Submission Information Package

Request for Proposals for:

Tire Purchase

For

Monongalia County Urban Mass Transportation Authority (MCUMTA)

Also known as

Mountain Line Transit Authority

Submit Proposals to: Office of the Finance Officer
Mountain Line Transit Authority
420 DuPont Road
Westover, WV 26501-2309

Submission Deadline: 2:00 p.m. local time
December 4, 2013

Additional Information: WWW.BUSRIDE.ORG

Info@Busride.Org
(304) 296-3680
(304) 291-7429 fax

November 15, 2013
The Mountain Line Transit Authority (the Authority) will accept sealed proposals for the tire service agreements, including but not limited to Sales of tires, retreating tires, mount tires, spin balance tires, paint rims as necessary, stocking of tires, and pickup and delivery of tires until 2:00 p.m. local time on December 4, 2013 at 420 DuPont Rd, Morgantown, West Virginia, 26501-2309 and then at said offices all bids will be publicly opened and read.

The contract documents and specifications may be obtained from Loring Danielson, Finance Officer at the above address. Telephone requests should be made to (304) 296-3680. Written requests should be made to: The Mountain Line Transit Authority, 420 DuPont Rd, Morgantown, WV 26501-2309. On the internet proposals are available at: http://www.busride.org/contractComment/Procurement.aspx

Bids should be sealed and clearly marked "Tire Proposal." The Authority reserves the right to reject any and all bids and to waive any informality in bidding on such basis as the Authority deems to be in its best interest.

Any contract resulting from bids submitted is subject to a financial assistance contract between the Authority and the U.S. Department of Transportation. All bidders will be required to certify that they are not on the Comptroller General's List of Ineligible bidders. The successful bidder is required to comply with all applicable Equal Employment Opportunity laws and regulations.

The Authority hereby notifies bidders that it will affirmatively insure that in regard to any contract entered into pursuant to this advertisement, minority business enterprises shall be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, creed, national origin, sex or disability in consideration of an award.

David Bruffy
General Manager & CEO
Mountain Line Transit Authority
Contents

COVER ........................................................................................................... 1

ADVERTISEMENT .......................................................................................... 2

TABLE OF CONTENTS ..................................................................................... 3

SECTION I - INFORMATION
  General Information & Introduction .......................................................... 4
  Proposal Submission Schedule ................................................................. 4
  Proposal Format ......................................................................................... 5
  Contract Term ......................................................................................... 5
  Contract Modifications or Deviations ..................................................... 5

SECTION II - SCOPE OF WORK
  Purpose ........................................................................................................... 5

SECTION III - RESPONSIBILITY OF PROPOSER
  Responsibility of the Proposer ................................................................. 6
  Experience Record ..................................................................................... 6
  Pricing of Tire Purchases ......................................................................... 6
  Payment to the Proposer .......................................................................... 6

SECTION IV - SELECTION PROCESS
  Selection Evaluation Process ................................................................. 7
  Contract Award ......................................................................................... 7
  Costs .......................................................................................................... 7

ATTACHMENT 1 - SUBMISSION CHECKLIST

ATTACHMENT 2 - PROPOSAL EVALUATION WORKSHEET

ATTACHMENT 3 - GENERAL CONTRACT TERMS AND CONDITIONS

ATTACHMENT 4 – LIST OF APPROXIMATE TIRE SIZES AND NUMBERS

ATTACHMENT 5 – PRICE LIST

ATTACHMENT 6 – DBE SURVEY
SECTION I - INFORMATION

1.0 GENERAL INFORMATION AND INTRODUCTION

The Monongalia County Urban Mass Transit Authority (MCUMTA) is requesting proposals to purchase new tires, retread tires, mount tires, spin balance tires, painting of rims as needed, stocking tires, delivery and pickup of tires. This Request for Proposals (RFP) includes all supporting documentation necessary to complete and file a valid proposal for consideration. All prospective proposers are advised to thoroughly review this RFP. In final form, this RFP and subsequent final proposal will become binding.

