each Bidder has read and reviewed all such bid documents, including any such addenda, before submitting a bid.**
- AA. Any explanation requested by a Bidder regarding the meaning or interpretation of any part of the IFB must be requested in writing and received by GRTC's Director of Procurement in sufficient time to allow review and issuance of a written response which shall be in the form of an addendum. There will be no oral explanation or instruction given. No technical assistance or aid will be given by GRTC in the preparation of your bid. **No requests for explanation will be accepted after 12:00 p.m. on February 19, 2019.**

All inquiries should be addressed to:

Tyler Linkenhoker, Director of Procurement  
Greater Roanoke Transit Company  
P.O. Box 13247  
Roanoke, VA 24032  
Telephone No. : 540-982-0305, Extension 116  
E-mail address: [tlinkenhoker@valleymetro.com](mailto:tlinkenhoker@valleymetro.com)

- BB. Each Bidder is advised that authorized representatives of GRTC, as well as any federal, state, or local funding agencies, if applicable, shall be permitted to inspect and/or audit all data and records, documents, and other information, including electronic data, of each Bidder relating to its bid, as well as all such items of the Successful Bidder under any resultant Contract.

## **SECTION 7. MISCELLANEOUS.**

- A. Ownership of all data, materials, and documentation originated and prepared for GRTC pursuant to the IFB shall belong exclusively to GRTC and be subject to public inspection in accordance with the *Virginia Freedom of Information Act*. The trade secrets or proprietary information submitted by the Bidder shall not be subject to public disclosure under the *Freedom of Information Act*, unless otherwise required by law or a court. **However, the Bidder must invoke the protection of Section 2.2-4342(F) of the Code of Virginia, in writing, either before or at the time the data or other material is submitted.** The written notice must SPECIFICALLY identify the data or materials to be protected and state the reason why protection is necessary. The proprietary or trade secret material submitted must be identified by some distinct method such as highlighting or underlining and must indicate only the specific words, figures, or paragraphs that

constitute trade secret or proprietary information. The classification of an entire proposal document, line item prices, and/or total proposal prices as proprietary, or trade secrets, is NOT ACCEPTABLE and may result in REJECTION of the Bid.

- B. No Bidder shall confer on any public employee having official responsibility for a purchasing transaction any payment, loan, subscription, advance, deposit or money, service, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.
- C. GRTC may make investigations to determine the ability of the Bidder to perform the service and/or provide the services and/or items as described in this IFB. GRTC reserves the right to reject any Bid if the Bidder fails to satisfy GRTC that it is qualified to carry out the obligations and requirements requested in this IFB.
- D. The Successful Bidder must comply with the nondiscrimination provisions of Virginia Code Section 2.2-4311, which provides the following:
  - 1. The Successful Bidder will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the contractor. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - 2. The Successful Bidder, in all solicitations or advertisements for employees placed by or on behalf of the Successful Bidder, will state that such contractor is an equal opportunity employer.
  - 3. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of Virginia Code Section 2.2-4311.
  - 4. The Successful Bidder will include the above provisions in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- E. The Successful Bidder must comply with the drug-free service place provisions of Virginia Code Section 2.2-4312, which provides the following:
  - 1. During the performance of this contract, the Successful Bidder agrees to (i) provide a drug-free workplace for the contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Successful Bidder that the Successful Bidder maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

2. For the purposes of Virginia Code Section 2.2-4312, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with this chapter, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.
- F. It is the policy of GRTC to maximize participation by minority and women owned and small business enterprises in all aspects of GRTC contracting opportunities.
- G. The Successful Bidder(s) shall comply with all applicable City, State, and Federal laws, codes, provisions, clauses, certifications, and regulations. The Successful Bidder(s) shall not during the performance of any resultant Contract knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
- H. Providers of any outside services and/or items shall be subject to the same conditions and requirements as the Successful Bidder(s) in regards to law, code, or regulation compliance. GRTC reserves the right of approval for any subcontract service, including the costs thereof.

#### **SECTION 8. EVALUATION FOR LOWEST RESPONSIVE AND RESPONSIBLE BIDDER.**

To determine the lowest responsive and responsible Bidder with respect to this Bid, the following factors will be evaluated.

- A. The **guaranteed fixed differential price** amount of the Bidder's response as set forth on the respective Bid form will be considered.
- B. The specified terms and discounts, if any, of the Bid;
- C. The ability, capacity and skill of the Bidder to perform the Contract and/or provide the services and/or items required;
- D. Whether the Bidder can perform the Contract and/or perform the services and/or provide the items promptly, or within the time specified, without delay or interference;
- E. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder;
- F. The quality of performance on previous Contracts or services;
- G. The previous and existing compliance by the Bidder with laws and ordinances relating to other Contracts, purchase orders, items, and/or services provided by Bidder in other matters;
- H. The equipment and facilities available to the Bidder to perform the Contract and/or provide the services and/or items requested in the IFB;
- I. The sufficiency of the financial resources and ability of the Bidder to perform the Contract and/or provide the services and/or items requested in the IFB;
- J. The quality, availability, and adaptability of the supplies, materials, equipment, and/or services the Bidder can provide for the particular use and/or work requested in the IFB; or
- K. Identification of the facilities and equipment to be utilized, including sources of the products, terminals, and the available delivery schedule.

## **SECTION 9. CONTRACTOR'S AND SUBCONTRACTOR'S INSURANCE.**

Successful Bidder(s), and any of its subcontractors, shall, at its sole expense, obtain and maintain during the life of the resulting Contract the insurance policies and/or bonds required. Any required insurance policies and/or bonds shall be effective prior to the beginning of any service or other performance by Successful Bidder(s), or any of its subcontractors, under any resultant Contract. The policies and coverages required are those as may be referred to in the sample contract and/or the terms and conditions attached to this IFB, but shall include workers' compensation coverage regardless of the number of employees, unless otherwise approved by GRTC's General Manager.

## **SECTION 10. NEGOTIATIONS WITH LOWEST RESPONSIVE AND RESPONSIBLE BIDDER.**

NOT USED.

## **SECTION 11. BID AWARD.**

If an award is made, it will be made to the lowest responsive and responsible Bidder(s) and notice of the award or the intent to award will be made by posting a notice of such award or announcement in the in the GRTC Administrative Office, 2<sup>nd</sup> floor lobby located at 1108 Campbell Avenue, SE, Roanoke, VA 24013.

## **SECTION 12. FAITH BASED ORGANIZATIONS.**

Pursuant to Virginia Code Section 2.2-4343.1, be advised that GRTC does not discriminate against faith-based organizations.

## **SECTION 13. HOLD HARMLESS AND INDEMNITY.**

Successful Bidder(s) shall indemnify and hold harmless GRTC, First Transit, Inc., Southwestern Virginia Transit Management Company (SVTMC) Inc., City of Roanoke and their officers, agents, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, costs, and expenses, including reasonable attorney's fees, resulting from or arising out of Successful Bidder's or its employees, agents, or subcontractors actions, activities, or omissions, negligent or otherwise, on or near GRTC's property or any property or location where any of the service under the Contract is to be done, or arising in any way out of or resulting from any of the service or items to be provided under the Contract, and this includes, without limitation, any fines or penalties, violations of federal, state, or local laws or regulations, personal injury, wrongful death, or property damage claims or suits. Successful Bidder(s) agrees to and shall protect, indemnify, and hold harmless all the parties referred to above from any and all demands for fees, claims, suits, actions, causes of action, settlement or judgments based on the alleged or actual infringement or violation of any copyright, trademark, patent, invention, article, arrangement, or other apparatus that may be used in the performance of the Contract.

## **SECTION 14. PROTESTS.**

A. Any Bidder who wishes to protest or object to any award made or other decisions Pursuant to this IFB may do so only in accordance with this Section 13, which includes the provisions of Sections 2.2-4357, 4358, 4359, 4360, 4363, and 4364 of the Code of Virginia, and only if such is provided for in such Code section. Any such protest or objection must be in writing and signed by a representative of the entity making the protest or objection and contain information

required by the applicable Code sections set forth above. Such writing must be delivered to the GRTC General Manager within the required time period.

B. Further each Bidder will be required to adhere to the following procedures as prescribed by GRTC's Protest Procedures:

1. General - Protests may be made by prospective bidders or proposers whose direct economic interest would be affected by award of a contract or by failure to award a contract. GRTC will consider all protests requested in a timely manner regarding the award of a contract, whether submitted before or after an award. All protests are to be submitted in writing to: Greater Roanoke Transit Company, 1108 Campbell Avenue SE, Roanoke, VA 24013. Protest submissions should be concise, logically arranged, and clearly state the grounds for protest. A protest must include at least the following information:
  - (a) name, address, and telephone number of protestor,
  - (b) identification of contract solicitation number,
  - (c) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents and,
  - (d) a statement as to what relief is requested.

Protests must be submitted to GRTC in accordance with these procedures and time requirements, must be complete and contain all issues that the protestor believes relevant.

In the procedures outlined below, the General Manager is considered to be the Contracting Officer.

2. Protests Before Bid Opening - Bid protests alleging restrictive specifications or improprieties which are apparent prior to bid opening or receipt of proposals must be submitted in writing to the Contracting Officer at the address above and must be received at least seven (7) days prior to bid opening or closing date for receipt of bids or proposals. If the written protest is not received by the time specified, bids or proposals may be received and award made in the normal manner unless the Contracting Officer determines that remedial action is required. Oral protests not followed up by a written protest will be disregarded. The Contracting Officer may request additional information from the appealing party and information or response from other bidders, which shall be submitted to the Contracting Officer not less than ten (10) days after the date of GRTC's request. So far as practicable, appeals will be decided based on the written appeal, information and written response submitted by the appealing party and other bidders. In failure of any party to timely respond to a request for information, it may be deemed by GRTC that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response, and in such a case, the protest will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent evaluation deemed appropriate by GRTC, the Contracting Officer shall either (a) render a decision, or (b) at the sole election of the Contracting Officer, conduct an informal hearing at which the interested parties will be afforded opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the

informal hearing, which will not be subject to formal rules of evidence or procedures. Following the informal hearing, if one is held, the Contracting Officer will render a decision, which shall be final, and notify all interested parties thereof in writing but no later than ten (10) days from the date of informal hearing.

3. Protests After Bid Opening/Prior to Award - Bid protests against the making of an award by the GRTC must be submitted in writing to the Contracting Officer and received within seven (7) days of the award by the GRTC. Notice of the protest and the basis therefore will be given to all bidders or proposers. In addition, when a protest against the making of an award by the GRTC is received and it is determined to withhold the award pending disposition of the protest, the bidders or proposers whose bids or proposals might become eligible for award shall be requested, before expiration of the time for acceptance, to extend or to withdraw the bid. Where a written protest against the making of an award is received in the time period specified, award will not be made prior to seven (7) days after resolution of the protest unless GRTC determines that:
  - (a) the items to be purchased are urgently required
  - (b) delivery or performance will be unduly delayed by failure to make award promptly, or
  - (c) failure to make award will otherwise cause undue harm to GRTC or the federal government.
  
4. Protests After Award - In instances where the award has been made, the Contractor shall be furnished with the notice of protest and the basis therefore. If the contractor has not executed the contract as of the date the protest is received by GRTC, the execution of the contract will not be made prior to seven (7) days after resolution of the protest unless GRTC determines that:
  - (a) the items to be purchased are urgently required
  - (b) delivery or performance will be unduly delayed by failure to make award promptly, or
  - (c) failure to make award will otherwise cause undue harm to GRTC or the federal government.
  
5. Protests to Federal Transit Administration (FTA) - Under certain limited circumstances, an interested party may protest to the FTA the award of a contract pursuant to an FTA grant. FTA's review of any such protest will be limited to:
  - (a) alleged failure by GRTC to have written protest procedures or alleged failure to follow such procedures, or
  - (b) alleged violations of specific federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that federal regulation.

Protestors shall file a protest with FTA not later than five (5) working days after a final decision of GRTC's Contracting Officer is rendered under the GRTC protest procedure. In instances where the protestor alleges that GRTC failed to make a final determination on the protest, the protestor shall file a complaint with FTA no

later than five (5) federal working days after the protestor knew or should have known of GRTC's failure to render a final determination in the protest.

