

INTEGRATED SUPPLY AGREEMENT

BY AND BETWEEN

GENUINE PARTS COMPANY

AND

CITY OF NORMAN, OKLAHOMA

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THIS INTEGRATED SUPPLY AGREEMENT (this "Agreement") is made by and between **GENUINE PARTS COMPANY**, a Georgia corporation (d/b/a NAPA Auto Parts) ("NAPA"), and **CITY OF NORMAN, OKLAHOMA**, ("City), to be effective as of the ____ day of ____, 2021 (the "Effective Date").

WITNESSETH

WHEREAS, NAPA desires to establish inventories in City's locations to service the fleet parts needs of City and to serve as the primary supplier of automotive replacement parts and other supplies and/or equipment (the "Inventory") to serve the needs of City; and

WHEREAS, City desires to provide space for the Inventory on the premises of City for use by NAPA ("On Site Store") and agrees that NAPA will be its primary supplier of the Inventory pursuant to the term herein.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

AGREEMENT

1. **DEFINITIONS.** For purposes of this Agreement, the following terms shall have the meanings set forth below:

- (a) ***Primary Supplier*** shall mean the parts supplier that provides a minimum of eighty-five percent (85%) of the Inventory needs of City.
- (b) ***NAPA Owned Store*** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" which is wholly owned by NAPA.
- (c) ***NAPA Jobber*** shall mean an auto parts store lawfully using the tradename or trademark "NAPA" with respect to which NAPA maintains no ownership interest.

- (d) ***Current NAPA Jobber Acquisition Cost*** shall mean NAPA's current gold price as set forth on NAPA's Confidential Jobber Cost and Suggested Resales price list.

2. **CITY'S CURRENT LOCATIONS.** NAPA will establish On Site Store(s) at the City's following location(s):

1301 Da Vinci St.
Norman, OK 73069
Manager: Mike White, Fleet Superintendent

Additional locations of the City may be added to this Agreement but only by a written amendment executed and agreed to by both the City and NAPA.

3. **TERM.** This Agreement shall be for a term of one (1) year from the Effective Date, with the option to renew for four (4) additional one (1) year periods by the City's Fleet Superintendent or designee on the terms set forth in this Section. The term of this Agreement is renewable for four (4) additional one-year periods at the option of the City. Should the City desire to renew the Agreement, a written preliminary notice will be furnished to NAPA prior to the expiration date of the Agreement (such preliminary notice will not be deemed to commit the City to renew). Upon receipt of the City's preliminary notice, NAPA shall, if desired, submit a written agreement to continue the performance of the Agreement for an additional one (1) year period. Should NAPA exercise this option for renewal, the Agreement as renewed shall be deemed to include this option provision except that the total duration of this Agreement, including any renewals, shall not exceed five (5) years. In all cases Agreement renewals shall be approved by the City's governing body, and sufficient appropriations shall have been made for the particular fiscal year for which the renewal is sought. Notwithstanding the foregoing, either party may terminate this Agreement at any time for its convenience by giving the other party sixty (60) days prior written notice of such termination.

4. **DUTIES AND RESPONSIBILITIES OF NAPA.** NAPA shall have the following duties and responsibilities during the term of this Agreement:

(a) NAPA will operate the On Site Store(s) and provide the Inventory to City's now existing locations. NAPA shall own all Inventory currently existing in the On-Site Store. NAPA shall provide stock and non-stock original equipment parts, supplies and equipment, or aftermarket items in equal or higher quality. The City reserves the right to inspect the quality of materials, supplies and equipment proposed to be furnished and to seek the remedies set forth in Section 14 hereof with respect to any item(s) deemed not to meet original equipment standards and performance. All such items provided by NAPA for resale will remain the property of NAPA until such item(s) are issued to the City. NAPA shall email appropriate Supervisor of estimated time available for all parts not kept in stock and NAPA shall email appropriate Supervisor upon delivery of said non stock parts arrival; email shall contain: unit number, part, and part description. Any freight charges associated with parts will need to be approved by

the appropriate Supervisor before they are incurred. NAPA and City shall within ninety (90) days following the execution of this Agreement develop and agree upon standard operating procedures ("SOP") to address in-house hydraulic hose fabrication and associated equipment and hoses, sampling of petroleum-based products and analysis of such products.

(b) Excluding products procured pursuant to Section 29 hereof, NAPA shall have access to and control over sufficient inventory provided either by NAPA's on-site or off-site stock, its own warehouse, original equipment manufacturer and/or by negotiation with one or several local parts operations to furnish 90% of the non-consumable parts requirements on demand and 95% of the parts requirements within two (2) business hours of demand. Preventive maintenance items, such as oil, filter, etc., shall have their own identification code in the in-house software and be available in stock 98% on demand. Transit parts shall likewise have their own identification code and shall be available in stock 85% on demand. Current fill rate performance reporting is done with TAMS. This program provides daily monthly fill rate performance through manually entered order transactions based on parts issued vs parts ordered. A sample monthly fill rate performance report is attached hereto as Exhibit A. Note: reports are delivered to the NAPA IBS computers daily by email which can be forwarded to City.

(c) NAPA and City shall within ninety (90) days following the execution of this Agreement develop and agree upon an SOP to address oil analysis services for the City's vehicles.

(d) NAPA shall adhere to the stock reorder plan detailed in its proposal to the RFP. Prompt response time to parts requested is crucial. Upon ordering a part, NAPA will add a note on the corresponding work order in the City's Fleet Inventory Management Software (FIMS) regarding what was ordered, from whom it was ordered, a contact name and number, initials of the ordering staff personnel and time stamp. With respect to any non-stock or special order parts, where possible, NAPA shall provide at least two (2) quotes for such items within twenty-four (24) hours of request, and will endeavor to offer at least one (1) quote online and one (1) quote from within NAPA's system. Following NAPA's delivery of pricing quotes for such products, City personnel will notify NAPA of the part it elects to purchase, and NAPA will order the product within twelve (12) hours of the City's notification. In the event that NAPA fails to either (i) provide at least two (2) quotes for a special order or nonstock product within twenty-four (24) hours of request or (ii) order such product within twelve (12) hours of City's request that it order such product, the City shall have the right to purchase such product from another source so long as the purchase of aforesaid part or parts does not result in NAPA no longer being City's Primary Supplier, provided that (A) City shall use its own funds to make such purchase and (B) NAPA shall have no responsibility for any product which City elects to so purchase.

(e) NAPA understands that not all fleet vehicles & equipment and required service expectations are the same. Therefore, NAPA will work with the City to define part numbers to be included in critical need and preventative maintenance part categories

and an SOP relating to the same. NAPA shall evaluate the usage history of the current inventory of vehicle parts and thereafter on a monthly basis to identify those that should be removed from stock, added to stock, and to determine the stocking levels of those that should remain in stock. Usage reports must be emailed daily on the percentage of items on-site versus off-site; and provide a monthly "Score Card" showing the results. Once defined and agreed upon by the parties in writing, NAPA will work with City to develop a written replenishment process plan that meets the inventory performance standards set forth herein (the "Inventory Management and Replenishment Processes"). City shall pay for all special or expedited shipping charges incurred under this Agreement; provided, however, that once the Inventory Management and Replenishment Processes have been agreed to in writing between the parties, City will not be required to pay for such special or expedited shipping charges during such times that NAPA is not adhering to such Inventory Management and Replenishment Processes.

(f) In those circumstances when delivery is required by City, NAPA will provide parts to City's locations on a daily route basis. In addition, NAPA will accelerate delivery on those items City requires to be delivered on an expedited basis. NAPA will make all reasonable efforts to ensure prompt delivery to the City's location(s) requesting part(s).

(g) NAPA shall provide all computers and reports necessary to monitor monthly expenses as they pertain to the daily operation of the On Site Store(s). NAPA will provide specialized equipment such as terminals and printer for NAPA's computer system, office machines, file cabinets, shop equipment, and other facilities and services that may be mutually agreeable. NAPA shall provide computer ordering and cataloging to each On Site Store. The City of Norman Fleet Division will provide one (1) vehicle for contractor use. If City provides a vehicle for use with respect to operating the On-Site Store(s), NAPA employees will only use City vehicles to conduct approved business associated with the operations of the On-Site Store(s) per the terms of this Agreement. If using City vehicles, NAPA will comply with vehicle appearance standards and daily inspections as specified by the City and agreed upon by NAPA in writing. A sample vehicle inspection form is attached hereto as Exhibit B. City will protect, defend and indemnify NAPA, its subsidiaries, divisions and affiliated business entities, and their respective employees, agents, officers and directors from and hold them harmless against all liability, losses, damages, costs or expenses of any nature, including without limitation, reasonable attorneys' fees which they may at any time suffer, incur, or be required to pay resulting from or arising out of: (i) City's failure to properly keep, repair, and maintain in good working order any City owned/leased vehicle ("Vehicle") operated by NAPA's employees, agents, officers and directors (collectively, the "NAPA Employees") and/or (ii) City's failure to carry out the servicing and maintenance of any Vehicle operated by a NAPA Employee in accordance with the manufacturer's suggested maintenance program.

