

**INVITATION FOR BID (IFB)
FOR MILEAGE-BASED TIRE LEASING
FOR
KENOSHA AREA TRANSIT (KAT)
NOTICE #03-18
INSTRUCTIONS TO BIDDERS**

Issued: February 15, 2018

1.0 Intent. The City of Kenosha, Wisconsin is seeking bids from qualified tire manufacturers/firms to provide a mileage-based leasing arrangement (based upon tire miles) for new tires to be used by the Kenosha Area Transit (KAT) bus system, in accordance with specifications, terms and conditions that are included. It is the intent of KAT to finalize and approve a Contract with the successful vendor in March 2018.

2.0 Deadline for Submittal. Sealed bids will be accepted by the City of Kenosha, Wisconsin, in the Department of Finance, Municipal Office Building, Room 208, 625-52nd Street, Kenosha, Wisconsin 53140 until 2:30 P.M. March 6, 2018.

3.0 Form of Bids and Submission. Bids must be submitted on the attached bid form and returned separately in a sealed envelope marked with the procurement notice number and the scheduled date and time of the bid opening. No other form of price listing will be acceptable. Bids received after the scheduled date and time of bid opening will not be considered. Additionally electronically communicated bids will not be considered. Bids must be signed and dated by a duly authorized official for the bidding party. Bids that contain clauses that modify the intent of the procurement, its specifications, terms, conditions or any City-issued addenda will be considered as non-responsive. Tire manufacturers / firms should submit three (3) copies of all supplementary information including one (1) original with the sealed bid and then two (2) additional complete copies.

4.0. Project Overview: KAT is requesting bids that will assist in the selection of a tire vendor that will provide the best product and service quality for the agency at the most advantageous pricing. The Contract would be subject to all applicable USDOT, FTA and Wisconsin Department of Transportation third-party procurement requirements, terms, conditions and certifications as set forth in Appendix A. KAT is requesting bids that will include all relevant information, tire specifications and applicable costs for the leasing of new bus tires for the agency. Tires shall be original tread (new) tubeless type radial tires, re-groovable only for use on KAT system buses and designed only for City bus service type applications. KAT or an independent service contractor would be responsible for any re-grooving of tires that is necessary and deemed appropriate under the Contract.

5.0 Contract Dates. KAT specifies a three (3) year mileage-based rate Contract for the provision of bus tires with loss and abuse tire provisions, with the option to extend for an additional two (2) years in one (1) year increments. The new contract would commence on April 2, 2018 with the term retroactive to March 1, 2018. Therefore, the second year of the contract, with all applicable terms and conditions would commence March 1, 2019 through February 29, 2020. The third year with all applicable terms and conditions would commence March 1, 2020 through February 28, 2021. Upon mutual consent of both parties, a two-year extension awarded in one-year increments would allow the contract to be extended to February 28, 2023.

6.0 Bonding. There is no bid bond, performance or payment bond requirement as part of this procurement.

7.0 Addenda. Any changes or clarifications to the IFB terms, conditions and schedules will be made by the sole issuance by the City of Kenosha by written addendum.

8.0 Purchaser Privilege. The City of Kenosha reserves the right to reject any and/or all bids which are determined to non-advantageous for KAT's operational requirements or contrary to available funding. In addition, the City of Kenosha reserves the right to postpone due dates and/or withdraw the procurement at anytime without prior notice.

9.0. Tax Exempt. The City of Kenosha is exempt from Federal Excise Tax and State Sales Tax. Bids are to be made exclusive of sales taxation. Tax Exemption Registry Number and Exemption Certificate shall be provided to the successful vendor.

10.0. Inquiries/Questions. Direct inquiries concerning the expected products of this Invitation For Bid should be directed to Mr. Jonathan Luellan, KAT's Transit Mechanic Supervisor at (262) 653-4296 or e-mailed to jluellen@kenosha.org All other inquiries should be directed to Mark Willing, Purchasing Manager, City of Kenosha at 262-653-4180 or e-mailed to kenoshapurchasing@kenosha.org Deadline to submit questions/inquiries shall be no later than 4:00 P.M. Friday February 23, 2018. Any pertinent addenda arising from such inquiries shall be issued no later than 4:00 P.M. Monday February 26, 2018. All known potential bidders would be informed of any City-issued addenda. In addition, addenda would be made available by posting the addenda to potential bidders at <https://www.kenosha.org/departments/finance>

11.0 Tentative Schedule.

RFP Issuance Date	February 15, 2018
Inquiry Submission Deadline	February 23, 2018 by 4:00 P.M.
Deadline for any Addenda Issuance	February 26, 2018 by 4:00 P.M.
Bid Deadline	March 6, 2018 before 2:30 P.M.
Selection Process Completion	March 9, 2018
Approval of Contract by Transit Commission	March 12, 2018
New Contract commences	April 2, 2018

12.0 Insurances and Indemnification.

12.1 Insurance. Vendor shall self-insure or maintain insurance with the following limits:

- 12.1.1 Commercial General Liability (Aggregate)
Two Million (\$2,000,000) Dollars, Each Occurrence
(\$1,000,000)
- 12.1.2 Worker's Compensation: Statutory Limits
- 12.1.3 Umbrella Liability: \$2,000,000 over the primary insurance coverage listed above.

12.2 Certificate of Insurance. Except for self-insurance, a Certificate of Insurance is required to verify coverages 12.1.1 through 12.1.3. The Certificate of Insurance shall provide that should any of the required policies be canceled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

12.3 Additional Insured. The City of Kenosha shall be named as an additional insured with respect to coverages 12.1.1 through 12.1.3.

