

Yellow Cab of Newport News, Inc.

6304 Sewells Point Road, Norfolk, Virginia 23513

Phone: (757) 853-1255

REQUEST FOR PROPOSAL

SUBJECT: Sale and Delivery of Five Wheelchair Accessible Vans

DATE: September 30, 2011

INVITATION NO.: YCNN 10-11

PROPOSAL DUE: October 21, 2011 Time: 2:00 p.m. (EST)

Yellow Cab of Newport News, Inc. ("YCNN") invites proposals for the sale and delivery of five wheelchair accessible vans in accordance with the specifications enclosed herewith.

Proposals **MUST** be received at YCNN by the date and time set forth above.

YELLOW CAB OF NEWPORT NEWS, INC.

LEGAL NOTICE TO PROPOSERS

Proposals will be received by Yellow Cab of Newport News, Inc. ("YCNN"), at 6304 Sewells Point Road, Norfolk, Virginia 23513, attention Robin Webb, until 2:00 p.m. (EST) on October 21, 2011, for the following:

Sale and Delivery of Five Wheelchair Accessible Vans

YCNN hereby notifies all Proposers that in regard to any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit proposals in response to this advertisement and will not be discriminated against on the grounds of race, color, sex, religion, political affiliation or national origin in consideration of an award.

Any name appearing on the Comptroller General's list of ineligible contractors is not an eligible Proposer. The Proposer will be required to comply with all applicable Equal Employment Laws and Regulations.

Further information and proposal requirements may be obtained by writing Robin Webb at the address set forth above or by email at RWebb55@hotmail.com. Award of the contract will be made on the basis of the best value as determined by YCNN and not necessarily on the lowest priced proposal.

YCNN reserves the right to reject all proposals and to waive any formality in proposing.

CAROLYN O. CHAPMAN, PRESIDENT

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- Buy America Certificate (Exhibit II)
- Certification of Proposer Regarding Debarment, Suspension, and Other Responsibility Matters (Exhibit III)
- Certification of Restrictions on Lobbying (Exhibit IV)
- Pre-Award FMVSS Compliance Certification (Exhibit V)
- Proposal Form or "No Response" Form

ATTACHMENT 1 GENERAL CONTRACT PROVISIONS

SECTION A
Instructions To Proposers

**SECTION A
INSTRUCTIONS TO PROPOSERS**

1.0 GENERAL

- 1.1 Yellow Cab of Newport News, Inc. (herein-after referred to as "YCNN"), seeks proposals from qualified firms for the sale and delivery of five wheelchair accessible vans. YCNN will employ the "competitive proposals" process to determine the best value in the award of this contract. These instructions provide detailed legal and technical requirements for the acquisition of these vehicles. The contract shall be a firm-fixed price contract.

YCNN provides public transportation services within the City of Newport News and surrounding communities. YCNN has received approval for a Federal Transit Administration "New Freedom" Grant that will pay for a significant portion of the cost of these vehicles, and therefore numerous Federal provisions and requirements are included in this RFP.

- 1.2 "Purchaser," "Procuring Agency" or "Sub-Recipient" means YCNN. The words "proposal", "propose", and "offer" are synonymous and it is understood that once YCNN accepts the same, the document will constitute the contract contemplated by these instructions. "Proposer" refers to a person that may submit or has submitted a proposal. "Contractor" refers to the Proposer whose proposal has been accepted.
- 1.3 The terms "Bus", "Van", "Coach", or "Vehicle" are synonymous.
- 1.4 This Request for Proposal (RFP) does not commit YCNN to award a contract or pay any costs incurred in preparation of proposals in response to the RFP or to procure or contract for services. Proposers shall be responsible for all costs incurred as part of their participation in the pre-award process.
- 1.5 All correspondence, communication and/or contact in regard to any aspect of this solicitation or offers shall be with Robin Webb. Proposers and their representatives shall not make any contact with or communicate with YCNN, or its employees, agents, or consultants, other than Ms. Webb in regard to any aspect of this solicitation or offers. At any time during this procurement up to the time specified below, Proposers may request, in writing, a clarification or interpretation of any aspect, or a change to any requirement of the RFP or any addenda to the RFP. Requests may include suggested substitutes for specified items and for any brand names, which whenever used in this solicitation shall mean the brand name or approved equal. Such written requests shall be made to Robin Webb and may be transmitted by mail to 6304 Sewells Point Road, Norfolk, Virginia 23513, or by email to RWebb55@hotmail.com. Any Proposer desiring a change in, deletion of, exception to or clarification of any provision in this RFP must submit a written request to Robin Webb **on or before 4:00 p.m. (EST) on October 7, 2011.**
- 1.6 Proposals will be received by YCNN at its offices located at 6304 Sewells Point Road, Norfolk, Virginia 23513, attention Robin Webb, until **2:00 p.m. local time on October 21, 2011. Proposals received at 2:01 p.m. or later may be returned unopened.**

Proposers are reminded to examine each page carefully and execute/sign all required forms and certifications that apply to this solicitation. All Proposals must be securely sealed and be clearly marked "Proposal."

Each Proposer is solely responsible for ensuring that his/her Proposal is timely delivered. Proposers who rely on overnight delivery services, the United States mail, private mail services, local couriers or delivery services remain solely responsible for timely delivery of the Proposal and assume all risk of late delivery, mis-delivery and non-delivery. All Proposals will be date/time stamped and logged by YCNN.

Proposers may verify YCNN's receipt of Proposals by writing Robin Webb at 6304 Sewells Point Road, Norfolk, Virginia 23513, or by email at RWebb55@hotmail.com.

2.0 PROPOSAL REQUIREMENTS

- 2.1 Proposals must concisely set forth full, accurate, and complete information required by this RFP, including any attachments.
- 2.2 Proposers shall provide a proposal on the forms provided. All proposals shall give the proposed price and shall be signed by the Proposer or his authorized representative. If the proposal is made by: (1) an individual, his name, signature and post office address must be shown; (2) a firm or partnership, the name and post office address of the firm or partners must be shown; (3) a corporation, the proposal shall show the title of the person who signs on behalf of the corporation.
- 2.3 The price to be quoted in any proposal shall include all labor, materials, tools, equipment, delivery and other costs necessary to fully complete the work as set forth in the Technical Specifications. Anything omitted from such specifications that are clearly necessary for completion of the work shall be considered a portion of such proposal. All parts shall be new and in no case will used, reconditioned, or obsolete parts be accepted unless otherwise specified.
- 2.4 The intent of these specifications is to define top quality equipment, which is capable of delivering maximum performance with high reliability. Equipment shall be of current design, manufacture, and proven reliability through previous application in similar daily transit service to that for which it is intended. Equipment shall be so designed and constructed that ready access for operations, maintenance, and overhaul is provided.
- 2.5 YCNN has prepared and attached to these instructions the required proposal form. This proposal form and all other accompanying documents or materials submitted by the Proposer will be deemed to constitute part of the proposal.
- 2.6 YCNN reserves the right to amend the RFP at any time. Any amendments to or interpretations of the RFP shall be described in written addenda. YCNN shall provide copies of addenda to all prospective proposers known to have received the RFP. The addendum will be mailed, e-mailed or delivered to all such prospective proposers using the contact information available to YCNN. Failure of any prospective proposer to receive the notification or addendum shall not relieve the proposer from any obligation under its proposal as submitted or under the RFP, as clarified, interpreted or modified. All addenda issued shall become part of the RFP. Prospective proposers shall acknowledge the receipt of each individual addendum and all prior addenda in their proposals. Failure to acknowledge in the proposals receipt of addenda may at YCNN's sole option disqualify the proposal.

