

FARGO-MOORHEAD
METROPOLITAN COUNCIL OF GOVERNMENTS

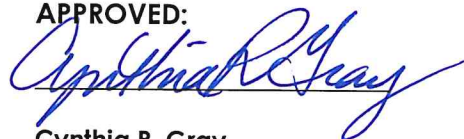
REQUEST FOR PROPOSALS (RFP)

PROJECT NO. 2021-225

University Drive and 10th Street Corridor Study

October 2021

APPROVED:



Cynthia R. Gray
Metro COG, Executive Director

REQUEST FOR PROPOSALS (RFP)

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) requests proposals from qualified consultants for the following project:

University Drive and 10th Street Corridor Study

Qualifications based selection criteria will be used to analyze proposals from responding consultants. The most qualified candidates may be invited to present a virtually hosted interview. Upon completion of technical ranking and interviews, Metro COG will enter into negotiations with the top ranked firm. **Sealed cost proposals shall be submitted with the proposal.** The cost proposal of the top ranked firm will be opened during contract negotiations. Those firms not selected for direct negotiations will have their unopened cost proposals returned. Metro COG reserves the right to reject any or all submittals. This project will be funded, in part with federal transportation funds and has a not-to-exceed budget of **\$275,000**.

Interested firms can request a full copy of the RFP by telephoning 701.532.5100, or by e-mail: metrocog@fmmetrocog.org. Copies will be posted on the North Dakota Department of Transportation QBS website (<https://www.dot.nd.gov>) and are also available for download in .pdf format at www.fmmetrocog.org.

All proposals received by **4:30 pm (Central Time) on Monday, November 29, 2021** at Metro COG's office will be given equal consideration. Proposals received after 4:30 pm (Central Time) on November 19, 2021 will not be considered. Respondents must submit twelve (12) hard copies and a PDF of the proposal, and one (1) sealed hard copy of the cost proposal. The full length of each proposal shall not exceed fifteen (15) double sided pages for a total of thirty (30) pages; including any supporting material, charts, or tables.

The digital version (PDF) of the proposal may be emailed. The consultant must verify that the email was received with the PDF attachment prior to 4:30 pm on the due date. Proposal documents and sealed cost proposals shall be shipped to ensure timely delivery to the contact identified below:

Michael Maddox, Senior Transportation Planner
Fargo-Moorhead Metropolitan Council of Governments
One 2nd Street North, Suite 232
Fargo, ND 58102
maddox@fmmetrocog.org
701-532-5104

Fax versions will not be accepted as substitutes for the proposals or the sealed cost proposal. Once submitted, the proposals will become property of Metro COG.

Questions must be directed to Michael Maddox (phone number and email shown above).

Note: This document can be made available in alternative formats for persons with disabilities by contacting Savanna Leach, Office Manager at 701.532.5100 or leach@fmmetrocog.org.

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Note: Throughout this RFP, Metro COG may be referred to as 'Client' and the consulting firm may be referred to as 'Consultant', 'Contractor', or 'Firm'.

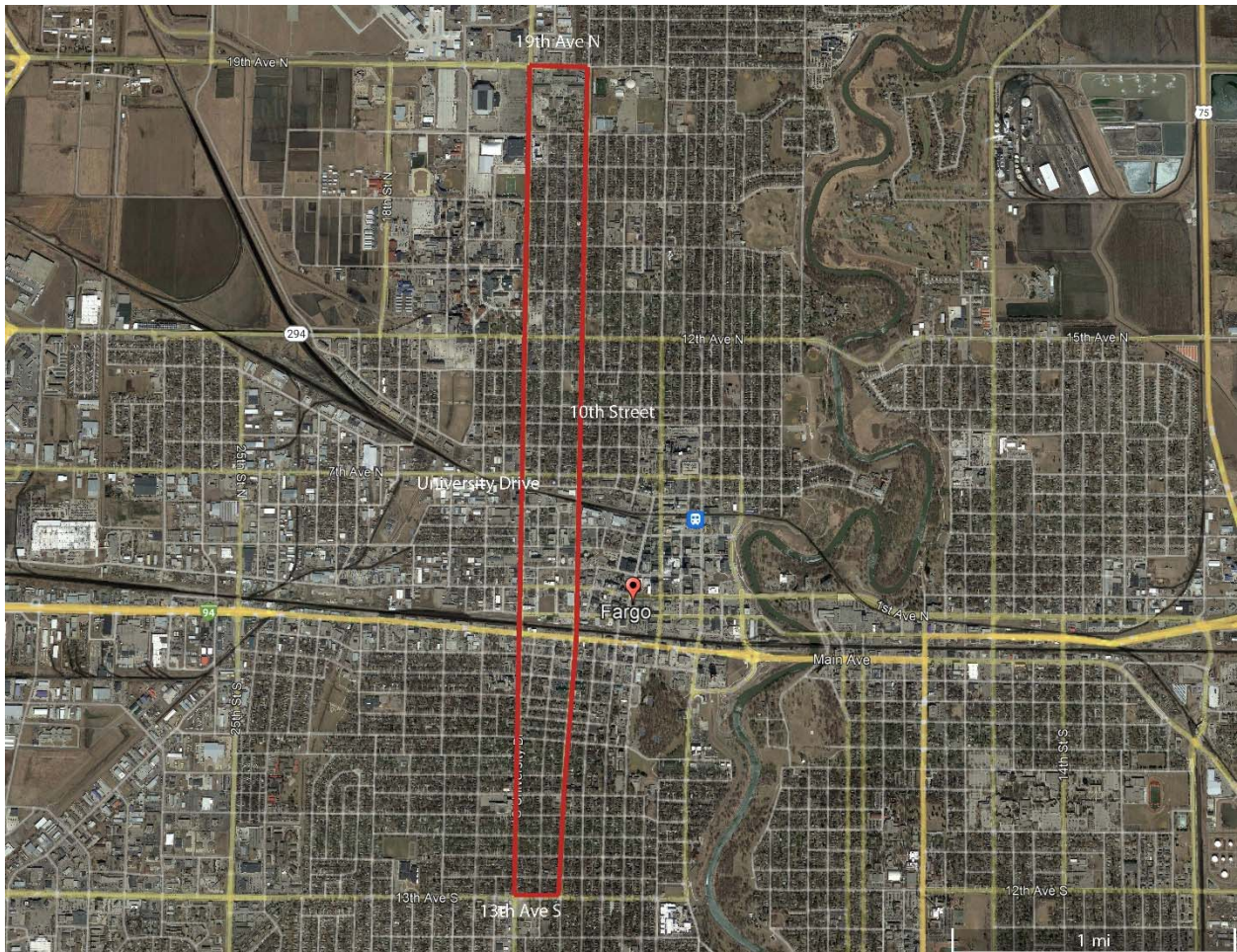
I AGENCY OVERVIEW

The Fargo-Moorhead Metropolitan Council of Governments (Metro COG) serves as the Council of Governments (COG) and Metropolitan Planning Organization (MPO) for the greater Fargo, North Dakota – Moorhead, Minnesota Metropolitan Area. As the designated MPO for the Fargo-Moorhead Metropolitan Area, Metro COG is responsible under federal law for maintaining a continuous, comprehensive, and coordinated transportation planning process.