12.4 Indemnification. Vendor shall save, indemnify and hold harmless, the City of Kenosha and Kenosha Area Transit against all claims, liability, judgments, costs, expenses, fees of any kind which may in any way come against the City and/or KAT as a consequence of the granting of the contract, or by reason of negligent act or omission of supplier, its agents, employees, subcontractors or assignees arising out of the performance of the Contract.

**INVITATION FOR BID (IFB)
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NOTICE #03-18
SPECIFICATIONS AND CONDITIONS**

1.0. Scope of Service. Kenosha Area Transit (KAT) currently operates sixty-two (62) buses in a fixed route service. All fleet buses possess six (6) tires. Estimated yearly tire miles for the bus fleet is approximately 6,467,178. The City currently provides new original tread, tubeless type special transit radial tires for use on its buses that are suitable for City-type transit service applications. The City uses four (4) specific tire sizes (B275/70R22.5, B305/70R22.5, B305/85R22.5 and 11R22.5 16PR). Tires are to be rated for fifty-five (55) miles per hour. The data is broken down and provided in the matrix on Page 2 for vehicle and tire miles by bus manufacturer/model, model year, tire size and GVWR of the specific bus class. Kenosha Area Transit does not guarantee any specific number of annual miles, tire miles, number of buses and quantities of tire sizes.

2.0. New Capital Equipment. Over the life of the Contract, there will be scheduled replacements of capital equipment. A separate lease rate shall be negotiated for any other bus manufacturer/model not considered in these workload indicators, that is placed into bus fleet operation by KAT during the term of this agreement, or when KAT requires a different size and/or construction type of tire. Throughout the term of Contract, tires shall be the size and type that is approved by the specific coach manufacturer of the additional or new buses.

3.0. Standard. Tires provided under this Contract shall be of current design and manufacture. Tires shall conform to all standards of the Tire and Rim Association of America, and the Federal Motor Vehicle Safety Standards for design, operation and overall safety.

QTY	BUS MODEL	MY	TIRE SIZE	MILES PER BUS	TIRE MILES	GVWR
6	Gillig Low Floor (40')	2013	B305/85R/22.5	30,972	1,114,992	39,600
8	New Flyer (40')	2001	B305/70R/22.5	2,065	99,120	37,920
4	New Flyer (40')	2002	B305/70R/22.5	647	15,528	37,920
6	New Flyer (40')	1997	B305/70R/22.5	3,860	138,960	37,920
1	New Flyer (40')	1996	B305/70R/22.5	4,796	28,776	37,920
1	DuPont (40')	1999	11R22.5 16PR	3,772	22,632	
1	DuPont (40')	1998	11R22.5 16PR	8,727	52,362	
62					6,467,178	

Break Down By Tire Type

8			B275/70R/22.5	15,397	739,056	
19			B305/70R/22.5	2,477	282,378	
2			11R22.5 16PR	6,250	75,000	
33			B305/85R/22.5	27,125	5,370,750	
62					6,467,184	

4.0. Mileage. KAT anticipates operating mileages to increase in the future due to potential route additions. Matrix data is a representation of the existing agency bus fleet in 2017- 18. Data shall not be interpreted as a guaranteed amount for the duration of the Contract. KAT, at any time, may add, dispose of, remove from service, or return to service, buses in the fleet or in reserve. KAT shall provide notification of any change in operations that may effect the fleet size as soon as it is possible to do so. If any bus equipped with designated tires provided under the Contract are disposed of or removed from service, those tires will be removed by KAT fleet maintenance personnel and used on other buses as long as the tires meet required standards. If transferred tires cannot be run out, the agency would purchase them in accordance with the Contract provisions for valuing treads and their integrity. Any bus designated for disposal or scrap will be equipped with no value tires and any surplus bus purchaser or scrapper would be required to trailer or tow the bus to its designation.

5.0. Tires Specified.

- 5.1 The vendor shall furnish new, re-groovable, original tread tires for use by KAT for the equipment itemized in the matrix. All tires furnished under the Contract shall meet or exceed all applicable Federal or State laws, regulations and standards. Tires furnished shall be radial ply Transit Mileage tires, that are produced in the United States and predominately used in Mass Transit applications.
- 5.2 As established by the U.S. Department of Transportation, at no time shall any tire remain in service on a bus with less than a 4/32" (front) and 2/32" (rear) tread depth as measured in a major tread groove. Measurements shall not be made where the tie bars, bumps or fillets are located.
- 5.3 Blemished or blistered tires shall not be provided by the tire supplier and will not be accepted by KAT. Tires in such condition will be returned to the supplier at their own expense unless promptly removed from the inventory.
- 5.4 All tires furnished by supplier shall safely sustain a speed rating of 55 M.P.H. for a one (1) hour minimum.
- 5.5 A separate lease rate shall be negotiated for any other make or model of bus not itemized in the matrix, placed in operation by KAT during the term of the Contract, or when KAT requires a different size and/or construction type of tire.
- 5.6 The tires' load range must meet or exceed specifications of the buses in service as obtained from the manufacturer. Original minimum tread depth shall be 23/32".
- 5.7 All tires shall be uniquely and individually branded prior to delivery.

6.0. Required Services.

- 6.1 The supplier shall deliver all tires furnished under this Contract to KAT at its own expense.
- 6.2 The supplier shall furnish a highly qualified person experienced in bus tire logistics and inspection or a person of equal qualifications to inspect tire wear and other tire conditions, and to assist KAT fleet maintenance personnel with any problem(s) associated with supplied tires. This designated agent of the supplier shall inspect a minimum of 50% of the fleet annually.
- 6.3 The supplier's agent shall submit a subject report detailing bus number, tire number and condition of tires inspected and such additional information that KAT may reasonably require.