Through this RFP, the following definitions will apply:

"Agreement" means the negotiated contract between Monongalia County Urban Mass Transportation Authority and Contractor for performing services set forth in this RFP.

"The Authority" means Monongalia County Urban Mass Transportation Authority, 420 DuPont Road, Westover, WV 26501-2309.

"'Project" means the services set forth in this RFP.

"'Proposer" means the firm or corporation which submits a proposal to the Authority, in response to this RFP, seeking to be selected as the Contractor.

"RFP" means this Request for Proposals.

"Service" means the contract work to be performed for the services and products described in this RFP.

1.1 PROPOSAL SUBMISSION SCHEDULE

Copies of this RFP will be made available to interested proposers on or after November 15, 2013. The RFP and any subsequent written addenda will serve as the sole basis upon which proposers may submit proposals.

Proposals must be received by 2:00 p.m. local time on December 4, 2013 at the Authority’s offices. Proposals not received by that time and date will not be considered by the Monongalia County Urban Mass Transportation Authority and will be returned unopened to the proposer. All proposals submitted must remain in effect for ninety days in their entirety from the submission due date. One (1) original and one (1) copy of the proposal must be submitted to MCUMTA.
1.2 PROPOSAL FORMAT

For uniformity in all proposals, proposers shall fill in the pricing for each tire and service as found in Attachment 1 along with the other required information. Each proposal should be prepared simply and economically, providing a straightforward, concise description of the proposer's ability to meet the requirements of the RFP. Emphasis should be on completeness and clarity of content.

1.3 CONTRACT TERM

The Authority is soliciting proposals from firms to purchase new tires, retread tires, provide mounting tires, spin balancing tires, cleaning & painting rims as needed, stocking tires and delivery and pickup of tires. Delivery will be made to 420 DuPont Road, Westover, WV 26501. Purchases will be for an eight month period ending June 30, 2014 with the option to extend the term of the Agreement, at Authority's sole discretion, for a one year period ending June 30, 2015.

1.4 CONTRACT MODIFICATIONS OR DEVIATIONS

The provisions contained in the RFP submission, unless the Authority formally approves a waiver or deviation in writing, will be considered to be binding upon proposers.

The Proposer has the right to provide the Authority thirty (30) days written notice to terminate the contract if the Proposer is no longer able to provide the Authority with the products and services that this RFP requires.

The Authority reserves the right to terminate this contract as stated in Attachment 3 of this RFP.

SECTION II - SCOPE OF WORK

2.0 PURPOSE

The purpose is to sell new tires, retread tires, mount and spin balancing of tires, cleaning & painting rims as needed, and delivery and pickup of tires with delivery to the Authority’s maintenance department as defined in this RFP. In order to successfully accomplish the project, the Authority is seeking firms or individuals with relevant experience in the provision of selling the same.

This RFP includes:

A list of the tire sizes projected and services to be purchased in our fiscal year July 1, 2013 to June 30, 2014. This is located in Attachment 4 of this document.
SECTION III - RESPONSIBILITY OF THE PROPOSER

3.0 RESPONSIBILITY OF THE PROPOSER

The Proposer shall identify all of its proposed subcontractors in its proposal, the tasks they will perform, and their qualifications. The Proposer shall be responsible for management, direction, service integration, scheduling, control, review and approval of all subcontract work and services. The Proposer shall be responsible for assuring that all subcontract work is in conformance with the Authority's policies, standards, and criteria and the terms and conditions of this Agreement.

