

**CONTRACT**  
**FOR BATTERY ELECTRIC BUS CONSULTING SERVICES**

This CONTRACT is entered into this \_\_\_\_\_ day of \_\_\_\_\_ 2018, by and between the CITY OF GAINESVILLE, FLORIDA, a municipal corporation ("CITY"), and CENTER FOR TRANSPORTATION AND THE ENVIRONMENT, INC., a Georgia nonprofit corporation ("CONTRACTOR").

WHEREAS, the parties desire to enter into an agreement to provide consulting services to plan and deploy zero-emission buses.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. The CONTRACTOR shall furnish the labor, services, materials, and equipment to perform the contract as provided by the following enumerated documents, whether attached to this Contract or incorporated by reference (collectively the 'Contract Documents'):

- a. This Contract;
- b. Federal Transit Administration (FTA) Requirements, attached hereto and incorporated as Exhibit A; and
- c. Statement of Work and Task and Fee Schedule attached hereto and incorporated as Exhibit B.

The Contract Documents constitute the entire agreement between the City and Contractor. In the event of conflict or inconsistency between in the Contract Documents, the order of precedence for interpretation shall be the order in which the Contract Documents are listed above. Conflict or inconsistency within a particular contract document shall be resolved by having the more specific reference to the matter prevail. Any modification to the Contract Documents shall only become effective on signed written agreement between the parties.

2. The CITY shall pay to the CONTRACTOR Two Hundred Sixty-Five Thousand Dollars (\$265,000.00) for the faithful performance of this Contract in the sums due upon verified invoice within 30 days of receipt in accordance with the Task and Fee Schedule in Attachment I of the Proposal.

3. The obligations of the CITY as to any funding required pursuant to this Contract shall be limited to an obligation in any given year to budget and appropriate from legally available funds, after monies for essential CITY services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the CITY shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the CITY pursuant to this Contract.

4. The CONTRACTOR and the CITY further agree that time is of the essence of the CONTRACT and that the work under the CONTRACT is required to be completed within the time specified in the Proposal.

5. The term of the Contract will commence upon execution and shall continue through February 28, 2020, unless terminated earlier.

6. CONTRACTOR shall be considered an independent contractor and as such shall not be entitled to any right or benefit to which CITY employees are or may be entitled to by reason of employment. Except as specifically noted in the Contract Documents, CONTRACTOR shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by the CONTRACTOR in the full performance of the Contract Documents.

7. CONTRACTOR shall maintain the following insurance throughout the term of this Contract:

Worker's Compensation Insurance providing coverage in compliance with Chapter 440, Florida Statutes.

Public Liability Insurance (other than automobile) consisting of broad form comprehensive general liability insurance including contractual coverage in the amount of \$1,000,000 per occurrence written on an occurrence basis (combined single limit for bodily injury and property damage).

Automobile Liability Insurance Property Damage \$500,000 per occurrence (combined single limit for bodily injury and property damage).

The CITY shall be an additional insured on such Public Liability Insurance, and the CONTRACTOR shall provide copies of endorsements naming the CITY as additional insured. CONTRACTOR shall furnish the CITY a certificate of insurance in a form acceptable to the CITY for the insurance required. Such certificate or an endorsement must state that the CITY will be given thirty (30) days' written notice prior to cancellation or material change in coverage (but the CITY will accept 10 days' written notice of cancellation for non-payment).

8. CONTRACTOR agrees to indemnify and hold harmless the CITY, its officers, and employees from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the CONTRACTOR and persons employed or utilized by the CONTRACTOR in the performance of the Contract.

9. Nothing in the Contract Documents shall be interpreted as a waiver of the City's sovereign immunity as granted under Section 768.28, Florida Statutes.

10. Termination.

a. Termination for Default. If the CONTRACTOR fails to observe or perform or is guilty of a substantial violation of any provision of the Contract, then the CITY, after serving at least ten (10) days' written notice to the CONTRACTOR of its intent to terminate and after such default shall continue unremedied for a period of ten days, may terminate the Contract without prejudice to any other rights or remedies it may have under this Contract.

