Request For Proposal
for
Body/Collision Repair

Attachment A – Light Duty Vehicles
Attachment B – Heavy Duty Vehicles
Attachment C – Transit Buses

Published Date			**March 19, 2018**
Final Submission Deadline	**2:00 PM**	**CT**	**April 6, 2018**

Issued by:

City of Fargo Public Works & Metro Area Transit (MAT)

Portions of this RFP may use City of Fargo funding which is partially funded by the North Dakota Department of Transportation, and up to 80% funding by the Federal Transit Administration.

City of Fargo
Body/Collision Repair RFP

SUBMITTALS
Sealed proposals will be received by the City of Fargo Auditor's Office at 200 3rd Street North, Fargo, North Dakota 58102, for the purpose of repairing body damage on City of Fargo vehicles and equipment. Proposals will be received until **2:00 PM Central Standard Time, April 6, 2018**.

This RFP will consist of three (3) attachments:

Attachment 1 – Body/Collision repair on Light Duty Vehicles (Cars, Vans, Pickups)
Attachment 2 – Body/Collision repair on Heavy Duty Vehicles (Trucks and other Commercial Vehicles)
Attachment 3 – Body/Collision repair on Transit Buses

Interested Businesses can submit proposals on just one (1), two (2), or all three (3) Attachments.

Each Attachment will have a separate bid sheet and Questionnaire to fill out. Incomplete or late submissions will not be considered.

A separate proposer may be selected for each Attachment, or one proposer may be awarded two (2) Attachments or one may be awarded all three (3) Attachments.

The City reserves the right to accept or reject any and all proposals that are in the best interest of the City.

The contractor will be required to comply with all applicable equal employment opportunity laws and regulations.

All proposers are notified that disadvantaged and women-owned business enterprises are encouraged to submit responses to this request. The City of Fargo will ensure that respondents to this request will not be discriminated against based on sex, race, color, creed or national origin in consideration of an award.

All questions and inquiries about the requirements must be in writing and E-mailed or be addressed to:

Harold Pedersen
Fleet Services Manager
Central Garage
402 23rd Street North
Fargo, ND 58102

Email: hpedersen@fargond.gov
Phone: (701) 241-1460
Fax: (701) 298-6971

Jordan Smith
Transit Fleet and Facilities Manager
Metro Transit Garage
650 23rd Street North
Fargo, ND 58102

E-mail: jmsmith@matbus.com
Phone: (701) 476-5940
Fax: (701) 476-5947

General Requirements
&
Applicable State and Local Clauses
For Attachments 1, 2, and 3

1. **INTENT**

   This Request for Proposal (RFP) is being published by the City of Fargo for the purpose of selecting a vendor or vendors to perform Body/Collision repair on vehicles and equipment operated by the City of Fargo.

2. **PROPOSER**

   The Proposer must fill out the correct Questionnaire and Bid Sheet for **each** type of vehicle for which they are submitting a proposal.

3. **PROPOSAL**

   All proposals submitted in accordance with the terms and conditions of the RFP shall be binding upon the proposer for at least **ninety (90)** calendar days after the proposal opening.

4. **BID OPENING**

   There will not be a public opening since this is not a Low Bid Award but is instead a Request for Proposal. All proposals will be reviewed by the selection committee.

5. **CONFIDENTIALITY OF PROPOSAL INFORMATION**

   Each proposal and supporting documents must be submitted in or under cover of a sealed envelope to provide confidentiality of the proposal information prior to the proposal opening. During the selection period, all proposals will be confidential.

6. **CITY OF FARGO RIGHTS**

   The City reserves the right to cancel this RFP in writing or postpone the date and time for submitting proposals at any time prior to the proposal due date. The City by this RFP does not promise to accept the lowest cost or any other proposal and specifically reserves the right to reject any or all proposals, to waive any formal proposal requirements, to investigate the qualifications and experience of any Proposer, to reject any provisions in any proposal, to modify RFP contents, to obtain new proposals, to negotiate the requested services and contract terms with any Proposer, or to proceed to do the work otherwise.