3.1 EXPERIENCE RECORD

This section of the proposal shall contain complete, concise and accurate descriptions of the Proposer’s and its subcontractor’s experience in providing services similar to those as outlined in the Scope of Work. Information required but not limited to is as follows:

1. Current listing of customers purchasing a similar amount of tires.

3.2 PRICING OF TIRE PURCHASES

The Proposer shall submit a complete price list. The Proposer understands that the Authority may desire to change the number or size of the tires purchased based on changes in routes serviced or fleet size with a plus or minus 10% variance in quantity of tires in each category listed in Attachment 4. The Authority is required to buy quality American made tires whenever possible. The brand names other than listed on Attachment 5 must be approved on the signed purchase order. If tire brands listed in Attachment 5 are not available at the time of purchase, the Authority reserves the right to price out tires with other vendors at the time of order.

3.3 PAYMENT TO THE PROPOSER

The proposer shall submit a schedule for invoicing to the Authority.

The Authority reserves the right to audit, randomly, accounts during normal business hours to ascertain inventory and invoicing accuracy.

The Authority will make payment to proposer net 30 days or 10th prox. after delivery of tire order. The Authority considers net 30 or 10th prox as equivalent terms and will pay either way by the proposer’s terms. The Authority is not equipped to pay electronically, but will pay by check timely.

The Authority will not pay for inventoried tires, or other services until after delivery of the product or performance of the service is completed.
SECTION IV - SELECTION PROCESS

4.0 SELECTION EVALUATION PROCESS

MCUMTA will accept the proposal that is determined to be in the best overall interest of MCUMTA. The selection process, in accordance with FTA requirements and Authority policies, is to be conducted in a manner providing maximum open and free competition as well as facilitating expeditious contract completion once the top rated Proposer is identified. MCUMTA staff will determine the responsiveness of proposals to the RFP. That is, it will be determined if the minimum submission requirements of this RFP have been met by the proposer. A proposal, which does not meet the minimum standards in any area, will be deemed non-responsive and will not be considered further.

Attachment 2 will be used as the basis for selection, along with other requested information demonstrating the proposer's ability to perform the services required as described herein.

Ratings will be made on the basis of points with one hundred (100) points as the maximum and one (1) as the minimum. Points for each criterion shall be multiplied in weight to determine scores. Proposals will be compared on the basis of total scores.

The respondent to this RFP should understand exactly what is required to be submitted in each of the four (4) evaluation "factors" identified on Attachment 2. The complete submission checklist is included as Attachment 1 below.

4.1 CONTRACT AWARD

MCUMTA expressly reserves the right to reject any and all proposals or to waive any irregularity or informality in any proposal or in the RFP procedure and to be the sole judge of the responsibility of any proposer and of the suitability of the materials and/or services to be rendered.

4.2 COSTS

MCUMTA shall not be held liable for any costs incurred by proposers prior to the signing of a contract.
Attachment 1 - Submission Checklist

1. Expression of Interest - Letter

2. Customer list of large tire purchasers for reference checks

3. List of Subcontractors (If any)

4. Completed price list of tires, retreads, spin balancing, and cleaning & painting of rims found in Attachment 5.

5. Proposed pickup/delivery schedule

6. West Virginia Business License
## Attachment 2 - Proposal Evaluation Worksheet

Proposer: ______________________________________________

Evaluator: ____________________________________________ Date: ______________

<table>
<thead>
<tr>
<th>Factor</th>
<th>Weight</th>
<th>Score (1-100)</th>
<th>Weighted Score (Weight x score)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Reference List</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Price per tire &amp; services</td>
<td>70</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Attachment 5</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Delivery/Pickup Schedule</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Tire Stocking Commitment</td>
<td>10</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>100</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Notes & Comments:
ATTACHMENT 3

GENERAL CONTRACT TERMS AND CONDITIONS

No Federal Government Obligations to Third Parties

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

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

Program Fraud and False or Fraudulent Statements or Related Acts

(1) The Vendor 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 Vendor 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 Federal Transit Administration (FTA) assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Vendor 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 Vendor to the extent the Federal Government deems appropriate.

(2) The Vendor 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 Vendor, to the extent the Federal Government deems appropriate.