If, after default under this subsection, it is determined for any reason that CONTRACTOR was not in default, or that its default was excusable, or that CITY is not entitled to the remedies against CONTRACTOR provided herein, then CONTRACTOR's remedies against CITY shall be the same as and limited to those afforded CONTRACTOR pursuant to the subsection title "Termination for Convenience" which appears below.

b. Termination for Convenience. City shall have the right to terminate this Contract, in whole or in part, without cause, upon seven (7) calendar days' written notice to Contractor. In the event of such termination for convenience, Contractor's recovery against City shall be limited to that portion of the contract price earned through the date of termination, together with any retainage withheld and direct and immediate termination expenses incurred, but Contractor shall not be entitled to any other or further recovery against City.

Termination of the contract or a portion thereof, for cause or convenience, shall neither relieve the Contractor of its responsibilities for the completed work nor shall it relieve his/her surety of its obligation for and concerning any just claim arising out of the work performed.

11. Any notice required under this Contract shall be addressed as follows and delivered via US Post or express mail:

CITY  
City of Gainesville  
PO Box 490, Station 5  
Gainesville, FL 32627  
Attn: Paul Starling

CONTRACTOR  
Center For Transportation  
and The Environment, Inc.  
730 Peachtree Street Suite 760  
Atlanta GA 30308  
Attn: Blake Whitson

12. CONTRACTOR shall maintain records sufficient to document completion of the scope of services established by the Contract Documents. These records shall be subject at all reasonable time to review, inspect, copy and audit by persons duly authorized by the CITY. These records shall be kept for a minimum of three (3) years after termination of the Contract. Records that relate to any litigation, appeals or settlements of claims arising from performance under this Contract shall be made available until a final disposition has been made of such litigation, appeals, or claims.

13. Florida has a very broad public records law and certain records of a contractor may be considered public records. Accordingly, by entering into a contract with the CITY, CONTRACTOR must:

- a. Keep and maintain public records required by the CITY to perform the service.
- b. Upon request from the CITY's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
- c. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract if CONTRACTOR does not transfer the records to the CITY.

- d. Upon completion of the Contract, transfer, at no cost, to the CITY all public records in possession of CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If CONTRACTOR transfers all public records to the CITY upon completion of the Contract, CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If CONTRACTOR keeps and maintains public records upon completion of the Contract, CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS - PROJECT MANAGER, PAUL STARLING, 352-393-7840, STARLINGPK@CITYOFGAINESVILLE.ORG, P.O. BOX 490 MAIL STATION 5, GAINESVILLE, FL 32627.**

14. The Contract and the legal relations between the parties hereto shall be governed and construed in accordance with the laws of the State of Florida, notwithstanding its conflict of laws provisions. Venue shall be in the courts of Alachua County, Florida.

IN WITNESS WHEREOF the parties have executed this Contract on the day first above written in two counterparts, each of which shall without proof or accounting for the other counterparts be deemed an original contract.

ATTEST OR WITNESS:

(SEAL) (If Corporation)  
CENTER FOR TRANSPORTATION  
AND THE ENVIRONMENT, INC.

\_\_\_\_\_

\_\_\_\_\_/Date\_\_\_\_\_

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

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

ATTEST OR WITNESS:

CITY OF GAINESVILLE

\_\_\_\_\_

\_\_\_\_\_/Date\_\_\_\_\_

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

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

APPROVED AS TO FORM AND LEGALITY

\_\_\_\_\_/Date\_\_\_\_\_

City Attorney

## EXHIBIT A

### FEDERAL TRANSIT ADMINISTRATION (FTA) REQUIREMENTS

**Statement of Financial Assistance:** This purchase is funded in whole or in part by the U.S. Department of Transportation, Federal Transit Administration. The following requirements are applicable for this purchase:

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient 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 Recipient, 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 the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. 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.

3. ACCESS TO RECORDS AND REPORTS

- a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

4. 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.

5. CIVIL RIGHT LAWS AND REGULATIONS

The City of Gainesville is an Equal Opportunity Employer. As such, the City of Gainesville agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the City of Gainesville agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

- a. **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- b. **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., 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. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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.