3.0 PROPOSAL FORMAT

- 3.1 Proposals shall be submitted in a sealed package clearly marked to reflect the contents. An original, four copies, and one electronic copy in pdf or other approved format, shall be submitted. Two copies of the Parts and Service Manual(s) for the proposed vehicles shall also be submitted along with the proposal.
 - 3.1.1 Technical Specifications – Each proposal shall provide the following information at a minimum:
 - A. A listing of three customers in the United States to which Proposer completed delivery of similar type of equipment, preferably taxicab company customers. At a minimum the listing shall indicate the number of units in the delivery, the date of the contract, the date of delivery, the date of acceptance, description of ancillary equipment provided (i.e., wheelchair ramps), and client reference to include contact person, position title, telephone number, fax number

and email address. If possible, please include references for sales that were made several years ago so that we can obtain life-cycle information.

- B. A complete description of the proposed vehicles in sufficient detail to permit YCNN to determine conformance with the specifications, including drawings and technical specifications for the vehicle body and all major components. Include information on any special testing or certifications the vehicles have (such as Altoona testing or ratings). Please include documentation of (1) FTA's determination that Altoona testing is not required on your product, (2) a current Altoona testing report, or (3) scheduled dates for upcoming testing.
- C. The recommended preventive maintenance schedules for the proposed vehicles.
- D. A proposed interior seating description layout showing all seating positions, dimensions, locations, identification of which seats are OEM and which are replaced and for replacements, the manufacture and seating specifications, a summary indicating the number of seating positions (including the driver position) 1) when only ambulatory passengers are transported; 2) when one wheelchair position is in use and 3) if vehicles come with the option of two wheelchair positions, please include that information and the revised seating arrangements and any additional costs.
- E. A statement indicating financial stability and capability to obtain resources to fully comply with all warranty and other obligations.
- F. Warranty information and procedures, including any options for extended warranties.
- G. A description and location of warranty and maintenance support facilities, resources, and procedures for the vehicles and information on obtaining replacement parts.
- H. A complete list of non-OEM replacement parts along with current prices and any fees and ordering procedures along with the length of time that the pricing is guaranteed. A list of recommended spare parts for parts that would cause the vehicle to be inoperable or inaccessible while awaiting the parts is also desired.
- I. A list of all documentation that is included with the sale and/or is available at additional cost and, if so, the cost for same.
- J. Complete information on all training that is included in the cost or that is available at an additional cost and the cost for same. Complete information should be provided on support and technical assistance that is available as needed for such things as maintenance, aftermarket features, etc.
- K. Assurance that the vehicles comply with the specifications and all applicable regulations including, but not limited to American's With Disabilities Act (ADA) and Federal Transit Administration (FTA) regulations.
- L. Proposed delivery schedule.
- M. A description of features distinguishing Proposer's product from other products on the market.
- N. A description of the system and procedure by which wheelchairs are secured, including training available for instructors/drivers, videos, and written documentation/manuals pertaining thereto.
- O. Any and all exceptions to the RFP.

P. Required Forms and Certifications:

- Addenda Acknowledgement Form
- Affidavit of Non-Collusion (Exhibit I)
- Buy America Certification (Exhibit II)
- Certification of Proposer Regarding Debarment, Suspension, and Other Responsibility Matters (Exhibit III)
- Certification of Restrictions on Lobbying (Exhibit IV)
- Pre-Award FMVSS Compliance Certification (Exhibit V)
- Proposal Form or "No Response" Form

3.1.2 Price Proposal - The price proposal shall be all inclusive (but with the amount of sales tax separately stated) for the sale and delivery of the proposed vehicles.

3.2 The local and Federal government may participate in this purchase decision. Information contained in the proposals will not be released by YCNN to any other unauthorized parties prior to contract award in order to protect the integrity of the procurement process. Submission of information relative to this RFP subsequent to the proposal opening date shall not be released by YCNN during the evaluation process or prior to contract award unless required by applicable laws or regulation. Proposers are further advised that YCNN may be required to release proposal information after contract award.

If a Proposer feels that any information is confidential or proprietary in nature, the Proposer must submit all such information in a separately sealed envelope prominently marked with the Proposer's name and "PROPRIETARY INFORMATION." YCNN shall not release or divulge such information to third parties without the consent of the Proposer unless required to do so by applicable law or order of a court of competent jurisdiction.

4.0 PROPOSAL PROCEDURES

4.1 YCNN reserves the right to postpone the proposal opening date for its own convenience and to waive any minor formality that does not go to the heart of the proposal or prejudice other proposers or to reject for good and compelling reasons any and all proposals submitted.

4.2 Changes to these instructions will be made by written addendum by YCNN and will be forwarded to all persons and firms to whom these instruction documents have been submitted.

4.3 Requests for clarification or approved equal must be submitted in writing to Robin Webb, Yellow Cab of Newport News, Inc., 6304 Sewells Point Road, Norfolk, Virginia 23513, or RWebb55@hotmail.com, and **must be received no later than 4:00 p.m., local time, October 7, 2011**. Any unapproved deviations, exceptions, substitutes, alternates or conditional qualifications contained in a proposal may be cause for its rejection. YCNN's replies to such requests will be postmarked by October 14, 2011. A notice of clarification or approved equals will be furnished to all parties receiving specifications so that all Proposers may prepare their proposals accordingly.

4.4 Proposers shall submit **an original, four (4) copies, and one electronic** copy (in .pdf or other approved format) of their respective proposals. Proposals shall be securely sealed to prevent access prior to the proposal opening date.

4.5 Proposals shall be valid for a minimum period of 120 days subsequent to the proposal opening date. Proposals offering less than 120 days for acceptance from the proposal opening date may be considered non-responsive.

5.0 PROPOSAL EVALUATION/BASIS FOR AWARD

- 5.1 YCNN shall employ the competitive proposals process in making any contract award. The award of this contract will be made to the Proposer whose proposal, in the opinion of YCNN, best meets the established criteria and is most advantageous to YCNN with price and other factors considered.
- 5.2 Proposals will be evaluated on the basis of the factors described below in the following order of priority:
- A. Conformance to the RFP and meeting or exceeding minimum specifications.
 - B. Past Performance - The Proposer's demonstrated ability to meet contractual obligations, manufacture to specifications, deliver on time, and provide parts and technical support
 - C. Quality of product as indicated by response to proposal, including features that distinguish Proposer's product from other products on the market.
 - D. Price - Overall price as indicated on the Proposal Form and other price and warranty/long-term cost information provided.
- 5.3 The evaluation will provide a tabulation of the technical merits of the proposal with the lowest points designating the worst and the highest points designating the best relative to the criteria.
- 5.4 YCNN reserves the right to reject all proposals or to waive minor formalities and irregularities in proposals received.
- 5.5 A written notice of award and acceptance of proposal mailed or otherwise furnished to the successful Proposer within the time specified in the proposal shall be deemed to result in a binding contract (the "Contract").

6.0 PROTESTS

- 6.1 YCNN will consider all protests filed in a timely manner regarding the award of a contract, whether submitted before or after award. All protests are to be submitted in writing in accordance with the protest procedures described in the General Contract Provisions, Section 11.
- 6.2 Under certain limited circumstances, a potential proposer may protest to FTA the award of a contract pursuant to an FTA grant. FTA's review of any protest is limited to:
- A. An alleged failure of YCNN to have written protest procedures or alleged failure to follow such procedures.
 - B. Alleged violations of a specific federal requirement that provides an applicable complaint procedure, which shall be submitted in accordance with that federal procedure.