(3) The Vendor 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.

Exclusionary or Discriminatory Specifications

The Vendor agrees that it will comply with the requirements of 49 U.S.C. §5325(h) by refraining from using any Federal assistance awarded by the Transit Agency to support procurements using exclusionary or discriminatory specifications.

Geographic Restrictions

The Vendor agrees to refrain from using state or local geographic preferences, except those expressly mandated or encouraged by Federal statute, and as permitted by FTA.

Audit and Inspection

The Vendor agrees to permit the Transit Agency, WV Division of Public Transit, the Secretary of the United States Department of Transportation and the Comptroller General of the United States, or their authorized representatives, to inspect all Contract work, materials, payrolls, and other data and records with regard to the Contract. The Vendor also agrees to permit an audit of the books, records, and accounts of the Vendor and its subcontractors.

Disadvantaged Business Enterprise (DBE)

The Vendor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The requirements of 49 C.F.R. Part 26 and the U.S. Department of Transportation (USDOT) approved Disadvantaged Business Enterprise (DBE) Program are incorporated in the Contract by reference. The Vendor agrees to take all necessary and reasonable steps under the requirements of 49 C.F.R. Part 26 and the USDOT approved Disadvantaged Business Enterprise (DBE) Program (where required) to ensure that eligible DBEs have the maximum feasible opportunity to participate in USDOT approved Contracts. Failure by the Vendor to carry out these requirements is a material breach of the Contract, which may result in the termination of this Contract or such other remedy as the Transit Agency deems appropriate. See Attachment 6

Cargo Preference

The Vendor agrees:

To utilize privately owned United States–Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States–Flag commercial vessels;
To furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on board" commercial ocean bill of lading in English for each shipment of cargo described in the paragraph above to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the Transit Authority (through the Vendor in the case of a subcontractor's bill of lading.)

To include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

**Civil Rights**

The following requirements apply to the underlying contract:

1. **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d, et seq., Section 303 of the Age Discrimination Act of 1974, as amended, 42 U.S.C. § 6101, et seq., Section 202 of the Americans With Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., and Federal transit law at 49 U.S.C. § 5332, the Vendor 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 Vendor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to the underlying contract:
   - **Race, Color, Creed, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Vendor 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 Vendor 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, disability 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 Vendor agrees to comply with any implementing requirements FTA may issue.
   - **Age.** In accordance with the Age Discrimination Act of 1975, as amended, 42 U.S.C. §§ 6101 et seq. and implementing regulations, the Vendor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Vendor agrees to comply with any implementing requirements FTA may issue.
   - **Disabilities.** In accordance with Section 102 of the Americans With Disabilities Act, as amended, 42 U.S.C. § 12112, the Vendor 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 Vendor agrees to comply with any implementing requirements FTA may issue.

4. **Energy Conservation**

The Vendor agrees to comply with, and obtain the compliance of its subcontractors, with mandatory standards and policies relating to energy efficiency contained in applicable state energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42 U.S.C. §§ 6321 et seq.

**Clean Air & Clean Water Requirements**

1. The Vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7414 and other applicable provisions of the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq., and Section 508 of the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1368, and other provisions of the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. The Vendor agrees to report each violation to the Transit Agency and understands and agrees that the Transit Agency, in turn, will report each violation to the WV Division of Public Transit who will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

2. The Vendor also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

**Application of Federal, State and Local Laws and Regulations**

To achieve compliance with changing federal, state and local requirements, the Vendor shall note that federal, state and local requirements may change and the changed requirements will apply to this Contract as required.

**Labor Provisions**

The Vendor shall comply with Section 102 of the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701 et seq., esp. § 3702 & 3704) as supplemented by Department of Labor Regulations (29 CFR, § 5 & 29 CFR § 1926) as they involve the employment of mechanics and laborers.
Overtime Requirements. No Vendor or subcontractor for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph (2) of this section, the Vendor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such Vendor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (2) of this section, in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (2) of this section.