6. Submission of Protest to FTA - Protests submitted to FTA should be submitted to the FTA Region III Office in Philadelphia, Pennsylvania with a concurrent copy to GRTC. The protest filed with FTA shall:

- (a) include the name and address of the protestor;
- (b) identify the GRTC project number and the number of the contract solicitation;
- (c) contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow GRTC's protest procedures, or the alleged failure to have procedures, and be fully supported to the extent possible; and
- (d) include a copy of the local protest filed with GRTC and a copy of the GRTC decision, if any.

7. The Recipient's (to mean GRTC hereafter) Role and Responsibilities. The Common Grant Rules charges the GRTC with the initial responsibility to resolve protests of third party contract awards.

8. Responsibilities to FTA. The recipient's minimum responsibilities to FTA consist of the following:

- (a) Notify FTA Expeditiously. The Common Grant Rule for governmental recipients requires a governmental recipient to notify FTA when it receives a third party contract protest to which this circular applies, and to keep FTA informed about the status of the protest. A non-governmental recipient involved in a protest is similarly expected to notify FTA when it receives a third party contract protest to which the circular applies, and to similarly keep FTA informed about the status of the protest. The recipient is expected to provide the following information:

- 1. Subjects. A list of protests involving third party contracts and potential third party contracts that:

- a. Have a value exceeding \$100,000, or
- b. Involve a controversial matter, irrespective of amount, or
- c. Involve a highly publicized matter, irrespective of amount.

- 2. Details. The following information about each protest:

- a. A brief description of the protest,
- b. The basis of disagreement, and
- c. If open, how far the protest has proceeded, or
- d. If resolved, the agreement or decision reached, and
- e. Whether an appeal has been taken or is likely to be taken.

3. When and Where. The recipient should provide this information:
  - a. In its next quarterly Milestone Progress Report, and
  - b. At its next Project Management Oversight review, if any.Small recipients may report less frequently if no protest are outstanding.
  - (b) FTA Officials to Notify. When a recipient denies a bid protest, and especially if an appeal to FTA is likely to occur, FTA expects the recipient to inform the FTA Regional Administrator for the region administering a regional project, or the FTA Associate Administrator for the program office administering a headquarters project directly. FTA also encourages the recipient to keep its FTA project manager informed about protests with which it is involved. In particular, the recipient should contact its project manager about any unusual activity.
  - (c) Access to Information. FTA expects the recipient to disclose information about any third party procurement protest to FTA upon request. FTA reserves the right to require the recipient to provide copies of a particular protest or all protests, and any or all related supporting documents as FTA may determine necessary.
9. FTA's Role and Responsibilities. FTA has developed an appeals process for reviewing protests of a recipient's procurement decisions.
10. Requirements for the Protester. The protester must:
  - (a) Qualify as an "Interested Party." Only an "interested party" qualifies for FTA review of its appeal. An "interested party" is a party that is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the third party contract at issue.
    1. Subcontractors. A subcontractor does not qualify as an "interested party" because it does not have a direct economic interest in the results of the procurement.
    2. Consortia/Joint Ventures/Partnerships/Teams. An established consortium, joint venture, partnership, or team that is an actual bidder or offeror and is acting in its entirety, would qualify as an "interested party" because it has a direct economic interest in the results of the procurement. An individual member of a consortium, joint venture, partnership, or team, acting solely in its individual capacity, does not qualify as an "interested party" because it does not have a direct economic interest in the results of the procurement.
    3. Associations or Organizations. An association or organization that does not perform contracts does not qualify as an "interested party," because it does not have a direct economic interest in the results of the procurement.



- (b) Exhaust Administrative Remedies. The protester must exhaust its administrative remedies by pursuing the recipient's protest procedures to completion before appealing the recipient's decision to FTA. A
  - (c) Appeal Within Five Days. The protester must deliver its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has received actual or constructive notice of the recipient's final decision. Likewise, the protester must provide its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has identified other grounds for appeal to FTA. For example, other grounds for appeal include the recipient's failure to have or failure to comply with its protest procedures or failure to review the protest.
11. Extent of FTA Review. As provided in the Common Grant Rule for governmental recipients, FTA will limit its review of third party contract protests as follows:
- (a) The Recipient's Procedural Failures. FTA will consider a protest if the recipient:
    - 1. Does not have protest procedures, or
    - 2. Has not complied with its protest procedures, or
    - 3. Has not reviewed the protest when presented an opportunity to do so.
  - (b) Violations of Federal Law or Regulations. FTA will not consider every appeal filed by a protestor of an FTA recipient's protest decision merely because a Federal law or regulation may be involved. Instead, FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA's overall public transportation program. FTA will refer violations of Federal law for which it does not have primary jurisdiction to the Federal authority having proper jurisdiction.
  - (c) Violations of State or Local Law or Regulations. FTA will refer violations of State or local law to the State or local authority having proper jurisdiction.
12. FTA Determinations to Decline Protest Reviews. FTA's determination to decline jurisdiction over a protest does not mean that FTA approves of or agrees with the recipient's decision or that FTA has determined the contract is eligible for Federal participation. FTA's determination means only that FTA does not consider the issues presented to be sufficiently important to FTA's overall program that FTA considers a review to be required.

## **SECTION 15. COMPLIANCE WITH FUEL DELIVERY PROCEDURES.**

The Successful Bidder shall comply with GRTC's Spill Prevention Procedures which are made part hereof and incorporated herein by reference. A copy of such Spill Prevention Procedures is attached to this IFB as Attachment B.

**SECTION 16. COMPLIANCE WITH GASOLINE TAX PROVISIONS.**

The fuels obtained for GRTC pursuant to this IFB will be sold and delivered to a governmental or authorized entity for the use by the entity in accordance with the provisions of the Virginia Code regarding fuel taxes, including Sections 58.1-2226, 2228, 2250, and any other applicable provisions of Sections 58.1-2200, et seq., and any other applicable laws.

**SECTION 17. PROTECTION ON SITE.**

The Successful Bidder expressly undertakes both directly and through its subcontractor(s), to take every reasonable precaution at all times for the protection of all persons and property which may come on the jobsite or be affected by the Successful Bidder's operation in connection with all deliveries.

**SECTION 18. SAFETY AND HEALTH PRECAUTIONS.**

The Successful Bidder shall be solely responsible for initiating, maintaining, and supervising all safety and health precautions and programs in connection with all deliveries.

**SECTION 19. PROTECTING THE PUBLIC.**

The Successful Bidder shall in all cases protect the public and the facility, during its delivery of fuels, by posting and maintaining, at its expense, appropriate signs, barricades, barriers, lights, flagmen, and other safety devices, as deemed necessary.

**SECTION 20. EMERGENCIES.**

In an emergency affecting the safety or life of persons or of the facility, or of the adjoining property, the Successful Bidder, without special instruction or authorization from the General Manager, shall act, at Successful Bidder's discretion, to prevent such threatened loss or injury. Also, should Successful Bidder, to prevent threatened loss or injury, be instructed or authorized to act by the General Manager, Successful Bidder shall so act immediately, without appeal.

**SECTION 21. DAMAGE TO THE SITE DURING DELIVERIES.**

- A. During the delivery process for the fuel to the site, the Successful Bidder shall have charge of and be solely responsible for the entire site and be liable for all damages to the site including, but not limited to any of the damages hereafter mentioned, and to any property in the vicinity of the pumps.
- B. The Successful Bidder shall conduct all operations in such a manner as to avoid any damage to the existing location and facilities. Any and all damaged work, surfaces, and/or other items shall be repaired, replaced, or restored to their original condition at the time before the delivery process in question started, and the expense of such work shall be borne solely by the Successful Bidder.

**SECTION 22. INFORMATION ON CONTRACT TO BE AWARDED.**

- A. The Terms and Conditions set forth in this IFB and in the Terms and Conditions that GRTC plans to include in any Contract that may be awarded apply, but such Terms and Conditions may be added to, deleted, or modified as may be agreed to between GRTC

and the Successful Bidder(s). However, if a Bidder has any objections to any of the Terms or Conditions, or any changes or additions thereto that the Bidder wants to discuss before submitting a bid, the Bidder should set forth such objections, changes, or additions in written correspondence to the Director of Procurement at least five (5) days before the bid opening date for this IFB. Otherwise, submission of a bid by a Bidder will obligate such Bidder, if it is the Successful Bidder(s), to enter into a Contract containing the same or substantially similar Terms and Conditions as contained in this IFB respectively and such other terms as GRTC respectively deem appropriate, and to comply with such Terms and Conditions. Also, such Terms and Conditions, together with the requirements of this IFB, shall be deemed to a part of any resultant Contract that may be issued by GRTC to the Successful Bidder(s). Operation of GRTC is funded in part by grants from the Federal Transit Administration (FTA) of the United States Department of Transportation. The award of any Contract is subject to the requirements of financial assistance between the GRTC and the U.S. Department of Transportation requiring compliance with purchasing procedures and standards as set forth in various federal statutes and regulations including OMB Circular A-102, 49 CFR Part 18, and FTA Circular 4220.1F. The Contractor is required to comply with all terms and conditions prescribed for third-party contracts by the U.S. Department of Transportation, Federal Transit Administration (FTA).

- B. This Contract is or may be subject to funding and/or appropriations from federal, state and/or local governments and/or agencies and/or from the Council of the City of Roanoke. If any such funding is not provided, withdrawn, or otherwise not made available for this Contract, the Contractor agrees that GRTC may terminate this Contract on 7 days written notice to Contractor, without any penalty or damages being incurred by GRTC. Contractor further agrees to comply with any applicable requirements of any grants and/or agreements providing for such funding.
- C. The solicitation provisions and required Contract clauses included as Exhibit 4 to the Sample Contract will be incorporated by reference in any Contract resulting from this Solicitation issued by GRTC. These solicitation provisions and required Contract clauses are in addition to other General Specifications, Scope of Services, Bidding or Proposal Procedures, and Bid or Proposal Forms set forth in other sections of this Solicitation which may also be incorporated by reference in any resulting Contract. Some provisions and clauses require the Bidder to execute and submit certain required certifications with the bid or proposal, which are included herein. Failure to execute and submit required certifications with the bid or proposal documents may render a bid or proposal non-responsive.
- D. All work, services, materials, and other items required for this Project shall be provided and performed in accordance with Master Agreement, FTA Agreement, FTA, local, State, and/or Federal, State, and/or local laws, and documents included or referred to in the bid documents and/or this Contract, and in the IFB. Notwithstanding anything else in the IFB and/or in the Contract, the Contractor is advised, and hereby agrees to comply with the Master Agreement, FTA Agreement, and all the applicable terms, provisions, and requirements of any FTA, local, State, and/or Federal, State, and/or local laws, documents, rules, regulations, and procedures as may be set forth in and/or referred to in the IFB and/or in this Contract as well as any other applicable local, State, and/or Federal, State, and/or local laws, and requirements that are now in existence or may hereafter be required for this Project. Furthermore, Contractor shall incorporate this Contract and the

Master Agreement, FTA Agreement and the Recovery Act into all subcontracts and tiers of subcontracts for this Project.