Metro COG is responsible, in cooperation with the North Dakota and Minnesota Departments of Transportation (NDDOT and MnDOT, respectively) and our local planning partners, for carrying out the metropolitan transportation planning process and other planning needs of a regional nature. Metro COG represents eleven cities and two counties that comprise the Metro COG region in these efforts.

II BACKGROUND INFORMATION

Metro COG, the City of Fargo, and NDDOT will study the University Drive and 10th Street one-way pair, from 19th Avenue N to 13th Avenue S, to identify opportunities to enhance neighborhood livability and economic conditions along these two corridors. In response to neighborhood input received by the City of Fargo during the development of the Core Neighborhoods Master Plan, these two corridors will be studied to identify roadway alternatives and livability characteristics that will address issues raised by the public. One alternative will likely include a study of the impacts, feasibility and desirability of converting the one-way configuration of University Drive and 10th Street (US Hwy 81) to two-way streets between 19th Avenue N and 13th Avenue S. Other alternatives will be identified during the study process. Traffic forecasts and traffic operations analyses will be conducted to examine the extent to which the roadway sections can be used in their existing configurations and to identify roadway segments that would require partial or full reconstruction and widening. Impacts to intersecting and parallel roadways must be identified and analyzed as well as impacts to adjacent properties. Impacts to freight and delivery services shall be identified and analyzed. Impacts to transit routes, bicyclists and pedestrians will be identified and addressed as part of the study.



Complete streets components, including the advantages, disadvantages, and feasibility of on-street parking and aesthetic improvements shall be identified. Roadway components, traffic control modifications, and other improvements needed to make such a change will be identified. Planning level cost estimates will be provided. Stakeholder and public engagement will be conducted to determine the level of support for leaving the corridors the same, and for changing them to incorporate other configurations or components. A land use and economic analysis will be required to identify if and how changes to the configuration of these corridors could enhance the viability of existing areas of single family residential land use or improve upon the livability of the neighborhoods along University and 10th Street. This analysis should expand upon public input received by the City of Fargo during the development of the Core Neighborhoods Master Plan.

Consultants should describe the extent to which microsimulation efforts could be employed in this study to facilitate the review of alternatives. Refined study alternatives (up to two) should be animated so that the general public can view 3-D walk-thru representations of the alternatives. The alternatives should reflect projected traffic

volumes and operations as well as elements usually included in typical corridor studies. A warrant analysis should be done for all existing signalized intersections as well as all proposed traffic control.

Collectively, University Drive and 10th Street are designated as US Highway 81, and are functionally classified as primary arterials. Traffic volumes vary from segment to segment:

- University Drive – 9,000 to 18,000 vehicles per day
- 10th Street – 7,000 to 12,000 vehicles per day

Since these two roadways are signed as US Highway 81, those volumes include tractor-trailers and other such freight traffic, which are commonly seen traversing the corridor.

In 2014, the City of Fargo removed the 1st Avenue North/NP Avenue one-way pair, opting to open it to two-way traffic. Since that occurred, many have wondered if University Drive and 10th Street could similarly be converted. Further thought was given to the conversion after a counter-flow northbound lane was installed on University Drive in 2019 between Main Avenue and NP Avenue under the BNSF XO Line grade separation to facilitate the movement of traffic into downtown Fargo.

The cross-section of the roadways varies as they traverse various contextual areas, which include:

- 13th Avenue to 1st Avenue South – This section of both University Drive and 10th Street consists of mainly single-family residential land uses with a sprinkling of multiple family and institutional uses such as the Cass County Courthouse and Law Enforcement building (both sides of 10th Street S), churches and a school district building on University Drive S. Several former single-family homes have been converted to offices. Sidewalks are present on both sides of the roadways, separated from the travel lanes by tree-lined boulevards.
- 1st Avenue South to 7th Avenue North – This segment of the two corridors is generally considered part of downtown Fargo, although redevelopment consists of a mixture of auto-oriented and pedestrian oriented design. There are a variety of uses in this segment. This includes North Dakota State University's College of Business which is on the corner of 2nd Avenue North and 10th Street. Both roadways have two railroad grade separations within this segment. The roadway cross sections grows to three-lanes in either direction. Typical urban sidewalks exist on both sides of the street, separated from traffic by a narrow boulevard, but no other bicycle infrastructure exists. The presence of boulevard trees is very inconsistent along this segment of both roadways. Intersections with several cross streets are signalized.
- 7th Avenue North to 19th Avenue North – This section transitions back to mostly single-family residential land use on 10th Street N, with an elementary school, a high

school, churches, and multiple family land use north of 17th Avenue N, with a gas/station convenience store and strip commercial development along 19th Avenue N between 10th Street N and University Drive. University Drive runs along the east side of the FargoDome, the Sanford Health Athletic Complex, and the rest of NDSU's main campus between 12th Avenue North and 19th Avenue North. Along the opposite side of University Drive, segments of the corridor have been redeveloped as multiple family residential developments and additional campus buildings have replaced single family dwellings. Fraternity and sorority houses continue to line a portion of the corridor east of the campus, along with a gas station/convenience store and a restaurant/bar establishment. This segment has both bicycle and pedestrian infrastructure, including a wide sidewalk along the NDSU campus, typical-width sidewalks along the remainder of both streets, and a one-way on-street bike lane on both University Drive and 10th Street N.

University Drive and 10th Street are one of the predominant ways to access downtown Fargo, and traverse the downtown area en route to large traffic generators such as the NDSU campus, the FargoDome, and the Veterans Administration Hospital, for example, and as such, experience peak hour commuter traffic. The FargoDome also influences traffic volumes during events, such as concerts, circuses, rodeos, athletic events, and numerous other events that draw large traffic volumes, either continuously over several days, or in large, concentrated numbers before and after events. The FargoDome has studied traffic flow into and out of their parking lots to optimize the flow of traffic both before and after events.