7. **AWARD**

   The selection committee of the City of Fargo will review and analyze each response. The committee members will independently rate each proposal. Upon review, the committee may elect to interview the selected firm or firms. They will then determine if they feel additional firms merit interviews. Upon completion of all interviews, using the evaluation form, the committee will then re-evaluate the firms. The firm that best meets the selection criteria will be recommended to the Fargo City Commission. All evaluations will be signed by the evaluator and retained as part of the public official records. No proposals will be considered that do not meet mandatory elements.

   Upon award of a proposal, all information of all proposals, including costs, will become public record.

8. EVALUATION TABLE

EVALUATION	Maximum Points	Score
Qualifications of the Body Repair Business	40	
Price	40	
References - Reliability & Service	20	
TOTAL POINTS	100	

Price Evaluation Example: The lowest proposed price will receive 40 points. The other proposers will receive points in direct proportion to the lowest price. For example, if the lowest total cost is $100,000 and someone bid $110,000, they would receive 31.5 points (10,000/100,000 = 10%, 100% - 10% = 90%, 90% x 40 = 36 pts)

9. BID PROTEST PROCEDURE

Protests will be accepted from prospective Proposers whose direct economic interest would be affected by the award of a contract or by failure to award a contract. The Director of Operations and the Fargo Fleet Manager will consider all protests or objections filed in a timely manner regarding the award of a contract, whether submitted before or after award. All protests shall be in writing and shall be supported by sufficient information to enable the protest to be considered. A protest will not be considered if it is insufficiently supported or it is not received within the time limits specified herein. Protest submissions should be concise, logically arranged, and clearly state the ground for the protest. Protests must include at least the following information:

- Name, address, and telephone number of protestor.
- Identification of the solicitation or bid.
- A detailed statement of the legal and factual grounds of the protest, including copies of relevant documents.
- A statement as to what relief is requested.

A complete copy of the protest procedures can be requested from the Fargo Fleet Manager and Protests should be sent via certified mail through the U.S. Postal Service to:

Fleet Services Manager
Central Garage
402 23rd Street North
Fargo, ND 58102

Protests must be filed with City of Fargo in accordance with our procedures and time requirements. The protest to City of Fargo must be complete and contain all the issues that the protestor believes relevant. The City of Fargo will respond to each substantive issue raised in the protest. Failure to include an issue in the protest to the City of Fargo will preclude raising the issue to FTA, if the protest is appealed to that agency. Following an adverse decision by City of Fargo, protestor may file a protest with FTA under certain limited circumstances.

On occasion, when considered appropriate by the Fargo City Administrator, an informal conference on the merits of the protest with all interested parties may be held.

10. REMEDIES/SANCTIONS FOR BREACH

If awarded the contract, the Contractor shall warrant that he or she has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any official or employee of the City or its operating contractor, with a view toward securing favorable treatment in the awarding, amending, or evaluating performance of the contract.

11. DISCLAIMER OF LIABILITY

The City will not hold harmless or indemnify any contractor for any liability whatsoever.

12. HOLD HARMLESS

The City will be held harmless and free from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, any person or organization responding to this RFP.

13. LAW GOVERNING

All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of North Dakota as applicable.

14. CONDITIONAL PROPOSALS

Conditional proposals are subject to rejection in whole or in part.

15. SUBLETTING OF CONTRACT

The contract that will be derived from this RFP shall not be sublet except with the written consent of the City. No such consent shall be construed as making the City a party to such subcontract, or subjecting the City to liability of any kind to any subcontractor. No subcontract shall, under any circumstances, relieve the Contractor of his liability and obligation under his contract, and all transactions with the City must be through the General Contractor.