7.0 DELIVERY OF VEHICLES

- 7.1 Delivery shall be established by signed receipt of YCNN at the point of delivery and may be preceded by a cursory inspection of the vehicles.

The point of delivery shall be:

Yellow Cab of Newport News, Inc.
6304 Sewells Point Road
Norfolk, Virginia 23513

Delivery of the vans shall be FOB point of delivery by Common Carrier Driveway.

7.2 Delivery shall be completed within the period set forth in the proposal or 120 calendar days after written notice of award and acceptance of the Proposal, whichever YCNN selects. Delivery shall be between the hours of 8:00 a.m. to 4:00 p.m., Monday through Friday.

8.0 CONFLICTING TERMS

If there is a conflict between the terms of this Section A, Instructions to Proposers, and any other term of this RFP, the terms of this Section A shall control.

SECTION B
Technical Specifications

SECTION B

TECHNICAL SPECIFICATIONS

YCNN is procuring five (5) new wheelchair accessible vans with a capacity for one ADA-compatible wheelchair to be used for taxi service. Vans must meet the requirements listed below:

1. **Model Year:** Model year 2011 or 2012.
2. **Chassis:** The wheelbase shall be of a sufficient length to accommodate the required seat capacity and equipment. This vehicle shall be outfitted to be used in public paratransit service and taxicab service in general.
3. **Engine:** Engine shall be a gasoline-powered, 6-cylinder engine with electronic fuel injection and throw-away oil filter. Proposer shall specify the engine size, power and emission output of the proposed chassis.
4. **Transmission:** Automatic with electronically controlled overdrive.
5. **Battery:** Heavy-duty, maintenance-free battery to be included. Please specify battery configuration based on engine type and ADA equipment needs.
6. **Alternator:** A single alternator (125 AMP minimum) or model sufficient to accommodate all vehicle components and any additional options selected.
7. **Key Start System:** A push button starter switch is not acceptable.
8. **Gauges:** All standard OEM gauges shall be included and illuminated.
9. **Fuel Tank:** One standard (20 gallon minimum) fuel tank. Dual tanks are not acceptable. Fuel caps shall include a strap to prevent removal of the cap from the inlet pipe.
10. **Tires and Rims:** Four (4) aluminum wheels, 16" minimum. All tires shall be heavy-duty steel-belted radials and shall be matched to vehicle size and weight.
11. **Spare Tire:** A mounted, compact space-saver spare with tire changing tools shall be included.
12. **Head Lights:** Standard chassis OEM supplied, sealed Halogen-type headlights shall be provided, equipped with low and high beam switch.
13. **Air Conditioner, Heater and Defroster:** The vehicle shall be equipped with separate air conditioner and heater controls for both the driver and the rear passenger areas. The defroster shall be installed for use by the driver.
14. **Rear Window Defroster:** Included.
15. **Brakes:** 4-wheel power disc brakes with an anti-lock brake system.
16. **Parking Brake:** Shall be equipped with the factory OEM parking brake and dash warning light.
17. **Tilt Wheel:** Included.
18. **Power Steering:** Included.
19. **Mirrors:** Interior rearview (day/night) and exterior left and right remote controlled included.

20. **Power Windows and Door Locks:** Included.
21. **Windows:** All windows shall be tinted, UV protected, and safety coated tempered safety glass shall be installed with air-tight weather stripping around entire surface and meet all federal and State safety standards.
22. **Windshield:** Tinted, UV protected, and safety coated tempered safety glass shall be installed with air-tight weather stripping around entire surface and meet all federal and State safety standards.
23. **Windshield Wipers/Washers:** Intermittent, two-speed electric windshield wipers with jet washers.
24. **Air Bags:** Included.
25. **Clock:** In-dash clock.
26. **Radio:** In-dash mounted AM/FM radio.
27. **Undercoating:** Floor, underside and wheel wells to be undercoated for rust proofing, 1/8" thickness, except where such undercoating is not recommended by the manufacturer.
28. **Exhaust System:** After ADA modification, all electrical, hydraulic, fuel or air lines shall be shielded if within 4" of exhaust system piping and ground clearance.
29. **Seating:** Seating shall be provided for six ambulatory passengers (including the driver) if no wheelchair positions are in use. The van shall have second row bucket (or captain) seats with a capacity of two passengers. The van shall have third row seating consisting of either a flip-type bench having a capacity of two persons or two single flip-type seats. If one wheelchair position is in use, it is envisioned that the third-row seat(s) shall be flipped to provide room for the wheelchair passenger.
30. **Wheelchair Positions:** Each wheelchair position shall meet current ADA requirements, including clearance requirements, and shall be oriented so that the wheelchair or mobility aid is forward facing.
31. **Suspension:** The OEM front suspension system shall be maintained. However, the rear suspension system shall be modified to accommodate the required payload for the vehicle including all optional equipment.
32. **Wheelchair Entry Location:** Rear
33. **Wheelchair Ramp:** The wheelchair ramp shall be manual and self-contained. The ramp capacity shall be a minimum of 1000 pounds with 2" protective side barriers to prevent mobility aids from rolling off the ramp edge. The platform shall have a skid resistant surface and not obstruct the view of the driver through any window when stowed. The fold and unfold motion of the ramp shall be counter balanced so the force exerted by the driver does not exceed 15 lbs.
34. **Floor:** Lowered; high strength steel frame construction with reinforced steel floor and easy to clean non-skid surface
35. **Floor Tracking:** Shall allow adjustments of the wheelchair lock downs such that a wide variety of wheelchair types may be accommodated.
36. **Wheelchair Tie-Downs:** Universal (retractable) 4-point tie-down system; all vans shall have 2 complete sets of tie-downs; lap and shoulder belts shall be provided on all vans, including for the mobility device occupant. Reels shall be self-retracting Q-Straint (or equivalent) that are long

enough to facilitate the loading of up to two wheelchairs. Other types of securement systems may be considered.

37. **Wall-Mounted Storage Bag:** One (1) storage bag provided to store securement devices when not in use.
38. **Securement Accessories:** Shall include one (1) neck protector for the shoulder strap and four (4) webbing loops.
39. **Ramp Labeling:** The ramp and all major components shall be clearly labeled as to manufacturer, model and capacity.
40. **Ramp Manuals:** One complete set of manuals, including installation, service and repair, operating parts and instructions shall be provided with each ramp.
41. **Handicapped Symbol Decal:** One decal shall be provided on the wheelchair access door that is a blue 6" x 6" international decal symbol for handicap accessibility.
42. **Compliances:** Vehicles shall comply with all Americans With Disabilities Act requirements, Federal Motor Vehicle Safety Standards, and all other applicable statutory and regulatory requirements.

SECTION C
Forms & Certifications

YELLOW CAB OF NEWPORT NEWS, INC.

ADDENDA ACKNOWLEDGEMENT FORM

Addenda received (if none received, write "none received")

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Addendum No: _____ Date Received: _____

Name of individual, partner or corporation: _____

Authorized Signature: _____

Printed Name: _____

Title: _____

EXHIBIT I

YELLOW CAB OF NEWPORT NEWS, INC.