Withholding for Unpaid Wages and Liquidated Damages. The Transit Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Vendor or subcontractor under any such contract or any other Federal contract with the same prime Vendor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such Vendor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (3) of this section.

Subcontracts. The Vendor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Vendor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

Payrolls and Basic Records. Payrolls and basic records relating thereto shall be maintained by the Vendor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR .5(a)(1)(v) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the Vendor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits.

Vendors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

Termination

(a) Termination for Convenience

The Transit Agency may terminate this contract, in whole or in part, at any time by written notice to the Vendor when it is in the Government's best interest. The Vendor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Vendor shall promptly submit its termination claim to the Transit Agency to be paid to the Vendor. If the Vendor has any property in its possession belonging to the Transit Agency, the Vendor will account for the same, and dispose of it in the manner the Transit Agency directs.

(b) Termination for Default (Breach or Cause)

If the Vendor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Vendor fails to perform in the manner called for in the contract, or if the Vendor fails to comply with any other provisions of the contract, the Transit Agency 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 Vendor is in default. The Vendor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the Transit Agency that the Vendor 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 Vendor, the Transit Agency, after setting up a new delivery of performance schedule, may allow the Vendor to continue work, or treat the termination as a termination for convenience.

(c) Opportunity to Cure

The Transit Agency in its sole discretion may, in the case of a termination for breach or default, allow the Vendor 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 Vendor fails to remedy to Transit Agency's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by Vendor or written notice from Transit Agency setting forth the nature of said breach or default, Transit Agency shall have the
right to terminate the Contract without any further obligation to Vendor. Any such termination for default shall not in any way operate to preclude Transit Agency from also pursuing all available remedies against Vendor and its sureties for said breach or default.

(d) Waiver of Remedies for Any Breach

In the event that Transit Agency elects to waive its remedies for any breach by Vendor of any covenant, term or condition of this Contract, such waiver by Transit Agency shall not limit Transit Agency’s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

Bankruptcy

Upon entering of a judgment of bankruptcy or insolvency by or against a Vendor, the Transit Agency may terminate this Contract for cause.

FTA Role in Bid Protests

Under the Federal Transit Administration's Circular 4220.1F, the Federal Transit Administration's (FTA's) appeals process for reviewing protests of a recipient's procurement decisions are:

1. Requirements for the Protester. The protester must:

   a. Qualify as an “Interested Party.” Only an “interested party” qualifies for FTA review of its appeal. An “interested party” is a party that is an actual or prospective bidder or offeror whose direct economic interest would be affected by the award or failure to award the contract at issue.

   1. Subcontractors. A subcontractor does not qualify as an “interested party” because it does not have a direct economic interest in the results of the procurement.

   2. Consortia/Joint Ventures/Partnerships/Teams. An established consortium, joint venture, partnership, or team that is an actual bidder or offeror and is acting in its entirety, would qualify as an “interested party” because it has a direct economic interest in the results of the procurement. An individual member of a consortium, joint venture, partnership, or team, acting solely in its individual capacity, does not qualify as an “interested party” because it does not have a direct economic interest in the results of the procurement.

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

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

   c. Appeal Within Five Days. The protester must deliver its appeal to the FTA Regional Administrator, Region III, 1760 Market Street, Suite 500, Philadelphia, PA 19103-4124 within five (5) working days of the date when the protester has received actual or constructive notice of the Transit Agency’s final decision. Likewise, the protester must provide its appeal to the same address within five (5) working days of the date when the protester has identified other grounds for appeal to FTA. For example, other grounds for appeal include the Transit Agency’s failure to have or failure to comply with its protest procedures or failure to review the protest.

Prohibited Interest

No employee, officer, board member, agent or their family members of the Transit Agency may participate in the selection, award, or administration of a Contract supported by Federal funds if a real or apparent conflict of interest is involved. Such a conflict could arise when any of the parties mentioned above have a financial or other interest in the Vendor selected for the Contract.