Both University Drive and 10th Street are also major corridors for transit. NDSU students comprise approximately 50 percent of MATBUS riders. The highest volume MATBUS transit route operates on University Drive and 10th Street N during the school year between Barry Hall and the NDSU main Campus (33U). The majority of NDSU's students do not live on campus (2,925 students live in residence halls/12,461 total enrollment). NDSU is also one of the largest employers in the region as well, with 2,462 full-time and 3,713 part-time employees.

The City of Fargo has conducted a number of planning studies for the areas adjacent to this corridor, namely the Downtown Master Plan and the Core Neighborhoods Master Plan. They can be found on the City of Fargo Planning and Development Department's website, but are summarized below:

- Downtown Master Plan (2016) - Downtown InFocus is a comprehensive, action-oriented guidebook for the future of Fargo's historic Downtown. Downtown is a growing residential neighborhood, home to small and innovative businesses; it possesses a collection of locally-owned stores and restaurants that rivals that of cities with much larger populations.

The Downtown InFocus focus area is comprised of 560 acres in the heart of Fargo. It includes all of the Business Improvements District (BID) and the Renaissance Zone and stretches from University Avenue to the Red River and roughly from Sanford

Hospital to the southern edge of Island Park. This study area is larger than the traditional Downtown “core” to account for the fact that the connections between Downtown and the near neighborhoods are critically important to the future of Downtown. The plan recognizes that the study area boundaries are fuzzy meaning that we have not planned for Downtown in a vacuum. This plan does include data and strategies that extend outside of the Downtown study area based upon the feedback and guidance from residents and local leaders.

The plan sets forth a vision of downtown addressing factors such as: growing as a Neighborhood, prospering as a business center, thriving as a destination, and likely most impactful to this study, instituting complete streets holistically. Much of the impetus to study University Drive and 10th Street stems from Downtown Fargo growing to encompass these facilities.

- Core Neighborhoods Master Plan (2020) - The result of the Core Neighborhoods Master Plan is that it achieves both a core-wide perspective for long-term policymaking and a neighborhood-level focus on desired outcomes and implementation. The Core Neighborhoods Master Plan is organized into five interconnected parts to guide decision-making and action by the City of Fargo, resident leaders, and a variety of other stakeholders from individual neighborhoods up to the regional and state levels. Broad commonalities across Fargo’s core—revealed throughout the planning process—resulted in a plan that offers a unified approach to decision-making and strategy development throughout the core.

The Core Neighborhoods Master Plan provides detailed findings on a number of issues and provides broad direction of decision-making and the implementation of a specific set of tools. When boiled down to its essence, however, four essential points are critical for understanding what the core neighborhoods need and how to approach the work in coming years.

- Four issues are singled out as priorities in Part 1 due to their prevalence, at some level, throughout the core neighborhoods. Of those four issues, the two that were voiced most frequently are directly related to the condition, maintenance, marketability, and impact of the core’s aging housing stock.
- Fargo’s core neighborhoods feature residential areas developed late in the 19th century when the city was in its infancy, areas developed during the height of the postwar Baby Boom, and everything in between. There are also areas where new construction is a prominent part of the landscape. This level of variety, and the life cycles of homes and social fabric that go with it, are part and parcel of having neighborhoods that have been around for generations. For a relatively young city like Fargo—where most people now live in much newer neighborhoods outside the core—this requires recognition and application of planning concepts that are

especially relevant for aging neighborhoods.

- o On what basis should decisions on a wide range of issues be made? And how can those decisions be made in a manner that cumulatively moves Fargo and its core neighborhoods in their desired direction? The values and planning principles in Part 3 provide a basic and flexible framework for evaluating opportunities and options—foreseeable and unforeseeable—that are likely to have either a direct or indirect impact on the health and vitality of core neighborhoods. Importantly, this framework makes it clear that many decisions that impact the core in some manner are often not recognizable at first blush as relevant to the core.
- o Owing to the range of issues that affect the health and vitality of Fargo's core neighborhoods, a comprehensive toolkit will be needed to adequately address the opportunities and challenges facing the core. The five components of the toolkit in Part 4 acknowledge current practices around each set of tools and recommend changes or additions to those practices. Rather than treating the toolkit as an a la carte menu, it will be critical to view them as parts that reinforce each other. In other words, deriving the full impact of one set of tools will not be possible without the others.

All relevant plans affecting the corridor or areas surrounding the corridor will be given to the consultant for consideration during the data collection phase of the project. Until that time, the plans mentioned above can either be found on Metro COG's or the City of Fargo's website. It is encouraged that all interested consultants review relevant plans on each site prior to submittal.

University Drive and 10th Street are signed as US Highway 81, and as such are expected to have a high level of functionality. One of the concerns of NDDOT is that changes to the corridor could hamper its functionality. This study should consider the ownership of the roadway and its designation as US Highway 81. This conversation between the City of Fargo and NDDOT should be addressed as part of this plan, and should take any outcome of the analysis into consideration.

III SCOPE OF WORK AND PERFORMANCE TASKS

Discussions between Metro COG and the City of Fargo have led to the approach of conducting this project in two distinct phases. The first phase would consist of public and stakeholder outreach, data collection, alternative development, preliminary feasibility, determining impact to the larger transportation network, analyzing impacts to adjacent properties and neighborhoods, and an economic analysis. The second phase would be determined after the feasibility of changing the corridor is discovered in the first phase. Tasks would include a more in-depth analysis of alternatives for the corridor, planning level layouts of those alternatives to see potential impacts, traffic control, and planning level cost estimation. Metro COG reserves the right to renegotiate the tasks in

phase two after the successful completion of phase one. This negotiation will determine the specific information and tasks needed to move forward with the project in a manner that will help City and NDDOT leadership use the study as a decision-making tool.

Metro COG and the City of Fargo have defined what they see as tasks critical to the success of the study; however, consultants should propose any alternate or additional tasks they see as being beneficial.

Below are tasks the Consultant is expected to complete as part of this project:

Task 1 – Project Management and Coordination (All Phases)

The Consultant will be required to manage the study and coordinate with any subconsultants, as well as be responsible for all documentation and equipment needs. The Consultant will identify a project manager from their team to act as the direct point of contact for Metro COG’s project manager.

The Consultant should expect bi-weekly progress meetings with Metro COG to discuss the status of the project, seek any guidance, clarification, or information, and discuss any issues or concerns regarding the project. The Consultant should expect additional meetings with Metro COG on an as-needed basis. It’s anticipated that these meetings will usually be virtual web-based meetings, with some consisting of a quick check-in, and others being of longer duration to discuss project details.