AFFIDAVIT OF NON-COLLUSION

Affidavit of Non-Collusion:

I hereby swear (or affirm) under the penalty of perjury:

- (1) That I am the Proposer (if the Proposer is an individual), a partner of the Proposer (if the Proposer is a partnership), or an officer or employee of the bidding corporation with authority to sign on its behalf (if the Proposer is a corporation);
- (2) That the attached Proposal or bids have been arrived at by the Proposer independently, and have been submitted without collusion with, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the request for proposals, designed to limit independent bidding or competition.
- (3) That the contents of the Proposal or bids have not been communicated by the Proposer or its employees or agents to any person not an employee or agent of the Proposer or its surety on any bond furnished with the Proposal or bids; and
- (4) That I have fully informed myself regarding the accuracy of the statements made in this affidavit.

Signed: _____

Firm Name: _____

Subscribed and sworn to before me this _____ day of _____, _____

Notary Public

My Commission expires _____, _____

Proposer's E.I. Number: _____

(Number used on Employer's Quarterly Federal tax return)

EXHIBIT II

YELLOW CAB OF NEWPORT NEWS, INC.

BUY AMERICA CERTIFICATION
(For Contracts of \$100,000 or greater)

The Proposer hereby certifies that it will comply with the requirements of Section 165a of the Surface Transportation Assistance Act of 1982 and the regulations in 49 CFR 661.

Date_____

Signature_____

Title_____

or

The Proposer hereby certifies that it cannot comply with the requirements of Section 165a of Surface Transportation Assistance Act of 1982, but it may qualify for an exception to the requirement pursuant to Section 165b of the Surface Transportation Assistance Act and regulations in 49 CFR 661.7.

Date_____

Signature_____

Title_____

EXHIBIT III

YELLOW CAB OF NEWPORT NEWS, INC.

**CERTIFICATION OF PROPOSER REGARDING DEBARMENT,
SUSPENSION, AND OTHER RESPONSIBILITY MATTERS**

The undersigned Proposer certifies to the best of its knowledge and belief that it and its principals:

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

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

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

Date_____

Signature_____

Title_____

EXHIBIT IV

YELLOW CAB OF NEWPORT NEWS, INC.

CERTIFICATION OF RESTRICTIONS ON LOBBYING

(For Contracts of \$100,000 or greater)

I, _____, hereby certify on behalf of _____
Name of Official Name of Proposer

that:

- (1) No Federal appropriated funds have been paid or will be paid on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriate 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 Proposer shall complete and submit Office of Management and Budget Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

Date _____

Signature _____

Title _____

EXHIBIT V

YELLOW CAB OF NEWPORT NEWS, INC.

PRE-AWARD FMVSS COMPLIANCE CERTIFICATION

The Proposer hereby certifies that the vans will comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

Date_____

Signature_____

Title_____

or

The Proposer hereby certifies that the vans will not comply with the relevant Federal Motor Vehicle Safety Standards issued by the National Highway Traffic Safety Administration in Title 49 of the Code of Federal Regulations, Part 571.

Date_____

Signature_____

Title_____

PROPOSAL FORM

Project Name: Sale and Delivery of Wheelchair Accessible Vans

PROPOSE TO: Yellow Cab of Newport News, Inc.

This Proposal is made in accordance with all proposal requirements, conditions, specifications, and provisions on file in the offices of the Yellow Cab of Newport News, Inc., which have been carefully examined and which are attached hereto.

PRICE PER VAN \$ _____

TOTAL PROPOSAL PRICE (5Vans) \$ _____

DELIVERY TIME AFTER NOTICE-TO-PROCEED IS ISSUED _____ (Days).

CASH DISCOUNT TERMS: _____ if paid within _____ calendar days after acceptance.

NOTE: ADVANCE PAYMENTS USING FEDERAL FUNDING ARE NOT PERMITTED BY THE FEDERAL TRANSIT ADMINISTRATION.

The undersigned understands that any conditions stated above, clarification made to the above or information submitted on or with this form – other than that requested may render the Proposal unresponsive.

NAME OF INDIVIDUAL/PARTNER/CORPORATION: _____

ADDRESS: _____

PHONE: _____ FAX: _____

EMAIL ADDRESS: _____

BY: _____ TITLE: _____

SIGNATURE: _____

“NO RESPONSE” FORM

* PLEASE EITHER PRINT OR TYPE INFORMATION ON THIS FORM *

TO: Yellow Cab of Newport News, Inc.

Our company is submitting a "NO RESPONSE" on IFB# YCINN 10-11 for the reason indicated below.

- Product or service is not available.
 - Cannot provide required bonds.
 - Other obligations - cannot make deadline.
 - Other (please explain below)
-
-

FROM: Name of Company: _____

Representative: _____

Address: _____

Phone Number: _____

Signature: _____

- Please keep our name on the Proposer's list for this item.
- Please remove our name from the Proposer's list for this item.

FAILURE TO RETURN EITHER A PROPOSAL OR THIS FORM MAY RESULT IN REMOVAL FROM THE PROPOSER'S LIST.

ATTACHMENT I
GENERAL CONTRACT PROVISIONS

YELLOW CAB OF NEWPORT NEWS, INC.

GENERAL CONTRACT PROVISIONS

1. Non-Collusion - The Contractor guarantees that the Proposal submitted is not a product of collusion with any other Proposer and no effort has been made to fix the Proposal price of any Proposer or to fix any overhead, profit, or cost element of any Proposal price. An Affidavit of Non-Collusion, as per attached format, must be signed and submitted with Proposal. (Exhibit I)
2. Proposal Acceptance - Each Proposal will be submitted with the understanding that the acceptance, in writing, by YCNN of the offer to furnish any or all of the items described herein, shall constitute a Contract between the Contractor and YCNN, which shall bind the Contractor on his part to furnish and deliver at his Proposal price and in accordance with said accepted Proposal and specifications.
3. Pricing - The price to be quoted in any Proposal submitted shall include all labor, materials, tools, equipment, and other costs necessary to fully complete the project in accordance with the specifications. Anything omitted from such specifications, which is clearly necessary for the completion of the item and its appurtenances shall be considered a portion of such Proposal item although not directly specified or called for in these specifications. All material shall be new and in no case will used, reconditioned, or obsolete material be accepted unless otherwise specified. Proposer should note discounts, if any. Freight charges must be included in Proposal price.
4. Terms of Payment - Payment for the specified items shall be net 30 days after acceptance of the vehicles. Contractor should note any discounts for payment before 30 days. Discounts of 2%-15 days or better will be considered in the evaluation. Title to the vehicles shall be conveyed upon payment by YCNN.
5. Acceptance - Unless accepted earlier in writing, YCNN will furnish a letter of non-acceptance detailing the deficiencies in the vehicles within 14 days after their delivery. If the absence of such a letter, the vehicles will be deemed accepted 14 days after their delivery. Acceptance shall not release the Contractor from liability for faulty workmanship or materials even after final payment has been made.
6. Approved Equal -
 - a. In all cases, materials must be furnished as specified. Where brand names or specific items are used in the specifications, consider the term "or approved equal" to follow.
 - b. Any unapproved deviations, exceptions, substitutions, alternates, or conditional qualifications contained in a Proposal may be cause for its rejection.
 - c. If a potential Proposer feels that his product is an equal to the product specified, he must submit a written request to YCNN.
 - d. Requests for approved equals must be received by YCNN, **IN WRITING, NO LATER THAN 4:00 p.m., October 7, 2011, TO ALLOW ANALYSIS OF THE REQUEST.** Any request for an approved equal must be fully supported with catalog information, specifications, and illustrations or other pertinent information as evidence that the substitute offer is equal to or better than the specifications' requirement. Where an approved equal is requested, the Proposer must demonstrate the quality of his product to YCNN and must furnish sufficient information to enable YCNN to determine whether the Proposer's product is or is not equal to that specified. Such requests may be mailed to Robin Webb at 6304 Sewells Point Road, Norfolk, Virginia 23513, or emailed to RWebb55@hotmail.com.