(h) NAPA shall endeavor to provide a profit and loss statement of the parts operations to the City on approximately the 15th of each month for each On Site Store.

(i) NAPA shall provide back-up emergency service during non-working hour contingencies. This overtime expense (calculated at time and one half) will be charged on a cost basis to City, and must be pre-approved by City. The parties shall mutually agree upon the pre-approval process for such emergency situations. NAPA will provide a list of personnel, including telephone numbers, who will respond to emergency service requests.

(j) Upon the request of City, NAPA shall monitor and oversee any and all shop support services, including but not limited to, rag services and parts cleaning services, performed by a third party on the premises of City. NAPA shall not be held liable in any manner for the acts or omissions or willful misconduct of any third party performing shop support services hereunder.

(k) NAPA acknowledges and agrees that the local NAPA Store in the City of Norman, Oklahoma receives from the NAPA distribution center located in Oklahoma City, Oklahoma, on normal business days, two (2) deliveries per day. The deadline to place an order for morning delivery is 8:30 a.m. and the deadline to place an order for afternoon delivery is 1:30 p.m.

(l) Upon the request of City, NAPA shall arrange for a courier service to delivery ordered products to the On-Site Store(s). Should City elect to use a courier service under this Agreement, NAPA will bill City for the costs of the courier service on a monthly basis in an amount not to exceed Three Hundred and No/100 Dollars (\$300.00) per month. The foregoing cap will be reviewed annually by City and NAPA and adjusted on an as needed basis upon the mutual written consent of the parties.

(m) NAPA shall not issue parts or supplies to City personnel without a proper work order/parts requisition. NAPA shall give a receipt containing specific information, identified by the Fleet Division, with items delivered to the City's employee for each work order/parts requisition. NAPA is responsible for all tickets being signed by the technicians by the end of the day. A second copy of the receipt will be given to the Fleet Service Writer as soon as the technician signs the invoice. The receipt shall contain specific tracking information, i.e., vehicle number, work order number, receiving employees name, legible signature(s), employee ID number, part quantities, part number, part description, price detail and any other data deemed necessary for effective accounting tracking. A duplicate of each transaction must be provided with the billing for verification of accounting transactions. Any items under \$25.00 do not need a work order except for hydraulic oil. NAPA and City shall within ninety (90) days following the execution of this Agreement develop and agree upon an SOP to address the purchase of hydraulic oil.

(n) NAPA shall use current state of the art computer hardware and software to control and report on its operations. The computer system shall be capable of, but not limited to, providing online information on the Parts facility inventory and other NAPA owned inventories, monitoring and reporting the status of parts on hand, parts on order, parts on back order, usage of parts and services, costs, billing information and historical

data on vehicles and equipment. This information will be made available to the Fleet Division.

(o) NAPA shall provide comprehensive activity reports from its computer database on a weekly basis. Some activity items, such as, but not limited to, lost sales, back orders and number-of-days on order will be required on a daily basis. NAPA shall further provide comprehensive cost comparison analysis of each part sold from past history of parts issued monthly from its computer database and on the Fleet Division computer system. The City reserves the right to require any information considered necessary to monitor the contractor's operation and to receive them on whatever frequency needed (i.e. daily, weekly or monthly), so long as such information is capable of being provided by NAPA's systems. NAPA is required to balance its daily tickets with the FMIS report by the end of business daily.

(p) NAPA will use an automated system to identify by manufacturer part number and track all parts. The automated system will be compatible with the computer system used by NAPA and/or the Fleet Division and integrated with the system's inventory control plan.

(q) NAPA's IBS HUB software program is currently integrated with the City's FASTER program. If the City desires during the term of this Agreement to switch Fleet Software providers and requires a new integration, NAPA will agree to pay for up to \$9,000 of the City's integration expenses associated with a new integration with NAPA's software system.

(r) Neither Fleet Division employees nor any other individual or private enterprise will be allowed to purchase parts or supplies from the on-site parts store operations. Operations, stock, facilities and management from the on-site parts store are to be used solely for the fleet facilities needs outlined herein. No parts shall be issued for personal use. Nothing herein however should prevent NAPA from transferring parts stock from one fleet facility shop to another to meet immediate needs of participating agency fleets.

(s) Notwithstanding anything to the contrary set forth in the RFP or other exhibits to this Agreement, in no event shall NAPA be required to post a performance bond, a certified or cashier's check in connection with this Agreement.

(t) NAPA Business Reviews. Regular business reviews are an integral part of measuring NAPA's performance related to its contract with a customer and the key perform indicators (KPIs) that have been established. During these reviews, which may be scheduled as frequently as the City reasonably desires, NAPA's on-site and regional/national management team will sit down with City and review every aspect of the IBS service, including:

- Financial Review (cost and savings)
- Inventory Performance
- Fill Rates

- Customer Service review
- Customer Satisfaction Survey- Management Customer Satisfaction Surveys- Technicians
- Performance on KPIs
- Follow-through on past action items
- Establishing future action items
- Wins and concerns

By fostering open communication among all parties about the above items, NAPA allows itself to be the most transparent and aligned partner NAPA can be, which lets NAPA continue to optimize its solution to benefit the needs of City. Business reviews are mandatory for our local management and are reviewed by headquarters management and considered in evaluating our local teams. See sample business review template as Exhibit C.

5. DUTIES AND RESPONSIBILITIES OF CITY. City shall have the following duties and responsibilities during the term of this Agreement:

(a) City shall provide, at its sole expense, usable space for NAPA's On Site Store(s) and the Inventory. City shall provide access to restroom facilities for NAPA employees. Further, City shall furnish, at its sole expense, all utilities for the On Site Store(s) including: water, sanitation, sewer, light, telephone, heat, gas, electricity, power, fuel, janitorial and all other utilities and services rendered or delivered to the On Site Store(s) whatsoever. City shall provide NAPA a safe work environment that is free from hostility, violence, or discrimination. NAPA reserves the right to terminate the contract immediately should NAPA encounter a hostile, violent, discriminatory, or unsafe work environment. At the City's north shop location the City will provide secure operations and a storage area of approximately 1266.8 square feet for parts and approximately 518.4 square feet for tires to the contractor free of charge. The South location will provide approximately 967 square feet. This will include heat, electricity, water, desks, phone service, and terminal for the City's computer system, restroom and other such facilities and services that may be mutually agreeable. Any additional storage needed will be the responsibility of the Contractor and associated cost. A tire carousel will be available at the South shop that holds approximately 75 tires.

(b) Subject to the terms below, City shall use NAPA as its Primary Supplier of the Inventory under this Agreement. City reserves the right to purchase any item outside this Agreement pursuant to the terms of Section 4(d) above or where it is determined to be more economical or timely so long as the purchase of aforesaid part or parts does not result in NAPA no longer being City's Primary Supplier. For the avoidance of any doubt, NAPA acknowledges and agrees that City shall not be required to purchase from NAPA any capital expenditure assets and vehicle up-fit parts. NAPA shall have no responsibility for any parts which the City purchases from a party other than NAPA.

(c) Each On Site Store location shall be appropriately secured or otherwise maintained separate and apart from the business of City. There shall be no intermingling

of City's parts or other inventory with NAPA's parts or inventory. Access to the secured On Site Store(s) shall be restricted to NAPA employees and authorized NAPA representatives only. City's employees, contractors or agents shall not be permitted to enter the secured On-Site Store area unless accompanied by a NAPA employee or other authorized NAPA representative. Once per year NAPA shall utilize a third party to perform an Inventory count in the On-Site Store. NAPA shall not perform inventory during business hours. Inventory is required to be performed after hours and/or on weekends.

(d) City shall, at all times during the term of this Agreement, at City's sole expense, maintain in good condition and repair (so as to prevent any damage or injury to NAPA's employees, the Inventory or other personal property located in the On Site Store(s)) the roof, exterior walls, foundation, and structural portions of the On Site Store(s) and all portions of the electrical and plumbing systems lying outside of the On Site Store(s) but serving the On Site Store(s).

(e) City shall provide information regarding fleet changes to NAPA as soon as possible. Fleet changes include but are not limited to the removal of types of vehicles from the fleet and the addition of new vehicles to the fleet.

(f) The tire area shall be shared with City's tire service technicians and will contain certain levels of NAPA owned inventory. City's tire service technicians shall keep the tire area locked at all times if unattended. City will be responsible for inventory removed without documentation. City shall promptly reimburse NAPA for any damage to or loss of NAPA's inventory or other property to the extent such damage or loss arises from the negligent acts or omissions or intentional misconduct of City or its employees, technicians, officers, directors, contractors or agents.

6. CONFIDENTIALITY. City and NAPA may, from time to time, acquire or otherwise receive confidential or proprietary information concern the other party's products, pricing, business affairs and practices. In consideration of the confidential and proprietary nature of this information, each party agrees as follows:

(a) All confidential or proprietary knowledge and information received from the other party shall for all time and purposes be regarded by the receiving party, its employees and agents as strictly confidential and will not be disclosed to any third parties or to an of the other affiliates of the receiving party.