- c. **Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, 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.
- d. **Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

## 6. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contractor, subrecipient 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 C.F.R. 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, which may include, but is not limited to:

- a. Withholding monthly progress payments;
- b. Assessing sanctions;
- c. Liquidated damages; and/or
- d. Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Gainesville, Florida. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

### Overview

It is the policy of the City of Gainesville and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the City of Gainesville to:

- 1. Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- 2. Create a level playing field on which DBE's can compete fairly for DOT-assisted contracts;
- 3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
- 4. Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE's;
- 5. Help remove barriers to the participation of DBEs in DOT assisted contracts;
- 6. To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
- 7. Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The City of Gainesville shall make all determinations with regard to whether or not a Bidder/Officer is in compliance with the requirements stated herein. In assessing compliance, the City of Gainesville may consider during its review of the Bidder/Officer's submission package, the Bidder/Officer's documented history of non-compliance with DBE requirements on previous contracts with the City of Gainesville.

### Contract Assurance

The Contractor, subrecipient 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 C.F.R. 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 City of Gainesville deems appropriate.

### DBE Participation

For the purpose of this Contract, the City of Gainesville will accept only DBE's who are:

- 1. Certified, at the time of bid opening or proposal evaluation, by the Florida Department of Transportation or the Unified Certification Program (UCP); or
- 2. An out-of-state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an City of Gainesville whose DBE certification process has received FTA approval; or
- 3. Certified by another agency approved by the City of Gainesville.

### DBE Participation Goal

**The City of Gainesville has not set a specific goal for this project.** The agency's overall goal for DBE participation for the period October 1, 2013 through September 30, 2019 is **1.5%**. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling not less than 1.5% of the total Contract price. Failure to meet the stated goal at the time of proposal submission may render the Bidder/Officer non-responsive.

## 7. 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.

## 8. AMERICANS WITH DISABILITIES ACT

- a. *New Buses and Construction*: All design and construction must meet all federal regulations of 49 CFR Part 37 and Part 38.
- b. *Used Buses*: Must meet all federal regulations of 49 CFR Part 38.
- c. *Modification of Facilities*: Must meet all federal regulations of Appendix A to 49 CFR Part 37, the ADA Accessibility Guideline (ADAAG).

## 9. PRIVACY ACTS

- a. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- b. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## 10. SAFE OPERATION OF MOTOR VEHICLES

**Seat Belt Use**

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms "company-owned" and "company-leased" refer to vehicles owned or leased either by the Contractor or City of Gainesville.

**Distracted Driving**

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

## 11. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F, 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 City of Gainesville requests which would cause City of Gainesville to be in violation of the FTA terms and conditions.

*The following conditional requirements may apply based upon value and/or item/service:*

12. TERMINATION - *If this solicitation or contract is valued in excess of \$10,000:***Termination for Convenience (General Provision)**

The City of Gainesville may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the City of Gainesville's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to City of Gainesville to be paid the Contractor. If the Contractor has any property in its possession belonging to City of Gainesville, the Contractor will account for the same, and dispose of it in the manner City of Gainesville 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 City of Gainesville 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 be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

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

**Opportunity to Cure (General Provision)**

The City of Gainesville, 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 City of Gainesville's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from City of Gainesville setting forth the nature of said breach or default, City of Gainesville 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 City of Gainesville 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 City of Gainesville elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by City of Gainesville shall not limit City of Gainesville's remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

#### **Termination for Convenience (Professional or Transit Service Contracts)**

The City of Gainesville, by written notice, may terminate this contract, in whole or in part, when it is in the City of Gainesville's interest. If this contract is terminated, the City of Gainesville shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

#### **Termination for Default (Supplies and Service)**

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the City of Gainesville may terminate this contract for default. The City of Gainesville shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

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

13. GOVERNMENT WIDE DEBARMENT AND SUSPENSION - *If this solicitation or contract is valued at \$25,000 or more:*

#### **Debarment, Suspension, Ineligibility and Voluntary Exclusion**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or City of Gainesville to be:

- a. Debarred from participation in any federally assisted Award;
- b. Suspended from participation in any federally assisted Award;
- c. Proposed for debarment from participation in any federally assisted Award;
- d. Declared ineligible to participate in any federally assisted Award;
- e. Voluntarily excluded from participation in any federally assisted Award; or
- f. Disqualified from participation in any federally assisted Award.