Preference for Recycled Products

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

Metric System

As required by U.S. DOT or FTA, the Vendor agrees to use the metric system of measurement in its Project activities, as may be required by Metric Conversion Act, as amended by the Omnibus Trade and Competitiveness Act, 15 U.S.C. §§ 205a et seq.; Executive Order No. 12770, “Metric Usage in Federal Government Programs,” 15 U.S.C. § 205a note; and other regulations, guidelines, and policies issued by U.S. DOT or FTA.

Hold Harmless

The Vendor agrees to protect, defend, indemnify and hold the Transit Agency, its officers, employees and agents free and harmless from and against any and all losses, penalties, damages, settlements, costs, charges, professional fees or other expenses or liabilities of every kind and character arising out of or relating to any and all claims, liens, demands, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this Contract and/or the performance hereof. Without limiting the generality of the foregoing, any and all such claims, etc. relating to personal injury, infringement of any patent, trademark, copyright (or application for any thereof) or of any other tangible or intangible personal or property right, or actual or alleged violation of any other tangible or intangible personal or property rights, or actual or alleged violation of any applicable statute, ordinance, administrative order, rule or regulation, or decrees of any court, shall be included in the indemnity


hereunder. The Vendor further agrees to investigate, handle, respond to, provide defense for and defend any such claims, etc., at his/her sole expense and agrees to bear all other costs and expenses related thereto, even if such claim is groundless, false or fraudulent.

**Licensing and Permits**

The Vendor 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 Vendor. The Vendor is liable for any and all taxes due as a result of the Contract.

**Compliance with Laws and Permits**

The Vendor shall give all notices and comply with all existing and future federal, state and municipal laws, ordinances, rules, Regulations, and orders of any public authority bearing on the performance of the Contract, including, but not limited to, the laws referred to in these provisions of the Contract and the other Contract documents. If the Contract documents are at variance therewith in any respect, any necessary changes shall be incorporated by appropriate modification. Upon request, the Vendor shall furnish to the Transit Agency certificates of compliance with all such laws, orders, and regulations.

**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.

**Debarment and Suspension**

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 certifies as follows:

The certification in this clause is a material representation of fact relied upon by the Transit Agency. If it is later determined that the bidder knowingly rendered an erroneous certification, in addition to remedies available to the Transit Agency, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder 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 further agrees to include a provision requiring such compliance in its lower tier covered transactions.

**Prompt Payment**

The Vendor agrees to pay each sub-contractor under this prime contract for satisfactory performance of its contract no later than 15 days from the receipt of each payment the prime Vendor receives from the Transit Agency. The Vendor agrees further to return retainage payments to each subcontractor within 15 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Transit Agency. This clause applies to both DBE and non-DBE subcontractors.

**Accessibility**

Vendor agrees that products provided shall be in accordance with the 42 U.S.C. Sections 12101 et seq. and DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 CFR Part 37; and Joint ATBCB/DOT regulations, “American with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 CFR Part 1192 and 49 CFR Part 38.

**Federal Regulation Changes**

Vendor 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 (Form FTA MA(15) dated October 1, 2008) between the Transit Authority and FTA, as they may be amended or promulgated from time to time during the term of this Contract. Vendor’s failure to so comply shall constitute a material breach of this contract.

**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 provision. 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 Contract. The Vendor shall not perform any act, fail to perform any act, or refuse to comply with any Transit Agency requests which would cause Transit Agency to be in violation of the FTA terms and conditions.