Additionally, the Consultant should expect to prepare monthly progress reports, submit adequate documentation of any and all travel and expense receipts, and prepare and submit invoices on a monthly basis. When submitting progress reports, the Consultant and subconsultant(s), if applicable, will be required to outline the following:

- Performed work during the reporting period,
- Upcoming tasks,
- Upcoming milestones,
- Status of scope and schedule, and
- Any issues that need to be brought to Metro COG’s attention.

All invoices, travel and expense receipts, and progress reports, are due to Metro COG’s project manager no later than the 2nd Thursday of each month to ensure invoices are processed in a timely manner.

Task 2 – Data Collection – Documentation of Existing Conditions (Phase 1)

The following data shall be collected and documented as part of the study. These data components will be used to establish existing conditions, and will be critical to the identification of issues and needs.

Traffic Count Data – The Consultant shall propose a strategy for collecting turning movement counts at major intersections along the corridor. Metro COG and NDDOT

have collected volumes along corridor segments in 2021. Because of the location of the FargoDome on this Corridor, it will be important to assess the impact of event related traffic. The consultant should propose how it would collect such data.

Metro COG will make access to Streetlight data available to the consultant. This data is helpful in determining the origins and destinations of traffic using the corridor.

Other Data Needs – Due to the complex nature of this corridor, the consultant may need to develop new datasets that would detail corridor conditions. There may be some information on these within current City of Fargo or Metro COG plans. Such data collections efforts may include:

- Existing land use along the corridors, including various housing characteristics: age, condition, historical status, etc.
- Vegetation along the corridor: character, age, quality
- Municipal infrastructure: street lighting, utilities, etc.
- Transit routes and infrastructure: routes, stops, shelters
- Bicycle and pedestrian infrastructure: sidewalks, paths, signage, on-street bicycle lanes, etc.
- Traffic control: including features serving bicycle and pedestrian traffic
- Pavement condition
- Driveways and other property access features (e.g. alleys)
- Roadway characteristics: lane configuration, speed, width, intersections, crosswalks, etc.
- Demographics of the study area: age, race, income, language, and other factors used in both an equity analysis and environmental justice evaluation
- Crash data
- National Environmental Policy Act (NEPA) Considerations

These are some of the many datasets that will need to be collected during the plan's development. Metro COG, the City of Fargo, or NDDOT may have some or all of these datasets already developed. The consultant will need to develop any such datasets that do not currently exist and that would be critical to the plan's development.

Task 3 – Public Engagement, Stakeholder Involvement, and Adoption Process (All Phases, but Emphasized in Phase 1)

Public engagement is a very critical component of this project. Metro COG and the City of Fargo wish to seek input from corridor residents, property owners, and stakeholders about their desires for the future of the corridor and the relationship between the corridor and the surrounding neighborhoods. It will also be important to seek input from the traveling public at large that use these corridors on a regular basis. Certain stakeholders, such as NDSU and the FargoDome are very invested in the relationship between their facilities and the existing roadway configuration. Input from their leadership is critical to the direction of the study. The Consultant will propose an approach to stakeholder and public engagement which shall ultimately be placed in a public engagement plan, to

be reviewed and approved by the Study Review Committee (SRC). The approach to public engagement should be robust and should include multiple means of communicating to stakeholders and the public to ensure thorough input throughout the process.

Since this project is exploratory in nature, the outcome of the project will depend on input from the public. The consultant should not only devise a method to engage with the public, but also a method of evaluating, categorizing, and documenting input received, and using it to help formulate the alternatives that are ultimately studied.

Study Review Committee - membership should be recommended, along with the role of the SRC and the number of meetings.

Stakeholder Groups – The consultant should conduct meetings with stakeholders, which are those groups or individuals who have direct stake in the corridor. Such groups could include, but not limited to:

- Neighborhood Organizations: Downtown Community Partnership, Roosevelt Neighborhood Association, Downtown Neighborhood Association, Hawthorne Neighborhood Association, Clara Barton Neighborhood Associations. Other adjacent or nearby neighborhoods that do not have organizations include the Washington, Jefferson/Carl Ben, and Madison/Unicorn Park Neighborhoods.
- Businesses/Institutions
- Redevelopment interests (including NDSU Development Foundation)
- Residents along the corridor

Public Meetings and Engagement – As stated above, the public engagement plan should include a campaign to reach out to users of this corridor and the general public. The consultant should place particular emphasis on advertising efforts, using such methods as mailings, postcards, dynamic messaging signs, press releases, signs, posters, social media, or any other such project messaging effort that is successful in engaging with the community at large. The consultant should devote space and attention to provide a detailed description of the proposed approach to the outreach campaign within its proposal.

The consultant should also plan specific engagement meetings where the public and stakeholders can come to provide input. The methods for gathering input for these meetings should be included within the project's public engagement strategy. Metro COG prefers active public engagement methods and sees benefit in engagement strategies that employ a graphical approach that is easily understood by non-transportation professionals.

Please note that all public notices, mailings, and social media boosts, etc. shall be paid for out of the project budget. Metro COG's website will be used to host the project website, and Metro COG staff will work with the consultant to keep the website up-to-date with content provided by the consultant team.

Project Branding/Messaging – The consultant should detail in its proposal how it will brand the project in order to differentiate this project from other projects Metro COG, NDDOT, or the City of Fargo are conducting. The consultant should also propose how it will control project messaging to ensure the public is informed that changing the configuration of the roadways is not a foregone conclusion. This study must be designed to be a fair and impartial evaluation of the feasibility and desirability of change.

Update Meetings – It is important in this project to, from time to time, check in with local boards and commissions on the progression of the study. It is expected that the Fargo Planning Commission and The Fargo City Commission be given opportunity to comment during the process of the study, especially given differing views on the existing one-way pair system. These updates may occur during regularly scheduled Planning Commission meetings, or joint Planning Commission/City Commission “Brown Bag” sessions, which are usually held during the noon hour where staff and consultants can go through information with appointed and elected officials in a more informal setting.

Please anticipate periodic updates (i.e. quarterly or at key project milestones) to Metro COG’s Transportation Technical Committee and Policy Board.

Approval Process – In order to complete the review and approval process, final recommendations must be presented to a number of bodies, which include:

- Public Works Project Evaluation Committee (PWPEC)
- MAT Coordinating Board (detail transit impacts)
- NDDOT Management Team
- Fargo Planning Commission
- Fargo City Commission
- Metro COG Transportation Technical Committee
- Metro COG Policy Board (Final Approval)

Presentations must be made in front of the first six bodies before bringing the final plan for approval in front of the Metro COG Policy Board. A resolution of support should be developed for governing bodies in order to show formal action on support of the study’s recommendations.