- E. Contractor shall fully, properly, and timely provide and perform all the Work, services, materials, and other items required for this Project in accordance with the Contract, including the Master Agreement, FTA Agreement (a copy of which can be found at <http://www.fta.dot.gov/documents/16-Master.pdf> or on Valley Metro's website at [www.valleymetro.com](http://www.valleymetro.com)), Federal, State, and/or Local documents included or referred to in the bid documents, and in the IFB. Such Master Agreement and FTA Agreement are hereby deemed a part of this IFB for this Project and is binding on the Contractor. Notwithstanding anything else in the IFB and/or in the IFB, the Contractor is advised and shall at all times comply with the Master Agreement, FTA Agreement and all applicable terms, provisions, and requirements of any FTA, Federal, State, and/or Local documents, rules, regulations, policies, procedures, and directives, as they now exist or may be amended or promulgated from time to time during the term of this IFB, including without limitation those listed directly and/or by reference in the IFB and Contract Documents. The Contractor's failure to so comply shall constitute a material breach of this Contract. Furthermore, if the Contractor discovers that there are any conflicts between the terms and provisions of any IFB Documents, the Contractor shall immediately notify the GRTC General Manager, in writing, of any such conflict(s). However, the provisions of the Master Agreement, FTA Agreement are intended to be and shall be construed to be consistent with all other terms and provisions in the Contract and the Contract Documents, but if a court or agency of competent jurisdiction determines that a conflict should exist between them, and to the extent of any such conflict, the more stringent requirements shall apply unless otherwise required by the rules, regulations, and/or procedures of FTA, the law, or the Federal and/or State agencies involved in the Project, in which case those items will take precedence in that order unless otherwise required by law. Furthermore, Contractor shall incorporate this Contract and the Master Agreement, FTA Agreement into all subcontracts and tiers of subcontractors for this Project.
- F. Recovery of funds paid for unauthorized and/or unapproved Work. Contractor shall repay to GRTC any funds Contractor may have received for any Work, services, and/or materials Contractor provided and/or performed for this Project if any such items were not properly authorized and approved by GRTC, FTA, and any other approving local, State, or Federal agency, and/or for any funds GRTC may have to repay to FTA and/or any Federal or State agency due to the actions and/or omissions of the Contractor, including but not limited to, any reporting or record keeping requirements.
- G. Incorporation of FTA, Federal, State, and/or Local terms. The Contract terms and provisions include certain standard terms and conditions required by FTA, Federal, State, and/or Local agencies, whether or not expressly set forth in the Contract provisions. All contractual provisions required by FTA, Federal, State, and/or Local agencies involved in this Project are hereby incorporated by reference. Anything to the contrary notwithstanding, all Federal, FTA, State, and/or Local mandated terms shall be deemed to control in the event of a conflict with other provisions contained in the Contract with the order of precedence being in that order unless otherwise required by law. The Contractor agrees to and shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause GRTC to be in violation of any Federal, FTA, State, and/or Local terms and conditions.

**END OF IFB.**

**ATTACHMENT A  
TO IFB #19-GRTC-0122  
ULTRA LOW SULFUR DIESEL FUEL**

**GRTC BID FORM**

**GRTC IS EXEMPT FROM FEDERAL AND STATE MOTOR FUEL AND EXCISE TAX.**

**ULTRA LOW SULFUR DIESEL (ULSD)**

**Bid price below includes all shipping and handling charges of the fuel.**

<b>ANTICIPATED TERM</b>	<b>ESTIMATED GALLONS</b>		<b>Guaranteed Fixed Differential Price Per Gallon (Including all additional fees, such as Federal L.U.S.T. Fee, Oil Spill Fee, and Virginia Tank Storage Fee)</b>
12 MONTHS July 1, 2019 – June 30, 2020	430,000 GAL		\$ _____

\*Delivery address for the above commodity is at the Greater Roanoke Transit Facility located at 1108 Campbell Avenue SE, Roanoke, VA 24013.

Bids containing any conditions, omissions, unexplained erasures, alterations or items not called for in the bid, or irregularities of any kind, may be rejected by GRTC as being nonresponsive. No changes are to be made to the Bid Form. Any changes to a Bid Amount must be initialed by the person signing the Bid Form.

The attention of each Bidder(s) is directed to VA Code sections 54.1-1100, et seq. which requires certain licenses for contractors, tradesmen, and others. Each Bidder(s) is required to determine which license, if any, it is required to have under such sections. Complete the following:

Bidder \_\_\_ does have \_\_\_ does not have a Virginia Contractor’s License. (Check the appropriate block)

If Bidder has a Virginia Contractor’s License, circle the class Bidder has and list the number.

Licensed “Class A”, “Class B”, or “Class C” Virginia Contractor Number \_\_\_\_\_

If Bidder has another type of Virginia License, please list the type and number:

Type of license \_\_\_\_\_ and number: \_\_\_\_\_.

Bidder is a \_\_\_ resident or \_\_\_ nonresident of Virginia. (Check the appropriate blank. See VA Code Sections 54.1-1100, et seq.)

The attention of each Bidder is directed to Virginia Code Section 2.2-4311.2 (effective July 1, 2010) which requires a bidder organized or authorized to transact business in the Commonwealth of Virginia pursuant to Title 13.1 or Title 50 of the Code of Virginia, as amended, or as otherwise required by law, shall include in its bid the Identification Number issued to such bidder by the Virginia State Corporation Commission (SCC). Furthermore, any bidder that is not required to be authorized to transact business in the Commonwealth of Virginia as a domestic or foreign business entity under Title 13.1 or Title 50 or as otherwise required by law shall include in its bid a statement describing why the bidder is not required to be so authorized. Please complete the following by checking the appropriate line that applies and providing the requested information:

- A. \_\_\_\_\_ Bidder is a Virginia business entity organized and authorized to transact business in Virginia by the SCC and such bidder's Identification Number issued to it by the SCC is \_\_\_\_\_.
- B. \_\_\_\_\_ Bidder is an out-of-state (foreign) business entity that is authorized to transact business in Virginia by the SCC and such bidder's Identification Number issued to it by the SCC is \_\_\_\_\_.
- C. \_\_\_\_\_ Bidder does not have an Identification Number issued to it by the SCC and such bidder is not required to be authorized to transact business in Virginia by the SCC for the following reason(s):

---

---

---

---

Please attach additional sheets of paper if you need more space to explain why such bidder is not required to be authorized to transact business in Virginia.

The undersigned hereby agrees, if this Bid is accepted by GRTC, to provide the services and/or items in accordance with this Invitation for Bid and to execute a contract for such services and/or items.

\_\_\_\_\_  
Legal Name of Bidder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print or Type Name and Title

**ATTACHMENT B  
TO IFB #19-GRTC-0122  
ULTRA LOW SULFUR DIESEL FUEL**

**Underground Storage Tank Spill Prevention Procedures**

September 18, 2009  
Last Update: February 17, 2011

The following procedures insure that GRTC meets all regulations pertaining to underground storage tanks (USTs) required by the Environmental Protection Agency (EPA) and the Virginia Department of Environmental Quality.

- **INVENTORY RECONCILIATION PROGRAM**

In addition to the two electronic (Veeder-Root System and O/C Monitoring) leak detection systems installed on all tanks, GRTC monitors for leaks by reconciling the fuel inventories daily. (See Attachment 1 of the Underground Storage Tank Spill Prevention Procedures). In response to findings in excess of calculated thresholds, the following procedures are performed:

- a. Recalculate formula to verify there are no mathematical errors.
- b. Recalculate issues to verify there are no mathematical errors.
- c. Verify deliveries at the time fuel is delivered.
- d. Verify accuracy of stick readings and / or stick.
- e. Verify accuracy of fuel meters and recalibrate if needed.

- **SPILL/ OVERFILL PREVENTION**

The following spill/ overfill prevention methods are used at GRTC.

- **SPILL PREVENTION METHODS**

- a. All fuel and lubricant deliveries and waste oil collections are physically supervised to ensure hose connections are secure and personnel are present in case of a spill, in order to take quick action.
- b. Concrete poles protecting GRTC's fuel pump/ dispenser are periodically checked for secureness.
- c. Fuel hose, nozzle, and break-away fittings are checked monthly for leaks and wear.
- d. All shut-off valves and electrical cut off boxes for fuels /oils have been properly labeled and employees have been trained as to the proper valve/ box to cut off in case of a spill.
- e. A formal, written inspection routine has been developed and implemented to insure all fuels/ oils handling equipment are properly maintained. (See attachment).
- f. Fuel and oil handling equipment specifications are on file at the property and specifications have been compared against regulations. GRTC is in compliance with required regulations.
- g. Before load of fuel is delivered, or waste oil is collected, 13' storm drain and storm drain grate located in rear parking lot are to be blocked off. (See spill containment map).

- **OVERFILL PREVENTION METHODS**

- a. All fuel tanks are physically measured prior to delivery to insure tanks can hold load.
- b. All underground storage tanks are equipped with catchments basins to prevent release of products to the environment when the transfer hose is detached from the fill pipe.
- c. All underground storage tanks are equipped with EMCO Wheaton overfill protection float valves. These valves automatically close and prevent product from entering when the tank is no less than 95% full.

- **SPILL CONTROL COUNTERMEASURES**

The following spill control countermeasures have been developed and implemented to insure that GRTC is prepared to contain and clean up any spills that might occur.

1. The following spill containment supplies are stored 125 feet from the fuel and waste oil tanks and 25 feet from the fuel dispenser.
  - a. Absorbent mats
  - b. Absorbent socks
  - c. Bags of dry absorbent
  - d. Tools and PPE
  - e. Waste containers
  - f. Storm drain blocker devices
2. Listed below are the phone numbers to call for reporting a spill or requesting additional help to contain a spill.
  - a. To report any spills over 25 gallons call DEQ at 540-562-6766.
  - b. To request additional assistance in containing a spill call 911 and request the HAZMAT TEAM.

- **VERIFY SITE SPECIFICATIONS**

The following information is on file at GRTC's property.

- a. Complete schematic of UST's and fuel dispensing system.
- b. Fuel system components, including materials composition.
- c. Information pertaining to UST's age, quantity and size.
- d. Complete schematic and information pertaining to piping, including pressurized piping sensing devices.
- e. Information pertaining to automatic tank sensing devices.

- **DOCUMENT TANK TIGHTNESS TESTING PROGRAM**

GRTC's tanks and lines are monitored continuously to insure "tank and line tightness". GRTC utilizes the following devices to comply with tank testing.

- a. Veeder- Root Monitoring System  
Continuous statistic leak detection system on tanks and lines



- Test results are reviewed and filed
  - b. O/C Double Way System
  - c. Red Jacket Line Leak Detector System
- **INSURANCE AND FINANCIAL RESPONSIBILITY**

GRTC meets all federal requirements pertaining to financial responsibilities.

- **SPILL RESPONSE PLAN**

The following is GRTC's spill response plan.

1. The supervisor who is monitoring the delivery of fuel or pickup of waste oil along with the truck driver must determine if there is a way to stop the spill and to do so by shutting off valves on truck, reconnecting hose, or taking other appropriate measures. After preventing further spill or leak, a supervisor is to contact trained maintenance department employees to contain and clean up spill. If at any time the supervisor is unsure of whether or not the spill can be contained by maintenance employees or if the spill might possibly threaten the environment, then the supervisor is to call 911 and request the assistance of the HAZMAT team and also call a company to assist the clean-up. The supervisor is also to call D.E.Q. and report any spills over (25) gallons. If spill was caused due to negligence or malfunctioning equipment of fuel vendor, then supervisor is to call the vendor's spill response team. However, the spill must still be contained by GRTC employees until response team arrives. All fuel vendors GRTC deals with must have a response team. Listed below are the phone numbers and contacts of fuel vendor's response teams.
  - a. Webb's Oil Co.- 540-362-3798
  - b. Central Oil Co.- 540-483-5342
  - c. Foster Fuel – 434-376-2322
  - d. Mansfield Oil Company – 800-255-6699
  - e. James River Solutions – 804-358-9000
2. In regards to the containment and clean-up of a spill, the following procedures have been developed and the maintenance department employees have been trained to implement them in case of a spill.
  - a. Employees are to put on protective gear located inside Fuel Island.
  - b. Employees are to transport spill containment supplies using forklift to spill area.
  - c. Employees are then to build dike around spill using socks and mats. Once spill has been contained, the employees are to use floor dry along with socks and mats to absorb spill and then put all contaminated materials in waste container.
  - d. Once spill has been absorbed, supervisor is to contact a certified waste remover company and have waste removed. (See attachment 4 for phone numbers for clean-up assistance).
  - e. All phrases of a spill, containment and removal of waste will be documented by supervisor. (Please see attachment 3, for detailed look at potential spill site and location of tanks, drain basins, containment supplies, safety equipment, etc.)

- f. All spills regardless of type (fuel, waste oil lubricants, etc.) will be contained and cleaned up using the above procedures.