11/01/2008
**Attachment 4**

Estimated type and number of Tires and Services that will be purchased fiscal year:
July 1, 2013 to June 30, 2014

<table>
<thead>
<tr>
<th>Tire Size</th>
<th># New Tires with Liquid Balance</th>
<th># Recap Tires with Spin Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>12R22.5</td>
<td>14 - 24</td>
<td>50 - 65</td>
</tr>
<tr>
<td>275/70R22.5</td>
<td>6 - 12</td>
<td>12 - 24</td>
</tr>
<tr>
<td>245/70R19.5</td>
<td>40 - 55</td>
<td>150 - 175</td>
</tr>
</tbody>
</table>

# New Steer Tires with Spin Balance  # New Traction Tires with Spin Balance

<table>
<thead>
<tr>
<th>Tire Size</th>
<th># New Tires with Liquid Balance</th>
<th># Recap Tires with Spin Balance</th>
</tr>
</thead>
<tbody>
<tr>
<td>225/75/R16</td>
<td>25 - 50</td>
<td>25-50</td>
</tr>
<tr>
<td>LT245/75R16</td>
<td>4 - 10</td>
<td>4 - 10</td>
</tr>
<tr>
<td>Painted tire rims</td>
<td>50 - 70</td>
<td></td>
</tr>
</tbody>
</table>

The estimated tire usage above is based on our last fiscal year’s usage, ending June 30, 2013.

The Authority is presently experimenting with using new tires instead of recaps on some of it’s routes. This could result in increasing the new tire usage by as much as double and decreasing the recap usage by as much as half on the buses that use recap tires.

The Authority is planning a fleet expansion in fiscal year 2014 -2015 which will represent a 10% increase to tire usage in the 12R22.5 size and a 33% increase to the 275/70R22.5 size.

As mentioned in Attachment 3, the Authority is required to buy tires that are made in America whenever possible, which insures quality tires and American jobs.
## PRICE LIST & QUANTITY COMMITMENT

<table>
<thead>
<tr>
<th>Tire Size</th>
<th>Price per New Tires</th>
<th>Quantity # committed</th>
<th>Price per retread Recap Tires with Spin Balance</th>
<th>Quantity # committed</th>
</tr>
</thead>
<tbody>
<tr>
<td>12R22.5</td>
<td>$_________</td>
<td>#_________</td>
<td>$_________</td>
<td>#_________</td>
</tr>
<tr>
<td>275/70R22.5</td>
<td>$_________</td>
<td>#_________</td>
<td>$_________</td>
<td>#_________</td>
</tr>
<tr>
<td>245/70R19.5</td>
<td>$_________</td>
<td>#_________</td>
<td>$_________</td>
<td>#_________</td>
</tr>
<tr>
<td>225/75/R16</td>
<td>$_________</td>
<td>#_________</td>
<td>$_________</td>
<td>#_________</td>
</tr>
<tr>
<td>LT245/75R16</td>
<td>$_________</td>
<td>#_________</td>
<td>$_________</td>
<td>#_________</td>
</tr>
<tr>
<td>Painted tire rims</td>
<td>$_________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Liquid Balance</td>
<td>$_________</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Flat repair</td>
<td>$_________</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(The following may be on a separate page)

**Delivery / Pickup Schedule:**

**Length of time required between order and delivery:**

American made brand names to be used in this agreement will be as follows:

**Additional Notes:**
Attachment 6

DISADVANTAGED BUSINESS ENTERPRISE SURVEY Bidder’s DBE

Information
Name: _______________________________________________________

Address: _____________________________________________________

Phone Number:_________ Fax: _________ email:____________________

Number of years firm has been in business: ______

Gross Annual Receipts:___________________

Certified DBE firm with the Transit Authority?
 Yes     No

Subcontractors DBE Information

Name: _______________________________________________________

Address: _____________________________________________________

Phone Number:_________ Fax: _________ email:____________________

Number of years firm has been in business: ______

Gross Annual Receipts:___________________

Certified DBE firm with the Transit Authority?
 Yes     No

DBE Application and unified certification link is located as follows:

http://www.transportation.wv.gov/eeo/DBE/Pages/PersonalFinancialStatement.aspx