- 6.4 The supplier shall provide, and ensure that an adequate supply of tires for each specific type and size are on hand, fully equipped and that a reserve supply of repair materials including but not limited to plugs, patches, valve stems, valve cores, weights, caps, adhesives and any other miscellaneous tire repair materials for use as determined by the agent, at no additional cost to KAT.
- 6.5 Tires that are removed from service must be scrapped and removed from KAT property within an appropriate period of time and at supplier's expense.

7.0. KAT Responsibilities.

- 7.1 KAT or a separate service provider made known to the supplier, shall be responsible for tire mounting, dismounting, installation, the maintenance and repair of supplied tires. KAT or service supplier shall ensure that tires are inflated to proper pound per square inch (P.S.I.) as recommended by the manufacturer of the tire(s) and that KAT or agents tire service regimen is in accordance with Tire and Rim Association of America, Incorporated standards. Additionally, the City shall ensure that there is an adequate supply of new tread tires to meet its short term usage, as determined by the supplier.
- 7.2 KAT shall keep accurate and comprehensive records of tire changes by brand number and total mileage per bus. By the tenth of each month, KAT shall furnish the supplier with a list of all buses operated during the previous month and the mileage logged of each bus. Vehicle mileage shall be determined by multiplying the number of trips per bus by the number of miles of route configurations and adding miscellaneous mileage that is attributed to testing and to instruction of new drivers. KAT shall furnish the supplier with an established route map and shall advise the supplier of any changes, additions or deletions of these demonstrated routes.
- 7.3 KAT shall provide safe, interiorly stored and adequate space for the storage of inventory tires without charge to the supplier.
- 7.4 KAT agrees to maintain bus suspensions and steering in accordance with manufacturer's alignment specifications and to keep brakes properly adjusted and maintained in every respect.
- 7.5 KAT agrees to use exclusively the tires furnished by the successful bidder. However, at any time over the term of Contract, KAT can use up to 5% of its fleet for testing purposes of tires of a different manufacturer(s).
- 7.6 Should KAT sell, auction off or dispose of any bus in any manner that has been equipped with tires supplied under the Contract, or if KAT places tires in storage or renders a bus(es) inactive for a period exceeding ninety (90) days, KAT shall provide the supplier prompt notice and the supplier shall have the option to (a) require KAT to remove the tires from inactive vehicles or spare stock inventory and re-apply to active wheel positions, or (b) require KAT to purchase the

unused mileage on each tire meeting these conditions at price to be calculated as set forth in Section 9.0.

- 7.7 KAT or a third-party servicer shall provide rims and emergency road call services.
- 7.8 KAT shall ensure that each active bus is equipped with at least one (1) properly inflated spare tire.
- 7.9 Within thirty (30) days of receipt of invoicing, KAT will make payment of all amounts in good faith with the exception of any such amounts that maybe in dispute.

8.0. Delivery.

- 8.1 All tires ordered by KAT shall be delivered, at no cost to the Transit Maintenance Garage located at 4303-39th Avenue, Kenosha, WI. 53144. Tire deliveries will be coordinated through Jonathan Luellan, Mechanic Supervisor. Delivery hours shall be between 8:00 A.M. and 2:00 P.M. weekdays only.
- 8.2 If during the term of Contract, KAT purchases new or used buses from another Transit Authority, it agrees to acquire such vehicles less tires and provide supplier with sixty (60) days prior written notice of such capital acquisitions. The supplier shall deliver the tires to North American facility or designated port of demarcation in the types and quantities by the date specified at no cost to KAT. Upon the suppliers delivery of the tires to the designated facility, KAT will assume responsibility for the co-signed tires. Any tires lost, stolen or damaged while in the possession of the third party facility, manufacturer, or other seller; or while the bus(es) are in process of being delivered to KAT, shall be paid in accordance with Paragraph 9.1 and 9.2.
- 8.3 Per Contract rider, bus(es) to be decommissioned by scrapping, selling, auctioning, donating, etc., the transport to the point of such transactions will require the use of "No Value" tires not leased tires with little or no remaining life. The agency shall at no time shall allow a buyer, recipient or scrapper from operating the decommissioned bus and shall require it to be trailered or towed.

9.0 Loss and Abuse of Tires.

- 9.1 If any tires are lost or stolen from bus(es) or garage(s), repair facilities, etc. or are irreparably damaged or destroyed by fire, collision, accident, adverse mechanical conditions, improper or negligent use, other than cuts, bruises and typically encountered instances experienced during normal transit operations, KAT shall reimburse the supplier for damaged tires by subtracting from the net average mileage from similar tires normally and permanently removed and out of service during the previous twelve (12) months, the mileage run by the

particular tire type prior to the incurred damage or loss, and multiplying the difference, representing unused mileage on the tire, by the tire rate currently in effect provided that the loss or damage is caused by the reasons delineated above.

- 9.2 If KAT destroys or irreparably injures tires through carelessness, misalignment, curbing, running flat, improper brake adjustments, defective rims, weak wheels or other abuse(s), then KAT shall reimburse the supplier paying for any mileage remaining at the lease rate in effect.
- 9.3 Tire damage caused by normal road hazards, such as nails, spikes or other sharp objects, in the tread area only, shall be the responsibility of the supplier provided that KAT does not irreparably injure the tire by running it flat. The supplier shall promptly provide a replacement tire at its cost upon notice of the damage by KAT. The supplier shall also be responsible for damage or loss to any tires in it's custody for the purpose of repair or storage.