16. ASSIGNMENT/TRANSFER OF INTERESTS

There shall be no assignment/transfer of interests or delegation of Contractor's rights, duties or responsibilities of Contractor under the contract derived from this RFP without the prior written approval of the City, which approval shall not be unreasonably withheld. An assignment or transfer of interests which shall require approval of the City shall include, without limitation, the occurrence within any six-month period of the transfer of a majority ownership interest of the Contractor, such as a transfer of a majority of the outstanding stock in the Contractor if it is a corporation or a transfer of a majority of the membership in the Contractor if it is a limited liability company. A claim by Contractor that City's withholding of approval is unreasonable may only be resolved by a lawsuit seeking declaratory relief or judgment, and such claim shall not give rise to any action for damages, direct, indirect or consequential.

17. SEVERABILITY

In the event any provision of the contract is declared or determined to be unlawful, invalid or unconstitutional, such declaration shall not affect, in any manner, the legality of the remaining provisions of the contract and each provision of the contract will be and is deemed to be separate and severable from each other provision.

18. REGULATORY REQUIREMENTS

The Contractor shall comply with all Federal, State, and local licensing, training, testing and/or regulatory requirements (including permits) for the provision of the transit services.

The successful Contractor shall be appropriately licensed for the work required as a result of the contract. The cost for any required licenses or permits shall be the responsibility of the Contractor. Contractor is liable for any and all taxes due as a result of the contract.

19. RESPONSIBLE FIRMS

Nothing herein is intended to exclude any responsible firm or in any way restrain or restrict competition. On the contrary, all responsible firms are encouraged to submit proposals.

20. RESERVED RIGHTS

The City reserves the right to accept or reject any or all of the proposals submitted, waive informalities and technicalities and negotiate any or all elements of the proposals.

21. PUBLICATION, REPRODUCTION AND USE OF MATERIAL

No custom material produced in whole or in part under the Contract shall be subject to copyright in the United States or in any country. The City and Federal Transit Administration shall have authority to publish, disclose, distribute and otherwise use, in whole or in part, any custom material prepared under any contract resulting from this RFP.

22. WAIVER

By submission of its proposal, the Proposer represents and warrants that it has sufficiently informed itself in all matters affecting the performance of work or the furnishing of the labor services, supplies, materials, or equipment and facilities called for in the solicitation; that it has checked its proposal for errors and omissions; that the prices stated in its proposal are correct and as intended by it; and, are a complete and correct statement of its prices for performing the labor, services, supplies, materials or equipment and facilities required by the Contract Documents. The Proposer waives any claim for the return of its proposal security if, on account of errors or omissions claimed to have been made by it in its proposal or for any other reason it should refuse or fail to execute the contract.

23. INDEPENDENT PRICE DETERMINATION

The Proposer certifies that he/she has not colluded, conspired, connived, or agreed, directly or indirectly, with any Proposer or person to put in a sham proposal or to refrain from proposing, and further, that he has not in any manner, directly or indirectly sought by agreement, collusion, communication, or conference, with any person, to fix the proposal amount herein or any other Proposer, or to fix any overhead, profit, or cost element of said proposal amount, or that of any other Proposer, or to secure any advantage against City or any person interested in the proposed contract.

24. PROHIBITED INTEREST

No administrator or employee of the City and no member of its governing body shall participate in selection or in the award or administration of a contract if a conflict of interest real or apparent would be involved.

No member or delegate to the North Dakota Legislature or to the Congress of the United States shall be admitted to any share or part of the Agreement or any benefit arising there from.

25. <u>TERM OF AGREEMENT:</u>

This Agreement shall extend for a term of thirty-six (36) months commencing on the date signed by the parties. Upon the expiration of the term of this Agreement, or any renewal thereof, the Agreement shall continue in full force on a month-to-month basis and may be cancelled by either party upon the giving of ninety (90) days written notice to the other party. In the event that this Agreement continues on a month-to-month basis and any party to this agreement desires to modify or alter the agreement, such party must provide the other party with sixty (60) days notice of such modification/amendment. The other party shall have thirty (30) days thereafter to provide notice of its intent to cancel the Agreement or during the 30-day period, enter into a mutually agreeable modification of this Agreement.