Task 4 – Land Use and Economic Analysis (Phase I)

Using the existing Downtown InFocus Master Plan and the Core Neighborhoods Master Plan as a starting point, the consultant shall lead the City of Fargo and Metro COG

through an analysis of land uses along the 10th Street and University Drive corridors, and the adjacent blocks between the two corridors, to identify:

- land uses and areas that are most subject to change, and within those, areas where preservation would be more desirable,
- locations where a land use transitions are desirable and consistent with past planning and public input,
- opportunities and constraints resulting from the existing roadway configuration (i.e. the one-way pair) that make it more or less likely that the desired land use and economic characteristics of the area will be achieved.

Change, if desired, does not necessarily equate to redevelopment; it may, in some portions of the study, equate to reinvestment in existing structures and stabilization of existing neighborhoods.

Once the above analysis has been completed, the study should look at the potential economic growth that could occur from land use transitions and/or stabilization of areas that are desirable for preservation. The economic analysis should analyze the likelihood of successful transition under the existing roadway configuration, and a modified roadway configuration, such as converting the one-way pair to two-way streets. Economic factors such as tax base and potential for economic activity, jobs, and support of neighborhood schools should be analyzed, along with other recommended components of an economic analysis.

After alternatives have been developed in a later task, a review shall be conducted to identify components that are consistent with the assumptions of the economic analysis, and components that could be improved upon for the sake of fulfilling the vision that served as the basis for the initial analysis.

Task 5 – Future Traffic Projections

The outcome of Task 4 shall be used to update the socioeconomic data used as part of the travel demand model to prepare future traffic projections. The consultant shall work with NDSU's Advanced Traffic Analysis Center (ATAC) to acquire the most recent model and socioeconomic (SE) data used in the travel demand model (Veterans Boulevard Corridor Extension Study). The consultant, in collaboration with Metro COG and the City of Fargo, will translate the outcomes of Task 4 into equivalent modifications to the socioeconomic data used in the travel demand model to reflect future land uses along and between 10th Street and University Drive. Different scenarios may correlate with different roadway configurations.

Within the task, the consultant should analyze the impact of removing the US Highway 81 designation from either of the roadways (or both). This analysis should include where US Highway 81 could be relocated to, the impact to regional funding from removing the

designation, as well as conducting conversations with project stakeholders on the possibility of a jurisdictional transfer of University Drive and/or 10th Street.

Task 6 – Traffic Operations Analysis (Phase 1)

Based on projected traffic volumes, a traffic operations analysis shall be completed that uses a method of traffic simulation that will serve as a tool for evaluating the operations and feasibility of future corridor alternatives.

The consultant should determine other such corridors that may be impacted by the change in operations, and determine what the extent of such impact may be. The consultant will work with the SRC to determine an applicable catchment area for the traffic analysis. Knowing the totality of impacts stemming from the possible conversion is crucial in determining the feasibility of converting the one-way pair system.

Metro COG will coordinate with ATAC to make its Dynamic Traffic Assignment model available for use on the project. The consultant should detail all such other modeling capabilities that it would utilize in studying the corridor.

Task 7 – Alternative Feasibility Analysis (Phase 1)

Consultants should present a detailed summary of their Phase 1: Evaluation of Alternatives analysis. The determination should include a clear methodology of how feasibility is determined, and be easily understood as to how components in the tasks above fit into the methodology. The consultant should work closely with the SRC to develop the criteria that will be used to make the determination.

Based on the review of the alternatives, the consultant will work with the SRC to determine how to proceed. If the determination is made that some type of reconfiguration of the 10th Street and University Drive one-way pair is feasible, a more detailed alternatives analysis will need to occur. If the determination is made that a different alternative for the corridor is not feasible, an investigation into addressing issues with the current configuration of the corridor will need to occur.

The consultant and Metro COG will need to negotiate the scope of work for those tasks after completion of Phase 1 tasks. It is expected that 60-75% of the budget will need to be expended on Phase 1 tasks. The consultant should include a breakdown of Phase 1 and Phase 2 hours within both the project proposal (summary of hours) and the sealed cost proposal.

Elements that may be included in Phase 2 of the University Drive and 10th Street Corridor Study may include:

Feasible:

- Intensive corridor alternative modeling (3-D visualization of alternatives)
- Identification of traffic control modifications or other changes needed

- Identification of Complete Streets components
- Functional Classification Review
- Conceptual layouts
- Parallel corridor impacts and needed improvements
- Equity analysis comparing alternatives
- Planning level summary of NEPA considerations, including an environmental justice review
- Timing and phasing of improvements
- Draft and Final plan development

Infeasible:

- Current traffic control review: signal warrant analysis, etc
- Address current complete street issues
- Evaluation of current traffic control measures
- Roadway characteristics analysis: review how current characteristics such as lane-widths, lane configurations, etc, could be modified have less of an impact on the surrounding neighborhoods and be friendlier to the goals of the subarea (as listed in the Core Neighborhoods Plan).
- Equity analysis comparing alternatives
- Planning level summary of NEPA considerations, including an environmental justice review
- Identification of Complete Streets components
- Draft and Final plan development

The consultant should address the transition of the project from Phase 1 to both possible Phase 2 alternatives with their proposal. The project team should include team members that can adequately continue the project under both scenarios. The consultant should include all such Phase 2 tasks that it would see fit in both scenarios.

IV IMPLEMENTATION SCHEDULE

1) Consultant Selection

Advertise for Consultant Proposals	11/04/2021
Due Date for Proposal Submittals (by 4:30pm)	11/29/2021
Review Proposals/Identify Finalists	11/29/2021 – 12/3/2021
Interview Finalists	between 12/6/2021 and 12/8/2021
Metro COG Board Approval/Consultant Notice	12/16/2021
Contract Negotiations	1/4/2022 – 1/7/2022
Signed Contract	Immediately after contract negotiations
Notice to Proceed	One day following a signed contract

V EVALUATION AND SELECTION PROCESS

Selection Committee. The Client will establish a selection committee to select a Consultant. The committee will likely consist of Metro COG staff as well as staff from NDDOT, MnDOT and local jurisdictions.