10.0 Contract Run-out. At the conclusion of the lease, KAT, upon written notification by Certified mail, thirty (30) days prior to the original expiration date of the Contract, may exercise an option to continue leasing the supplier's tires should there be a change in supplier, for a period of thirty-six (36) months based upon the following conditions: (1) the lease rate shall be the rate in effect during the period immediately preceding the expiration date; (2) the City shall continually use such tires, insofar as it is practical and safe, on its high mileage routes, until they are deemed unfit for service; (3) no additional tires, service, supplies or equipment are furnished by supplier during such extension unless requested by KAT and agreed to by the supplier; (4) Upon expiration of the extension, KAT will pay for the mileage remaining at the lease rate in effect immediately preceding the expiration date. KAT shall acquire these tires with remaining tread "as is" with no expressed warranty from the manufacturer.

11.0 Warranties.

The following apply to tires leased.

- 11.1 All tires furnished by supplier in performance of the Contract shall conform to manufacturer's recommendations, standards and specifications.
- 11.2 All tires furnished by the supplier in performance of the Contract shall be maintained and repaired by KAT in strict accordance to manufacturer's recommendations, standards and specifications.
- 11.3 All tires shall be free of defects in material and workmanship. At any time that a tire is determined to be defective, the supplier will promptly provide KAT with an acceptable replacement tire.
- 11.4 All tires shall be suitable for the general purposes for which the goods are used. KAT will not use tires in combination with any other product(s) or in the operation, process or use of products other than for the tires intended purpose.

12.0 Title to Tires. Title to all tires furnished under the Contract, shall be and shall remain at all times with the supplier.

TIRE ENGINEERING DATA SHEET

The City will evaluate the quality and performance characteristics of the tires to be supplied. Provide a specification sheet for every type of tire being proposed. Fill out the attached engineering data sheet for each tire being proposed.

Tire Description	
Tire Size	B275/ 70R22.5
or Cite equivalent	_____
Load Range / Ply Rating	_____/_____
Cold Inflation (min): Single Tire	_____pounds at _____PSI
Cold Inflation (min): Dual Tire	_____pounds at _____PSI
Tire Weight: (pounds)	_____pounds
Approved Rim Width: (inches)	_____inches
Overall Width: (inches)	_____inches
Minimum Dual Spacing: (inches)	_____inches
Overall Diameter: (inches)	_____inches
Static Loaded Radius: (inches)	_____inches
Revolutions Per Mile:	
Tread Contact Width: (inches)	_____inches
Tread Radius: (inches)	_____inches
Non-Skid at C/L:	_____32nd of an inch
Undertread at C/L:	_____32nd of an inch
Gross Contact Area:	_____IN**2
Belt Fabric:	
Ply Fabric:	
Non-Skid Depth:	_____32nd of an inch
Undertread Depth:	_____32nd of an inch
Unstable 32nds (with regroove):	

TIRE ENGINEERING DATA SHEET

The City will evaluate the quality and performance characteristics of the tires to be supplied. Provide a specification sheet for every type of tire being proposed. Fill out the attached engineering data sheet for each tire being proposed.

Tire Description	
Tire Size	B305 / 70R22.5
or Cite equivalent	_____
Load Range / Ply Rating	_____/_____
Cold Inflation (min): Single Tire	_____pounds at _____PSI
Cold Inflation (min): Dual Tire	_____pounds at _____PSI
Tire Weight: (pounds)	_____pounds
Approved Rim Width: (inches)	_____inches
Overall Width: (inches)	_____inches
Minimum Dual Spacing: (inches)	_____inches
Overall Diameter: (inches)	_____inches
Static Loaded Radius: (inches)	_____inches
Revolutions Per Mile:	
Tread Contact Width: (inches)	_____inches
Tread Radius: (inches)	_____inches
Non-Skid at C/L:	_____32nd of an inch
Undertread at C/L:	_____32nd of an inch
Gross Contact Area:	_____IN**2
Belt Fabric:	
Ply Fabric:	
Non-Skid Depth:	_____32nd of an inch
Undertread Depth:	_____32nd of an inch
Unstable 32nds (with regroove):	

TIRE ENGINEERING DATA SHEET

The City will evaluate the quality and performance characteristics of the tires to be supplied. Provide a specification sheet for every type of tire being proposed. Fill out the attached engineering data sheet for each tire being proposed.

Tire Description	
Tire Size	B305 / 85R22.5
or Cite equivalent	_____
Load Range / Ply Rating	_____/_____
Cold Inflation (min): Single Tire	_____pounds at _____PSI
Cold Inflation (min): Dual Tire	_____pounds at _____PSI
Tire Weight: (pounds)	_____pounds
Approved Rim Width: (inches)	_____inches
Overall Width: (inches)	_____inches
Minimum Dual Spacing: (inches)	_____inches
Overall Diameter: (inches)	_____inches
Static Loaded Radius: (inches)	_____inches
Revolutions Per Mile:	
Tread Contact Width: (inches)	_____inches
Tread Radius: (inches)	_____inches
Non-Skid at C/L:	_____32nd of an inch
Undertread at C/L:	_____32nd of an inch
Gross Contact Area:	_____IN**2
Belt Fabric:	
Ply Fabric:	
Non-Skid Depth:	_____32nd of an inch
Undertread Depth:	_____32nd of an inch
Unstable 32nds (with regroove):	

TIRE ENGINEERING DATA SHEET

The City will evaluate the quality and performance characteristics of the tires to be supplied. Provide a specification sheet for every type of tire being proposed. Fill out the attached engineering data sheet for each tire being proposed.