- e. YCNN's replies to requests under paragraph (d) above will be post-marked by October 14, 2011.
 - f. A notice of approved equals will be made by written addendum by YCNN, and will be forwarded to all persons and firms to whom Proposal documents have been furnished.
7. Proposal Withdrawal -
- a. Each and every Proposer who submits his Proposal specifically waives any right to withdraw it except as hereinafter provided. Proposers will be given permission to withdraw any Proposal after it has been deposited with YCNN, provided any Proposer makes its request by telephone, telegraph, or in writing, 24 hours before the time Proposals are due. Requests pertaining to withdrawals by telephone or telegraph must be confirmed in writing by the Proposer and must reach Robin Webb not later than one hour prior to the time fixed for submission of Proposals.
 - b. No Proposer may withdraw his Proposal within 120 days after the date Proposals are due.
8. Proposal Rejection - YCNN reserves the right to waive any minor Proposal formalities or irregularities received which do not go to the heart of the Proposal or prejudice other Proposers, or to reject, for good and compelling reasons, any and all Proposals submitted. Conditional Proposals, or those which take exception to the specifications, may be considered non-responsive and may be rejected.
9. Proposal Evaluation -
- a. Consideration will be given to Proposer's previous experience, price, and financial responsibility of Proposer, and responsiveness to these specifications.
 - b. Proposers may be required to submit duplicate sworn statements of their financial responsibility, technical qualifications, and performance record before a Contract can be awarded to them.
 - c. YCNN reserves the right to award Proposals singularly or collectively on any of the Proposal items.
 - d. The Contract shall be awarded according to Section 5.0 of Section A.
10. Proposal Form - If YCNN includes a Proposal Form in the RFP, Proposals must be submitted on the form provided. Each item should be listed separately on the form. Proposals submitted in any other form may be considered non-responsive and may be rejected. Proposals may be submitted on any or all items in this Proposal request.
11. Protest Procedures - Protests may be made by prospective Proposers whose direct economic interest would be affected by the award of a Contract, or by failure to award a Contract. YCNN will consider all protests received in a timely manner regarding the award of a Contract. All protests are to be submitted in writing to President, Yellow Cab of Newport News, Inc., 6304 Sewells Point Road, Norfolk, Virginia 23513. Protest submissions should be concise, logically arranged, and clearly state the grounds for the protest. Protests must include at least the following information:
- o Name, address, and telephone number of protestor.
 - o Identification of the solicitation or Contract Number.

- A detailed statement of the legal and factual grounds of protest, including copies of relevant documents.
- A statement as to what relief is requested.

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

- a. Proposal protests alleging restrictive specifications or improprieties which are apparent prior to the date and time proposals are due (“Proposal Deadline”) must be submitted in writing and must be by October 7, 2011. If the written protest is not received by the time specified, Proposals may be received and award may be made in the normal manner unless the President determines that remedial action is required. Oral protests not followed up by a written protest will be disregarded. The President may request additional information from the appealing party and information or a response from other Proposers. After considering the protest, the President shall either (a) render a decision, or (b) at the sole election of the President, conduct an informal hearing at which the interested participating parties will be afforded an opportunity to present their respective positions and facts, documents, justification, and technical information in support thereof. Parties may, but are not required to, be represented by counsel at the informal hearing, which will not be subject to formal rules or evidence or procedures. Following any informal hearing, the President shall render a decision, which shall be final, and advise all interested parties thereof in writing not later than 10 days from the date of the informal hearing.
- b. Proposal protests against the making of an award must be submitted in writing and must be received on or before 7 days following the Proposal Deadline. The process for resolving protests listed above in sub-section (a) will be followed for any protest received under this sub-section.

Notice of the protest and the basis therefore will be given to all prospective Proposers. In addition, when a protest against the making of an award is received and YCNN determines to withhold the award pending disposition of the protest, the Proposer whose Proposal might become eligible for award shall be requested before expiration of the time for acceptance, to extend or withdraw the Proposal.

Where a written protest against the making of an award is received in the time specified, award will not be made prior to seven days after resolution of the protest unless YCNN determines that:

1. The item(s) to be procured or service to be performed is urgently required.
2. Delivery or performance will be unduly delayed by failure to make award promptly; or,
3. Failure to make award will otherwise cause undue harm to YCNN or the Federal Government.

- c. Protests made after contract award shall be received no later than 7 days afterwards. The process for resolving protests listed above in sub-section (a) will be followed for any protest received under this sub-section. In addition, the Proposer to whom the award has been made shall be furnished with the notice of the protest and the basis therefore.

Performance of the Contract shall cease until seven days after resolution of the protest unless YCNN determines that:

1. The item(s) to be procured or service to be performed is urgently required;
2. Delivery or performance will be unduly delayed by failure to make award promptly; or,

3. Failure to make award will otherwise cause undue harm to YCNN or the Federal Government.

In the event of such a cessation, the time for performance of the Contract shall be extended by the same period of time during which the cessation was in effect.

- d. Under certain limited circumstances, an interested party may protest to the Federal Transit Administration (FTA) the award of a Contract pursuant to an FTA grant. FTA's review of any protest will be limited to:
 1. Alleged failure of YCNN to have written protest procedures or alleged failure to follow such procedures.
 2. Alleged violations of a specific Federal requirement that provides an applicable complaint procedure, which shall be submitted and processed in accordance with that Federal regulation.
 - e. Protestors shall file a protest with FTA not later than five working days after YCNN's final decision is rendered under the YCNN protest procedure. In instances where the protestor alleges that YCNN failed to make a final determination on the protest, the protestor shall file a complaint with FTA not later than five Federal working days after the protestor knew or should have known of YCNN's failure to render a final determination on the protest.
 - f. Submission of Protest to FTA
 1. Protests shall be filed with the appropriate FTA Regional Office with a concurrent copy to YCNN.
 2. The protest filed with FTA shall:
 - (i) Include the name and address of the protestor.
 - (ii) Identify YCNN's RFP (Invitation) number.
 - (iii) Contain a statement of the grounds for the protest and any supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures and be fully supported to the extent possible.
 - (iv) Include a copy of the local protest filed with YCNN and a copy of the YCNN decision, if any.
 - g. Correspondence - The Proposer is required to show on all correspondence with YCNN and FTA the following: RFP No. YCNN 10-11. Communication with YCNN should be forwarded directly to Robin Webb, YCNN, 6304 Sewells Point Road, Norfolk, Virginia 23513.
12. Contract Subletting - No Contract may be assigned, sublet, or transferred without the written consent of YCNN.
 13. Miscellaneous -
 - a. Contractor warrants that it has not been paid any bonus or commission for the purpose of obtaining this Contract.
 - b. Except as otherwise set forth herein, this Contract shall be governed and construed in accordance with the laws of the Commonwealth of Virginia. All actions, whether sounding in contract or in tort, relating to the validity, construction, interpretation, and enforcement of this Contract shall be instituted and litigated in the courts of the

Commonwealth of Virginia located in Norfolk, Virginia, and in no other. In accordance herewith, the parties to this Contract submit to the jurisdiction of the courts of the Commonwealth of Virginia, located in Norfolk, Virginia.