(b) Each party agrees to utilize any information provided by the other party only for the purposes of carrying out this Agreement an further acknowledges that it will not utilize any information provided by the other party for any other purpose including but not limited to directly or indirectly competing with the other party or otherwise assisting another person or entity in doing the same.

(c) All confidentiality obligations hereunder shall continue in full force and effect during the term of this Agreement, and after termination: (i) in the case of confidential information that constitutes a trade secret under applicable law, for as long as

such confidential information remains a trade secret; or (ii) in the case of any other confidential information, for a term of ten (10) years.

(d) Each party further understands that money damages will not be a sufficient remedy for a breach of this Section 32 and that, in addition to all other remedies available at law or in equity, each party shall be entitled to equitable relief, including injunction or specific performance, without proof of actual damages.

(e) In the event that the receiving party is requested or required by legal or regulatory authority to disclose confidential or proprietary information of the disclosing party, the receiving party shall promptly notify the disclosing party of such request or requirement prior to disclosure so that the disclosing party may seek an appropriate protective order. In the event that a protective order or other remedy is not obtained, receiving party agrees to furnish only that portion of the confidential or proprietary information that it reasonably determines, in consultation with its counsel, is consistent with the scope of the subpoena or demand, and to exercise reasonable efforts to obtain assurance that confidential treatment will be accorded such information.

7. **PAYMENT TERMS/PRICING.** NAPA shall invoice the City for all Inventory purchased pursuant to this Agreement on a monthly basis according to the pricing plan below. Upon request, NAPA shall provide the City with current verifiable price schedules of parts/supplies purchased during the contract period. The invoice shall contain a complete account of all activity for the month. Additionally, the invoice shall contain the actual cost of all parts sold to the City, cost of transportation and shipping for special order requests on direct charge and/or non-stock items as specified in the resulting contract. The City is not to be charged freight charges on stock parts or parts available in the Oklahoma City Metropolitan area, nor will stock part premium prices be paid if NAPA is not adhering to the proposed reorder plan; provided that some specialty stocked items cannot be procured within the Oklahoma City Metropolitan area, and NAPA will continue to pass on any additional freight charges on stocked parts that are not available locally. All parts that should be in stocked inventory according to the quarterly minimum/maximum parts analysis report shall not be eligible to be charged freight. The invoice shall not include restocking fees. City agrees to pay the entire undisputed amount of all invoices on statements received from NAPA by the 30th day of the month (except for February which will be the last day of the month) following receipt of any such statement by check. NAPA is responsible for balancing daily with the Fleet Division's FIMS. The Fleet Division will reconcile at the end of the month and will only pay what shows to be reconciled by the Fleet Division. NAPA is responsible for researching any discrepancies prior to payment. City shall reimburse NAPA for all costs incurred by NAPA in collecting any undisputed past due amounts owed to NAPA pursuant to this Agreement, including any attorneys' fees.

The overall goal of City's pricing plan is for NAPA to achieve a 10% net profit on all NAPA Products with a current jobber net store acquisition cost of \$2,499 and less and Non-NAPA Products an Outside Purchases or Services with a current acquisition cost of \$2,499 and less, and a 5% net profit on all NAPA Products with a current jobber net store acquisition cost greater than \$2,499, Non-NAPA Products and Outside

Purchases or Services (including sublet vehicle repairs associated with large scale damage to City owned/leased vehicles from natural disasters) with a current acquisition cost greater than \$2,499, and Tires (the "Net Profit Guarantee"). City's pricing plan is comprised of the following elements:

(a) **Product Costs.** The pricing of the Inventory to be supplied to City by NAPA pursuant to this Agreement. Product Costs shall be further divided into "NAPA Product Costs," which is the pricing of NAPA supplier manufactured products, "Non-NAPA Product Costs," which is the pricing of products which have not been manufactured by NAPA suppliers but which have been acquired for City by NAPA pursuant to this Agreement, and "Tire Costs" which is the pricing of tires supplied to City under this Agreement.

(b) **Outside Purchases or Services Costs.** Outside Purchases or Services Costs is the pricing of those parts or services not traditionally stocked or performed by NAPA.

(c) **Operational Costs.** Any and all costs and expenses associated with the operation of the On Site Store(s), including, but not limited to, vehicle gas and maintenance costs for any NAPA supplied vehicles, salary and benefits payable to NAPA employees at the On Site Store(s), worker's compensation benefits and insurance, unemployment insurance, personal property insurance for the On Site Store(s) and Inventory, any deductible for losses covered under the personal property, automobile liability, or general liability insurance policies of NAPA, all equipment supplied by NAPA, Corporate Allocation Expenses (as defined below), inventory investment expense, pension funding costs, executive fees, accounting fees, general off expenses, and shared service expenses. An example of a profit and loss statement reflecting such costs and expenses is attached hereto as Exhibit D. City acknowledges and agrees that the costs and expenses reflected on the profit and loss statement set forth on Exhibit D are subject to change based on actual monthly costs, expenses or Corporate Allocation Expenses incurred relative to the operation of the On Site Store(s). To achieve economies of scale, NAPA utilizes certain headquarter and corporate personnel to assist in the performance of this Agreement. As a result, each On Site Store location is charged a corporate allocation expense ("Corporate Allocation Expense") which is calculated as a percentage of sales for each contract year. As such, there is not a supportive invoice for such expenses other than an annual allocation rate statement. This Corporate Allocation Expense allows NAPA to have fewer employees perform routine general administrative tasks such as paper work and filing at the On Site Store(s), allowing NAPA counter personnel to focus more attention on serving the On-Site Store operations, and maximizing on-site cost efficiency.

PRICING PLAN SUMMARY

NAPA Products with a current jobber net store acquisition cost of \$2,499 or less	Billed to City at a 10% gross profit rate (gross profit is current jobber net store acquisition cost divided by .90)
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Non-NAPA Products and Outside Purchases and Services with a current acquisition cost of \$2,499 or less	Billed to City at a 10% gross profit rate (gross profit is current acquisition cost divided by .90)
NAPA Products with a current jobber net store acquisition cost greater than \$2,499	Billed to City at a 5% gross profit rate (gross profit is current jobber net store acquisition cost divided by .95)
Non-NAPA Products and Outside Purchases and Services with a current acquisition cost greater than \$2,499	Billed to City at a 5% gross profit rate (gross profit is current acquisition cost divided by .95)
Tires	Billed to City at a 5% gross profit rate (gross profit is current acquisition cost divided by .95)
Sublet vehicle repairs associated with large scale damage to City owned/leased vehicles from natural disasters (For purposes hereof, large scale damage shall mean combined NAPA billed repairs from the natural disaster event exceed \$25,000)	Billed to City at a 5% gross profit rate (gross profit is current acquisition cost divided by .95)
Operational Costs	Billed to City in accordance with Section 7(c) above
Net Profit Guarantee	10% net profit for NAPA on all NAPA Products with a current jobber net store acquisition cost of \$2,499 and less and Non-NAPA Products and Outside Purchases or Services with a current acquisition cost of \$2,499 and less, and a 5% net profit for NAPA on NAPA Products with a current jobber net store acquisition cost greater than \$2,499, Non-NAPA Products and Outside Purchases or Services (including sublet vehicle repairs associated with large scale damage to City owned/leased

	vehicles from natural disasters) with a current acquisition cost greater than \$2,499, and Tires.
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NAPA Products, Non-NAPA Products, Outside Purchases and Services (including sublet vehicle repairs associated with large scale damage to City owned/leased vehicles from natural disasters), and Tires shall be billed to City on a monthly basis in accordance with the above pricing plan summary. Operational Costs will be charged to City in accordance with Section 7(c) above, with all such charges for Operational Costs to be included in City's monthly billing statement. City will be billed at the end of each month for operational costs on an "in arrears" basis.

City is solely responsible for improper or inappropriate instructions by City's employees to NAPA regarding NAPA's purchases of nontraditional parts or services, unless City provided prior written notice to NAPA of parts or services that may not be procured by NAPA in relation to this Agreement.

8. **INSURANCE**. Notwithstanding anything in the RFP to the contrary, the parties' insurance obligations shall be those set forth in this Section 8:

(a) The City or Trust is self-insured for its own negligence, subject to the Governmental Tort Claims Act, Title 51 sections 151 et. seq.

(b) NAPA shall carry Worker's Compensation in accordance with State Laws and Employers Liability Insurance in the following amounts:

- Property Damage Liability - Limits shall be carried in the amount of not less than twenty-five thousand dollars (\$25,000) to any one person for any number of claims for damage to or destruction of property, including but not limited to consequential damages, arising out of a single accident or occurrence.
- All Other Liability - In the amount not less than one hundred seventy-five thousand dollars (\$175,000) for claims including accidental death, personal injury, and all other claims to any one person out of a single accident or occurrence.
- Single Occurrence or Accident Liability - In an amount not less than one million dollars (\$1,000,000) for any number of claims arising out of a single occurrence or accident.