Applicable Federal Clauses
for
Attachment #3

Only to the extent any of the following sections are applicable to a contract of the nature herein contemplated, the following shall apply:

1. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

a) 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.

b) 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 & FALSE OR FRAUDULENT STATEMENTS & RELATED ACTS

a) 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 cause 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.

b) 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. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. 1001 and 49 U.S.C. § 5323(1) on the Contractor, to the extent the Federal Government deems appropriate.

c) 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

a) 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, and 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 AND EQUAL OPPORTUNITY

The City of Fargo is an Equal Opportunity Employer. As such, the City of Fargo 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 Fargo 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. TERMINATION PROVISIONS

a) The City reserves the right to terminate this agreement for cause by written notices to the Contractor. Cause for termination will be documented failure(s) of the Contractor to provide services in the quantity and/or quality required by the agreement. Contractor will, within ten (10) days, correct the failure or present the City with a plan to correct the failure. In the event Contractor does not correct failure or complete its plan to correct failure, then the City may terminate this agreement by notifying Contractor of date of termination. Said termination shall not diminish the City of Fargo's rights under law or equity.

b) This Contract may be terminated for cause by either party upon seven (7) days' written notice in the event of substantial failure to perform through no fault of the terminating party.

c) In the event of any termination, City of Fargo shall pay the agreed rate only for services delivered up to the date of termination. City of Fargo has no obligation to Contractor, of any kind, after the date of termination.

7. DISADVANTAGED AND SMALL BUSINESS ENTERPRISE

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).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

In connection with the performance of this service, the Contractor will cooperate with the City of Fargo in the utilization of disadvantaged business enterprises including women-owned business enterprises for the duration of the contract and will use its best efforts to insure that disadvantaged business enterprises have the maximum practicable opportunity to compete for subcontract work. In order to insure that a fair proportion of the purchases of supplies and services is placed with disadvantaged business enterprises, the Contractor agrees to take affirmative action to identify disadvantaged business firms, solicit bids or quotations from them for supplies and services related to this proposal.

The Contractor agrees to meet any goals established by City of Fargo for purchases pertaining to this Contract to the best of the Contractor's ability and will provide the City of Fargo with the necessary certification and records for reporting purposes. When the majority of the contract is labor, which is not a contracting opportunity, DBE goals will not be set but Contractors are encouraged to use DBE businesses.

The CONTRACTOR will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

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

Fostering Small Business Participation

The City of Fargo has established a small business element to its DBE program, pursuant to 49 CFR 26.39. This program aims to provide opportunities and foster small business enterprises (SBE)/participation in contracting with the City of Fargo. This program is race- and gender-neutral, however SBEs can also count towards DBE goals.

8. <u>INCORPORATION OF FTA TERMS</u>

a) The preceding provision includes, 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 4220.1 (as amended), 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 Fargo requests which would cause City of Fargo to be in violation of the FTA terms and conditions.

9. <u>DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION</u>

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.

10. <u>BREACH OF CONTRACT AND DISPUTE RESOLUTION</u>

a) <u>Disputes</u>

Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City, the City Administrator. This decision shall be final and conclusive unless within ten (10) calendar days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the Fargo City Commission, 200 N 3rd Street, Fargo, ND 58102. A hearing will be scheduled with the Fargo City Commission at the next regularly scheduled meeting. 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 at said hearing. The decision of the Fargo City Commission shall be binding upon the Contractor and the Contractor shall abide by the decision.

b) Performance During Dispute
Unless otherwise directed by the City, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

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

e) Rights and Remedies
The duties and obligations imposed by this Agreement/Contract 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 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.

11. LOBBYING RESTRICTIONS

The Proposer certifies that:

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

b) 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.

c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants, and contracts under grants, loans, and cooperative agreement) 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 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

12. <u>CLEAN AIR AND FEDERAL WATER POLLUTION CONTROL ACT</u>

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).