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 City of Gainesville. If it is later determined by the City of Gainesville that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the City of Gainesville, 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 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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.

14. VIOLATION AND BREACH OF CONTRACT - *If this solicitation or contract exceeds \$150,000:*

#### **Rights and Remedies of the City of Gainesville**

The City of Gainesville shall have the following rights in the event that the City of Gainesville deems the Contractor guilty of a breach of any term under the Contract.

- a. The right to take over and complete the work or any part thereof as City of Gainesville for and at the expense of the Contractor, either directly or through other contractors;
- b. The right to cancel this Contract as to any or all of the work yet to be performed;
- c. The right to specific performance, an injunction or any other appropriate equitable remedy; and
- d. The right to money damages.

#### **Rights and Remedies of Contractor**

Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by the City of Gainesville, the Contractor expressly agrees that no default, act or omission of the City of Gainesville shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless the City of Gainesville directs Contractor to do so) or to suspend or abandon performance.

#### **Remedies**



Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, the City of Gainesville will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before the City of Gainesville takes action contemplated herein, the City of Gainesville will provide the Contractor with sixty (60) days written notice that the City of Gainesville considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

### **Disputes**

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of City of Gainesville's Budget and Finance Director. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City Manager. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the City Manager shall be binding upon the Contractor and the Contractor shall abide by the decision.

### **Performance during Dispute**

Unless otherwise directed by City of Gainesville, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

### **Claims for Damages**

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

### **Remedies**

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

### **Rights and Remedies**

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

15. **LOBBYING RESTRICTIONS-** *If this solicitation or contract is for \$100,000 or more:*

**Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352(b)(5), as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.]** - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any City of Gainesville, 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(b)(5). 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(b)(5). Such disclosures are forwarded from tier to tier up to the recipient.

16. **CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT** - *If this solicitation or contract exceeds \$150,000 in any year:*

The Contractor agrees:

- a. It will not use any violating facilities;
- b. It will report the use of facilities placed on or likely to be placed on the U.S. EPA "List of Violating Facilities;"
- c. It will report violations of use of prohibited facilities to FTA; and
- d. It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

## CERTIFICATION REGARDING DEBARMENT

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

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 AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, 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 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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.

---

Signature of Contractor's Authorized Official

---

Name of Contractor's Authorized Official

---

Title of Contractor's Authorized Official

---

Date

**CERTIFICATION REGARDING LOBBYING**

The undersigned 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 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 1352, title 31, U.S. Code. 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.

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

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

\_\_\_\_\_  
Date

**DISCLOSURE OF LOBBYING ACTIVITIES**

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

Approved by OMB  
0348-0046

(To be submitted by vendor, if applicable, refer to instructions on the next page)

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



#180365A  
CENTER FOR TRANSPORTATION & THE ENVIRONMENT  
730 PEACHTREE STREET  
SUITE 760  
ATLANTA, GA 30308  
P: 678-244-4150  
F: 678-244-4151

August 22, 2018

Name

Title

Company

Address

Address

City, ST Zip

Re: Letter Agreement for Scope of Work related to the Gainesville RTS Zero-Emission Battery Electric Bus Deployment Project

Dear Mr./Ms. ,

This Letter Agreement between the Center for Transportation and the Environment ("CTE"), located at 730 Peachtree Street, Suite 760, Atlanta, GA 30308 and City of Gainesville, located at <Address>, both hereinafter referred to collectively as the "Parties" and individually as "Party," serves as the contract for the scope of work that CTE agrees to provide under the Gainesville RTS Zero-Emission Battery Electric Bus Deployment Project. In consideration of the mutual covenants contained herein, the parties agree as follows:

The following attachments are incorporated by reference and made part of this Letter Agreement herein:

*Attachment I:* Statement of Work

*Attachment II:* Applicable Federal Terms & Conditions

## 1) STATEMENT OF SERVICES TO BE PERFORMED

By executing this Letter Agreement, CTE agrees to perform and comply with the scope of work set forth in the Statement of Work, attached and fully incorporated herein as *Attachment I*. CTE shall perform the scope of work specified in the time and manner described and in accordance with the terms and provisions of this Agreement. CTE agrees to perform the scope of work with the standard of professional care, skill, and diligence normally provided in the performance of similar services.