The insurance policies shall be issued by a company approved by the City. The City shall be furnished with a Certificate of Insurance, which shall provide that such insurance shall not be changed or canceled without prior written notice to the City in accordance with the terms of the policy. Certificates of Insurance shall be delivered to the City prior to the

commencement of the Agreement. The policy shall list the City as co-insured or additional insured to the extent of NAPA's indemnification obligations.

9. NO LIENS.

(a) City warrants that it shall take no action, including but not limited to the granting of a security interest, or fail to take any action, which would operate or does operate in any way to encumber the Inventory of NAPA located in the On Site Store(s).

(b) City agrees and acknowledges that Inventory that is delivered and stored on City's property pursuant to this Agreement is Inventory owned by NAPA.

10. PERSONNEL. NAPA shall provide all personnel required to operate the On Site Store(s). NAPA shall provide sufficiently trained, knowledgeable, and service oriented personnel to efficiently and effectively operate the total parts function as detailed. Staff will have sufficient training and computer skills to look up parts using third party web sites to obtain correct part number prior to communication to place orders. Staff will have sufficient computer training to use Excel or other appropriate software to have the ability to compile and maintain lists of commonly used parts for quick accurate parts ordering. Parts Managers shall have a minimum of five (5) years exclusive heavy-duty truck parts experience, five (5) years automotive/light equipment experience, and five (5) years management experience. Assistant Parts Managers shall have a minimum of two (2) years exclusive heavy-duty truck parts experience, two (2) years automotive/light equipment experience, and two (2) years assistant management experience. Parts Clerk shall have a minimum of one (1) year heavy duty truck parts experience coupled with one (1) years automotive/light equipment parts experience. NAPA shall provide one (1) ASE P1 certified parts technician and one (1) ASE P2 certified parts technician. The City of Norman required the Parts Clerk to be an ASE P1 certified technician. NAPA shall have someone available on-call to issue parts after normal hours for emergency vehicle repairs. NAPA shall be mainly responsible for the hiring, staffing, promoting, transferring and dismissal of any person employed in the performance of the Agreement with the City's recommendation. NAPA shall provide a biography of each proposed parts room personnel upon request. NAPA shall also be responsible for all wages, taxes, fringe benefits and training of these employees, subject to reimbursement of Operating Expenses. NAPA shall list with title of position on the proposal how many on-site parts attendants will be in attendance on a daily basis. The City will need the following positions:

- North shop – Parts Manager (ASE P1 or P2 certified) and Assistant Manager (P1 or P2 certified);
- South shop – Assistant Manager (ASE P1 & P2 certified) and Parts Clerk (ASE P1 certified); and
- North & South shops – one (1) dedicated parts runner for both locations.

The City will interview and must agree on the Parts Manager selected by NAPA. The City will require a background check and drug screening for all NAPA employees performing daily on-site work. The City reserves the right to require that NAPA discipline any employee that is deemed detrimental to the parts operation. NAPA must comply with all such requests. The City reserves the right to request that the NAPA's personnel perform reasonable Fleet Division activities in addition to those required by the issuing contract when appropriate. Examples include, but not limited to: (i) facilitate replacement of vehicle glass by local vendors; (ii) facilitate road-side tire service from the Fleet Division and approved local vendors; (iii) open and close the parts room and perform minor cleaning and caretaking of the facility, etc.; and (iv) facilitate collision repair and heavy duty/light duty vehicle repairs shall be performed by outside vendor. NAPA or NAPA's employees shall direct any comments, questions or concerns during the course of the resulting contract to the Fleet Division Superintendent, or designee. NAPA shall provide advance notification of all scheduled time off, including coverage plan, and immediate notification of unscheduled time off with coverage plan.

11. WARRANTY/LIABILITY DISCLAIMER. All Products supplied pursuant to this Agreement are subject to the terms of written warranties provided by the manufacturer of each Product, and NAPA shall use reasonable commercial efforts to assist the City in processing all warranty claims that the City may have against a manufacturer. The manufacturer's warranty will be the sole and exclusive remedy of the City in connection with any claims concerning the Products supplied to City pursuant to this Agreement. ALL OTHER WARRANTIES, BOTH EXPRESS AND IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY EXCLUDED. Copies of the manufacturers' warranties are available to City upon request.

For suppliers (or categories of suppliers) of Non-NAPA Products that City instructs NAPA to utilize or consider for future purchases, NAPA is under no obligation to (and NAPA disclaims all liability in connection with) investigate product quality, management, ownership, reputation, certifications, qualifications, price competitiveness, or any other related characteristics of the products, individuals or entities at issue.

To better manage warranty labor recovery efforts for City, NAPA has developed a Warranty Labor Recovery Worksheet to capture all related inform pertinent to requesting warranty credits from suppliers. A sample Warranty Labor Recovery Worksheet is attached to this Agreement as Exhibit E.

12. RIGHT TO AUDIT. The City shall, at all times during regular business hours following reasonable advance notice in a manner which does not unreasonably interfere with the operation of NAPA's business, have the right to examine books, papers and records of NAPA relative to all aspects of this Agreement to confirm compliance; provided that (a) any such audits be limited to once per calendar year with the scope of the audit being limited to the prior twenty-four months' sales; (b) the City must also be in compliance with its payment obligations in order to invoke its right to audit NAPA's records; and (c) audit results shall be based upon overcharges and undercharges being

combined to determine the net impact. If an audit results in a net overcharge, NAPA will issue a check to the City equal to the net overcharge amount; if the audit results in a net undercharge, the City will issue a check to NAPA equal to the net undercharge amount. Failure to provide the requested information may result in termination of this Agreement. This right to audit only affects this Agreement, and does not apply to NAPA records beyond the scope of this Agreement.

13. TERMINATION FOR CAUSE. This Agreement may be terminated immediately, unless otherwise stated in this Section 13, by either party for cause:

(a) In the event that the other party fails or refuses to pay any amounts due under this Agreement and such failure continues for ten (10) days;

(b) In the event that the other party fails or refuses to perform any other obligation required under this Agreement, and such failure or refusal continues for thirty (30) days after written notice thereof; or

(c) In the event that the other party files any bankruptcy petition, has any bankruptcy petition filed against it, makes any assignment of its assets for the benefit of creditors, or admits in writing its inability to pay its debts as they become due.

14. EFFECT OF TERMINATION. Immediately upon termination of this Agreement by either party for any reason:

(a) All duties, responsibilities and other obligations of each party hereunder shall terminate, except for the payment of any amounts due and owing to NAPA at the time of termination.

(b) Each party shall immediately return to the other party all equipment, software, books, records, tools and any other personal property owned by the other party that are in such party's possession. City shall allow NAPA full and unrestricted access to enter into the On Site Store(s) and immediately remove all equipment and other items of personal property owned by NAPA without being deemed guilty of trespass or any other violation of the law. All inventory records, sales history, sales analysis and all other information generated by NAPA under this Agreement will be returned to City.

Nothing contained in this Section shall be deemed a waiver of, or in any other manner impair or prejudice, any other legal rights that either party may have against the other party for any breach of this Agreement. The provisions and obligations of Sections 9, 11, 15, 18, and 20 shall survive the termination of this Agreement for any reason.

15. BUY-BACK OF INVENTORY. Upon termination, expiration, or non-renewal of this Agreement, NAPA shall have the option to require City to purchase all non-NAPA Inventory owned by NAPA and located in each On Site Store at NAPA's On Site Store's current product acquisition cost, and City shall have the option to purchase all NAPA Inventory, owned by NAPA and located in each On Site Store at the Current

NAPA Jobber Acquisition Cost. Upon City's request, NAPA shall provide City with a listing of all NAPA and non-NAPA Inventory owned by NAPA and located in the On Site Store(s).

16. LANDLORD CONSENT AND WAIVER. Not Applicable.

17. INDEMNIFICATION. Notwithstanding the terms set forth in the RFP, the parties' indemnification obligations shall be those set forth in this Section 17. NAPA assumes all risks incident to or in connection with its purpose to be conducted herein under and shall indemnify, defend and save the City harmless from damage or injuries of whatever nature or kind to persons or property arising directly or indirectly out of the Contractor's operations and arising from acts or omissions of its employees and shall indemnify, defend, and save harmless the City from any penalties for violation of any law, ordinance or regulation affecting or having application to said operation or resulting from the carelessness, negligence or improper conduct of NAPA or any of its agents or employees; provided that in no event shall NAPA be required to indemnify, defend or save the City harmless to the extent any damage or injury of whatever nature arises out of the carelessness, negligence or improper conduct of the City or any other indemnified party. NAPA shall also provide an indemnity for trademark claims based on trademarks owned by NAPA or licensed to NAPA from National Automotive Parts Association (NAPA) but shall not be required to provide a direct copyright, trademark or patent indemnity for the goods supplied pursuant to this Agreement, as NAPA does not manufacture the goods. NAPA can agree, as the City's sole and exclusive remedy in connection with such claims, to use reasonable commercial efforts to assist the City in processing any infringement claim against the applicable manufacturer.