13. <u>CONTRACT WORK HOURS & SAFETY STANDARDS ACT</u>

a) The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

b) The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

c) Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

d) The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

14. SUBSTANCE ABUSE REQUIREMENTS: DRUG AND ALCOHOL TESTING

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of North Dakota or the City of Fargo, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 before the start of the contract period and to submit the Management Information System (MIS) reports before the start of the contract to the City of Fargo Fleet Manager. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the *Federal Register*.

15. ENERGY CONSERVATION

a) Contractor shall recognize 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 (42 USC Section 6321 et seq).

16. 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 Contactor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

17. DAVIS-BACON ACT AND COPELAND ACT – PREVAILING WAGE AND ANTI-KICKBACK

For all prime construction, alteration or repair contracts in excess of $2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work

Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Attachment # 1
Questionnaire and Proposal Form
Repair of Light Duty Vehicles

Proposer shall submit answers to the following questions. Responses will be utilized in determination of contract award.

1. Provide the address of the facility that will perform work for the City of Fargo.

   _____
   _____
   _____

2. Describe your company and its history – include years in business.

   _____
   _____
   _____
   _____

3. Please provide contact information for the primary account representative and a backup contact for the City of Fargo.

   Name _____ Name _____
   Title _____ Title _____
   Phone _____ Phone _____
   E-Mail _____ E-Mail _____

4. Please provide the number of crash estimators and their type of Certification.

   _____

5. Please provide the number of technicians and their type of Certifications. (ASE or similar Certifications)

   _____

6. Is your firm insured for vehicle transport? YES _____ NO _____
7. What warranties do you offer for your parts, products, services and workmanship? Please describe each warranty separately and in detail. _____
8. List three governmental or large businesses you have provided similar services.

   _____
   _____
   _____

9. What estimating guide do you use? _____
10. Can you provide quotes and invoices that itemize required work and display time each for required labor rate and cost of materials and supplies? YES _____ NO _____
11. Have you read and understand the Requirements and Applicable Clauses? YES _____ NO _____
12. Do you agree to the Terms and Conditions of this RFP? YES _____ NO _____

    If No Explain Below

    _____
    _____
    _____

Proposal Form
Attachment #1

The undersigned shall, if awarded this contract, furnish to the City of Fargo, North Dakota, the following items in accordance with the conditions, specifications, and requirements as set forth in the Request for Proposal.

Body Repair and Painting	Labor Cost per Hour	_____
Sandblasting	Labor Cost per Hour	_____
Transportation/Delivery cost	Cost per vehicle	_____
Estimates	Cost per vehicle	_____

Attachment #1 Questionnaire and Proposal Form completed and included? YES _____ NO _____

Additional Documents required for Attachment #1 Proposal
Copy of W9 form included? YES _____ NO _____
Copy of Insurance Certificate included? YES _____ NO _____

Receipt of Addendum if issued. (initial) #1_____ #2_____ #3_____ #4_____

If awarded this request, the proposer's signature on this proposal form and contract is the proposer's contractual signature and shall become a binding contract to furnish the services proposed. The City's acceptance is conditioned upon the resolution of any protest to the Request for Proposal.

Signature of Proposer _____

Typed/Printed Name and Title_____

Company Name _____

Address _____

_____

_____

Telephone _____ FAX _____

Federal Tax ID No. _____

Attachment # 2
Questionnaire and Proposal Form
Repair of Commercial and Heavy Duty Vehicles/Equipment

Proposer shall submit answers to the following questions. Responses will be utilized in determination of contract award.