The Consultant selection process will be administered under the following criteria:

- 20% - Understanding of project objectives
- 20% - Proposed approach, work plan, and management techniques
- 20% - Experience with similar projects
- 20% - Expertise of the technical and professional staff assigned to the project
- 20% - Current workload and ability to meet deadlines

The Selection Committee, at the discretion of the Client and under the guidance of NDDOT policy, will entertain virtual presentations for the top candidates to provide additional information for the evaluation process. The presentations will be followed by a question and answer period during which the committee may question the prospective Consultants about their proposed approaches.

A Consultant will be selected on **December 16, 2021** based on an evaluation of the proposals submitted, the recommendation of the Selection Committee and approval by the Metro COG Policy Board.

The Client reserves the right to reject any or all proposals or to waive minor irregularities in said proposal, and reserves the right to negotiate minor deviations to the proposal with the successful Consultant. The Client reserves the right to award a contract to the firm or individual that presents the proposal, which, in the sole judgement of the Client, best accomplishes the desired results.

The RFP does not commit the Client to award a contract, to pay any costs incurred in the preparation of the contract in response to this request or to procure or contract for services or supplies. The Client reserves the right to withdraw this RFP at any time without prior notice.

All proposals, whether selected or rejected, shall become the property of the Client.

VI PROPOSAL CONTENT

The purpose of the proposal is to demonstrate the qualifications, competence, and capacity of the Consultant seeking to provide comprehensive services specified herein for the Client, in conformity with the requirements of the RFP. The proposal should demonstrate qualifications of the firm and its staff to undertake this project. It should also specify the proposed approach that best meets the RFP requirements. The proposal must

address each of the service specifications under the Scope of Work and Performance Tasks.

The Client is asking the Consultant to supply the following information. Please include all requested information in the proposal to the fullest extent practical.

- 1) **Contact Information.** Name, telephone number, email address, mailing address and other contact information for the Consultant's Project Manager.
- 2) **Introduction and Executive Summary.** This section shall document the Consultant name, business address (including telephone, FAX, email address(es)), year established, type of ownership and parent company (if any), project manager name and qualifications, and any major facts, features, recommendations or conclusions that may differentiate this proposal from others, if any.
- 3) **Work Plan and Project Methodology.** Proposals shall include the following, at minimum:
 - a) A detailed work plan identifying the major tasks to be accomplished relative to the requested study tasks and expected product as outlined in this RFP;
 - b) A timeline for completion of the requested services, identifying milestones for development of the project and completion of individual tasks.
 - c) List of projects with similar size, scope, type, and complexity that the proposed project team has successfully completed in the past.
 - d) List of the proposed principal(s) who will be responsible for the work, proposed Project Manager and project team members (with resumes).
 - e) A breakout of hours for each member of the team by major task area, and an overall indication of the level of effort (percentage of overall project team hours) allocated to each task. Note that specific budget information is to be submitted in a sealed cost proposal as described below in Section VIII. General Proposal Requirements.
 - f) A list of any subcontracted agencies, the tasks they will be assigned, the percent of work to be performed, and the staff that will be assigned.
 - g) List of client references for similar projects described within the RFP.
 - h) Required Disadvantaged Business Enterprise (DBE) and/or Minority Business Enterprise (MBE) Firms participation documentation, if applicable.
 - i) Ability of firm to meet required time schedules based on current and known future workload of the staff assigned to the project.
 - j) The nature of the counting equipment proposed and details of the reliability and proven capability of the equipment to gather accurate, reliable data.
- 4) **Signature.** Proposals shall be signed in ink by an authorized member of the firm/project team.
- 5) **Attachments.** Review, complete, and submit the completed versions of the following RFP Attachments with the proposal:

Exhibit A - Cost Proposal Form (as identified in VIII 1)
Exhibit B – Federal Clauses

VII Submittal Information

Hard copies of technical and cost proposals should be shipped to ensure timely delivery to the contact as defined below:

Michael Maddox, AICP
Senior Transportation Planner
Fargo-Moorhead Metropolitan Council of Governments
Case Plaza, Suite 232
One 2nd Street North
Fargo, ND 58102-4807
gray@fmmetrocog.org

Proposals shall be received by **4:30 pm (Central Time) on November 29, 2021** at the Metro COG office. Minority, women-owned and disadvantaged business enterprises are encouraged to participate. Respondents must submit twelve (12) hard copies and one Adobe Acrobat (.pdf) copy of the proposal. The full length of each proposal should not exceed fifteen (15) double sided pages for a total of thirty (30) pages; including any supporting material, charts or tables.

VIII GENERAL RFP REQUIREMENTS

- 1) Sealed Cost Proposal.** All proposals must be clearly identified and marked with the appropriate project name; inclusive of a separately sealed cost proposal per the requirements of this RFP. Cost proposals shall be based on an hourly “not to exceed” amount and shall follow the general format as provided within Exhibit A of this RFP. Metro COG may decide, in its sole discretion, to negotiate a price for the project after the selection committee completes its final ranking. Negotiation will begin with the Consultant identified as the most qualified per requirements of this RFP, as determined in the evaluation/selection process. If Metro COG is unable to negotiate a contract for services negotiations will be terminated and negotiations will begin with the next most qualified Consultant. This process will continue until a satisfactory contract has been negotiated.
- 2) Consultant Annual Audit Information for Indirect Cost.** Consulting firms proposing to do work for Metro COG must have a current audit rate no older than 15 months from the close of the firm’s Fiscal Year. Documentation of this audit rate must be provided with the sealed cost proposal. Firms that do not meet this requirement will not qualify to propose or contract for Metro COG projects until the requirement is met. Firms that have submitted all the necessary information to Metro COG and are waiting for the completion of the audit will be qualified to submit proposals for work. Information submitted by a firm that is incomplete will not qualify. Firms that

do not have a current cognizant Federal Acquisition Regulations (FARs) audit of indirect cost rates must provide this audit prior to the interview. **This documentation should be attached with the sealed cost proposal.**

- 3) **Debarment of Suspension Certification and Certification of Restriction on Lobbying.** See Exhibit B, Federal Clauses.
- 4) **Respondent Qualifications.** Respondents must submit evidence that they have relevant past experience and have previously delivered services similar to the requested services within this RFP. Each respondent may also be required to show that similar work has been performed in a satisfactory manner and that no claims of any kind are pending against such work. No proposal will be accepted from a respondent whom is engaged in any work that would impair his or her ability to perform or finance this work.
- 5) **Disadvantaged Business Enterprise.** Pursuant to Department of Transportation policy and 49 CFR Part 23, Metro COG supports the participation of DBE/MBE businesses in the performance of contracts financed with federal funds under this RFP. Consultants shall make an effort to involve DBE/MBE businesses in this project. If the Consultant is a DBE/MBE, a statement indicating that the business is certified DBE/MBE in North Dakota or Minnesota shall be included within the proposal. If the Consultant intends to utilize a DBE/MBE to complete a portion of this work, a statement of the Subconsultant's certification shall be included. The percent of the total proposed cost to be completed by the DBE/MBE shall be shown within the proposal. Respondents should substantiate (within proposal) efforts made to include DBE/MBE businesses.
- 6) **US DOT Policy Statement on Bicycle and Pedestrian Accommodations.** Consultants are advised to review and consider the *US DOT Policy Statement on Bicycle and Pedestrian Accommodation* issued in March of 2010 when developing written proposals.
- 7) **North Dakota Department of Transportation Consultant Administration Services Procedure Manual.** Applicants to this Request for Proposal are required to follow procedures contained in the *NDDOT Consultant Administration Services Procedure Manual*, which includes prequalification of Consultants. Copies of the Manual may be found on the Metro COG website www.fmmetrocog.org or the NDDOT website at www.dot.nd.gov.

IX CONTRACTUAL INFORMATION

- 1) The Client reserves the right to reject any or all proposals or to award the contract to the next most qualified firm if the successful firm does not execute a contract within forty-five (45) days after the award of the proposal. The Client will not pay for any information contained in proposals obtained from participating firms.

- 2) The Client reserves the right to request clarification on any information submitted and additionally reserves the right to request additional information of one (1) or more applicants.
- 3) Any proposal may be withdrawn up until the proposal submission deadline. Any proposals not withdrawn shall constitute an irrevocable offer for services set forth within the RFP for a period of ninety (90) days or until one or more of the proposals have been approved by the Metro COG Policy Board.
- 4) If, through any cause, the Consultant shall fail to fulfill in a timely and proper manner the obligations agreed to, the Client shall have the right to terminate its contract by specifying the date of termination in a written notice to the firm at least ninety (90) working days before the termination date. In this event, the firm shall be entitled to just and equitable compensation for any satisfactory work completed.
- 5) Any agreement or contract resulting from the acceptance of a proposal shall be on forms either supplied by or approved by the Client and shall contain, as a minimum, applicable provisions of the Request for Proposals. The Client reserves the right to reject any agreement that does not conform to the Request for Proposal and any Metro COG requirements for agreements and contracts.
- 6) The Consultant shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of Metro COG.

X PAYMENTS

The selected Consultant will submit invoices for work completed to the Client. Payments shall be made to the Consultant by the Client in accordance with the contract after all required services, and items identified in the scope of work and performance tasks, have been completed to the satisfaction of the Client.

XI FEDERAL AND STATE FUNDS

The services requested within this RFP will be partially funded with funds from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA). As such, the services requested by this RFP will be subject to federal and state requirements and regulations.

The services performed under any resulting agreement shall comply with all applicable federal, state, and local laws and regulations. In addition, this contract will be subject to the relevant requirements of 2 CFR 200.

XII TITLE VI ASSURANCES

Prospective Consultants should be aware of the following contractual ("Contractor")

requirements regarding compliance with Title VI should they be selected pursuant to this RFP:

- 1) **Compliance with Regulations.** The Consultant shall comply with the regulations relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time (hereinafter referred to as the Regulations).
- 2) **Nondiscrimination.** The Consultant, with regard to the work performed by it, shall not discriminate on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**, in the selection and retention of Subconsultants, including procurements of materials and leases of equipment. The Consultant shall not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
- 3) **Solicitations for Subcontracts, Including Procurements of Materials and Equipment.** In all solicitations, either by competitive bidding or negotiation, made by the Consultant for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential Subconsultant or supplier shall be notified by the Consultant of the Consultant's obligations to Metro COG and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, sex, age, disability/handicap, or income status**.
- 4) **Information and Reports.** The Consultant shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information and its facilities as may be determined by Metro COG or the North Dakota Department of Transportation to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of a Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to Metro COG, or the North Dakota Department of Transportation, as appropriate, and shall set forth what efforts it has made to obtain the information.
- 5) **Sanctions for Noncompliance.** In the event of the Consultant's noncompliance with the nondiscrimination provisions as outlined herein, the Client and the North Dakota Department of Transportation shall impose such sanctions as it or the Federal Highway Administration / Federal Transit Administration may determine to be appropriate, including but not limited to:
 - 6) Withholding of payments to the Consultant under the contract until the Consultant complies; or
 - 7) Cancellation, termination, or suspension of the contract, in whole or in part.

- 8) **Incorporation of Title VI Provisions.** The Consultant shall include the provisions of Section XII, paragraphs 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto.

The Consultant shall take such action with respect to any subcontract or procurement as Metro COG or the U.S. Department of Transportation, Federal Highway Administration, may direct as a means of enforcing such provisions, including sanctions for noncompliance provided, however, that in the event a Consultant becomes involved in, or is threatened with, litigation by a Subconsultant or supplier as a result of such direction, the Consultant may request Metro COG enter into such litigation to protect the interests of Metro COG; and, in addition, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

** The Act governs race, color, and national origin. Related Nondiscrimination Authorities govern sex, 23 U.S.C. 324; age, 42 U.S.C. 6101; disability/handicap, 29 U.S.C. 790; and low income, E.O. 12898.

XIII TERMINATION PROVISIONS

The Client reserves the right to cancel any contract for cause upon written notice to the Consultant. Cause for cancellation will be documented failure(s) of the Consultant to provide services in the quantity or quality required. Notice of such cancellation will be given with sufficient time to allow for the orderly withdrawal of the Consultant without additional harm to the participants or the Client.

The Client may cancel or reduce the amount of service to be rendered if there is, in the opinion of the Client, a significant increase in local costs; or if there is insufficient state or federal funding available for the service, thereby terminating the contract or reducing the compensation to be paid under the contract. In such event, the Client will notify the Consultant in writing ninety (90) days in advance of the date such actions are to be implemented.

In the event of any termination, the Client shall pay the agreed rate only for services delivered up to the date of termination. The Client has no obligation to the Consultant, of any kind, after the date of termination. Consultant shall deliver all records, equipment and materials to the Client within 24 hours of the date of termination.

XIV LIMITATION ON CONSULTANT

All reports and pertinent data or materials are the sole property of the Client and its state and federal planning partners and may not be used, reproduced or released in any form without the explicit, written permission of the Client.

The Consultant should expect to have access only to the public reports and public files of local governmental agencies and the Client in preparing the proposal or reports. No

compilation, tabulation or analysis of data, definition of opinion, etc., should be anticipated by the Consultant from the agencies, unless volunteered by a responsible official in those agencies.

XV CONFLICT OF INTEREST

No Consultant, Subconsultant, or member of any firm proposed to be employed in the preparation of this proposal shall have a past, ongoing, or potential involvement which could be deemed a conflict of interest under North Dakota Century Code or other law. During the term of this Agreement, the Consultant shall not accept any employment or engage in any consulting work that would create a conflict of interest with the Client or in any way compromise the services to be performed under this agreement. The Consultant shall immediately notify the Client of any and all potential violations of this paragraph upon becoming aware of the potential violation.

XVI INSURANCE

The Consultant shall provide evidence of insurance as stated in the contract prior to execution of the contract.

XVII RISK MANAGEMENT

The Consultant agrees to defend, indemnify, and hold harmless the Client and the state of North Dakota, its agencies, officers and employees (State), from and against claims based on the vicarious liability of the Client and the State or its agents, but not against claims based on the Client's and the State's contributory negligence, comparative and/or contributory negligence or fault, sole negligence, or intentional misconduct. The legal defense provided by Consultant to the Client and the State under this provision must be free of any conflicts of interest, even if retention of separate legal counsel for the Client and the State is necessary. Consultant also agrees to defend, indemnify, and hold the Client and the State harmless for all costs, expenses and attorneys' fees incurred if the Client or the State prevails in an action against Consultant in establishing and litigating the indemnification coverage provided herein. This obligation shall continue after the termination of this Agreement.

The Consultant shall secure and keep in force during the term of this agreement, from insurance companies, government self-insurance pools or government self-retention funds authorized to do business in North Dakota, the following insurance coverage:

1. Commercial general liability and automobile liability insurance - minimum limits of liability required are \$250,000 per person and \$1,000,000 per occurrence.
2. Workforce Safety insurance meeting all statutory limits.
3. The Client and the State of North Dakota, its agencies, officers, and employees (State) shall be endorsed as an additional insured on the commercial general

liability and automobile liability policies.

4. Said endorsements shall contain a "Waiver of Subrogation" in favor of the Client and the state of North Dakota.
5. The policies and endorsements may not be canceled or modified without thirty (30) days prior written notice to the undersigned Client and the State Risk Management Department.

The Consultant shall furnish a certificate of insurance evidencing the requirements in 1, 3, and 4, above to the Client prior to commencement of this agreement.

The Client and the State reserve the right to obtain complete, certified copies of all required insurance documents, policies, or endorsements at any time. Any attorney who represents the State under this contract must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. Section 54-12-08.

When a portion of the work under the Agreement is sublet, the Consultant shall obtain insurance protection (as outlined above) to provide liability coverage to protect the Consultant, the Client and the State as a result of work undertaken by the Subconsultant. In addition, the Consultant shall ensure that any and all parties performing work under the Agreement are covered by public liability insurance as outlined above. All Subconsultants performing work under the Agreement are required to maintain the same scope of insurance required of the Consultant. The Consultant shall be held responsible for ensuring compliance with those requirements by all Subconsultants.

Consultant's insurance coverage shall be primary (i.e., pay first) as respects any insurance, self-insurance or self-retention maintained by the Client or State. Any insurance, self-insurance or self-retention maintained by the Client or the State shall be excess of the Consultant's insurance and shall not contribute with it. The insolvency or bankruptcy of the insured Consultant shall not release the insurer from payment under the policy, even when such insolvency or bankruptcy prevents the insured Consultant from meeting the retention limit under the policy. Any deductible amount or other obligations under the policy(ies) shall be the sole responsibility of the Consultant. This insurance may be in a policy or policies of insurance, primary and excess, including the so-called umbrella or catastrophe form and be placed with insurers rated "A-" or better by A.M. Best Company, Inc. The Client and the State will be indemnified, saved, and held harmless to the full extent of any coverage actually secured by the Consultant in excess of the minimum requirements set forth above.

Exhibit A – Cost Proposal Form

Cost Proposal Form – Include completed cost form (see below) in a separate sealed envelope – labeled “**Sealed Cost Form – Vendor Name**” and submit with concurrently with the technical proposal as part of the overall RFP response. The cost estimate should be based on a not to exceed basis and may be further negotiated by Metro COG upon identification of the most qualified Consultant. Changes in the final contract amount and contract extensions are not anticipated.

REQUIRED BUDGET FORMAT

Summary of Estimated Project Cost

1.	Direct Labor	Hours	x	Rate	=	Project Cost	Total
	Name, Title, Function	0.00	x	0.00	=	0.00	0.00
			x		=	0.00	0.00
			x		=	0.00	0.00
				Subtotal	=	0.00	0.00
2.	Overhead/Indirect Cost (expressed as indirect rate x direct labor)					0.00	0.00
3.	Subconsultant Costs					0.00	0.00
4.	Materials and Supplies Costs					0.00	0.00
5.	Travel Costs					0.00	0.00
6.	Fixed Fee					0.00	0.00
7.	Miscellaneous Costs					0.00	0.00
Total Cost					=	0.00	0.00

Exhibit B

Federal Clauses

Federal Clauses

Federal Clauses

Equal Employment Opportunity Clause – 41 CFR 60-1.4(a) and 2 CFR Part 200 Appendix II (C)

41 CFR 60-1.4(a)

- (a) *Government contracts.* Except as otherwise provided, each contracting agency shall include the following equal opportunity clause contained in section 202 of the order in each of its Government contracts (and modifications thereof if not included in the original contract): during the performance of this contract, the contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, 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 agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the secretary of labor.
 - (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the secretary of labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the secretary of labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - (6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the secretary of labor, or as otherwise provided by law.

- (7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the secretary of labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the secretary of labor as a means of enforcing such provisions including sanctions for noncompliance: *provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the united states to enter into such litigation to protect the interests of the United States.

2 CFR Part 200 Appendix II (C)

- (C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

Sanctions and Penalties for Breach of Contract – 2 CFR Part 200 Appendix II (A)

- (A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

Termination for Cause and Convenience – 2 CFR Part 200 Appendix II (B)

- (B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

Rights to Inventions Made Under a Contract or Agreement – 2 CFR Part 200 Appendix II (F)

- (F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and

Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

Debarment and Suspension - 2 CFR Part 200 Appendix II (I)

- (I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Byrd Anti-Lobbying Amendment - 2 CFR Part 200 Appendix II (J)

- (J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.