18. NOTICES. Whenever any notice, demand or request is required or permitted hereunder, such notice, demand or request shall be hand-delivered in person or sent via facsimile, by overnight mail through a reputable service, or by certified mail, return receipt requested, to the addresses set forth below:

As to NAPA: NAPA Oklahoma City
 301 East Memorial Road
 Oklahoma City, OK 73114
 Attn: Bruce Carter
 Telephone: (405) 775-4800
 Facsimile: (405) 775-4810

As to City: City of Norman – Public Works Fleet Division
 1301 Da Vinci
 Norman, OK 73069-6560
 Attn: Mike White, Fleet Superintendent
 Telephone: (405) 292-9709
 Facsimile: (405) 292-9710

Each such notice shall be deemed delivered (i) on the date of receipt if delivered by hand, overnight courier service or if sent by facsimile, or (ii) on the date three (3) business days after depositing with the United States Postal Service if mailed by registered or certified mail. Either party may change its address specified for this notice by giving the other party at least ten (10) days written notice in accordance with this Section 18.

19. FORCE MAJEURE / DAMAGE OF PREMISES.

(a) Whenever performance by either party of any of their respective obligations (other than the obligation to make payment of money due hereunder) is substantially prevented by reason of any act of God, other industrial or transportation disturbance, fire, floods, riots, acts of enemies, national emergencies or by any other cause not within the reasonable control of such party and not occasioned by its negligence, then such performance shall be excused and the performance of such obligations under this Agreement shall be suspended for the duration of such prevention and for a reasonable time thereafter.

(b) NAPA may terminate this Agreement immediately in the event that the City's premises are damaged by any casualty, or such portion of the premises is condemned by any legally constituted authority, such as will make the City's premises unusable for the On Site Store(s) in the reasonable judgment of NAPA.

20. SUCCESSORS AND ASSIGNS. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective officers, directors, employees, successors and assigns. Notwithstanding the foregoing, the rights and obligations of either party to this Agreement may not be assigned without the prior written consent of the other party hereto, which consent shall not be unreasonably withheld.

21. AMENDMENTS. No amendment to this Agreement shall be binding on either party hereto unless such amendment is in writing and executed by both parties with the same formality as this Agreement is executed.

22. NO WAIVER OF RIGHTS. No failure of either party hereto to exercise any power given such party hereunder or to insist upon strict compliance by the other party to its obligations hereunder, and no custom or practice of the parties in variance with the terms hereof, shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

23. LIMITATIONS ON RIGHTS OF THIRD PARTIES. All obligations of a party under this Agreement are imposed solely and exclusively for the benefit of the parties, and no other person shall, under any circumstances, be deemed to be a beneficiary of such obligations.

24. INDEPENDENT CONTRACTOR. The parties hereto are independent contractors. Nothing in this Agreement shall create or shall be deemed to create any

fiduciary relationship or the relationship of principal and agent, partnership, joint venturers or any other similar or representative relationship between the parties hereto.

25. CHOICE OF LAW. This Agreement shall be construed and interpreted under the laws of the State of Oklahoma.

26. COUNTERPARTS. This Agreement may be executed in one or more counterparts and each counterpart shall, for all purposes, be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

27. SECTION HEADINGS. Section titles or captions contained herein are inserted only as a matter of convenience for reference and in no way define, limit, extend, or describe the scope hereof or the intent of any provision hereof.

28. SEVERABILITY. In the event any part of this Agreement shall be finally determined by a court of law to be illegal or unenforceable for any reason, then that illegal or unenforceable part shall be severed from the Agreement, and the remaining terms shall continue in full force and effect.

29. FEDERAL PROVISIONS. The Federal Provisions attached hereto as Exhibit F are made a part of the Agreement and are incorporated therein by reference with respect to any product purchases for which the City provides written notice to NAPA shall be made using Federal Transit Administration (FTA) funds. Any such written notice shall include a detailed list of the products which the City requests that NAPA procure using FTA funds. The City acknowledges and agrees that any orders which will utilize FTA funds are subject to the availability of products from third party vendors, and NAPA may not be able to meet the fill rates required with respect to such products.

30. ENTIRE AGREEMENT. This Agreement and the bid related documents listed below and any attachments referenced in this Agreement, constitute the entire contract between NAPA and City concerning the subject matter of this Agreement. In the event of a conflict between the terms of the below referenced documents, the term in the document with highest relative precedence shall govern. The order of precedence shall be the order of documents as listed below, with the first listed document having the highest precedence and the last listed document having the lowest precedence. To the extent not expressly incorporated herein, this Agreement supersedes all prior proposals, contracts and understandings between the parties concerning the subject matter of this Agreement.

1. This Agreement;
2. NAPA's Final Response to the City of Norman, Oklahoma Request for Proposal for Vehicle Parts Management and Supply Services, RFP No. 2021-44, as amended, including but not limited to NAPA's List of Exceptions submitted therewith; and

3. City of Norman, Oklahoma Request for Proposal for Vehicle Parts Management and Supply Services, RFP No. 2021-44, as amended.

[Signatures Appear on Next Page]

IN WITNESS WHEREOF, the parties hereto cause their hands and seals to be affixed by their duly-authorized representatives effective as of the date and year first above written.

GENUINE PARTS COMPANY

By: 
Name: ERIC FRITSCH
Title: VICE PRESIDENT

CITY OF NORMAN, OKLAHOMA

By: _____
Name: _____
Title: _____

EXHIBIT A

SAMPLE MONTHLY FILL RATE PERFORMANCE REPORT

See attached.



SAVINGS TRACKING AND REPORTING SYSTEM (STARS)

STARS REPORT #3 : PARTS ON ORDER/UNIT STATUS REPORT

Provides details on fleet availability and status of open items on work orders and special orders. Includes details of all open parts requests by the customer and aging information on open parts orders. This allows us to identify if parts orders remain open past the expected delivery date and which vehicles are down because they are waiting on a parts order.

Parts on Order / Units Status Report, 1/21/16

This report lists the **1** order by Work Order, Unit Number **2** listing pertinent details about the orders, such as quantities, vendor, ETA and order # **3**

1	Work Order Number: 4110-3018-364	Unit Number: 35270	Unit: 1913 CLARK (2014)	Employee: Marwell, Brian	Technician: Ed				
2	Notes: AIRLINE SEAT OUTLET REPAIR								
3	Part Number: 001	Part Description: REAR WIPER CYL	Quantity: 1	Vendor: SHAPIE MOTORHSE	Order Date: 1/20/16	Expected Del Date: 01/20/16	Actual Del Date: .	Working Days: 0	Order Status: Part on Order
4	Work Order Number: 4110-3018-314	Unit Number: 30282	Unit: 5 UNKNOWN/14	Employee: Marwell, Brian	Technician: John				
5	Notes: AIRLINE SEAT PLATE HAVE TO PUT IN FOR								
6	Part Number: 001	Part Description: REAR WIPER CYL	Quantity: 1	Vendor: SHAPIE MOTORHSE	Order Date: 1/20/16	Expected Del Date: 01/20/16	Actual Del Date: .	Working Days: 0	Order Status: Part on Order
7	Work Order Number: 4110-3018-334	Unit Number: 30282	Unit: 5 UNKNOWN/14	Employee: Marwell, Brian	Technician: John				
8	Notes: AIRLINE SEAT								
9	Part Number: 001	Part Description: REAR WIPER CYL	Quantity: 1	Vendor: SHAPIE MOTORHSE	Order Date: 1/20/16	Expected Del Date: 01/20/16	Actual Del Date: .	Working Days: 0	Order Status: Part on Order
10	Work Order Number: 4110-3018-400	Unit Number: 30282	Unit: 21 UNKNOWN/10	Employee: Marwell, Brian	Technician: Anthony				
11	Notes: SHIP								
12	Part Number: 001	Part Description: SUCTION PLATE HONDA	Quantity: 1	Vendor: SHAPIE MOTORHSE	Order Date: 01/08/16	Expected Del Date: 01/08/16	Actual Del Date: .	Working Days: 11	Order Status: Part on Order
13	Work Order Number: 4110-3018-400	Unit Number: 30282	Unit: 3008 TONO 1/00 D	Employee: Marwell, Brian	Technician: Carl/Ron				
14	Notes: SHIP								
15	Part Number: 470	Part Description: FLTYR BASE TONO	Quantity: 1	Vendor: CENTURY EQUIPMENT	Order Date: 01/08/16	Expected Del Date: 01/08/16	Actual Del Date: .	Working Days: 0	Order Status: Part on Order
16	Part Number: 470	Part Description: FLTYR BASE TONO	Quantity: 1	Vendor: CENTURY EQUIPMENT	Order Date: 01/08/16	Expected Del Date: 01/08/16	Actual Del Date: .	Working Days: 0	Order Status: Part on Order

- 1 Open work order number.
- 2 Down unit details.
- 3 IBS employee and customer technician names.
- 4 Part on order details.
- 5 Vendor information.
- 6 Order status and timing information.