1. Provide the address of the facility that will perform work for the City of Fargo.

   _____
   _____
   _____

2. Describe your company and its history – include years in business.

   _____
   _____
   _____
   _____

3. Please provide contact information for the primary account representative and a backup contact for the City of Fargo.

   Name _____ Name _____
   Title _____ Title _____
   Phone _____ Phone _____
   E-Mail _____ E-Mail _____

4. Please provide the number of crash estimators and their type of Certification.

   _____

5. Please provide the number of technicians and their type of Certifications. (ASE or similar Certifications)

   _____

6. Is your firm insured for vehicle transport? YES _____ NO _____
7. What warranties do you offer for your parts, products, services and workmanship? Please describe each warranty separately and in detail._____
8. List three governmental or large businesses you have provided similar services.

   _____
   _____
   _____

9. What estimating guide do you use? _____
10. Can you provide quotes and invoices that itemize required work and display time each for required labor rate and cost of materials and supplies? YES _____ NO _____
11. Have you read and understand the Requirements and Applicable Clauses? YES _____ NO _____
12. Do you agree to the Terms and Conditions of this RFP? YES _____ NO _____

    If No Explain Below

    _____
    _____
    _____

Proposal Form
Attachment #2

The undersigned shall, if awarded this contract, furnish to the City of Fargo, North Dakota, the following items in accordance with the conditions, specifications, and requirements as set forth in the Request for Proposal.

Body Repair and Painting	Labor Cost per Hour _____
Sandblasting	Labor Cost per Hour _____
Transportation/Delivery cost	Cost per vehicle _____
Estimates	Cost per vehicle _____

Attachment #2 Questionnaire and Proposal Form completed and included? YES _____ NO _____

Additional Documents required for Attachment #2 Proposal
Copy of W9 form included? YES _____ NO _____
Copy of Insurance Certificate included? YES _____ NO _____

Receipt of Addendum if issued. (initial) #1_____ #2_____ #3_____ #4_____

If awarded this request, the proposer's signature on this proposal form and contract is the proposer's contractual signature and shall become a binding contract to furnish the services proposed. The City's acceptance is conditioned upon the resolution of any protest to the Request for Proposal.

Signature of Proposer _____

Typed/Printed Name and Title_____

Company Name _____

Address _____

_____

_____

Telephone _____ FAX _____

Federal Tax ID No. _____

Attachment # 3
Questionnaire and Proposal Sheet
Repair of Transit Buses

Proposer shall submit answers to the following questions. Responses will be utilized in determination of contract award.

1. Provide the address of the facility that will perform work for the City of Fargo.
   _____
   _____
   _____
2. Describe your company and its history – include years in business.
   _____
   _____
   _____
   _____
3. Please provide contact information for the primary account representative and a backup contact for the City of Fargo.

   Name _____ Name _____
   Title _____ Title _____
   Phone _____ Phone _____
   E-Mail _____ E-Mail _____
4. Please provide the number of crash estimators and their type of Certification.
   _____
5. Please provide the number of technicians and their type of Certifications. (ASE or similar Certifications)
   _____
6. Is your firm insured for vehicle transport? YES _____ NO _____
7. What warranties do you offer for your parts, products, services and workmanship? Please describe each warranty separately and in detail. _____
8. List three governmental or large businesses you have provided similar services.
   _____
   _____
   _____
9. What estimating guide do you use? _____
10. Can you provide quotes and invoices that itemize required work and display time each for required labor rate and cost of materials and supplies? YES _____ NO _____
11. Have you read and understand the Requirements and Applicable Clauses? YES _____ NO _____
12. Have you read and understand the Federal Clauses? YES _____ NO _____
13. Does your company have a Drug Testing Program for your Technicians? YES _____ NO _____
14. Are you registered to do business with the Federal Government?(sam.gov) YES _____ NO _____
15. Do you agree to the Terms and Conditions of this RFP? YES _____ NO _____

    If No Explain Below

_____

Proposal Form
Attachment #3

The undersigned shall, if awarded this contract, furnish to the City of Fargo, North Dakota, the following items in accordance with the conditions, specifications, and requirements as set forth in the Request for Proposal.