- c. The failure of YCNN at any time to insist upon a strict performance of any terms, conditions, and covenants herein shall not be deemed a waiver of any subsequent breach or default of the terms, conditions, and covenants herein contained.
- d. Contractor shall not assign any interest or obligation in this Contract, and Contractor shall not transfer any interest in the same (whether by assignment or notation), without the prior written consent of YCNN.
- e. Any proposed change or modification of this Contract shall be submitted in writing to YCNN for its prior approval. All changes shall be by written agreement of YCNN and Contractor.

14. Extent of Agreement -

- a. The Proposal submitted by the Contractor is incorporated herein by reference as if fully set forth verbatim herein. In the event of conflict between this Contract and the Proposal, the provisions of this Contract shall control.
- b. This Contract, except as set forth in the preceding paragraph, represents the entire and integrated Agreement between YCNN and the Contractor, and supersedes all prior negotiations, statements, instructions, and representations or agreements, whether written or oral. This Contract may not be modified, amended, or assigned except by written agreement duly signed by both parties.
- c. At the election of YCNN, the invalidity or illegality of any provisions of this Contract, other than arising from the fiscal inability of YCNN to pay the compensation due to the Contractor as same becomes due, as determined by a court of last resort of competent jurisdiction, shall not affect the validity of the remainder of this Contract, and this Contract shall remain in full force and effect as if such illegal or invalid provisions were not contained herein.

15. Compliance with Applicable Law -

- a. In the performance of its obligations pursuant to this Contract, the Contractor shall comply with all applicable provisions of Federal, State, and local law in any manner affecting the conduct of the work and all prohibitive orders and instructions issued by the State and Federal Government regarding fortifications, military, and naval establishments and other areas.
- b. To accommodate changing Federal requirements, the Contractor agrees that Federal requirements may change and the changed requirements will apply to the project as required, unless the Federal Government determines otherwise.
- c. The Contractor agrees to comply with FTA Circular 4220.1D, "Third Party Contracting Requirements," any revisions or replacement thereof, and applicable Federal regulations or requirements, including FTA third party contracting regulations when promulgated.

16. Audit and Inspection -

- a. Upon request, the Contractor shall permit YCNN, the Secretary, and Comptroller General of the United States or any of their duly authorized representatives access to all records relating to any Contract to the extent necessary for compliance with 49 U.S.C. § 5325(g).

- b. The Contractor shall maintain documentation for all charges against YCNN under this Contract. The books, records, and documents of the Contractor, insofar as they relate to work performed or money received under the Contract, shall be maintained in conformity with generally accepted accounting principles for a period three full years from the date of final payment, and shall be subject to audit, at any reasonable time upon reasonable notice, by YCNN, the Commonwealth of Virginia or the Comptroller of the Treasury or their duly appointed representatives, or a licensed independent public accountant. Further, the records shall be maintained for not less than three years from the date of final payment.
 - c. In the event any Federal or State agency audits YCNN, the Contractor shall provide whatever records, information, and assistance as YCNN may reasonably require.
 - d. The Contractor shall provide information and assistance requested by YCNN for progress reports required of YCNN by Federal or State Government, or agencies.
17. Equal Employment Opportunity – In the performance of its duties hereunder, the Contractor shall not discriminate against any employee or applicant for employment because of disability, race, color, age, creed, sex, religion or national origin. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their disability, race, color, religion, sex, age, or national origin. 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. The Contractor shall insert the foregoing provisions (modified only to show the particular contractual relationship) in all subcontracts, except subcontracts for standard commercial supplies or raw materials.
18. Disadvantaged Business Enterprise Assurance – As required under 49 C.F.R. § 26.13(b), the Contractor agrees it shall not discriminate on the basis of race, color, national origin, or sex in the performance of the Contract. The Contractor shall carry out all applicable requirements of 49 CFR part 26. Failure by the Contractor to carry out these requirements is a material breach of the Contract, which may result in the termination of the Contract or such other remedy as YCNN deems appropriate.
19. Interests of Federal and State Governmental Officials -
- a. No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract, or to any benefit arising therefrom.
 - b. No part of the proceeds hereof shall be paid directly or indirectly to any officer or employee of the Commonwealth of Virginia as wages, compensation or gifts in exchange for acting as officer, agent, employee, subcontractor, or consultant to YCNN in connection with any work contemplated or performed relative to this Contract.
20. Environmental Requirements -
- a. Environmental Protection. The Contractor agrees to comply with all applicable requirements of the National Environmental Policy Act of 1969, as amended, 42 U.S.C. §§ 4321 et seq. Consistent with Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. § 4321 note; FTA statutory requirements on environmental matters at 49 U.S.C. § 5324(b); Council on Environmental Quality regulations on compliance with the National Environmental Policy Act of 1969, as amended, 40 C.F.R. Part 1500 et seq.; and joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622.

- b. Air Quality. The Contractor agrees to comply with all applicable regulations, standards, or orders implementing the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. as follows:
1. The Contractor agrees to comply with applicable requirements of U.S. Environmental Protection Agency (EPA) regulations, "Conformity to State or Federal Implementation Plans of Transportation Plans, Programs, and Projects Developed, Funded or Approved Under Title 23 U.S.C. or the Federal Transit Act", 40 C.F.R. Part 51, Subpart T; and "Determining Conformity of Federal Actions to State or Federal Implementation Plans," 40 C.F.R. Part 93. To support the requisite air quality conformity finding for the Project, the Contractor agrees to implement each air quality mitigation and control measure incorporated in the Project. The Contractor agrees that any Project identified in an applicable State Implementation Plan (SIP) as a Transportation Control Measure will be wholly consistent with the design concept and scope of the Project described in the SIP.
 2. U.S. EPA also imposes requirements implementing the Clean Air Act, as amended that may apply to transit operators, particularly operators of large transit bus fleets. Thus, the Contractor should be aware that the following U.E. EPA regulations may apply to its Project: "Control of Air Pollution from Motor-Vehicles and Motor-Vehicle Engines", 40 C.F.R. Part 85; "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines: Certification and Test Procedures," 40 C.F.R. Part 86; and "Fuel Economy of Motor Vehicles," 40 C.F.R. Part 600.
 3. The Contractor agrees to comply with the notification of violating facilities provisions of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans," 42 U.S.C. § 7606 note.
- c. Clean Water. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. Among other things:
1. The Contractor agrees to protect underground sources of drinking water consistent with the provisions of the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§ 300h et seq.
 2. The Contractor agrees to comply with the notification of violating facilities provisions of Executive Order No. 11738, "Administration of the Clean Air Act and the Federal Water Pollution Control Act with Respect to Federal Contracts, Grants, or Loans", 42 U.S.C. § 7606 note.
- d. Use of Public Lands. The Contractor agrees that no publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of national, State, or local significance as determined by the Federal, State, or local officials having jurisdiction thereof, or any land from a historic site of national, State, or local significance may be used for the Project unless the FTA makes the specific findings required by 49 U.S.C. § 303.
- e. Wild and Scenic Rivers. The Contractor agrees to comply with the Wild and Scenic Rivers Act of 1968, as amended, 16 U.S.C. §§ 1271 et seq. relating to protecting components of the national wild and scenic rivers system.