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STARS REPORT #3

Savings Tracking and Reporting System (STARS) |

EXHIBIT B

SAMPLE VEHICLE INSPECTION FORM

See attached.

VEHICLE / EQUIPMENT DISCREPANCY AND MAINTENANCE REPORT					
DISCREPANCY	DATE DISCOVERED	TIME	ODOMETER	SIGNATURE	COMPILED WITH DATE
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					

SAMPLE

IF ITEMS HAVE NOT BEEN REPLACED OR REPAIRED BY THE END OF THE MONTH THE DISCREPANCY MUST BE TRANSCRIBED TO THE NEXT MONTHS REPORT LOG.

EQUIPMENT, INSPECTION AND USE: No motor vehicle shall be driven unless the driver is satisfied that the listed parts and accessories on this form are in good working order along with those required by state and federal inspection prior to use. Any broken items requiring repair (NOT imposing a safety hazard) need documented and fixed as soon as possible. Emergency repairs (That are a SAFETY HAZARD) are required to be reported to supervision immediately and the vehicle shall not be driven or operated.

MATERIALS, INSPECTION AND USE: Each unit has been equipped and supplied with the listed items on this form as pertaining to the function of that unit. Each employee shall inspect the vehicle they are in to insure it is adequately stocked to provide maximum safety and efficiency in the performance of their duties. If items are missing or depleted every effort should be made to bring the stock back to a proper level.

SAFE LOADING: (General) No person shall drive a motor vehicle nor shall a supervisor require or permit a person to drive a motor vehicle UNLESS: The vehicles cargo is properly distributed, adequately secured and an overloaded condition does not exist.

DAILY VEHICLE INSPECTION REPORT	
1	SERVICE BREAK, INCLUDING TRAILER CONNECTION
2	PARKING (HAND) BRAKE
3	STEERING MECHANISM INCLUDING HORN
4	LIGHTING DEVICES AND REFLECTORS
5	TIRES AND RIMS
6	WINDSHIELD WIPERS AND MIRRORS
7	COUPLING DEVICES
8	EMERGENCY EQUIPMENT (FIRE EXTINGUISHER & CONES)
9	ENGINE OIL LEVEL
10	ENGINE COOLANT LEVEL
11	HYDRAULIC FLUID LEVEL
12	BODY DAMAGE
13	GAUGES
14	HORN
TOOL INVENTORY LIST/AS APPLICABLE	
15	PICK OR MANHOLE HOOK
16	TIGER TAIL
17	DEBRIS BASKET AND EMPTY BUCKETS
18	ROOT CUTTER AND BLADES
19	CLAM SHELL AND FORK
20	HAND TOOLS, GREASE GUN AND FLASHLIGHT
21	METAL DETECTOR
22	PUNCH ROD, SHOVELS AND SAFETY CONES
23	SAFETY, FENCE AND YARD ROLLERS
24	DISINFECTANT AND SPRAYER
25	VARIOUS NOZZLES (WART HOG, OBSTRUCTION, GRENADE)
26	MARKING PAINT AND TRACER DYE
27	HYDRANT WRENCH
28	RADIOS (HANDHELD AND MOTOROLA CP110 RADIO)
29	SAFETY VEST, GLASSES, GLOVES AND HARDHAT
30	HEARING PROTECTION
31	SEWER ATLAS AND CLIP BOARDS
32	OBSTRUCTION REPORTS
33	DAILY WORK REPORTS
34	OVERFLOW REPORTS
35	VAPO ROOT LIST

OPERATOR'S INSPECTION GUIDE AND TROUBLE DOCUMENTATION REPORT				MONTH / YEAR	
VEHICLE NUMBER		LOCATION		ODOMETER READING	
				Beginning Ending	
OPERATOR'S INSPECTION GUIDE AND TROUBLE DOCUMENTATION REPORT					
DAY	SHIFT/SIGNATURE	DAY	SHIFT/SIGNATURE	DAY	SHIFT/SIGNATURE
1		11		21	
2		12		22	
3		13		23	
4		14		15	
5		15		25	
6		16		26	
7		17		27	
8		18		28	
9		19		29	
10		20		30	
				31	

EXHIBIT C

SAMPLE BUSINESS REVIEW TEMPLATE

See attached.



BUSINESS REVIEWS

MEETING INFORMATION

Title or Purpose					
Date and Time					
Location					
Facilitator					
Invitees and Titles **bold all attendees					
Invitees and Titles **bold all attendees					

MEETING AGENDA

1. Performance Review (Fill Rate, Profit, Inventory, KPIs)	4. Product and Vendor Opportunities
2. Financial/Purchasing Review	5. Issues, Concerns and Key Monthly Wins Review
3. Cost Savings	6. New Action Items

PERFORMANCE REVIEW ITEMS

MEASURE	GOAL	ACTUAL	DIFFERENCE	PLAN OF ACTION
Monthly Fill Rate				
Monthly Net Profit				
Inventory				
Customer Survey				
Avg. Vehicles Down				

FINANCIAL/PURCHASING REVIEW

P&L Review		
Monthly Billing		



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BUSINESS REVIEWS

COST SAVINGS	VALUE
Parts Procurement	
Direct Ship Discounts	
Manufacturer Rebates	
Manufacturer Promotions	
Inventory Investment/Value of Capital Warranty Recoveries	
Transactional Savings	
TOTAL	

PRODUCT & VENDOR OPPORTUNITIES	
NEW OPPORTUNITY	DESCRIPTION

ISSUES AND CONCERNS/OPEN DISCUSSION NOTES

KEY MONTHLY WINS REVIEW

NEW ACTION ITEM REVIEW AND UPDATE		
NEW ACTION ITEM	RESPONSIBLE PARTY	PROJECTED TIMELINE



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EXHIBIT D

SAMPLE PROFIT AND LOSS STATEMENT

See attached.

IBS Expense Summary

City of Norman	CURRENT MONTH	% TO SALES	Expense Short Description "All values displayed as whole dollars"
SALES	\$ 107,000	100.00%	← The total purchased this month
Cost of Sales	\$ 97,905	91.50%	← NAPA's cost of the goods sold
Sales Less Cost	\$ 9,095	8.50%	← The Gross Profit, or sales minus cost
Markup on Parts	\$ 9,095	8.50%	
Less Handling Charge	\$ -	0.00%	
GROSS PROFIT	\$ 9,095	8.50%	
EXPENSES:			
Advertising		0.00%	
Sales Salaries		0.00%	
Handling Credit		0.00%	
Net Salaries		0.00%	
Travel		0.00%	
Sales - Miscellaneous		0.00%	
G. M. Travel		0.00%	
TOTAL SALES EXPENSE	\$ -	0.00%	
SALARIES - EXEC.		0.00%	
PAYROLL:			
Acctg & Data Proc.	\$ 535	0.50%	← Headquarters Fees based on .50% of Sales
General Office	\$ 803	0.75%	← Headquarters Fees based on 0.75% of Sales
Counter - J.S.	\$ 15,100	14.11%	← Payroll figure for all counterpersons combined
Stockroom Salaries		0.00%	
Handling Credit		0.00%	
Net Stockroom		0.00%	
Delivery	\$ 2,500	2.34%	← Payroll figure for all drivers combined.
TOTAL PAYROLL	\$ 18,938	17.70%	
Bad Debts		0.00%	
Data Proc. Eqpt. & Suppl.	\$ 1,200	1.12%	Computer Equipment leases South & North Shop
Delivery Insurance	\$ -	0.00%	
Maintenance	\$ -	0.00%	← Vehicles Expenses, normally fuel, Repairs, and Toll tag fees
Truck Depr.	\$ -	0.00%	← Truck Depreciation, Lease Fees, Taxes and Registrations
Depreciation - F. & F.	\$ 10	0.01%	← This represents shelving and equipment depreciation expense
Empl. Benefits - Pension	\$ 482	0.45%	← Headquarters Fees based on 0.45% of Sales
Other	\$ 1,400	1.31%	← Group Insurance, Uniforms, Employee Center Fees
Freight & Postage	\$ 600	0.56%	← Freight & Postage
Frt. Allowance	\$ -	0.00%	
Insurance	\$ 138	0.13%	← General Liability Insurance, Workmans Comp
Interest	\$ -	0.00%	
Legal & Professional		0.00%	
Light, Heat, Water		0.00%	
Moving		0.00%	
Rent	\$ 63	0.06%	← Rental & Leasehold Charges, Insurance for assets
Stationery, Ship, Suppl.	\$ -	0.00%	
Stock Loss	\$ -	0.00%	
Store	\$ 100	0.09%	← Miscellaneous store expenses
Taxes (Not Income)	\$ 1,045	0.98%	← Taxes: Payroll, Sales and use, Personal Property (Inv)
Telephone	\$ -	0.00%	← Phone/Modem lines, DSL Support, Joel access fees
Travel (Not Sales)		0.00%	
TAMS	\$ -	0.00%	← Computers (Lease or Depreciation), support fees
Training	\$ 35	0.03%	← Fee for training material, uniforms, etc.
TOTAL MISC. EXPENSES	\$ 5,073	4.74%	
Executive Fees	\$ -	0.00%	
TOTAL EXPENSES	\$ 24,010	22.44%	
Operating Income	\$ (14,915)	-13.94%	← Sum of gross profit minus total expenses
Misc. Inc; Cash Disc. (Net)	\$ -	0.00%	
NAPA Management Fee Entry	\$ 24,010	22.44%	← Net Expense Invoice
GP for Sales contracted at 10%	\$ 7,490		← Contracted Profit for Parts & Services contracted at 10%
GP for Sales contracted at 5%	\$ 1,605		← Contracted Profit for Parts & Services contracted at 5%
PROFIT BEFORE TAXES	\$ 9,095	8.50%	
Sales contracted at 10%	\$ 74,900	70.00%	
Sales contracted at 5%	\$ 32,100	30.00%	

EXHIBIT E

SAMPLE WARRANTY RECOVERY WORKSHEET

See attached.