- **EMPLOYEE TRAINING PLAN**

The following procedures and information concerning UST's have been reviewed by maintenance department and employees. Maintenance department employees who have reviewed and understand procedures must sign acknowledgement form (See Attachment 2 to the Underground Storage Tank Spill Prevention Procedures).

- a. SPILL, OVERFILL PREVENTION
- b. OVERFILL PREVENTION METHODS
- c. SPILL CONTROL COUNTERMEASURES
- d. LOCATION OF SITE SPECIFICATIONS
- e. REVIEW SPILL CONTAINMENT MAP
- f. SPILL REPOSE PLAN

- **SPILL CONTAINMENT EMERGENCY NUMBERS**

For SPILL CONTAINMENT ASSISTANCE CALL:

911- ROANOKE HAZMAT TEAM  
W.E.L. - 540-561-0735

FOR SPILL CONTAINMENT ASSISTANCE CALL (IF SPILL WAS FAULT OF FUEL OIL OR WASTE OIL VENDOR CALL)

For Fuel Oil:

Vendors:

- Webb Oil Co. (540) 362-3798
- Central Oil (540) 483-5342
- Foster Fuel (434) 376-2322
- Mansfield Oil Company – (800) 255-6699
- James River Solutions – (804) 358-9000

To report a spill call: (all spills over 25 gallons must be reported)  
D.E.Q (540) 562-6766

**MONTHLY INSPECTION SHEET FOR UST's AND SERVICE FOR UST's**

**DATE:** \_\_\_\_\_

**INSPECTOR:** \_\_\_\_\_

- \_\_\_ 1. Visually inspect tank covers, fuel lids and operation of locks. (Lube with graphite if needed)
- \_\_\_ 2. Visually inspect "Pump Manholes" for water
- \_\_\_ 3. Check condition of Storm Drain Barrier
- \_\_\_ 4. Check condition of rubber drain cover mat
- \_\_\_ 5. Check condition of fuel stick
- \_\_\_ 6. Check condition of fuel tank vents and O/C
- \_\_\_ 7. Test operation of tank leak detection alarm system (make sure alarm is left in the auto mode)
- \_\_\_ 8. Visually inspect oil pump assy. (Change sock if needed)
- \_\_\_ 9. Check operation of fuel pump electrical boxes (make sure that they are accessible at all times)
- \_\_\_ 10. Check conditions of barrier poles in front of fuel pump
- \_\_\_ 11. Check conditions of fuel dispenser, hoses, nozzles, and break-away valves
- \_\_\_ 12. Check spill containment supplies
- \_\_\_ 13. Check pressure washer (wand and hose assy.)
- \_\_\_ 14. Check conditions and operation of emergency eye wash
- \_\_\_ 15. Check operation of auto drain valve on air compressor
- \_\_\_ 16. Check oil level and air filter on air compressor
- \_\_\_ 17. Check fluid levels and start generator
- \_\_\_ 18. Remove manhole cover, waste oil separator, and check for water (pump if needed)
- \_\_\_ 19. Check operation of waste oil separator
- \_\_\_ 20. Check operation of air compressor and dryer system
- \_\_\_ 21. Visual inspection of roof

**COMMENTS:**

---

---

---

---

---

**Attachment (Discharge Points and SIC Codes)**

**(8) Storm water drains located in parking lot of facility (Please see attached site map)**

**Storm water coming from roof of facility routed directly to storm drain.**

**ALL LOCATIONS ARE SIC CODES 4173 and 4111**

**ATTACHMENT C  
TO IFB #19-GRTC-0122**

**SAMPLE CONTRACT  
ULTRA LOW SULFUR DIESEL FUEL FOR  
GREATER ROANOKE TRANSIT COMPANY D/B/A VALLEY METRO**

This Contract is dated \_\_\_\_\_, 2019, between Greater Roanoke Transit Company, d/b/a Valley Metro, hereinafter referred to as the "Owner" or "GRTC" or "Valley Metro", and \_\_\_\_\_, a \_\_\_\_\_ corporation, hereinafter referred to as the "Contractor,"

**RECITALS:**

WHEREAS, Contractor has been awarded a Contract by GRTC for furnishing all equipment, materials, goods, labor, and services necessary to provide to and to ensure delivery of Ultra Low Sulfur Diesel (ULSD) with zero biodiesel on a **guaranteed fixed differential price** added to the respective GRTC selected NYMEX price for New York Harbor Heating Oil Futures per gallon to GRTC's facility located at 1108 Campbell Avenue, SE, Roanoke, VA 24013, and associated work in accordance with this Contract and the documents referred to herein, all such items or services also being referred to hereinafter as the Work or Project. All such work will be on an as requested basis and there is no guarantee as to any minimum amount of work that GRTC may request from the Contractor.

**NOW, THEREFORE, GRTC AND THE CONTRACTOR AGREE AS FOLLOWS:**

**SECTION 1. WORK TO BE PERFORMED AND DOCUMENTS.**

For and in consideration of the money hereinafter specified to be paid by GRTC to the Contractor for the Work provided for in this Contract to be performed by the Contractor, the Contractor hereby covenants and agrees with GRTC to fully perform the services, provide any materials called for, and complete the Work called for by this Contract in a good and workmanlike manner in accordance with this Contract and the documents referred to herein in order to fully and properly complete this Contract within the time stipulated, time being made of the essence for this Contract. It is also agreed by the parties hereto that the documents to this Contract consist of this Contract and the following documents listed below (Contract Documents), all of which are and constitute a part of this Contract as if attached hereto or set out in full herein, viz:

1. Bid Form Dated \_\_\_\_\_ and Completed by Contractor (Attachment A).
2. Scope of Work (Exhibit 1 to Sample Contract).
3. Insurance Requirements (Exhibit 2 to Sample Contract).
4. Schedule of Deliveries for ULSD (Exhibit 3 to Sample Contract).
5. FTA Requirements, Conditions, and Certifications (Exhibit 4), as well as the FTA Best Practices Procurement Manual, to the extent applicable to this Contract, which can be found at ([http://www.fta.dot.gov/funding/thirdpartyprocurement/grantsfinancing\\_637.html](http://www.fta.dot.gov/funding/thirdpartyprocurement/grantsfinancing_637.html)) or web search- FTA Best Practice Procurement Manual.
6. Disadvantage Business Enterprise (DBE) Certification (Exhibit 5 to Sample Contract).
7. Debarment and Suspension Certification (Exhibit 6 to Sample Contract).
8. Lobbying Certification (Exhibit 7 to Sample Contract).
9. Buy America Certification (Exhibit 8 to Sample Contract).
10. Invitation to Bid dated February 5, 2019, IFB No. 19-GRTC-0122, which is incorporated herein by reference.

The parties agree that if there are any differences between the provisions of the above referenced documents, the provisions of the GRTC documents and this Contract will control over any Contractor supplied documents or information.

## **SECTION 2. CONTRACT AMOUNT.**

GRTC agrees to pay the Contractor for the Contractor's complete and satisfactory of \_\_\_\_\_ gallons of ULSD fuel at a rate of \$\_\_\_\_\_ per gallon in accordance with the Schedule of Deliveries, Exhibit 3, for a Not to Exceed Contract amount of \$\_\_\_\_\_, as provided for in this Contract. (The above rate was determined by adding the Contractor's guaranteed fixed differential price of \$ **(+/-)**\_\_\_\_\_ per gallon of ULSD fuel to GRTC selected NYMEX price for New York Heating Oil Futures gallon price of \$\_\_\_\_\_, which equals a total rate or price of \$\_\_\_\_\_ per gallon).

## **SECTION 3. TERM OF CONTRACT.**

The Contractor shall start the performance of this Contract as of \_\_\_\_\_, and fully and completely perform the Contract for the period of \_\_\_\_\_, through \_\_\_\_\_, all in accordance with the Contract provisions.

## **SECTION 4. TIME OF PERFORMANCE.**

The Contractor shall commence the Work to be performed under this Contract as of July 1, 2018, and the Contractor covenants and agrees to fully perform and complete deliveries for this Contract in accordance with Exhibit 3 of this Contract. The Contractor further agrees that the deliveries shall be started promptly and shall be continued regularly, diligently, and uninterruptedly as set forth in the Schedule of Deliveries in Exhibit 3. However, the parties further agree that such Schedule of Deliveries, Exhibit 3, may be modified and adjusted by mutual agreement of GRTC's General Manager and the Contractor's representatives with such actions documented in writing.

## **SECTION 5. PAYMENT.**

Payments requested shall be based on Transport Delivery by Tank Truck of not less than 7,500 gallons for ULSD fuel. Invoicing shall be per Tank Truck only. Payment will only be made for actual Fuel deliveries, all of which need to be approved and accepted by the General Manager of GRTC, or his designee, prior to such payment, unless otherwise provided for in the Contract documents. GRTC retains the right of setoff as to any amounts the Contractor may owe GRTC. A written progress report may be requested by GRTC to accompany each payment request and, if so, such progress report shall detail the amount of fuel delivered, and identify any problems fulfilling the terms of this Contract. Also, sufficient documentation of all costs, expenses, deliveries, materials supplied, and/or hours worked may be requested by GRTC and, if so, may be required prior to the processing of any such request for payment. Payment will only be made for fuel services actually supplied, deliveries actually made, and/or materials or goods furnished to GRTC, all of which need to be approved and accepted by GRTC prior to such payment, unless otherwise provided for in the Contract documents. Once a payment request has been received, GRTC will process such payment request. If there are any objections or problems with the payment request, the General Manager will notify the Contractor of such matters. If the payment request is approved and accepted, payment will be made by GRTC to the Contractor not more than 30 days after such request has been approved.

**SECTION 6. PAYMENTS TO OTHERS BY CONTRACTOR.**

The Contractor agrees that Contractor will comply with the requirements of Section 2.2-4354 of the Virginia Code regarding Contractor's payment to other entities and the Contractor will take one of the two actions permitted therein within seven (7) days after receipt of amounts paid to Contractor by GRTC. Contractor further agrees that the Contractor shall indemnify and hold GRTC harmless for any lawful claims resulting from the failure of the Contractor to make prompt payments to all persons supplying the Contractor equipment, labor, tools, or material in connection with the work provided for in the Contract. In the event of such claims, GRTC may, in GRTC's sole discretion, after providing written notice to the Contractor, withhold from any payment request or final payment of the unpaid sum of money deemed sufficient to pay all appropriate claims and associated costs in connection with the Contract and make such payment, if GRTC determines it to be appropriate to do so.

**SECTION 7. HOLD HARMLESS AND INDEMNITY.**

Contractor shall indemnify and hold harmless GRTC, Southwestern Virginia Transit Management Company, (SVTMC) Inc., First Transit, Inc., the City of Roanoke, and their officers, agents, and employees against any and all liability, losses, damages, claims, causes of action, suits of any nature, costs, and expenses, including reasonable attorney's fees, resulting from or arising out of Contractor's or its employees, agents, or subcontractors actions, activities, or omissions, negligent or otherwise, on or near GRTC's property or the area where the work is performed or arising in any way out of or resulting from any of the work or items to be provided under this Contract, and this includes, without limitation, any fines or penalties, violations of federal, state, or local laws or regulations, personal injury, wrongful death, or property damage claims or suits. Contractor agrees to and shall protect, indemnify, and hold harmless all the parties referred to above from any and all demands for fees, claims, suits, actions, causes of action, settlement or judgments based on the alleged or actual infringement or violation of any copyright, trademark, patent, invention, article, arrangement, or other apparatus that may be used in the performance of this Contract.

**SECTION 8. COMPLIANCE WITH LAWS, REGULATIONS, AND IMMIGRATION LAW.**

Contractor agrees to and shall comply with all applicable federal, state, and local laws, ordinances, and regulations, including all applicable licensing requirements. Contractor further agrees that Contractor does not, and shall not during the performance of this Contract; knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.

**SECTION 9. INDEPENDENT CONTRACTOR.**

The relationship between Contractor and GRTC is a contractual relationship. It is not intended in any way to create a legal agency or employment relationship. Contractor shall, at all times, maintain its status as an independent contractor and both parties acknowledge that neither is an agent, partner or employee of the other for any purpose. Contractor shall be responsible for causing all required insurance, workers' compensation (regardless of number of employees) and unemployment insurance to be provided for all of its employees and subcontractors. Contractor will be responsible for all actions of any of its subcontractors, and that they are properly licensed.

**SECTION 10. REPORTS, RECORDS, AND AUDIT.**

Contractor agrees to maintain all books, records and other documents relating to this Contract for a period of five (5) years after the end of each fiscal year included in this Contract. GRTC, its authorized employees, agents, representatives, and/or state auditors shall have full access to and the right to examine, copy, and/or audit any of such materials during the term of the Contract and during such retention period, upon prior written notice to Contractor.

**SECTION 11. INSURANCE REQUIREMENTS.**

Contractor and any of its subcontractors involved in this Contract shall maintain the insurance coverages set forth in Exhibit 2 to this Contract and provide the proof of such insurance coverage as called for in Exhibit 2, including workers' compensation coverage regardless of the number of Contractor's employees. Such insurance coverage shall be obtained at the Contractor's sole expense and maintained during the term of the Contract and shall be effective prior to the beginning of any work or other performance by the Contractor or others under this Contract. Additional insured endorsements, if required, must be received by GRTC within 30 days of the execution of this Contract or as otherwise required by GRTC's General Manager.

**SECTION 12. DEFAULT.**

If Contractor fails or refuses to perform any of the terms of this Contract, including poor services, work or materials, GRTC may, by written notice to Contractor, terminate this Contract in whole or in part. In addition to any right to terminate, GRTC may enforce any remedy available at law or in equity in connection with such default, and Contractor shall be liable for any damages to GRTC resulting from Contractor's default. GRTC further reserves the right to immediately obtain such work, materials, or services from other entities in the event of Contractor's default.

**SECTION 13. NONWAIVER.**

Contractor agrees that GRTC's waiver or failure to enforce or require performance of any term or condition of this Contract or GRTC's waiver of any particular breach of this Contract by the Contractor extends to that instance only. Such waiver or failure is not and shall not be a waiver of any of the terms or conditions of this Contract or a waiver of any other breaches of the Contract by the Contractor and does not bar GRTC from requiring the Contractor to comply with all the terms and conditions of the Contract and does not bar GRTC from asserting any and all rights and/or remedies it has or might have against the Contractor under this Contract or by law.

**SECTION 14. CHOICE OF LAW AND FORUM SELECTION.**

This Contract shall be governed by, and construed in accordance with, the laws of the Commonwealth of Virginia, without application of Virginia's conflict of law provisions. Venue for any litigation, suits, and claims arising from or connected with this Contract shall only be proper in the Roanoke City Circuit Court, or in the Roanoke City General District Court if the amount in controversy is within the jurisdictional limit of such court, and all parties to this Contract voluntarily submit themselves to the jurisdiction and venue of such courts, or in the United States District Court for the Western District of Virginia, Roanoke Division, if a federal question exist. All parties to this Contract voluntarily submit themselves to the jurisdiction and venue of such courts, regardless of the actual location of such parties. The provisions of this Contract shall not be construed in favor of or against either party, but shall be construed according to their fair meaning as if both parties jointly prepared this Contract.

**SECTION 15. SEVERABILITY.**

If any provision of this Contract, or the application of any provision hereof to a particular entity or circumstance, shall be held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Contract shall not be affected and all other terms and conditions of this Contract shall be valid and enforceable to the fullest extent permitted by law.

**SECTION 16. NONDISCRIMINATION.**

- A. During the performance of this Contract, Contractor agrees as follows:
  - i. Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
  - ii. Contractor in all solicitations or advertisements for employees placed by or on behalf of Contractor will state that Contractor is an equal opportunity employer.
  - iii. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- B. Contractor will include the provisions of the foregoing Section A (i, ii, and iii) in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

**SECTION 17. DRUG-FREE WORKPLACE.**

- A. During the performance of this Contract, Contractor agrees to (i) provide a drug-free workplace for Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of Contractor that Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.
- B. For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

**SECTION 18. FAITH BASED ORGANIZATIONS.**

Pursuant to Virginia Code Section 2.2-4343.1, be advised that GRTC does not discriminate against faith-based organizations.



**SECTION 19. ASSIGNMENT.**

Contractor may not assign or transfer this Contract in whole or in part except with the prior written consent of GRTC, which consent shall not be unreasonably withheld. If consent to assign is given, no such assignment shall in any way release or relieve the Contractor from any of the covenants or undertakings contained in this Contract and the Contractor shall remain liable for the Contract during the entire term thereof. However, Contractor agrees that GRTC may assign in whole or in part this Contract, including the right to have provided any part of the fuels referred to in this Contract, provided the delivery point for any such assigned fuel is located within the City of Roanoke. If such assignment is made, the total amount of such fuel due GRTC will be reduced by the total amount assigned the other entity.

**SECTION 20. CONTRACTUAL DISPUTES.**

Contractual claims, whether for money or for other relief, shall be submitted, in writing, no later than sixty (60) days after the earlier of the final payment or termination of the Contract or notice from GRTC to the Contractor that GRTC disputes the amount of Contractor's request for final payment. However, written notice of the Contractor's intention to file such claim shall be given at the time of the occurrence or beginning of the work upon which the claim is based. Such notice is a condition precedent to the assertion of any such claim by the Contractor. A written decision upon any such claims will be made by GRTC's Vice President of Operations or GRTC's Vice President of Operations' designee within thirty (30) days after submittal of the claim and any practically available additional supporting evidence required by GRTC's Vice President of Operations. The Contractor may not institute legal action prior to receipt of GRTC's Vice President of Operations decision on the claim unless GRTC's Vice President of Operations fails to render such decision within 120 days from submittal of Contractor's claim. The decision of GRTC's Vice President of Operations shall be final and conclusive unless the Contractor within six (6) months of the date of the final decision on a claim or from expiration of the 120 day time limit, whichever occurs first, initiates legal action as provided in Section 2.2 - 4364, of the Va. Code. Failure of GRTC's Vice President of Operations to render a decision within said 120 days shall not result in the Contractor being awarded the relief claimed nor shall it result in any other relief or penalty. The sole result of GRTC's Vice President of Operations failure to render a decision within said 120 days shall be Contractor's right to immediately institute legal action. No administrative appeals procedure pursuant to Section 2.2 - 4365 of the Va. Code has been established for contractual claims under this Contract.

**SECTION 21. SUCCESSORS AND ASSIGNS.**

The terms, conditions, provisions, and undertakings of this Contract shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

**SECTION 22. HEADINGS.**

The captions and headings in this Contract are for convenience and reference purposes only and shall not affect in any way the meaning and interpretation of this Contract.

**SECTION 23. COUNTERPART COPIES.**

This Contract may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

**SECTION 24. AUTHORITY TO SIGN.**

The persons who have executed this Contract represent and warrant that they are duly authorized to execute this Contract on behalf of the party for whom they are signing.

**SECTION 25. NOTICES.**

All notices must be given in writing and shall be validly given if sent by certified mail, return receipt requested, or by a nationally recognized overnight courier, with a receipt, addressed as follows (or any other address that the party to be notified may have designated to the sender by like notice):

To GRTC:	Greater Roanoke Transit Company Attn: Tyler Linkenhoker, Director of Procurement 1108 Campbell Avenue, SE Roanoke, Virginia 24013
Facsimile:	(540) 982-2703
Copy to:	Assistant Vice President of Operations c/o City Manager's Office Room 364, Noel C. Taylor Municipal Building 215 Church Avenue, SW, Room 202 Roanoke, Virginia 24011
Facsimile:	(540) 853-1513
If to Contractor:	_____
	Attn: _____
	_____
	_____
Facsimile:	_____
	_____

Notices shall be deemed to be effective one day after sending if sent by overnight courier or three (3) days after sending it by certified mail, return receipt requested.

**SECTION 26. PROTECTING PERSONS AND PROPERTY.**

The Contractor expressly undertakes, both directly and through its subcontractors, to take every reasonable precaution at all times for the protection of all persons and property at the location of the Work or in the vicinity of the Work or that may be affected by the Contractor's operation in connection with the Work. The Contractor will maintain adequate protection of all Contractor's Work to prevent damage to it and shall protect GRTC's property from any injury or loss arising in connection with this Contract and to protect adjacent property to prevent any damage to it or loss of use and enjoyment by its owners. Contractor agrees to be responsible for the entire Work and will be liable for all damages to the Work, including, but not limited to, damages to any property of GRTC or to any property at the location of the Work or in the vicinity or adjacent to the Work. All damage with respect to the Work caused by vandalism, weather, or any other cause, other than resulting from the sole negligence of GRTC, shall be the responsibility of the Contractor. Furthermore, any damage to concrete curbs, gutters, sidewalks, or any existing facility, whether owned by GRTC or others that may occur during the Work shall be repaired or replaced by the Contractor, at Contractor's sole expense, as directed by and to the satisfaction of GRTC.

**SECTION 27. WARRANTY OF MATERIAL AND WORKMANSHIP.**

The Contractor warrants that, unless otherwise specified, all material and equipment used in the Work under this Contract shall be new, in first class condition, and in accordance with this Contract. The Contractor further warrants that all workmanship shall be of the highest quality in accordance with the Contract and shall be performed by persons qualified in their respective trades. This warranty of material and workmanship is separate and independent from and in addition to any of the Contractor's other guarantees or obligations under this Contract, or that may arise by law. Contractor agrees that Contractor shall repair or replace, at Contractor's sole expense, and to the satisfaction of GRTC, any work, material, equipment, or part of the Work that is found by GRTC to be defective or not in accordance with the terms of this Contract.

**SECTION 28. CONTRACTOR'S COMPLIANCE WITH IFB AND SCOPE OF WORK.**

Contractor shall provide the Fuel required by this Contract in accordance with the terms and provisions of the IFB No. 19-GRTC-0122, including any addenda, the Scope of Work, Exhibit 1, the Schedule of Deliveries, Exhibit 3, and shall comply with all applicable federal, state, and local laws and regulations. If there are any conflicts among any of the above items, Contractor shall promptly notify GRTC's General Manager of such conflict.

**SECTION 29. ETHICS IN PUBLIC CONTRACTING.**

The provisions, requirements, and prohibitions as contained in Sections 2.2-4367 through 2.2-4377, of the Va. Code, pertaining to bidders, offerors, contractors, and subcontractors are applicable to this Contract.

**SECTION 30. SUSPENSION OR TERMINATION OF CONTRACT BY GRTC.**

GRTC, at any time, may order Contractor to immediately stop work on this Contract, and/or by seven days written notice may terminate this Contract, with or without cause, in whole or in part, at any time. Upon receipt of such notice, the Contractor shall immediately discontinue all services affected (unless the notice directs otherwise), and deliver to GRTC all data (including electronic data), drawings, specifications, reports, project deliverables, estimates, summaries, and such other information and materials as may have been accumulated by the Contractor in performing this Contract whether completed or in process (unless otherwise directed by the notice).

- A. If the termination or stop work order is due to the failure of the Contractor to fulfill any of its Contract obligations, GRTC may take over the Work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to GRTC for any damages allowed by law, and upon demand of GRTC shall promptly pay the same to GRTC.
- B. Should this Contract be terminated or work is stopped not due in any way to the fault of the Contractor, the Contractor shall only be entitled to compensation for services actually performed and materials actually supplied prior to notice of termination or to stop work and which are approved by GRTC and any applicable federal or state approving agency. No profit, overhead, or any other costs of any type are allowed after the date of such notice of termination or stop work order.
- C. The rights and remedies of GRTC provided in this Section are in addition to any other rights and remedies provided by law or under this Contract and GRTC may pursue any and all such rights and remedies against Contractor as it deems appropriate.

### **SECTION 31. CONTRACT SUBJECT TO FUNDING.**

This Contract is or may be subject to funding and/or appropriations from federal, state and/or local governments and/or agencies and/or from the Council of the City of Roanoke. If any such funding is not provided, withdrawn, or otherwise not made available for this Contract, the Contractor agrees that GRTC may terminate this Contract on seven (7) days written notice to Contractor, without any penalty or damages being incurred by GRTC. Contractor further agrees to comply with any applicable requirements of any grants and/or agreements providing for such funding.

### **SECTION 32. OWNERSHIP OF REPORTS AND DOCUMENTS.**

Contractor agrees that all reports and any other documents (including electronic data) prepared for, obtained in connection with, and/or required to be produced in connection with this Contract shall be delivered by the Contractor to GRTC and all such items shall become the sole property of GRTC. The Contractor agrees that GRTC shall own all rights of any type in and to all such items, including but not limited to copyrights and trademarks, and GRTC may reproduce, copy, and use all such items as GRTC deems appropriate, without any restriction or limitation on their use and without any cost or charges to GRTC from Contractor. Contractor hereby transfers and assigns all such rights and items to GRTC. Contractor further agrees Contractor will take any action and execute any documents necessary to accomplish the provisions of this Section. The Contractor also warrants that Contractor has good title to all materials, equipment, documents, and supplies which it uses in the Work or for which it accepts payment in whole or in part.

### **SECTION 33. FTA INFORMATION.**

- A. Notice is here given that pursuant to Federal Transit Administration (FTA) regulations GRTC has adopted its own procurement procedure by adopting the procurement procedures followed by the City of Roanoke, Virginia, as set forth in Sections 23.2-1, et seq. of the Code of the City of Roanoke (1979), as amended, and those provisions are incorporated herein by reference. Provided, however, that referenced contained in the City Code to the "City", "City Council", "City Manager", or other similar terms shall be deemed changed to refer to "Greater Roanoke Transit Company (GRTC)", "GRTC Board of Directors", "GRTC Vice President of Operations", "General Manager of GRTC", or similar GRTC references respectively, or as otherwise specifically set forth.
- B. Notice is further given that GRTC will comply with the requirements of FTA Circular 4220.1F, dated November 1, 2008, "Third Party Contracting Requirements", and as it may be amended, and that those requirements, as they may be applicable, are incorporated in this Contract by reference.
- C. Contractor hereby agrees to and shall comply with all applicable procedures and requirements as set forth above, including the FTA Best Practices Procurement Manual, and in the Contract documents and as may be required by any applicable federal, state, or local laws, ordinances, and regulations.
- D. The requirements of FTA Circular 4220.1F and the procurement procedures of the Code of the City of Roanoke referred to above are intended to be and shall be construed to be consistent with each other whenever possible. However, if a court or agency of competent jurisdiction determines that a conflict should exist between them, then to the extent of any such conflict, the requirements of FTA Circular 4220.1F shall be deemed to take

precedence, and as to any other conflict within the Contract documents, the stringent provisions shall take precedence, unless otherwise required by law.

- E. Copies of the City of Roanoke Procurement Code and FTA Circular 4220.1F and applicable grant Agreements may be examined or obtained from the business office of GRTC located at 1108 Campbell Ave., SE, Roanoke, VA 24013, or by phone at 540-982-0305 (Ext. 111).
- F. The FTA Requirements, Conditions, and Certifications set forth in Exhibit 4 to this Contract are hereby incorporated into and made a part of this Contract and Contractor shall comply with them.

**SECTION 34. INCORPORATION OF FTA, VDRPT, STATE, AND/OR LOCAL TERMS.**

The terms and provisions contained in this Contract include certain standard terms and conditions required by the FTA, VDRPT, and other federal agencies, state agencies, and/or local entities, whether or not expressly set for the IFB and/or in the Contract provisions. All contractual provisions required by the FTA, VDRPT, federal agencies, state agencies, and/or local entities, involved in this Project are hereby incorporated by reference. Anything to the contrary notwithstanding, all FTA, VDRPT, federal, state, and local mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract with the order of precedence being in that order unless otherwise required by law. The Contractor agrees to and shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause GRTC to be in violation of any federal, state, and/or local terms and conditions.

**SECTION 35. COMPLIANCE WITH STATE LAW, FOREIGN AND DOMESTIC BUSINESSES AUTHORIZED TO TRANSACT BUSINESS IN THE COMMONWEALTH OF VIRGINIA.**

Contractor shall comply with the provisions of Virginia Code Section 2.2-4311.2, as amended, which provides that a contractor organized as a stock or nonstock corporation, limited liability company, business, business trust, or limited partnership or registered as a registered limited liability partnership shall be authorized to transact business in the Commonwealth as a domestic or foreign business entity if so required by Title 13.1 or Title 50 or as otherwise required by law. Contractor shall not allow its existence to lapse or its certificate of authority or registration to transact business in the Commonwealth, of so required under Title 13.1 or Title 50, to be revoked or cancelled at any time during the term of the Contract. GRTC may void the Contract if the Contractor fails to remain in compliance with the provisions of this section.

**SECTION 36. ENTIRE CONTRACT.**

This Contract, including any attachments, exhibits, and referenced documents, constitutes the complete understanding between the parties. This Contract may be modified only by written agreement properly executed by the parties.

**SIGNATURE PAGE TO FOLLOW**

IN WITNESS WHEREOF, the parties hereto have signed this Contract by their authorized representatives.

WITNESS:

\_\_\_\_\_

Printed Name and Title

(SEAL)

WITNESS:

\_\_\_\_\_

Printed Name and Title

WITNESS:

\_\_\_\_\_

Printed Name and Title

Approved as to Form:

\_\_\_\_\_  
Assistant General Counsel, GRTC

Approved as to Execution:

\_\_\_\_\_  
Assistant General Counsel, GRTC

**LEGAL NAME OF CONTRACTOR**

By \_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

**GREATER ROANOKE TRANSIT  
COMPANY, D/B/A VALLEY METRO**

By \_\_\_\_\_

\_\_\_\_\_  
Printed Name and Title

By \_\_\_\_\_  
Sherman M. Stovall  
Assistant Vice President of Operations

Appropriation and Funds Required  
for this Contract Certified:

\_\_\_\_\_  
Director of Finance

Account # \_\_\_\_\_

Date \_\_\_\_\_

**EXHIBIT 1  
TO SAMPLE CONTRACT  
IFB #19-GRTC-0122 TO  
ULTRA LOW SULFUR DIESEL FUEL**

**SCOPE OF WORK**

Contractor agrees to fully and properly provide and perform all the work and services required by the Contract in accordance with the Contract, including those items set forth herein.

- A. Contractor shall provide to GRTC during the term of the Contract, and in accordance with Exhibit 3, 430,000 gallons of Ultra Low Sulfur Diesel (ULSD) fuel with zero biodiesel. Such ULSD fuel must comply with all applicable ANSI, ASTM, EPA, Fuel Authority, OSHA, Health, Local, State, and Federal rules, regulations, specifications, codes, and requirements, and be free of contamination.
- B. Contractor guarantees proper delivery of the ULSD fuel with zero biodiesel to GRTC in the quantities set forth in this Contract, at the guaranteed fixed price forward values set forth in such Contract, and at the times set forth in the Schedule of Deliveries set forth in Exhibit 3. If Contractor fails to comply with any of these requirements, GRTC may obtain such fuel from other sources and Contractor shall be responsible to GRTC for any increased amounts and other costs GRTC pays for such fuel.
- C. GRTC reserves the right to test the fuel quality before, during, and after unloading. If the fuel fails to meet or exceed specifications and/or is contaminated, the fuel will be rejected and the Contractor shall be responsible for all costs associated with removal of the fuel and must replace it within one working day after request is made, or other time period as specified by GRTC. If not, GRTC may do so, and Contractor shall be responsible to GRTC for all costs related to such matters.
- D. GRTC shall be a priority customer of the Contractor and be entitled to receive its fuel on a priority basis.
- E. All deliveries shall be Transport Delivery by Tank Trucks of 7,500 gallons for the ULSD fuel with zero biodiesel.
- F. All of the ULSD fuel with zero biodiesel shall be a general purpose, middle distillate fuel for diesel engines requiring low sulfur diesel fuel; shall have a maximum sulfur content of 15 parts per million (ppm), a maximum aromatic hydrocarbons content of 10%, and a minimum cetane number of 40.
- G. Delivery for GRTC is to be made to 1108 Campbell Avenue SE, Roanoke, Virginia. The location has two (2) 12,000 gallon underground storage tanks (USTs) for the ULSD fuel with zero biodiesel. Deliveries shall be evenly distributed between both USTs.
- H. Environmental Management. The Contractor shall be responsible for complying with all applicable federal, state, and local environmental regulations relating to transportation, handling, storage, spillage and any other aspect of providing the services under this Contract.
- I. The Contractor shall provide GRTC with Contractor's spill prevention and response procedures and keep such documents updated.
- J. The Contractor shall notify GRTC of any concerns or problems identified at the delivery site within 24 hours of the delivery.

- K. GRTC is exempt from federal and state motor fuel and excise tax. Tax Exempt documentation will be made available to the Contractor.
- L. Contractor shall comply with the GRTC's Spill Prevention Procedures, which are made a part hereof and incorporated herein by reference.
- M. Contractor shall provide GRTC with the applicable MSDSs for the ULSD fuel with zero biodiesel delivered to GRTC.
- N. Contractor shall comply with GRTC's Fuel Delivery Procedures, which are made a part hereof and incorporated herein by reference.
- O. Contractor expressly undertakes both directly and through its subcontractor(s), to take every reasonable precaution at all times for the protection of all persons and property which may come on the jobsite or be affected by the Contractor's operation in connection with all deliveries.
- P. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety and health precautions and programs in connection with all deliveries.
- Q. Contractor shall in all cases protect the public and the facility during its delivery of fuels by posting and maintaining, at its expense, appropriate signs, barricades, barriers, lights, flagmen, and other safety devices, as deemed necessary.
- R. In an emergency affecting the safety or life of persons or of the facility, or of the adjoining property, the Contractor, without special instruction or authorization from GRTC's General Manager, shall act, at Contractor's discretion, to prevent such threatened loss or injury. Also, should Contractor, to prevent threatened loss or injury, be instructed or authorized to act by GRTC's General Manager, Contractor shall so act immediately, without appeal.
- S. Contractor, during the delivery process, shall be solely responsible for the delivery process and be liable for all damages to the site including, but not limited to any such damages to the tanks and pumps, and to any property at or in the vicinity of the pumps and tanks, including GRTC's office building and other structures.
- T. Contractor shall conduct all operations in such a manner as to avoid any damage to the existing location. Any and all damaged work and surfaces shall be repaired, replaced, or restored to their original condition at the time immediately before such damage occurred, and the expense of such work shall be borne by the Contractor.
- U. **The price per gallon shall be the guaranteed fixed differential price, which term is defined as the amount the Contractor will charge GRTC per gallon for items such as freight, margin, federal L.U.S.T fee, oil spill fee, Virginia tank storage fund, and any and all fees and costs associated with delivering ULSD fuel to GRTC's designated location.**

**END OF EXHIBIT 1.**



**EXHIBIT 2  
TO SAMPLE CONTRACT  
IFB #19-GRTC-0122 TO  
ULTRA LOW SULFUR DIESEL FUEL**

**INSURANCE REQUIREMENTS**

The Contractor shall comply with the insurance requirements set forth in the Contract, including the items set forth below:

- A. Neither the Contractor nor any subcontractor shall commence work under this Contract until the Contractor has obtained and provided proof of the required insurance coverages to GRTC, and such proof has been approved by GRTC. The Contractor confirms to GRTC that all subcontractors have provided Contractor with proof of such insurance, or will do so prior to commencing any work under this Contract.
- B. Contractor, including all subcontractors, shall, at its and/or their sole expense, obtain and maintain during the life of this Contract the insurance policies and/or coverages required by this section. GRTC, Southwestern Virginia Transit Management Company, Inc., First Transit, Inc., the City of Roanoke, and their officers, employees, agents, assigns, and volunteers shall be added as an additional insured to the general liability and automobile coverages of any such policies and such insurance coverages shall be primary and noncontributory to any insurance and/or self-insurance such additional insureds may have. The Contractor shall immediately notify in writing GRTC of any changes, modifications, and/or termination of any insurance coverages and/or policies required by this Contract. The Contractor shall provide to GRTC with the signed Contract an Acord certificate of insurance which states in the description of operations section one of the two paragraphs below:
- (1) GRTC and its officers, employees, agents, assigns, and volunteers are additional insureds as coverage under this policy includes ISO endorsement CG 20 33 which provides that the insured status of such entities is automatic if required by a contract or a written agreement. If additional insureds status is automatic under a different coverage form, Contractor must attach a copy of the coverage form to its certificate. Any required insurance policies shall be effective prior to the beginning of any work or other performance by Contractor and any subcontractor under this Contract.