## 2) TERM OF AGREEMENT

The period of performance for this Agreement shall commence upon the execution of this Letter Agreement by both parties. Services, work products, and/or deliverables defined in *Attachment I* shall be completed no later than February 28, 2020. See the Task and Fee Schedule within *Attachment I*.

### 3) AGREEMENT AMOUNT

The total firm fixed price to be paid to CTE under this Letter Agreement is Two Hundred Forty Thousand Dollars (\$240,000). CTE will invoice the City of Gainesville upon completion of task deliverables as described in *Attachment I*.

With written authorization from the City of Gainesville, CTE will provide On-Call Consulting Services to support ad hoc or “as needed” project assignments. CTE shall provide these services on a cost reimbursable hourly basis, not-to-exceed Twenty Five Thousand Dollars (\$25,000). If the not-to-exceed amount is reached, City of Gainesville may choose to extend the On-Call Consulting Services by amending the agreement with a new not-to-exceed amount. Before beginning any On-Call Consulting Services, CTE and the City of Gainesville shall mutually agree on the scope and budget associated with the services to be provided. CTE shall invoice the City of Gainesville for services provided based on hours worked and agreed upon allowable rates.

### 4) INVOICES

CTE shall submit invoices to the City of Gainesville upon completion and acceptance of each deliverable specified in Attachment I. City of Gainesville will review the deliverables within 15 days of submission and either request revisions or indicate acceptance. Any requested revisions shall be made within 15 days, after which the deliverable will be resubmitted by CTE. The final invoice shall be submitted by CTE within 30 days acceptance of the final deliverable or Termination of this Agreement. Invoices shall be submitted to <Name and Title of authorized recipient at City of Gainesville> by <method of submission (e.g. mail, courier, and/or email)> to the following address: <address>.

### 5) TERMINATION

This agreement may be terminated in whole or in part as follows:

- A. By Either party, if the Other Party materially fails to comply with the terms and conditions of this Agreement and such failure is not corrected within fifteen (15) days following receipt of written notice from the non-breaching party.
- B. By CTE, upon thirty (30) days written notification to City of Gainesville setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated.
- C. By City of Gainesville, upon thirty (30) days written notification to CTE setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated.
- D. By City of Gainesville, if City of Gainesville’s prime award supporting this Letter Agreement is terminated by FTA.

Upon Termination, City of Gainesville will reimburse CTE for the contract price of services performed in accordance with the manner of performance set forth in this Agreement prior to termination.

### 6) INDEMNIFICATION

- A. Each Party (the “Indemnifying Party”) agrees to, and will, indemnify, defend, and hold harmless the other Party (the “Indemnitee”) and its Board Members, officers, agents, employees, and representatives against any liabilities, losses, claims, expenses (including

- attorney's fees) or damage they may suffer as a result of third party claims, demands, actions, costs or judgments resulting or alleged to have resulted from the Indemnifying Party's negligence or willful misconduct related to performance under this contract, except to the extent that the liability, loss or damage results from (i) the non-Indemnifying Party's failure to substantially comply with any applicable law; or (ii) the negligence or willful malfeasance of any board member or employee of the non-Indemnifying Party.
- B. It is further agreed by and between the Parties that the Indemnatee shall (a) promptly notify the Indemnifying Party in writing of any claim for which indemnification is sought and (b) forward to the Indemnifying Party any other information available regarding the claim as promptly as is reasonably practicable; provided that the failure to provide such notice shall not release the Indemnifying Party from any of its obligations hereunder except to the extent that the Indemnifying Party is actually and materially prejudiced by such failure.
  - C. The Indemnifying Party shall be entitled, at its option, to assume and control the defense of any third party claim under this section, at its expense and through counsel of its choice if it gives notice of its intention to do so to the Indemnatee within 45 days of the receipt of notice of the right to be indemnified.