- f. Coastal Zone Management. The Contractor agrees to assure Project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972, as amended, 16 U.S.C. §§ 1451 et seq.
- g. Wetlands. The Contractor agrees to comply with the protections for wetlands in accordance with Executive Order No. 11990, as amended, "Protection of Wetlands," 42 U.S.C. § 4321 note.
- h. Floodplains. The Contractor agrees to comply with the flood hazards protections in floodplains in accordance with Executive Order No. 11988, as amended, "Floodplain Management" 42 U.S.C. § 4321 note.
- i. Endangered Species. The Contractor agrees to comply with the protections for endangered species of the Endangered Species Act of 1973, as amended, 16 U.S.C. §§ 1531 et seq.
- j. Historic Preservation. The Contractor agrees to facilitate compliance with Federal historic and archaeological preservation requirements of section 106 of the National Historic Preservation Act, as amended, 16 U.S.C. § 470f; Executive Order No. 11593, "Protection and Enhancement of the Cultural Environment," 16 U.S.C. § 470 note; and the Archaeological and Historic Preservation Act of 1974, as amended, 16 U.S.C. §§ 469a-l et seq. as follows:
 1. In accordance with Advisory Council on Historic Preservation regulations, "Protection of Historic and Cultural Properties," 36 C.F.R. Part 800, YCNN agrees to consult with the State Historic Preservation Officer concerning investigations to identify properties and resources included in or eligible for inclusion in the National Register of Historic Places that may be affected by the Project, and agrees to notify FTA of any such properties that will be affected.
 2. The Contractor agrees to comply with all Federal requirements to avoid or mitigate adverse effects on those historic properties.
- k. Environmental Justice. The Contractor agrees to comply with the policies of Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," 42 U.S.C. § 4321 note.
- l. Mitigation of Adverse Environmental Effects. Should the Project cause or result in adverse environmental effects, the Contractor agrees to take all reasonable steps to minimize those effects as required by 49 U.S.C. § 5324(b), and any other applicable Federal laws and regulations, including 23 C.F.R. Part 771 and 49 C.F.R. Part 622. The Contractor agrees to implement all environmental mitigation measures that may be identified as commitments in applicable environmental documents (such as environmental assessments, environmental impact statements, memoranda of agreement, and documents required by 49 U.S.C. § 303) and agrees to comply with any conditions the Federal Government might impose in a finding of no significant impact or a record of decision. The Contractor agrees that those mitigation measures are incorporated by reference and made part of the Contract. As soon as the Federal Government and the Contractor reach agreement on any deferred mitigation measures, the Contractor agrees that those measures will then be incorporated by reference and made part of the Contract. The Contractor agrees that any mitigation measures agreed upon by YCNN and the Federal Government may not be modified or withdrawn without the express written approval of the Federal Government.

21. Energy Conservation - The Contractor shall comply with mandatory energy efficiency 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 U.S.C. 6321 et seq.).
22. Patent Rights - The Contractor does hereby grant to YCNN those rights that would be due to the United States of America as set forth in the Patent Rights Clause-Acquisition by the Government, at 41 C.F.R. 1-9.107-5(a).
23. Rights in Data -
 - a. The term "subject data" as used herein means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under this Contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in Specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term does not include financial reports, cost analyses, and similar information incidental to Contract administration.
 - b. All "subject data" first produced in the performance of this Contract shall be the sole property of the United States Government. YCNN and Contractor agree not to assert any rights at common law or equity, and not to establish any claim to statutory copyright in such data. Except for its own internal use, YCNN and the Contractor shall not publish or reproduce such data in whole or in part, or in any manner or form, nor authorize other to do so, without the written consent of the Government until such time as the Government may have released such data to public; this restriction, however, does not apply to Agreements with Academic Institutions.
 - c. YCNN and Contractor agree to grant and do hereby grant to the Government and to its officers, agents, and employees acting within the scope of their official duties, royalty-free, non-exclusive, and irrevocable license throughout the world:
 1. To publish, translate, reproduce, deliver, perform, use, and dispose of, in any manner, any and all data not first produced or composed in the performance of this Agreement but which is incorporated in the work furnished under this Agreement; and
 2. To authorize others to do so.
 - d. The Contractor shall indemnify, save, and hold harmless YCNN, the Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by YCNN of proprietary rights, copyrights, or rights of privacy, arising out of the publication, translation, reproduction, delivery, performance use, or disposition of any data furnished under this Agreement.
 - e. Nothing contained in this clause shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Government under any patent.
 - f. Sections (c) and (d) above are not applicable to material furnished to YCNN by the Government and incorporated in the work furnished under the Contract provided that such incorporated material is identified by YCNN at the time of delivery of such work.

- g. In the event that the project, which is the subject to this Agreement, is not completed, for any reason whatsoever, all data generated under that project shall become subject data as defined in the Rights in Data clause in this Contract, and shall be delivered as the Government may direct. This clause shall be included in all third-party contracts under the project.
 - h. No reports, maps, or other documents produced in whole or in part under this Contract shall be subject of an application for copyright by or on behalf of the Contractor.
24. Contractor Responsibility - It is the intent of these specifications to provide for goods of first quality and the workmanship must be the best obtainable in the various trades. The design of the goods, which the manufacturer proposes to furnish, must be of substantial and durable construction in all respects. No advantage shall be taken by the Contractor or manufacturer in the omission of any part or detail, which goes to make the product complete and ready for installation and use.
- The Contractor shall assume responsibility for all materials used in the Proposal item whether the Contractor manufactures the same or purchased ready-made from a source outside the Contractor's company.
25. Delivery - Proposals shall provide for delivery of all equipment to YCNN, 6304 Sewells Point Road, Norfolk, Virginia 23513, unless stated otherwise in Sections A or B.
26. Preference for United States Products and Services - To the extent applicable, the Contractor agrees to comply with the following U.S. preference requirements:

- a. Buy America. The Contractor agrees to comply with 49 U.S.C. § 5323(j), FTA regulations, "Buy America Requirements," 49 C.F.R. Part 661, and implementing guidance FTA may issue. A Buy America certification (Exhibit II), as per attached format, must be completed and submitted with the Proposal or the Proposal will be considered non-responsive.

A waiver from the Buy America provision may be sought if grounds for the waiver exist.

- b. Cargo Preference - Use of United States-Flag Vessels. The Contractor agrees to comply with U.S. Maritime Administration regulations, "Cargo Preference—U.S.-Flag Vessels," 46 C.F.R. Part 381, to the extent those regulations apply to the Project. Specifically, the Contractor agrees:
 - 1. To utilize privately owned United States-Flag Commercial vessels to ship at least 50% of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, materials, or commodities pursuant to this section, to the extent such vessels are available at fair and reasonable rates to United States-Flag Commercial vessels.
 - 2. To furnish within 30 days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipment 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 paragraph one above to YCNN (through the prime Contractor in the case of subcontractor Bills-of-Lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, 400 Seventh Street, S.W., Washington, DC 20590, marked with appropriate identification of the project.
- c. Fly America. The Contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S.-flag air

carriers to the extent service by U.S.-flag air carriers is available, consistent with the requirements of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301.131 through 301.143.

27. Debarment, Suspension, and Other Responsibility Matters - Unless otherwise permitted by law, any person that is debarred, suspended, or voluntarily excluded may not take part in a federally covered transaction, either as participant or a principal, during the period of debarment, suspension, or voluntary exclusion. Accordingly, neither FTA nor YCNN may enter into any transaction with such debarred, suspended or voluntarily excluded persons during such period.

A certification process has been established by 49 CFR, Part 29 as a means to ensure that debarred, suspended, or voluntarily excluded persons do not participate in a federally assisted project. Each Contractor and subcontractor must provide to YCNN a signed certification in compliance with 49 CFR, Part 29 as part of this Contract. (Exhibit III)

28. Prohibited Interests - No member, officer, employee, or agent of YCNN during his or her tenure or one year thereafter shall have interests, direct, or indirect in this Contract or the proceeds thereof, or if a conflict, real or apparent, would be involved.