OR

- (2) ISO endorsement CG 20 10 will be issued, prior to the beginning of any work or other performance by Contractor under this Contract, to GRTC and its officers, employees, agents, assigns, and volunteers naming them as an additional insured under the general liability coverage. A copy of the binder confirming the insurance must be attached to the certificate. Any required insurance policies shall be effective prior to the beginning of any work or other performance by Contractor and any subcontractors under this Contract.

However, if B (1) or (2) cannot be provided, GRTC General Manager, may approve such other certificate of insurance or insurance document(s) that the General Manager deems acceptable.

C. The minimum insurance policies and/or coverages that shall be provided by the Contractor, including its subcontractors, include the following:

(1) Commercial General Liability: \$1,000,000.00  
\$1,000,000.00 General Aggregate Limit (other than Products/Completed Operations).

\$1,000,000.00 Products/Completed Operations Aggregate Limit.

\$1,000,000.00 Personal Injury Liability (including liability for slander, libel, and defamation of character).

\$1,000,000.00 each occurrences limit

(2) Automobile Liability: \$1,000,000.00 combined single limit

(3) Workers' Compensation and Employers' Liability:

Workers' Compensation: statutory coverage for Virginia

Employer's Liability:

\$1,000,000.00 Bodily Injury by Accident each occurrence.

\$500,000.00 Bodily Injury by Disease Policy Limit.

\$1,000,000.00 Bodily Injury by Disease each employee.

(4) The required limits of insurance for this Contract may be achieved by combining underlying primary coverage with an umbrella liability coverage to apply in excess of the general and automobile liability policies, provided that such umbrella liability policy follows the form of the underlying primary coverage.

(5) Such insurance policies and/or coverages shall provide for coverage against any and all claims and demands made by a person or persons or any other entity for property damages or bodily or personal injury (including death) incurred in connection with the services, work, items, and/or other matters to be provided under this Contract with respect to the commercial general liability coverages and the automobile liability coverages. With respect to the workers' compensation coverage, Contractor's and its subcontractors' insurance company shall waive rights of subrogation against GRTC and its officers, employees, agents, assigns, and volunteers.

(6) Contractor shall provide such other insurance policies and/or coverages that may be required by other parts of this Contract. **If required by the Contract, such policies and/or coverages could include, but are not limited to, Errors and Omission/Professional Liability, Crime/ Fidelity, Environmental and/or Pollution, Builder's Risk, Umbrella/Excess.**

- D. Proof of Insurance Coverage:
- (1) Contractor shall furnish GRTC with the above required certificates of insurance showing the type, amount, effective dates, and date of expiration of the policies.
  - (2) Where waiver of subrogation is required with respect to any policy of insurance required under this Section, such waiver shall be specified on the certificate of insurance.
- E. Insurance coverage shall be in a form and with an insurance company approved by GRTC, which approval shall not be unreasonably withheld. Any insurance company providing coverage under this Contract shall be authorized to do business in the Commonwealth of Virginia.
- F. The Contractor's insurance policies and/or coverages shall not contain any exclusions for the Contractor's subcontractors.
- G. The continued maintenance of the insurance policies and coverages required by the Contract is a continuing obligation, and the lapse and/or termination of any such policies or coverages without approved replacement policies and/or coverages being obtained shall be grounds for termination of the Contractor for default.
- H. Nothing contained in the insurance requirements is to be construed as limiting the liability of the Contractor, and/or its subcontractors, or their insurance carriers. GRTC does not in any way represent that the coverages or limits of insurance specified are sufficient or adequate to protect the Contractor's interest or liabilities, but merely minimums. The obligation of the Contractor, and its subcontractors, to purchase insurance shall not in any way limit the obligations of the Contractor in the event that GRTC or any of those named above should suffer any injury or loss in excess of the amount actually recoverable through insurance. Furthermore, there is no requirement or obligation for GRTC to seek any recovery against the Contractor's insurance company before seeking recovery directly from the Contractor.

**END OF EXHIBIT 2.**

**EXHIBIT 3  
TO SAMPLE CONTRACT  
IFB #19-GRTC-0122 TO  
ULTRA LOW SULFUR DIESEL FUEL**

**SCHEDULE OF DELIVERIES**

GRTC and Contractor agree that the Schedule of Deliveries for the 430,000 gallons of Ultra Low Sulfur Diesel (ULSD) fuel with zero biodiesel to be provided under this Contract shall be provided as follows:

- A. Deliveries shall be by a Tank Truck of 7,500 gallons of Ultra Low Sulfur Diesel (ULSD) fuel with zero biodiesel. Deliveries shall be evenly distributed between two underground storage tanks.
  
- B. Contractor shall provide for one Tank Truck of Ultra Low Sulfur Diesel (ULSD) fuel with zero biodiesel delivered to GRTC's location at 1108 Campbell Avenue, SE, Roanoke, Virginia once a week during the term of this Contract, starting July 1, 2019. The exact day of the week and time of each delivery shall be determined by GRTC's General Manager, or designee, and the Contractor's representative, with such items documented in writing (which can include email).
  
- C. Upon agreement of GRTC's General Manager and Contractor's representative, documented in writing (which includes email), this Schedule of Deliveries may be modified and adjusted to provide for more than one Tank Truck delivery during any particular week during the term of the Contract, or to have no Tank Truck delivery during any particular week during the term of the Contract, or to otherwise modify or adjust this Schedule of Deliveries as the parties may mutually agree.

**END OF EXHIBIT 3.**

**EXHIBIT 4  
TO SAMPLE CONTRACT  
IFB #19-GRTC-0122 TO  
ULTRA LOW SULFUR DIESEL FUEL**

**FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS, CONDITIONS AND CERTIFICATIONS**

The following terms are requirements, conditions, and certifications required by the FTA. References in these terms and provisions to “Bidder”, “Proposer”, “Applicant”, or like terms are hereby deemed to refer to the Contractor in this Contract and the Contractor shall and does hereby agree to comply with all of the FTA requirements, conditions, and certifications and to complete the required certifications in connection with this Contract.

**Contract Subject to Federal Financial Assistance/Application of Provisions and Clauses**

Operation of Greater Roanoke Transit Company is funded in part by grants from the Federal Transit Administration (FTA) of the United States Department of Transportation. The award of any contract is subject to the requirements of financial assistance contracts between the Greater Roanoke Transit Company (hereinafter referred to as GRTC) and the U.S. Department of Transportation requiring compliance with purchasing procedures and standards as set forth in various federal statutes and regulations including OMB Circular A-102, 49 CFR Part 18, and FTA Circular 4220.1F. The Contractor is required to comply with all terms and conditions prescribed for third-party contracts by the U.S. Department of Transportation, Federal transit Administration (FTA).

The following solicitation provisions and required contract clauses will be incorporated by reference in any contract resulting from this Solicitation issued by GRTC. These solicitation provisions and required contract clauses are in addition to other General Specifications, Special and Technical Specifications, Bidding or Proposal Procedures, and Bid or Proposal Forms set forth in other sections of this Solicitation which may also be incorporated by reference in any resulting contract. Some provisions and clauses require the Bidder/Offeror to execute and submit certain required certifications with the bid or proposal, which are included herein. Failure to execute and submit required certifications with the bid or proposal documents may render a bid or proposal non-responsive.

**No Government Obligation to Third Parties**

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.

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.

**Program Fraud and False or Fraudulent Statements and Related Acts**

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.

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.

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.

#### **Incorporation of Federal Transit Administration (FTA) Terms**

All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, 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 State requests, which would cause the State to be in violation of the FTA terms and conditions.

#### **Notice of 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.

#### **Access to Records and Reports**

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

3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a sub grantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, 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.
4. Where any Purchaser which is the FTA Recipient or a sub grantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the 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.
5. 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.
6. 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).

### **Termination**

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

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

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

Termination for Default (Construction Contracts only) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the GRTC may terminate this contract for default. The GRTC shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the GRTC may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the GRTC resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the GRTC in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

- A. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the GRTC, acts of another Contractor in the performance of a contract with the GRTC, epidemics, quarantine restrictions, strikes, freight embargoes; and
- B. the contractor, within [10] days from the beginning of any delay, notifies the GRTC in writing of the causes of delay. If in the judgment of the GRTC, the delay is excusable, the time for completing the work shall be extended. The judgment of the GRTC shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the GRTC.

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

If Contractor fails to remedy to GRTC's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor or written notice from GRTC setting forth the nature of said breach or default, GRTC 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 GRTC from also pursuing all available remedies against Contractor and its sureties for said breach or default.

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



## **Title VI, Civil Rights Act of 1964, Compliance**

During the performance of this contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor"), agrees as follows:

- (a) Compliance with Regulations: The Contractor shall comply with the regulations relative to non-discrimination in federal programs of the Department of Transportation (hereinafter referred to as "Regulations"), which are incorporated by reference and made a part of this contract.
- (b) 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.
- (c) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

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.

1. 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.
2. 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.

- (d) 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.

**Disadvantaged Business Enterprise, 49 CFR Part 26**

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy, as the recipient deems appropriate.

The Federal Fiscal Year goal has been set by the GRTC in an attempt to match projected procurements with available qualified disadvantaged businesses. The GRTC's goals for budgeted service contracts, bus parts, and other material and supplies for Disadvantaged Business Enterprises have been established by the GRTC as set forth by the Department of Transportation Regulations 49 C.F.R. Part 26, February 2, 1999, and is considered pertinent to any contract resulting from this request for proposal.

If a specific DBE goal is assigned to this contract, it will be clearly stated in the Specifications, and if the contractor is found to have failed to exert sufficient, reasonable, and good faith efforts to involve DBE's in the work provided, the GRTC may declare the Contractor noncompliant and in breach of contract. If a goal is not stated in the Special Specifications, it will be understood that no specific goal is assigned to this contract.

- (a) Policy - It is the policy of the Department of Transportation and the GRTC that Disadvantaged Business Enterprises, as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of Contract financed in whole or in part with federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 26 apply to this Contract.

The Contractor agrees to ensure that DBEs as defined in 49 CFR Part 26 have the maximum opportunity to participate in the whole or in part with federal funds provided under this Agreement. In this regard, the Contractor shall take all necessary and reasonable steps in accordance with the regulations to ensure that DBEs have the maximum opportunity to compete for and perform subcontracts. The Contractor shall 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 the GRTC to promote the development and increase the participation of businesses owned and controlled by disadvantaged. DBE involvement in all phases of the GRTC's 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 shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 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, the GRTC 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 this contract to indicate compliance with the GRTC's DBE program. These records and documents will be made available at reasonable times and places for inspection by any authorized representative of the GRTC and will be submitted to the GRTC upon request.
- (e) The GRTC will provide affirmative assistance as may be reasonable and necessary to assist the prime contractor in implementing their programs for DBE participation.

The assistance may include the following upon request:

- \* Identification of qualified DBE
- \* Available listing of Minority Assistance Agencies
- \* Holding bid conferences to emphasize requirements.

#### **Access Requirements for Individuals with Disabilities**

The GRTC (and its Contractors) agrees to comply with the requirements of 49 U.S.C. § 5301(d) which states 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 that policy. The GRTC (and its Contractors) 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 that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto. In addition, the GRTC (and its Contractors) agrees to comply with all applicable requirements of the following regulations and any subsequent 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. General Services Administration (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; and
- (10) Any implementing requirements FTA may issue.

### **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.

### **Recycled Products**

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

### **Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Lower Tier Covered Transactions. (Third Party Contracts Over \$25,000)**

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 the Greater Roanoke Transit Company. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the Greater Roanoke Transit Company, 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.