Tire Description	
Tire Size	11R22.5 16PR
or Cite equivalent	_____
Load Range / Ply Rating	_____/_____
Cold Inflation (min): Single Tire	_____pounds at _____PSI
Cold Inflation (min): Dual Tire	_____pounds at _____PSI
Tire Weight: (pounds)	_____pounds
Approved Rim Width: (inches)	_____inches
Overall Width: (inches)	_____inches
Minimum Dual Spacing: (inches)	_____inches
Overall Diameter: (inches)	_____inches
Static Loaded Radius: (inches)	_____inches
Revolutions Per Mile:	
Tread Contact Width: (inches)	_____inches
Tread Radius: (inches)	_____inches
Non-Skid at C/L:	_____32nd of an inch
Undertread at C/L:	_____32nd of an inch
Gross Contact Area:	_____IN**2
Belt Fabric:	
Ply Fabric:	
Non-Skid Depth:	_____32nd of an inch
Undertread Depth:	_____32nd of an inch
Unstable 32nds (with regroove):	

**INVITATION FOR BID (IFB)
FOR MILEAGE-BASED TIRE LEASING
FOR
KENOSHA AREA TRANSIT (KAT)
NOTICE #03-18
BID FORM**

City of Kenosha
Finance Department, Room 208
625- 52nd Street
Kenosha, Wisconsin 53140-3480
(262) 653-4180

We hereby propose to provide new tires to the Kenosha Area Transit bus system, on a mileage-lease arrangement in accordance with specifications, terms and conditions contained herein.

Cost (Lease Rate per Tire Mile) for New Tires

Size	Tire Mar 1, 2018 - Feb 28, 2019	Mar 1, 2019 - Feb 29, 2020	Mar 1, 2020- Feb 29, 2021
B275/70R22.5	\$	\$	\$
B305/ 70R22.5	\$	\$	\$
B305 / 85R22.5	\$	\$	\$
11R22.5 16PR			

Firm Name

Signature/Date

Street

Print Name/ Title

City, State Zip

Phone Number

E-Mail

Comments:

FEIN # _____ D & B #: _____

LOCATION OF OFFICE SERVICING KENOSHA AREA TRANSIT:

Address _____ City _____ State _____ Zip _____

Phone: _____ E-Mail: _____

Manufactures(s) published specifications are included? Yes _____ No _____

Payment terms: _____% _____, Net _____ days
Discounted Terms , 15 or 30 days Net

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KENOSHA AREA TRANSIT (KAT)
NOTICE #03-18
REFERENCES**

Provide names, addresses and phone numbers of not less than three (3) relevant professional references.

(A) _____

(B) _____

(C) _____

(D) _____

(E) _____

Appendix I

FTA CLAUSES

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

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

(END OF CLAUSE)

**PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS
AND RELATED ACTS**

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

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

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

(4) In the performance of the Contract, Contractor agrees to comply with applicable mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

(END OF CLAUSE)

ACCESS TO RECORDS AND REPORTS

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a sub-grantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
4. FTA does not require the inclusion of these requirements in sub-contracts.
5. Any audit or inspection of records completed pursuant to the terms of the Contract shall be upon providing at least sixty (60) days written notice to the Contractor, and performing such audits or inspection of records during normal business hours and at the sole expense of the Purchaser.

(END OF CLAUSE)

FEDERAL CHANGES

The Contractor shall at all times, comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of the Contract.

(END OF CLAUSE)

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The Purchaser's overall goal for DBE participation is 10.00%. A separate contract goal for DBE participation has not been established for this procurement.
- b. The Contractor and its Sub-contractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of any USDOT/FTA-assisted contract or any sub-contract entered into in its performance of the Contract. Failure by the Contractor or its Sub-contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of the Contract or such other remedy as the Purchaser deems appropriate.
- c. The Contractor will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The Contractor is required to pay its sub-contractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the Contractor's receipt of payment for that work from the Purchaser. In addition, the Contractor is required to return any retainage payments to its sub-contractors within 30 days after the sub-contractor's work related to this contract is satisfactorily completed.

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

(END OF CLAUSE)

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The preceding provisions include, in part, certain Standard Terms and Conditions required by USDOT/FTA, whether or not expressly set forth in the preceding contract provisions. All contractual provisions applicable to the Contract required by USDOT/FTA, as set forth in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all applicable USFOT/FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Purchaser requests, in each case for performance required hereunder, which would cause the Purchaser to be in violation of the USDOT/ FTA terms and conditions.

(END OF CLAUSE)

ENERGY CONSERVATION

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

(END OF CLAUSE)

PREFERENCE FOR RECYCLED PRODUCTS

To the extent applicable, the CONTRACTOR agrees to comply with the U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the CONTRACTOR agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.

(END OF CLAUSE)

ACCESS REQUIREMENTS FOR PERSONS WITH DISABILITIES

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation

services and facilities and that special efforts planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

(END OF CLAUSE)

APPENDIX II
MEMORANDUM OF AGREEMENT

By and Between

THE CITY OF KENOSHA, WISCONSIN
A Municipal Corporation
(Through Kenosha Transit Authority)

And

THIS MEMORANDUM OF AGREEMENT ("AGREEMENT"), made and entered into by and between the **CITY OF KENOSHA, WISCONSIN**, a municipal corporation of the State of Wisconsin, through its Transit Authority, herein referred to as "**CITY**", and _____, whose principal place of business is located at _____, _____, _____, herein referred to as "**CONTRACTOR**".

WITNESSETH:

The above parties, in consideration of the mutual promises, covenants and agreements as hereinafter set forth, do hereby agree as follows:

1.0 **CONTRACTOR** will furnish **CITY** tires for use on vehicles under the terms and conditions set forth below; however the **CITY** may use tires in its possession, not furnished by **CONTRACTOR** under any similar mileage contract previously in effect, until such tires are unfit for further service. A tire is defined as a casing only for a tubeless tire; and a vehicle is defined as a vehicle having seven (7) or more passenger carrying capacity, designed for operation on pneumatic tires and used publicly for the transportation of passengers.

1.1 Tires furnished shall be of sufficient quantity to keep all vehicles fully equipped and to provide a reserve supply, at a maximum level determined by **CONTRACTOR**, as spare stock inventory to be mounted on rims and kept in the **CITY** garage for use in case of emergency. To assure its effective use, existing spare stock shall be applied prior to the application of new inventory. Vehicles shall be equipped with the sizes and types of rims of sufficient strength to permit inflation necessary for the load carrying capacity required and spaced to conform to the approved standards of The Tire and Rim Association of America, Inc.

1.2 **CITY** agrees to use exclusively tires furnished by **CONTRACTOR**; however, **CITY** may use up to five-percent (5%) of its fleet for test purposes on tires of other manufacturers. **CITY** will not transfer, sublet, or lend the tires furnished by **CONTRACTOR**, or permit the tires to be used by anyone other than **CITY**, without prior written consent of **CONTRACTOR**.

2.0 MILEAGE REPORTS AND TIRE RECORDS. For vehicles covered under this AGREEMENT, **CITY** shall keep accurate records of the total number of miles run during the term and submit a report of such total mileage on each vehicle prior to the 10th day of the month subsequent to the month the miles were run. Vehicle mileage shall be determined either by means of instrument that accurately records mileages being run on each vehicle, or by multiplying the number of trips of each vehicle by the number of miles over the route it has driven and adding all miscellaneous mileage that may be run to and from the routes, such as in testing vehicles and instruction of drivers.

2.1 If the latter method is used, the **CITY** shall furnish **CONTRACTOR** a schedule of the established routes covered by its vehicles and shall advise **CONTRACTOR** of any changes, additions, or deletions in such routes. **CONTRACTOR** shall have access to such recording instruments and/or mileage records at all times. On a weekly-basis, **CITY** will provided to **CONTRACTOR** all information on receipt of tires, tire changes, and vehicle and/or spare stock tire inventory to enable **CONTRACTOR** to maintain a record of individual tire mileage and location.

3.0 TERM OF AGREEMENT AND DISPOSITION OF TIRES AT TERMINATION OF AGREEMENT. AGREEMENT shall become effective retroactively to the 1st day of March, 2018 and terminate on the 28th day of February, 2021. **CITY** intentions to terminate AGREEMENT shall be made with notification sent to **CONTRACTOR** within thirty (30) days of the expiration of the AGREEMENT. Upon expiration of the term and should AGREEMENT not be extended, **CITY** will, within thirty (30) days after submission of statement by **CONTRACTOR**, pay for the unused mileage in each remaining cosigned tire at prices to be computed by the Actual Average Mileage of tires permanently removed from service during the twelve (12) month period immediately preceding accounting date, plus tax determined to be applicable. Title to all tires shall remain with the **CONTRACTOR** until all such statements and billings have been paid in full, at which time, **CITY** will acquire each such used tire as is, and **CONTRACTOR** makes no warranties as to the condition or fitness for continued use of such tires.

3.1 Upon mutual agreement of both parties, AGREEMENT can be extended for an additional two (2) years in one (1) year increments at escalated rates defined in Article 4.0. Paragraph 1. **CITY** intentions to extend the AGREEMENT for the additional period(s) shall be made with notification sent to **CONTRACTOR** within thirty (30) days of the expiration of the AGREEMENT, this provided that **CONTRACTOR** is not in default.

4.0 RATES AND ADJUSTMENTS. On all mileage run on and after the 1st day of March, 2018 and prior to the 28th day of February, 2019, the rate(s) so referred to as Effective Rate(s) shall be \$0._____ per tire mile. On and after the 1st day of March, 2019 and prior to the 29th day of February, 2020, the Effective Rate(s) shall be \$0._____ per tire mile. On and after 1st day of March, 2020 and prior to the 28th day of February, 2021, the Effective Rate(s) shall be \$0._____ per tire mile.

4.1 Upon expiration of the initial term of the AGREEMENT, **CITY** may extend AGREEMENT for an additional period of twenty-four (24) months awarded in one (1) year increments. Annual Effective Rate(s) shall be increased by an amount equal to the percentage change in the June Consumer Price Index- Urban Wage Earner (Midwest Region) for the previous twelve (12) month period with a minimum increase of three-percent (3%) and a maximum of five-percent (5%). <negotiable>

5.0 PAYMENT. **CITY** shall pay **CONTRACTOR** for the mileage run on tires furnished during the month immediately preceding , and for any tires invoiced in accordance with Articles 3.0 and 13.0, at the Effective Rate per mile for vehicles as shown in attached Exhibit "A", Schedule of Vehicles. Billing terms on invoices shall be net, ___days. A separate rate and value shall apply to any other make/model that is not shown on Exhibit "A" placed in operation during the term of this Agreement if requiring a different size and/or construction type of tire. **CITY** agrees to supply a financial statement to **CONTRACTOR** on an annual basis at **CITY's** fiscal year end.

6.0 TAXES. In addition to the Effective Rate, **CITY** shall pay **CONTRACTOR** an amount to compensate for the current Manufacturer's Excise Tax under the U.S. Revenue Act of 1932, as amended , and for any business, sales, excise, use, processing or similar tax imposed upon the goods leased or sold, or service rendered, or upon the manufacture, sale, delivery or disposal, or whenever any tax, excise, levy, law, or government regulation shall have the effect directly or indirectly of increasing the cost of manufacture, sale, delivery or disposal of such goods and services. **CITY** shall furnish tax exemption certificates and will be exempt from all taxes covered. **CITY** will be responsible for all property taxes on the tires, making any required

listing for taxation in its own name as Bailee.

7.0 ADDITIONAL VEHICLES. If **CITY** acquires new vehicles, **CITY** agrees to: (1) acquire such vehicles less tires, (2) give **CONTRACTOR** reasonable notice of such acquisition(s), and (3) have such vehicles equipped with **CONTRACTOR'S** tires of sufficient carrying capacity to conform to the approved standards of The Tire and Rim Association of America, Inc. Upon **CONTRACTOR'S** delivery of the tires to the OE Manufacturer, refurbisher, or other outside source designated by **CITY**, **CITY** agrees to assume responsibility for such cosigned tires in accordance with all terms of this AGREEMENT. If such vehicles equipped with **CONTRACTOR'S** tires are driven overland during delivery, **CONTRACTOR** shall receive payment at the usage rate specified in accordance with Articles 5.0, 13.0 and 14.0.

8.0 TITLE TO TIRES AND VEHICLE LIENS. Title to all tires and/or equipment furnished shall remain with **CONTRACTOR** or its assignees and, upon purchase by the **CITY** in accordance with Article 3.0, shall continue to remain with **CONTRACTOR** until **CONTRACTOR** has received full payment of all sums owed by the **CITY** under the terms of this AGREEMENT. The **CITY** will indemnify and hold **CONTRACTOR** harmless against any claim on **CONTRACTOR'S** tires made by any holder of a lien on any vehicles on which the **CITY** uses such tires. **CITY** will keep **CONTRACTOR** advised of such liens, giving **CONTRACTOR** any and all information that **CONTRACTOR** may request.

9.0 POSSESSION AND CANCELLATION. Should **CITY** breach the terms of this AGREEMENT through non-payment, non-payment on total amount due at termination, impaired credit standing, assignment for the benefit of creditors, failure to report miles operated in accordance with Article 2.0, or erroneous reporting of miles run, or is placed in receivership or adjudicated bankrupt, then, under any of the above conditions, **CONTRACTOR** shall have the right, at its option, without prejudice to any other rights and remedies, to stop shipping tires, take possession of inventory whether or not the inventory is applied on vehicles without being guilty of trespass, and bill **CITY** for all costs of removing tires and/or terminate this AGREEMENT in accordance with Article 3.0.

9.1 Should **CONTRACTOR** exercise any of these options, **CONTRACTOR** shall be relieved from any further obligation under this AGREEMENT; however, this shall not relieve **CITY** from its obligation to pay for the use of the tires furnished or from its liability for all damages caused by such breach. **CITY** specifically agrees to be responsible for and pay any and all attorney fees, court costs and other expenses incurred by **CONTRACTOR** in collecting amounts owed by **CITY** or in enforcing any right under this AGREEMENT. Failure on the part of **CONTRACTOR** to exercise any or all of the above options upon **CITY** default shall not constitute a waiver by **CONTRACTOR** of its rights to exercise any and all options upon any subsequent default.

9.2 Notwithstanding any provision contrary contained herein, **CONTRACTOR** may terminate this AGREEMENT for any other reason, providing **CITY** with one hundred and twenty (120) days written notice thereof.

10.0 DAMAGE TO PERSONS OR PROPERTY. **CITY** will indemnify and hold **CONTRACTOR** harmless against all claims, action or causes of action for damage or injury arising out of the use of or possession of any tires furnished, except for any claims, action, or causes of action arising solely out of a defect in material or workmanship of any tire manufactured and furnished by **CONTRACTOR** under this AGREEMENT. In no event, shall **CONTRACTOR** be liable to **CITY** for any incidental or consequential damages. **CITY** will hold **CONTRACTOR** harmless and indemnify **CONTRACTOR** from lawsuits, claims, or damages by **CITY**, its employees or third-parties arising out of the use by **CITY** or its employees of service equipment supplied by **CONTRACTOR**. **CITY** is required to evidence workers compensation, general liability, and automobile liability insurance. Liability insurance will have minimum limits of Three (3) Million Combined Single Limits (CSL). **CITY** will provide **CONTRACTOR** with a certificate of insurance evidencing coverage naming **CONTRACTOR** as an additional insured, and providing thirty (30) days written notice to **CONTRACTOR** of material change or cancellation.

11.0 CONTINGENCIES. **CONTRACTOR** shall be excused from deliveries or delay of deliveries if such failure to deliver or delay shall be caused by war, acts of terrorism, strikes, lockouts or other labor disturbances, fires, interruptions of transportation facilities, accidents, inability to obtain merchandise, shortage of energy source of raw material, or other similar causes beyond **CONTRACTOR's** control. This AGREEMENT is subject to applicable restrictions imposed by any Federal agency or by any other governmental entity.

12.0 SERVICE. **CITY** agrees to apply to, remove from, and remount on rims or wheels, tires furnished and to perform all other tire service, including regrooving and repair of flat tires, as required by **CONTRACTOR** to keep tires in proper operating condition. **CONTRACTOR** will provide necessary repair materials and valve hardware. **CITY** will install and maintain in its garage suitable facilities for the inflation of tires and will keep said tires inflated conforming to the approved standards of The Tire & Rim Association of America, Inc. **CITY** will determine at all times when tires will be removed from vehicles. **CONTRACTOR** shall make the determination as to the fitness for return to service of a particular tire or tires; however, **CITY** shall not be obliged to use tires which, because of their condition, interfere unreasonably with the use and operation of vehicles. All tires determined by **CONTRACTOR** to be permanently unfit for further service shall be returned to **CONTRACTOR** promptly by **CITY**.

13.0 USE, CARE AND STORAGE OF TIRES. **CITY** agrees to provide a safe and suitable place in an enclosed building for storage of spare tires and tires unfit for further service so that the tires are not subject to damage by the elements; to either keep each bus equipped with at least one properly inflated spare tire or provide adequate road service for its fleet; and pay **CONTRACTOR** for any damage or loss resulting from accident, fire, adverse mechanical conditions, improper or negligent use, loss, theft, or fraudulent conversion of said tires, or from the operation of a vehicle with an underinflated or flat tire.

14.0 SALE OR DISPOSITION OF VEHICLES. If **CITY** sells or in any manner disposes of any vehicles which shall have been equipped with tires supplied under this AGREEMENT, or if **CITY** places tires in storage or renders a vehicle inactive through discontinuance of its business or discontinuance of the use of any such tires or vehicles for a period exceeding ninety (90) days, **CITY** shall provide **CONTRACTOR** prompt notice thereof and **CONTRACTOR** shall have the option to: (a) require **CITY** to remove tires from inactive vehicles or spare stock inventory and reapply on active wheel positions, or (b) require **CITY** to purchase the unused mileage in each such tire, including spares and/or obsolete spare stock, at prices to be computed as set forth in Article 13.0, plus any applicable taxes.

15.0 LEASED VEHICLES. **CITY** represents and warrants that it owns outright or has legal possession of all vehicles comprising the fleet operated by it. If **CITY** acquires the right to operate any vehicles not owned by it ("Leased Vehicles"), **CITY** agrees to: (a) notify **CONTRACTOR** of details of such arrangement, (b) that all Leased Vehicles will be furnished to **CITY** by owner without tires so that they may be equipped with tires furnished under this AGREEMENT, and (c) to obtain an agreement acceptable to and for the benefit of **CONTRACTOR** whereby owner acknowledges **CONTRACTOR'S** ownership/right to possession of all tires supplied by it and waives all rights by virtue of their use on Leased Vehicles or otherwise. Should **CITY** surrender or otherwise lose possession of any Leased Vehicle equipped with tires supplied by **CONTRACTOR**, **CITY** shall purchase each tire (including spares) in accordance with Article 14.0. The term, "Leased Vehicles" shall not apply to any vehicle rented or borrowed for a temporary use for a period not to exceed one-hundred twenty (120) days.

16.0 MODIFICATIONS OF AGREEMENT. This AGREEMENT cannot be altered, modified or assigned in any respect unless by written consent of both parties or by special written document signed by both parties in like manner.

17.0 UNIFORM COMMERCIAL CODE FINANCING STATEMENTS. **CITY** specifically and expressly authorizes **CONTRACTOR** to prepare, sign, and record or file such financing statements and/or other documents, or take any other action, it may deem necessarily prudent to perfect and protect its rights as owner of

the furnished tires and equipment, as set forth in this AGREEMENT.

18.0 MISCELLANEOUS. If any provision hereof is held to be illegal or invalid, the validity of the remaining portions of the AGREEMENT shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the AGREEMENT did not contain the particular provision held to be illegal or invalid. The terms and conditions of this AGREEMENT shall be construed under and governed by the laws of the State of _____ without giving effect to the principles of conflict of laws thereof. Any action to enforce any terms and provisions of this AGREEMENT shall be filed in state or federal court in _____, _____.

19.0 NOTICE. Any notice required to be given to any party to this AGREEMENT shall be in writing and delivered personally or certified mail, return receipt requested, to the addresses indicated below, or such address as the parties indicate in writing. Notice shall be effective as of the date of delivery, if by hand, or mailing, if by certified mail,

a. If to CITY: Director of Transit Authority
4303 39th Avenue
Kenosha, Wisconsin 53144

With a copy to: City Attorney's Office
Municipal Building, Room 201
625 52nd Street,
Kenosha, Wisconsin 53140

-and-

b. If to CONTRACTOR Department of Finance
Municipal Building, Room 208
625 52nd Street,
Kenosha, Wisconsin 53140

IN WITNESS WHEREOF, the parties hereto have hereunto executed this Agreement on the dates below given.

CITY OF KENOSHA, WISCONSIN

A Municipal Corporation, through its
Transit Authority

BY: _____

Director, Kenosha Transit Authority

DATE: _____

BY: _____

DATE: _____

BY: _____

DATE: _____

Exhibit "A"

To AGREEMENT dated ____ day of _____, 2018, between City of Kenosha, Wisconsin, ("CITY") and _____ of _____, _____.

SCHEDULE OF VEHICLES

2017-2018 MATRIX

OTHER EXHIBITS AND RIDERS