29. Copeland "Anti-Kickback" Act, as amended. The Contractor shall comply with the Copeland "Anti-Kickback" Act, 18 U.S.C. 874 and 40 U.S.C. 276c, and U.S. Department of Labor (DOL) regulations, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States", 29 C.F.R. Part 3. In addition to other requirements that may apply:

- a. The Contractor will not induce, 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 that employee is otherwise entitled.
- b. YCNN agrees to report every suspected or reported violation of the Copeland "Anti-Kickback" Act or its Federal implementing regulations to FTA.

30. Termination of Contract For Cause -

- a. If, through any cause, the Contractor shall fail to fulfill in timely and proper manner its obligations under this Contract, or shall violate any of the covenants, agreements, or stipulations of this Contract, YCNN shall thereupon have the right to terminate this Contract by giving written notice to the Contractor for such termination and specifying the effective date of such termination.
- b. In the event of default by the Contractor, YCNN shall be entitled to all of its reasonable expenses, including its reasonable attorney's fees, incurred by reason of such default.

31. Termination of Contract for Convenience – YCNN may terminate the Contract, in whole or in part, at any time by written notice to the Contractor when it is in YCNN's best interest to do so. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed in connection with the Contract up to the time of termination. The Contractor shall promptly submit its termination claim to YCNN itemizing the amounts it seeks to be paid for labor, materials, overhead, and profit, and the bases for each. In no event shall Contractor be paid more than the contract price. If the Contractor has any property in its possession, the cost for which it seeks compensation from YCNN, the Contractor will account for the same to YCNN and dispose of it in the manner YCNN directs.

32. Interest of the Contractor - The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the

performance of this Contract. The Contractor further covenants that in the performance of this Contract, no person having any such interest shall be employed.

33. Independent Contractor - The Contractor is at all times an independent contractor and in no wise shall be deemed to be in joint venture, partnership, or other relationship with YCNN.
34. Indemnification - The Contractor shall indemnify, save, defend, and hold YCNN, its officers, agents and employees free from all losses, damages, claims, and expenses in any wise arising or resulting from the actions and omissions of the Contractor, its employees, agents, or contractors in the performance of this Contract.
35. Cost Analysis - YCNN reserves the right to conduct a cost or price analysis for any purchase. YCNN may be required to perform a cost analysis when competition is lacking for any purchase. Sole source procurements or procurements which result in a single Proposal being received will be subject to a cost analysis which will include the appropriate verification of cost data, the evaluation of specific elements of costs and the projection of the data to determine the effect on Proposal prices. YCNN may require a pre-award audit, and potential contractors shall be prepared to submit data relevant to the proposed work which will allow YCNN to sufficiently determine that the proposed price is fair, reasonable, and in accordance with Federal, State, and local regulations. Procurements resulting in a single Proposal will be treated as a negotiated procurement and YCNN reserves the right to negotiate with the single Proposer to achieve a fair and reasonable price. If both parties cannot agree upon a negotiated price, YCNN reserves the right to reject the single Proposal.

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

36. False or Fraudulent Statements or Claims - The Contractor acknowledges and agrees that:
 - a. The Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 et seq. and U.S. Department of Transportation (DOT) regulations "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its activities in connection with the Project. Accordingly, by executing the Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, or it may make in connection with the Project covered by the Contract. In addition to other penalties that may apply, the Contractor also acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, on the Contractor to the extent the Federal Government deems appropriate.
 - b. If it makes a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government in connection with an urbanized area formula project financed with Federal assistance authorized by 49 U.S.C. § 5307, the Government reserves the right to impose on the Contractor the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1), to the extent the Federal Government deems appropriate.
37. No Contingency Fees - The Contractor shall warrant that no person or selling agency has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business, for the breach or violation of which warranty YCNN shall have the right to annul said Contract without liability or, in its discretion, to deduct from the Contract price or consideration the full amount of such commission, percentage, brokerage or contingent fee.
38. Excluded Facilities - The Contractor shall comply with the provisions of 40 CFR Part 15 which prohibit the use of facilities included on the EPA list of violating facilities.

39. Federal Changes -

The Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives as they may be amended or promulgated from time to time during the term of this contract. The Contractor's failure to so comply shall constitute a material breach of this contract.

40. Lobbying - Federal regulations require YCNN to include certifications from contractors. Accordingly, the Contractor must sign the attached certification. (Exhibit IV)

By executing this Contract, the Contractor certifies to the best of its knowledge and belief that:

- a. No Federal appropriated funds have been paid or will be paid on behalf of the undersigned to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriate 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 Contractor shall complete and submit Office of Management and Budget Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The Contractor shall insert the language of this certification in all subcontracts, and require that all subcontractors at any tier 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. This applies to procurements of \$100,000 or more.

41. Recycled Products -

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

42. No Government Obligation -

- a. YCNN and the 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 YCNN, 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. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.
43. Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT 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 YCNN request, which would cause YCNN to be in violation of the FTA terms and conditions.
44. Access Requirements for Persons with Disabilities - The Contractor agrees to comply with the requirements of 49 U.S.C. § 5301(d), which expresses the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement those policies. The Contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, and with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires the provision of accessible facilities and services, and with the following Federal regulations, including any amendments thereto:
- a. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA),"49 C.F.R. Part 37;
 - b. U.S. DOT regulations "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,"49 C.F.R. Part 27;
 - c. Joint U.S. Architectural and Transportation Barriers Compliance Board/U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,"36 C.F.R. Part 1192 and 49 C.F.R. Part 38;
 - d. U.S. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services,"28 C.F.R. Part 35;
 - e. U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,"28C.F.R. Part 36;
 - f. U.S. General Services Administration (GSA) regulations, "Accommodations for the Physically Handicapped,"41 C.F.R. Subpart 101-19;
 - g. 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;
 - h. U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled,"47 C.F.R. Part 64, Subpart F; and
 - i. FTA regulations, "Transportation for Elderly and Handicapped Persons,"49 C.F.R. Part 609; and
 - j. Any implementing requirements FTA may issue.
45. Disputes, Breaches, Defaults or Other Litigation -

- a. Except as otherwise provided in this Contract, any dispute concerning a question of fact arising under this Contract which is not disposed of by agreement shall be decided by the President of YCNN, who shall reduce her decision to writing and mail or otherwise furnish a copy thereof to the Contractor. The decision of the President shall be final and conclusive unless in proceedings initiated for review of such decision in a court of competent jurisdiction the Court determines the decision to have been fraudulent, or capricious, or arbitrary, or so grossly erroneous as necessarily to imply bad faith, or is not supported by substantial evidence. In connection with any proceeding for review under this sub-section, the Contractor shall be afforded an opportunity to be heard and to offer evidence. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the Contract
46. Title VI of the Civil Rights Act of 1964 - The Contractor will comply and will assure the compliance by subcontractors under this Project with all the requirements imposed by Title VI of the Civil Rights Act of 1964 (49 U.S.C. Section 2000d), the Regulations of DOT issued hereunder, 40 C.F.R. Part 21 and the assurances by YCNN pursuant thereto.
 47. Prompt Payment - The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 10 days from receipt of each payment the prime contractor receives from YCNN. The prime contractor agrees further to return retainage payments to each subcontractor within 10 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 YCNN. This clause applies to both DBE and non-DBE subcontractors. If the prime contractor determines the work to be unsatisfactory, it must notify Robin Webb immediately, in writing, and state the reasons. Failure to comply with this requirement will be construed to be a breach of contract and subject to contract termination.