## **7) INDEPENDENT CONTRACTOR**

The Parties agree that CTE, as well as any individual working for CTE, is an independent contractor and not an employee of the City of Gainesville for any purpose. Nothing contained in this Agreement shall be construed to create the relationship of employer and employee, principal and agent, partnership, or joint venture. Both parties acknowledge that CTE is not an employee for state or federal tax purposes and is not entitled to any employee benefits of the City of Gainesville.

## **8) FORCE MAJEURE**

Neither CTE nor the City of Gainesville shall be liable for or deemed to be in default for any delay or failure in performance under this Agreement or interruption of services resulting, directly or indirectly, from acts of God, civil or military authority, acts of public enemy or hostile governmental action, strikes, labor disputes, fire or other casualty, inability to obtain labor or materials or reasonable substitutes for labor or materials necessary for performance of the services, or other causes, except financial, that are beyond the reasonable control of CTE or City of Gainesville. Notwithstanding the above, if the cause of the force majeure event is due to party's own action or inaction, then such cause shall not excuse that party from performance under this Agreement.

## **9) MISCELLANEOUS**

- A. Subcontracting. CTE may subcontract with third party providers in performance of specific tasks included in CTE's Statement of Work. In the event that subcontractors are used, CTE will notify City of Gainesville of the intent to use subcontractors and ensure subcontractor adherence to the same quality standards and assurances required of CTE, including adherence to applicable Federal Terms and Conditions.
- B. Non-Exclusivity. As an independent contractor, CTE may engage the services of any other individual or company that competes with City of Gainesville or offers services similar to those offered by City of Gainesville, and any such engagement shall not be considered a breach of this Agreement.

- C. Entire Agreement. This Agreement constitutes the entire Agreement of the Parties with respect to the subject matter of the Agreement and supersedes all previous oral and written agreements, understandings, and communications of the Parties relating to such matters.
- D. Amendment or Waiver. This Agreement may not be modified, amended or waived except by a written instrument executed by duly authorized representatives of both parties. No failure or delay in exercising any right shall operate as a waiver thereof.
- E. Counterparts. This Agreement may be executed and delivered in any number of counterparts, each of which, when executed and delivered, shall be deemed an original, and all of which together shall constitute the same contract.
- F. Severability. Should any part of this agreement be rendered or declared invalid or unenforceable by a court of competent jurisdiction, it shall not affect the validity of any other provision, which shall remain in full force and effect.
- G. Assignment. Neither Party may assign its respective rights or duties under this agreement to a third Party (except to a successor in interest to substantially all of the business of the assignor) without the prior written consent of the other Party.
- H. Governing Law. This Agreement will be governed by and constructed in accordance with the laws of the State of Florida, USA, without regard to the conflict of laws principles thereof.
- I. Headings. Headings on the sections and paragraphs of this Agreement are for convenience and reference only, and the words contained therein shall in no way be held to explain, modify, amplify, or aid in the interpretation, construction, or meaning of the provisions of this Agreement.
- J. Survival of Terms. The provision of section 6 (Indemnification) shall survive the expiration or termination of this Agreement.

Please indicate your acceptance of these terms by returning one signed copy of this agreement to CTE.

**Center for Transportation & the Environment  
(CTE):**

**Read, agreed to, and accepted by City of  
Gainesville:**

By: \_\_\_\_\_

By: \_\_\_\_\_

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

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

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

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

Enclosures:

Attachment I: Statement of Work

Attachment II: Applicable Federal Terms & Conditions



***Attachment I***  
**Statement of Work**



## **Statement of Work**

This Enhanced Technical Services Plan offered by the Center for Transportation and the Environment (CTE) provides the support required to plan and deploy zero-emission buses. CTE's Enhanced Technical Service Plan is designed to educate transit agencies on the limitations associated with BEB's to ensure that they can be successfully deployed in passenger service. The enhanced service also includes tasks to validate the BEB meets service requirements and to monitor bus performance after deployment to ensure the agency is accruing the expected benefits.

The technical services are separated into seven primary tasks, as follows:

- 1. Route Modeling.** CTE will develop computer models for the transit agency's routes and the bus model from the selected OEM. The models are used to simulate operation of the BEB on the agency's route under varying conditions to predict the performance and energy efficiency of the selected bus on the selected route. The model utilizes powertrain simulation software developed by Argonne National Laboratory called Autonomie. CTE will collect data by riding the route on an existing transit agency bus with a GPS data logger to capture time, distance, vehicle speed, vehicle acceleration, GPS coordinates, and roadway grade. CTE will use this data, along with specifications for the bus model and charging systems (on-route and/or shop charging units), to develop a baseline route performance model. The model will analyze variable passenger and power accessory (e.g., HVAC) load parameters to estimate real-world vehicle performance, including the impact of different weather conditions if applicable. CTE will provide a profile report for each route.

**Expected Duration:** 2 months

**Timing:** Occurs before the agency executes a sales-order with the vehicle OEM.

**Deliverable:** A presentation/report describing:

- the ability of the battery electric bus to complete routes under nominal and strenuous loads;
- the expected energy consumption of each bus on route under nominal and strenuous loads;
- charging strategies that will allow the agency to replenish bus battery energy and meet operational needs;
- an analysis of alternatives for charging equipment and charge locations, if needed.

- 2. Rate & Charge Modeling.** CTE will analyze alternatives for charging equipment and develop charging profiles based on charge energy and charge rate requirements to determine charge duration. CTE will develop a rate model to assess the operational cost of the proposed service and charging alternatives. Rate Modeling will provide the transit agency with an estimated annual cost of energy for the electric buses, as determined by the vehicle and duty cycle modeling and simulation activities.

**Expected Duration:** 1 month



**Timing:** Occurs after Task 1 Route Modeling is completed.

**Deliverable:** A presentation/report describing:

- applicable rate structures and their affects on BEB operational costs;
- baseline energy costs for the BEB fleet based on planned operation strategy;
- operational and charge strategies for reducing energy costs;
- energy cost comparison to existing bus fleet.

- 3. Bus & Charger Specifications.** CTE will assist the transit agency with finalizing vehicle and equipment specifications and other documents required for bus procurement. Specifications will be modified based on results of the route model so that buses and equipment are optimized for the transit agency's deployment plan. CTE will help the transit agency identify any impact to their operating service caused by the specified buses and charging strategy.

**Duration:** 1 month

**Timing:** Occurs before the agency executes a sales-order with the vehicle OEM.

**Deliverables:**

- a) final battery electric bus specifications
- b) final charging system specifications

- 4. Pre-Deployment Performance Confirmation.** The OEM will conduct a series of tests to ensure the buses can be charged properly with the on-route and/or depot charging equipment. CTE will guide the Transit Agency through a series of tests to validate the performance and operation of the buses. These tests will include route validation, where buses are operated along the planned route under controlled conditions (temperature, AC load, passenger load, traffic patterns, etc.) to validate the bus against the performance specification and modeling results. Next, the transit agency will conduct a Full Service Validation where buses are placed in shadow service for a period acceptable to the transit agency to demonstrate full operational capability. Once buses and the charging stations have completed testing and have been accepted by the transit agency, they will be phased into passenger service.

**Duration:** 1 month

**Timing:** Occurs after bus delivery and prior to deployment in passenger service.

**Deliverables:**

- a) a performance validation plan
- b) a report describing the performance validation results

- 5. Deployment Validation.** Once the buses are deployed into revenue service, CTE will collect one full year of various operational data points to measure and report actual energy savings, cost savings, and greenhouse gas emissions reductions resulting from deployment of the battery electric buses into revenue service. The data will be used to generate a series of Key Performance Indicators (KPIs) to validate performance of battery electric buses against other buses in the transit agency's fleet. Key performance indicators include availability, on-time performance, energy consumption and costs, maintenance costs, and driver acceptance. By



tracking and analyzing these KPIs, the transit agency and FTA will be fully informed regarding the overall impact of the electric buses.

**Duration:** 1 year

**Timing:** Begins occurring once buses are placed into passenger service.

**Deliverable:** quarterly KPI reports

6. **Pre-Award and Post-Delivery Buy America Audits.** CTE will conduct Pre-Award and Post-Delivery Buy America Audits to ensure the buses and charging equipment meet federal Buy America requirements. Audit reports will be submitted to the agency.

**Duration:** 1 month

**Timing:** Occurs before the agency executes a sales-order with the vehicle OEM and again after the buses are built and delivered to the agency.

**Deliverables:**

- a) Pre-Award Buy America Audit Report
- b) Post-Delivery Buy America Audit Report

7. **On-Call Consulting Services.** The City of Gainesville may engage CTE on an ad hoc or “as needed” basis by issuing a Task Order to CTE. The Task Order shall describe the scope and budget for the requested services. Work will be initiated after CTE and the City of Gainesville mutually review and accept the Task Order. CTE shall provide these services on a cost reimbursable hourly basis with a “not-to-exceed” agreement amount. If the not-to-exceed amount is reached, City of Gainesville may choose to extend the On-Call Consulting Services by amending the agreement with a new not-to-exceed amount. Ad Hoc assignments provide the City of Gainesville with the flexibility to use CTE services to address specific questions or issues that arise during the project

**Duration:** TBD (defined in Task Order, as needed)

**Timing:** TBD (defined in Task Order, as needed)

**Deliverables:** TBD (defined in Task Order, as needed)

**Task and Fee Schedule**

Task	Expected Completion	Cost Type	Amount
1. Route Modeling	within 2 months of agreement date	firm fixed price	\$55,000
2. Rate Modeling	within 3 months of agreement date	firm fixed price	\$25,000
3. Bus & Charger Specification	within 3 months of agreement date	firm fixed price	\$30,000
4. Performance Confirmation	within 1 month of bus delivery	firm fixed price	\$35,000
5. Deployment Validation	1 year after bus deployment	firm fixed price	\$85,000
6. Buy America Audits	prior to executed contract with bus OEM; and prior to bus acceptance	firm fixed price	\$10,000
7. On-Call Consulting Services	defined in Task Order, as needed	cost reimbursable	\$25,000

**total amount: \$265,000**



***Attachment II***  
**Applicable Federal Terms and Conditions**



## **GENERAL PROVISIONS REQUIRED FEDERAL CLAUSES**

### **1. No Government Obligation to Third Parties**

(1) Transit Agency 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 Transit Agency, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

### **2. Program Fraud and False or Fraudulent Statements and Related Acts**

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

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

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



### **3. Access to Records and Reports**

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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

### **4. 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 Transit Agency 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.

### **5. Civil Rights Requirements**

The following requirements apply to the underlying contract:

- (1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- (2) 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.

- (3) 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.
- (4) 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.

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.

## **6. Energy Conservation Requirements**

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

## **7. Government-Wide Debarment and Suspension (Nonprocurement)**

Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)”, 2 C.F.R. Part 180. As such, the contractor shall verify that none of the contractor, its principals, as defined at 2 CFR 1200, or affiliates, as defined at 2 CFR 1200, are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

The contractor is required to comply with 2 CFR 1200, and must include the requirement to comply with 2 CFR 1200 in any lower tier contract for \$25,000 or more.

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 Transit Agency. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Transit Agency, 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 2 CFR 1200 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.

## **8. Lobbying**

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 influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. Contractor will require that the language of this certification be included in the award documents for all sub-awards for more than \$100,000 at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification clause is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification clause is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. 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.

## **9. Clean Air**

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



(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

#### **10. Clean Water Requirements**

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to 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.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

#### **11. Recycled Products**

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

#### **12. Safe Operation of Motor Vehicles**

- a) **Seat Belt Use.** The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or AGENCY.
- b) **Distracted Driving.** The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.