### **Protest Procedures**

#### ***BID / PROPOSAL PROTEST PROCEDURES***

**General** - Protests may be made by prospective bidders or proposers whose direct economic interest would be affected by award of a contract or by failure to award a contract. GRTC will consider all protests requested in a timely manner regarding the award of a contract, whether submitted before or after an award. All protests are to be submitted in writing to: Greater Roanoke Transit Company, 1108 Campbell Avenue SE, Roanoke, VA 24013. Protest submissions should

be concise, logically arranged, and clearly state the grounds for protest. A protest must include at least the following information:

- (a) name, address, and telephone number of protestor,
- (b) identification of contract solicitation number,
- (c) a detailed statement of the legal and factual grounds of the protest, including copies of relevant documents, and
- (d) a statement as to what relief is requested.

Protests must be submitted to GRTC in accordance with these procedures and time requirements, must be complete and contain all issues that the protestor believes relevant.

In the procedures outlined below, the General Manager is considered to be the Contracting Officer.

Protests Before Bid Opening - Bid protests alleging restrictive specifications or improprieties which are apparent prior to bid opening or receipt of proposals must be submitted in writing to the Contracting Officer at the address above and must be received at least seven (7) days prior to bid opening or closing date for receipt of bids or proposals. If the written protest is not received by the time specified, bids or proposals may be received and award made in the normal manner unless the Contracting Officer determines that remedial action is required. Oral protests not followed up by a written protest will be disregarded. The Contracting Officer may request additional information from the appealing party and information or response from other bidders, which shall be submitted to the Contracting Officer not less than ten (10) days after the date of GRTC's request. So far as practicable, appeals will be decided based on the written appeal, information and written response submitted by the appealing party and other bidders. In failure of any party to timely respond to a request for information, it may be deemed by GRTC that such party does not desire to participate in the proceeding, does not contest the matter, or does not desire to submit a response, and in such a case, the protest will proceed and will not be delayed due to the lack of a response. Upon receipt and review of written submissions and any independent evaluation deemed appropriate by GRTC, the Contracting Officer shall either (a) render a decision, or (b) at the sole election of the Contracting Officer, conduct an informal hearing at which the interested parties will be afforded opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules of evidence or procedures. Following the informal hearing, if one is held, the Contracting Officer will render a decision, which shall be final, and notify all interested parties thereof in writing but no later than ten (10) days from the date of informal hearing.

Protests After Bid Opening/Prior to Award - Bid protests against the making of an award by the GRTC must be submitted in writing to the Contracting Officer and received within seven (7) days of the award by the GRTC. Notice of the protest and the basis therefore will be given to all bidders or proposers. In addition, when a protest against the making of an award by the GRTC is received and it is determined to withhold the award pending disposition of the protest, the bidders or proposers whose bids or proposals might become eligible for award shall be requested, before expiration of the time for acceptance, to extend or to withdraw the bid. Where a written protest against the making of an award is received in the time period specified, award will not be made prior to seven (7) days after resolution of the protest unless GRTC determines that:

- (a) the items to be purchased are urgently required
- (b) delivery or performance will be unduly delayed by failure to make award promptly, or
- (c) failure to make award will otherwise cause undue harm to GRTC or the federal government.

Protests After Award - In instances where the award has been made, the Contractor shall be furnished with the notice of protest and the basis therefore. If the contractor has not executed the contract as of the date the protest is received by GRTC, the execution of the contract will not be made prior to seven (7) days after resolution of the protest unless GRTC determines that:

- (a) the items to be purchased are urgently required
- (b) delivery or performance will be unduly delayed by failure to make award promptly, or
- (c) failure to make award will otherwise cause undue harm to GRTC or the federal government.

Protests to Federal Transit Administration (FTA) - Under certain limited circumstances, an interested party may protest to the FTA the award of a contract pursuant to an FTA grant. FTA's review of any such protest will be limited to:

- (a) alleged failure by GRTC to have written protest procedures or alleged failure to follow such procedures, or
- (b) alleged violations of specific federal requirement that provides an applicable complaint procedure shall be submitted and processed in accordance with that federal regulations.

Protestors shall file a protest with FTA not later than five (5) working days after a final decision of GRTC's Contracting Officer is rendered under the GRTC protest procedure. In instances where the protestor alleges that GRTC failed to make a final determination on the protest, the protestor shall file a complaint with FTA no later than five (5) federal working days after the protestor knew or should have known of GRTC's failure to render a final determination in the protest.

Submission of Protest to FTA - Protests submitted to FTA should be submitted to the FTA Region III Office in Philadelphia, Pennsylvania with a concurrent copy to GRTC. The protest filed with FTA shall:

- (a) include the name and address of the protestor
- (b) identify the GRTC project number and the number of the contract solicitation,
- (c) contain a statement of the grounds for protest and any supporting documentation. This should detail the alleged failure to follow GRTC's protest procedures, or the alleged failure to have procedures, and be fully supported to the extent possible,
- (d) include a copy of the local protest filed with GRTC and a copy of the GRTC decision, if any.

GRTC's Role and Responsibilities. The Common Grant Rules charges the GRTC with the initial responsibility to resolve protests of third party contract awards.

Responsibilities to FTA. The recipient's minimum responsibilities to FTA consist of the following:

1. Notify FTA Expeditiously. The Common Grant Rule for governmental recipients requires a governmental recipient to notify FTA when it receives a third party contract protest to which this circular applies, and to keep FTA informed about the status of the protest. A non-governmental recipient involved in a protest is similarly expected to notify FTA when it receives a third party contract protest to which the circular applies, and to similarly keep FTA informed about the status of the protest. The Company is expected to provide the following information:

2. Subjects. A list of protests involving third party contracts and potential third party contracts that:
  - a) Have a value exceeding \$100,000, or
  - b) Involve a controversial matter, irrespective of amount, or
  - c) Involve a highly publicized matter, irrespective of amount.
  
3. Details. The following information about each protest:
  - a) A brief description of the protest,
  - b) The basis of disagreement, and
  - c) If open, how far the protest has proceeded, or
  - d) If resolved, the agreement or decision reached, and
  - e) Whether an appeal has been taken or is likely to be taken.
  
4. When and Where. The recipient should provide this information:
  - a) In its next quarterly Milestone Progress Report, and
  - b) At its next Project Management Oversight review, if any.
 Small recipients may report less frequently if no protests are outstanding.
  
5. FTA Officials to Notify. When a recipient denies a bid protest, and especially if an appeal to FTA is likely to occur, FTA expects the recipient to inform the FTA Regional Administrator for the region administering a regional project, or the FTA Associate Administrator for the program office administering a headquarters project directly. FTA also encourages the recipient to keep its FTA project manager informed about protests with which it is involved. In particular, the recipient should contact its project manager about any unusual activity.
  - (a) Access to Information. FTA expects the recipient to disclose information about any third party procurement protest to FTA upon request. FTA reserves the right to require the recipient to provide copies of a particular protest or all protests, and any or all related supporting documents as FTA may determine necessary.

FTA's Role and Responsibilities. FTA has developed an appeals process for reviewing protests of a recipient's procurement decisions.

Requirements for the Protester. The protester must:

- (a) Qualify as an "Interested Party." Only an "interested party" qualifies for FTA review of its appeal. An "interested party" is a party that is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the third party contract at issue.
  - 1 Subcontractors. A subcontractor does not qualify as an "interested party" because it does not have a direct economic interest in the results of the procurement.
  - 2 Consortia/Joint Ventures/Partnerships/Teams. An established consortium, joint venture, partnership, or team that is an actual bidder or offeror and is acting in its entirety, would qualify as an "interested party" because it has a direct economic interest in the results of the procurement. An individual member of a consortium, joint venture, partnership, or team, acting solely

in its individual capacity, does not qualify as an “interested party” because it does not have a direct economic interest in the results of the procurement.

3 Associations or Organizations. An association or organization that does not perform contracts does not qualify as an “interested party,” because it does not have a direct economic interest in the results of the procurement.

(b) Exhaust Administrative Remedies. The protester must exhaust its administrative remedies by pursuing the recipient’s protest procedures to completion before appealing the recipient’s decision to FTA.

(c) Appeal Within Five Days. The protester must deliver its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has received actual or constructive notice of the recipient’s final decision. Likewise, the protester must provide its appeal to the FTA Regional Administrator for the region administering its project or the FTA Associate Administrator for the program office administering its project within five (5) working days of the date when the protester has identified other grounds for appeal to FTA. For example, other grounds for appeal include the recipient’s failure to have or failure to comply with its protest procedures or failure to review the protest.

(1) Extent of FTA Review - As provided in the Common Grant Rule for governmental recipients, FTA will limit its review of third party contract protests as follows:

(a) The Recipient’s Procedural Failures - FTA will consider a protest if the recipient:

1. Does not have protest procedures, or
2. Has not complied with its protest procedures, or
3. Has not reviewed the protest when presented an opportunity to do so.

(b) Violations of Federal Law or Regulations - FTA will not consider every appeal filed by a protestor of an FTA recipient’s protest decision merely because a Federal law or regulation may be involved. Instead, FTA will exercise discretionary jurisdiction over those appeals involving issues important to FTA’s overall public transportation program. FTA will refer violations of Federal law for which it does not have primary jurisdiction to the Federal authority having proper jurisdiction.

(c) Violations of State or Local Law or Regulations - FTA will refer violations of State or local law to the State or local authority having proper jurisdiction.

(2) FTA Determinations to Decline Protest Reviews - FTA’s determination to decline jurisdiction over a protest does not mean that FTA approves of or agrees with the recipient’s decision or that FTA has determined the contract is eligible for Federal participation. FTA’s determination means only that FTA does not consider the issues presented to be sufficiently important to FTA’s overall program that FTA considers a review to be required.



**Lobbying**

Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying," included herein as Bid Attachment E. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the GRTC.

**Clean Air**

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 the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The 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.

**Clean Water**

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 the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The 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.

**FTA CERTIFICATIONS TO FOLLOW.**

**CERTIFICATIONS NEEDS TO BE SUBMITTED WITH BID.**

**EXHIBIT 5  
TO SAMPLE CONTRACT  
IFB #19-GRTC-0122 FOR  
ULTRA LOW SULFUR DIESEL FUEL**

**BIDDER'S CERTIFICATION OF DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
FOR  
GREATER ROANOKE TRANSIT COMPANY D/B/A VALLEY METRO**

The \_\_\_\_\_  
(legal name of Bidder) hereby certifies that it has submitted plans for the participation of Disadvantage Business Enterprise (DBE) in confirmation to the U. S. Department of Transportation's Minority business Enterprise Regulations (49 CFR, Part No. 26) and is eligible to bid on contracts awarded under assistance from the Federal Transit Administration (FTA).

\_\_\_\_\_  
Legal Name of Bidder

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Print Name and Title

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

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

Registration No. \_\_\_\_\_.

My Commission expires \_\_\_\_\_, 20 \_\_\_\_\_.

Or if the company has not submitted plans please check below and submit form.

\_\_\_\_ Company has not submitted plans for the participation of Disadvantaged Business Enterprise (DBE).

Sign \_\_\_\_\_  
Legal Name of Bidder / Offeror

Date \_\_\_\_\_

**EXHIBIT 6  
TO SAMPLE CONTRACT  
IFB #19-GRTC-0122 FOR  
ULTRA LOW SULFUR DIESEL FUEL  
CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY  
FOR GREATER ROANOKE TRANSIT COMPANY D/B/A VALLEY METRO**

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

The prospective participant certifies to the best of its knowledge and belief that it and the principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them or 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 statute or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) 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.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.

---

Typed Name & Title of Authorized Representative

---

Signature of Authorized Representative Date

I am unable to certify to the above statements. My explanation is attached.

**EXHIBIT 7  
TO SAMPLE CONTRACT  
IFB #19-GRTC-0122 FOR  
ULTRA LOW SULFUR DIESEL FUEL  
CERTIFICATION REGARDING LOBBYING PURSUANT TO 49 CFR PART 20  
For Contracts \$100,000 or more**

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

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]
- (3) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure. [Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

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

\_\_\_\_\_ Legal Name of Contractor

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

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

\_\_\_\_\_ Date