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WARRANTY LABOR RECOVERY WORKSHEET

UNIT # _____

WORK ORDER # _____

SUPPLIER		CONTACT	
PHONE # / FAX# _____		PURCHASE ORDER _____	
YR / MAKE / MODEL _____		DATE PURCHASED _____	
VIN # _____		DATE INSTALLED _____	
PART NUMBER	PART DESCRIPTION	QTY	TYPE OF FAILURE

DATE REQUESTED:

PROVIDE DETAILS:					
Repair Invoices attached	YES / NO	Credit Requested		Credit Received	

RESOLUTION:			
CLAIM RESOLVED		YES / NO	DATE:
SHOP SUPERVISOR:		NAPA IBS MANAGER:	

EXHIBIT E

FEDERAL PROVISIONS

See attached.

Attachment A - REQUIRED FEDERAL/FTA CLAUSES

Federal Contract Clauses Materials & Supplies

As a recipient of Federal Transportation Administration (FTA) grants, EMBARK agrees annually in the Master Agreement with FTA (<https://www.transit.dot.gov/funding/grantee-resources/sample-fta-agreements/fta-grant-agreements>) to adhere to all applicable federal laws, regulations, and directives associated with federal funding along with the FTA Certifications and Assurances for Federal Funding Assistance Program. EMBARK Contractors are also required to comply with those federal clauses to which are herein incorporated by reference and made a part of this Agreement. The FTA Certifications and Assurances are available at the following link:

<https://www.transit.dot.gov/funding/grantee-resources/certifications-and-assurances/certifications-assurances>

No Federal Government Obligations to Third Parties (Use of Disclaimer)

a. In connection with the Project, the Contractor agrees that, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any subrecipient, lessee, third party contractor, or other participant at any tier of the Project, or other person or entity that is not a party to the Grant Agreement or Cooperative Agreement for the Project. Notwithstanding that the Federal Government may have concurred in or approved any solicitation, sub agreement, lease, third party contract, or arrangement at any tier, the Federal Government has no obligations or liabilities to any entity other than the contractor, including any subcontractor, lessee, third party contractor, or other participant at any tier of the Project.

False or Fraudulent Statements or Claims – Civil and Criminal Fraud

a. Civil Fraud. The Contractor acknowledges and agrees that:

- (1) Federal laws, regulations, and requirements apply to itself and its Agreement, including 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.
- (2) By executing this Agreement, the Contractor certifies and affirms to the Contracting Entity or the Federal Government the truthfulness and accuracy of any claim, statement, submission, certification, assurance, affirmation, or representation that the Contractor provides to the Contracting Entity.
- (3) The Contracting Entity may impose the penalties of the Program Fraud Civil Remedies Act of 1986, as amended, and other applicable penalties if the Contractor presents, submits, or makes available any false, fictitious, or fraudulent information.

b. Criminal Fraud. The Contractor acknowledges that 49 U.S.C. § 5323(l)(1) authorizes the Contracting Entity or the Federal Government to impose the penalties under 18 U.S.C. § 1001 if the Contractor provides a false, fictitious, or fraudulent claim, statement, submission, certification, assurance, or representation in connection with a federal public transportation program under 49 U.S.C. chapter 53 or any other applicable federal law

Access to Third Party Contract Records

- a. The Contractor agrees to require, and assures that each of its Subcontractors will require:
 - (1) The Contracting Entity, the U.S. Secretary of Transportation and the Comptroller General of the United States, the state, or their duly authorized representatives, access to all contract or subcontract records as required under 49 U.S.C. § 5325(g), and
 - (2) Sufficient access to all contract or subcontract records as needed for compliance with applicable federal laws, regulations, and requirements or to assure proper management of this Agreement as determined by the Contracting Entity or the FTA.

Changes to Federal Requirements

- a. The Contractor agrees and assures that it will comply with all federal statutes, rules, and regulations including amendments thereto.

Civil Rights (Title VI, ADA, EEO (except special DOL Construction Clause))

- a. Civil Rights Requirements. The Contractor agrees to comply with applicable federal civil rights laws, regulations, and requirements, and follow applicable federal guidance.
- b. Nondiscrimination in Federal Public Transportation Programs. The Contractor agrees to, and assures that it and each Subcontractor will:
 - (1) Prohibit discrimination based on race, color, religion, national origin, sex (including gender identity), disability, or age.
 - (2) Prohibit the:
 - (a) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332,
 - (b) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or
 - (c) Discrimination identified in 49 U.S.C. § 5332, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332.
 - (3) Follow:
 - (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.
- c. Nondiscrimination – Title VI of the Civil Rights Act. The Contractor agrees to, and assures that each Subcontractor will:
 - (1) Prohibit discrimination based on race, color, or national origin,
 - (2) Comply with:
 - (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq.,
 - (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and
 - (c) Federal transit law, specifically 49 U.S.C. § 5332, and

(3) Follow:

- (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance,
- (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and
- (c) All other applicable federal guidance that may be issued.

d. Equal Employment Opportunity.

(1) Federal Requirements and Guidance. The Contractor agrees to, and assures that each Subcontractor will, prohibit discrimination based on race, color, religion, sex, sexual orientation, gender identity, or national origin, and:

- (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., 37 FTA Master Agreement MA(24), 10-1-2017
- (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965 (42 U.S.C. § 2000e note,), as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs,
- (c) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement,
- (d) FTA Circular 4704.1 "Equal Employment Opportunity (EEO) Requirements and Guidelines for Federal Transit Administration Recipients," and
- (e) Follow other federal guidance pertaining to EEO laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability

(2) Specifics. The contractor agrees to, and assures that it will:

- (a) Prohibited Discrimination. Ensure that applicants for employment are employed and employees are treated during employment without discrimination based on their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, as provided in Executive Order No. 11246 and by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations,
- (b) Affirmative Action. Take affirmative action that includes, but is not limited to:
 - 1. Recruitment advertising, recruitment, and employment,
 - 2. Rates of pay and other forms of compensation,
 - 3. Selection for training, including apprenticeship, and upgrading, and
 - 4. Transfers, demotions, layoffs, and terminations, but
- (c) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer,"

(3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), with:

(a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and

(b) Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note (30 Fed. Reg. 12319, 12935), as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

e. Disadvantaged Business Enterprise. To the extent authorized by applicable federal laws, regulations, or requirements, the Contractor agrees to facilitate, and assures that each Subcontractor will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Underlying Agreement as follows:

(1) Statutory and Regulatory Requirements. The Contractor agrees to comply with:

(a) Section 1101(b) of the FAST Act, 23 U.S.C. § 101 note,

(b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and

(c) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement. 38 FTA Master Agreement MA(24), 10-1-2017.

(2) Assurance. As required by 49 C.F.R. § 26.13(a):

(a) Contractor Assurance. The Contractor agrees and assures that:

1. It must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26,

2. It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT assisted contracts,

3. Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Agreement, and

4. Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement.

(b) The Contractor agrees and assures that it will include the following assurance in each of the subcontracts it signs with a Contractor and agrees to obtain the agreement of each of its Contractors to include the following assurance in every contract and subcontract it signs:

1. The Subcontractor must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted agreement and the administration of its DBE program or the requirements of 49 C.F.R. part 26,
2. The Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted agreements,
3. Failure by the Subcontractor to carry out the requirements of this subparagraph 12.e(4)(b) is a material breach of this Agreement, as applicable, and
4. The following remedies, or such other remedy as the Contracting Entity deems appropriate, include, but are not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Contractor or Subcontractor as non-responsible.