Body Repair & Painting (Heavy Duty)	Labor Cost per Hour	_____
Body Repair & Painting (Light Duty)	Labor Cost per Hour	_____
Sandblasting	Labor Cost per Hour	_____
Transportation/Delivery cost	Cost per vehicle	_____
Estimates	Cost per vehicle	_____

Attachment #3 Questionnaire and Proposal Form completed and included? YES _____ NO _____

Additional Documents required for Attachment #3 Proposal

Copy of W9 form included?	YES _____	NO _____
Copy of Insurance Certificate included?	YES _____	NO _____
Certifications & Restrictions on Lobbying included?	YES _____	NO _____
Government-Wide Debarment And Suspension (Nonprocurement) included?	YES _____	NO _____
Substance Abuse Certification included?		

YES _____ NO _____

Receipt of Addendum if issued. (initial) #1_____ #2_____ #3_____ #4_____

If awarded this request, the bidder's signature on this bid form and contract is the bidder's contractual signature and shall become a binding contract to furnish the services proposed. The City's acceptance is conditioned upon the resolution of any protest to the Request for Proposal.

Signature of Proposer _____

Typed/Printed Name and Title_____

Company Name _____

Address _____

_____

_____

Telephone _____ FAX _____

Federal Tax ID No. _____

CERTIFICATIONS AND RESTRICTIONS ON LOBBYNG

The undersigned Company/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. 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 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 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.

The Company/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.

_____ Company/Contractor

_____ Signature of Company/Contractor's Authorized Official

_____ Printed Name

_____ Title of Company/Contractor's Authorized Official

_____ Date

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

49 CFR Part 29, Executive Orders 12549, 12689, and 31 U.S.C.6101 (Contracts over $25,000)

Background and Applicability

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published and update to 49 DFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, Debarment and Suspension, Executive Order 12689, Debarment and Suspension, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed $25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220 (b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from $100,000 to $25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels). Instructions for Certification; By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

Suspension and Debarment

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

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into. By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the municipal corporation. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the municipal corporation, 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.

_____ Company/Contractor

_____ Signature of Company/Contractor's Authorized Official

_____ Printed Name

_____ Title of Company/Contractor's Authorized Official

_____ Date

SUBSTANCE ABUSE REQUIREMENTS & CERTIFICATION

SUBSTANCE ABUSE REQUIREMENTS

49 U.S.C. § 5331, 49 C.F.R. part 655, 49 C.F.R. part 40

Third party contractors who perform *safety-sensitive functions* must comply with FTA's substance abuse management program under 49 C.F.R. part 655, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations." Under 49 C.F.R. § 655.4, *Safety-sensitive function* means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

1. Operating a revenue service vehicle, including when not in revenue service;
2. Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such services;
5. Carrying a firearm for security purposes.

Additionally, third party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, "Procedures for Transportation Workplace Drug and Alcohol Testing Programs."

The undersigned Company/Contractor certifies:

1. The Company/Contractor has established and implemented:
    a. An alcohol misuse testing program, and
    b. A controlled substance testing program.
2. The Company/Contractor to which these testing requirements apply have complied or will comply with all applicable requirements of 49 CFR part 655 to the extent those regulations are consistent with 49 U.S.C. § 5331.
3. Consistent with U.S. DOT Office of Drug and Alcohol Policy and Compliance Notice, issued October 22, 2009, if your Company/Contractor to which these testing requirements apply reside in a state that permits marijuana use for medical or recreational purposes, the Company/Contractor to which these testing requirements apply, have complied or will comply with the federal controlled substance testing requirements of 49 CFR part 655.
4. The Contractor agrees further to certify before the start date of the contract or annually its compliance with parts 655 before January 1st (if applicable) and to submit the Management Information System (MIS) reports before March 15 or the start of the contract to the Transit Fleet Manager at 650 23rd St N, Fargo ND 58102.

_____ Company/Contractor

_____ Signature of Company/Contractor's Authorized Official

_____ Printed Name

_____ Title of Company/Contractor's Authorized Official

_____ Date