(3) Remedies. Upon notification to the Contractor of its failure to carry out its approved program, Contracting Entity, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

f. Nondiscrimination on the Basis of Sex. The Contractor agrees to comply with federal prohibitions against discrimination based on sex, including:

- (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq.,
- (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and
- (3) Federal transit law, specifically 49 U.S.C. § 5332.

g. Nondiscrimination on the Basis of Age. The Contractor agrees to comply with federal prohibitions against discrimination based on age, including:

- (1) The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 – 634, which prohibits discrimination based on age,
- (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625,
- (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals based on age in the administration of Programs, Projects, and related activities receiving federal assistance,
- (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and
- (5) Federal transit law, specifically 49 U.S.C. § 5332.

h. Nondiscrimination on the Basis of Disability. The Contractor agrees to comply with the following federal prohibitions against discrimination based on disability:

(1) Federal laws, including:

(a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794, which prohibits discrimination based on disability in the administration of federally assisted Programs, Projects, or activities,

(b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities:

1. Generally, Titles I, II, and III of the ADA apply, but see 40 FTA Master Agreement MA(24), 10-1-2017

(c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities,

(d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and

(e) Other applicable federal laws, regulations, and requirements pertaining to access for seniors or individuals with disabilities.

(2) Federal regulations and guidance, including:

(a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37,

(b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27,

(c) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38,

(d) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39,

(e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35,

(f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36,

(g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630,

(h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, subpart F,

(i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194,

(j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609,

(k) FTA Circular 4710.1, "Americans with Disabilities Act: Guidance," and

(l) Other applicable federal civil rights and nondiscrimination regulations and guidance.

i. Drug or Alcohol Abuse – Confidentiality and Other Civil Rights Protections. The Contractor agrees to comply with the confidentiality and civil rights protections of:

(1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq.,

(2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and

(3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2. 41 FTA Master Agreement MA(24), 10-1-2017.

j. Other Nondiscrimination Laws, Regulations, Requirements, and Guidance. The Contractor agrees to comply with other applicable federal nondiscrimination laws, regulations, and requirements, and follow federal guidance prohibiting discrimination.

k. Remedies. Remedies for failure to comply with applicable federal Civil Rights laws, regulations, and requirements, and failure to follow guidance may be enforced as provided in those federal laws, regulations, requirements, or guidance.

Disadvantaged Business Enterprises (DBEs)

a. To the extent authorized by applicable federal laws, regulations, or requirements, the Contractor agrees to facilitate, and assures that it and its Subcontractors will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Underlying Agreement as follows:

(1) Statutory and Regulatory Requirements. The Contractor agrees to comply with:

(a) Section 1101(b) of the FAST Act, 23 U.S.C. § 101 note,

(b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and

(c) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12 of this Master Agreement. 38 FTA Master Agreement MA(24), 10-1-2017.

(2) Assurance. As required by 49 C.F.R. § 26.13(a):

(a) The Contractor agrees and assures that:

(1) It must not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26,

(2) It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts,

(3) Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement, and

(4) Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement.

(b) The Contractor agrees and assures that it will include the following assurance in each agreement and with its Subcontractors to include the following assurance:

(1) It will not discriminate based on race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted agreement and any subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26,

(2) It will take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted agreements and any subcontracts, as applicable, 39 FTA Master Agreement MA(24), 10-1-2017

(3) Failure by the contractor and any of its Subcontractors to carry out the requirements of this subparagraph 12.e(4)(b) is a material breach of this agreement or subcontract, as applicable, and

(4) The following remedies, or such other remedy as the Contracting entity deems appropriate, include, but are not limited to, withholding monthly progress payments, assessing sanctions, liquidated damages, and/or disqualifying the Contractor or Subcontractor from future bidding as non-responsible.

(3) Remedies. Upon notification to the Contractor of its failure to carry out its approved program, Contracting Entity, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

Incorporation of FTA Terms

a) The Contractor agrees:

1. To comply with the requirements of 49 U.S.C. chapter 53 and other applicable federal laws, regulations, and requirements in effect now or later that affect its procurements,
2. To comply with the applicable U.S. DOT Common Rules, and
3. To follow the most recent edition and any revisions of FTA Circular 4220.1, "Third Party Contracting Guidance," to the extent consistent with applicable federal laws, regulations, requirements, and guidance.

Awards Exceeding \$10,000

Terminations

a. Upon written notice, the Contractor agrees that the Federal Government may suspend or terminate all or any part of the Federal assistance to be provided for the Project if the Recipient has violated the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, or if the Federal Government determines that the purposes of the laws authorizing the Project would not be adequately served by the continuation of Federal assistance for the Project. The Contractor understands and agrees that any failure to make reasonable progress on the Project or any violation of the Grant Agreement or Cooperative Agreement for the Project, or this Master Agreement that endangers substantial performance of the Project shall provide sufficient grounds for the Federal Government to terminate the Grant Agreement or Cooperative Agreement for the Project. In general, termination of Federal assistance for the Project will not invalidate obligations properly incurred by the Contractor before the termination date to the extent those obligations cannot be canceled. If, however, the Federal Government determines that the Contractor has willfully misused Federal assistance by failing to make adequate progress, by failing to make reasonable and appropriate use of Project property, or by failing to comply with the terms of the Grant Agreement or Cooperative Agreement for the Project including this Master Agreement, the Federal Government reserves the right to require the Contractor to refund the entire amount of Federal assistance provided for the Project or any lesser amount as the Federal Government may determine. Expiration of any Project time period established for the Project does not, by itself, constitute an expiration or termination of the Grant Agreement or Cooperative Agreement for the Project.

Awards Exceeding \$25,000

Debarment and Suspension – requires separate signature – last page

- a. This is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the Contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935)
- b. The Contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by COTPA. If it is later determined that the Contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the State of Oklahoma and Contracting Entity, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Awards Exceeding the Simplified Acquisition Threshold (\$250,000)

Buy America (awards over \$150,000) – requires separate signature – last page

a. Except as the Federal Government determines otherwise in writing, the Contractor agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance, including:

(1) Buy America. The domestic preference procurement requirements of 49 U.S.C. § 5323(j), and FTA regulations, "Buy America Requirements," 49 C.F.R. part 661, to the extent consistent with 49 U.S.C. § 5323(j).

Resolution of Disputes, Breaches, Defaults, or Other Litigation

a. The Contractor agrees that FTA has a vested interest in the settlement of any dispute, breach, default, or litigation involving the Project. Accordingly:

1. Notification to FTA. The Contractor agrees to notify FTA in writing of any current or prospective major dispute, breach, default, or litigation that may affect the Federal Government's interests in the Project or the Federal Government's administration or enforcement of Federal laws or regulations. If the Contractor seeks to name the Federal Government as a party to litigation for any reason, in any forum, the Contractor agrees to inform FTA in writing before doing so. At a minimum, each notice to FTA under this Section 56 of this Master Agreement shall be provided to the FTA Regional Counsel within whose Region the Recipient operates its public transportation system or implements the Project.
2. Federal Interest in Recovery. The Federal Government retains the right to a proportionate share of any proceeds derived from any third-party recovery, based on the percentage of the Federal share awarded for the Project, except that the Contractor may return liquidated damages recovered to its Project Account in lieu of returning the Federal share to the Federal Government.
3. Enforcement. The Contractor agrees to pursue its legal rights and remedies available under any third-party contract or available under law or regulations.
4. FTA Concurrence. FTA reserves the right to concur in any compromise or settlement of any claim involving the Project and the Contractor.
5. Alternative Dispute Resolution. FTA encourages the Contractor to use alternative dispute resolution procedures, as may be appropriate.

Awards Exceeding \$100,000 by Statute

Lobbying – requires separate signature – last page

a. Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each Contractor and each Subcontractor 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 in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each Contractor and each Subcontractor shall 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 Contracting Entity. Certification attached hereto.

Clean Air

a. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

b. The Contractor agrees to report each violation to the Contracting Entity and understands and agrees that the Contracting Entity will, in turn, report each violation as required to assure notification to the State

of Oklahoma, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

Clean Water

a. The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Federal Water Pollution Control Act as amended, 33 U.S.C. § 1251 et seq. Any violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

b. The Contractor agrees to report each violation to the Contracting Entity and understands and agrees that the Contracting Entity will, in turn, report each violation as required to assure notification to the State of Oklahoma, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

c. The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance.

Transport of Property or Persons

Cargo Preference – property transported by ocean vessel

a. Except as the Federal Government determines otherwise in writing, the Contractor agrees to comply with FTA's U.S. domestic preference requirements and follow federal guidance, including:

(1) Cargo Preference—Use of United States-Flag Vessels. The shipping requirements of 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, "Cargo Preference – U.S.- Flag Vessels," 46 C.F.R. part 381.

Fly America (foreign air transp./travel)

a. The Contractor agrees to, and assures that it will, comply with the mandatory air transportation requirements of Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. § 40118, and U.S. General Services Administration (U.S. GSA) regulations, "Use of United States Flag Air Carriers," 41 C.F.R. §§ 301-10.131 – 301-10.143.

Miscellaneous Special Requirements

Energy Conservation

a. The Contractor agrees to, and assures that it will, comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6321 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance required under FTA regulations, "Requirements for Energy Assessments," 49 C.F.R. part 622, subpart C.

Recycled Products

a. Required Clauses in Contracts. In addition to other applicable provisions of federal law, regulations, requirements, and guidance, all contracts made by the Contractor under the Federal award must contain provisions covering the following, as applicable: