

**CONTRACT BETWEEN
NASHVILLE METROPOLITAN TRANSIT AUTHORITY
AND
ORBITAL SCIENCES CORPORATION
FOR PURCHASE OF GOODS AND SERVICES FOR RADIO
COMMUNICATION/CAD/AVL/SYSTEM
CONTRACT NO. 1116007**

THIS CONTRACT is entered into on this 19 day of November, 2007, by and between THE NASHVILLE METROPOLITAN TRANSIT AUTHORITY, 130 NESTOR STREET, NASHVILLE, TN 37210, DAVIDSON COUNTY, TENNESSEE ("NASHVILLE MTA") and ORBITAL SCIENCES CORPORATION, 7160 RIVERWOOD DRIVE, COLUMBIA, MARYLAND, 21046 ("CONTRACTOR").

CONTRACT

1. Contract Documents

The following documents constitute the Contract:

- *This document* ✓
- *Contractor's Proposal dated June 28, 2006 as modified by its Alternate Proposal Dated December 18, 2006, and subsequent negotiations and pricing agreements* ✓
- *Affidavits/Insurance* ✓
- *End-User Software License Agreement* ✓
- *Approved exceptions to the RFP.* ?
- *All addenda to Request for Proposal 041906 issued by Nashville MTA, Addendums 1, 2, 3, and* ✓
- *Nashville MTA's Request for Proposal 041906* ✓

2. Order of Precedence

In the event of conflicting provisions, all documents shall be construed according to the following priorities:

- *Any properly executed amendment or change order to this contract (most recent with first priority),*
- *This contract*
- *End-User Software License Agreement*
- *Affidavits/Insurance*
- *Final negotiated Specifications/Statement of Work/Pricing*
- *Contractor's Proposal Dated June 28, 2006 as modified by its Alternate Proposal Dated December 18, 2006 and subsequent negotiations*
- *All addenda to Request for Proposal 041906 issued by Nashville MTA, Addendums 1, 2, 3, and*
- *Nashville MTA's Request for Proposal RFP 041906*

EXHIBIT 1

3. Effective Date

This contract shall not be binding upon the parties until it has been signed by the authorized representatives of the Contractor and the Nashville MTA. When it has been so signed and filed, this contract shall be effective as of the date first written above.

4. Entire Contract

The Contract documents constitute the entire agreement between the parties. These documents shall govern the respective duties and obligations of both parties. Documents not included or expressly written in this Contract do not, and shall not, form any part of this Contract. Upon the execution of this document, by the Contractor and the Nashville MTA, this agreement shall constitute a legal and binding agreement between the signatory parties.

5. Contract Type-- Firm Fixed Price

This is a Firm Fixed Price Contract. Pricing shall include all costs for supervision, labor, materials, hardware, software, and any other expenses, which are necessary for the proper installation and performance of the work under this contract.

Nashville MTA shall compensate the Contractor in accordance with the terms and conditions of this Contract at the agreed cost. The maximum firm fixed price amount to be paid to the Contractor for all work performed under this contract shall not exceed the amount negotiated, unless additional work is authorized by a change order in writing by Nashville MTA's (CEO).

6. Modification of Contract

1. Modification

This Contract may not be altered, changed or amended, except in writing signed by both parties. Any proposed change to this Contract shall be submitted to the Nashville MTA for its prior approval, and shall not become effective unless it is in writing and signed by the Chief Executive Officer of the Nashville MTA.

Contractor agrees that this Contract is subject to modification by the Nashville MTA to the extent necessary to comply with federal, state or local regulations, which may govern this Contract. Written notice of such modification signed by the Nashville MTA, CEO shall be provided to the Contractor.

2. Change Orders

Any proposed change to this Contract shall be submitted to the Nashville MTA for its prior approval, and shall not become effective unless it is in writing and signed by the Chief Executive Officer of the Nashville MTA.

Nashville MTA reserves the right and may order changes or alterations in the work performed by Contractor. If the changes or alterations ordered affect the cost or progress of the work, appropriate adjustments, agreed to by both parties in the time for completion of the work and compensation for the work will be made.

3. Contractor-Originated Changes

The Contractor may also submit changes to the requirements of the Contract for the benefit of Nashville MTA. The changes shall be based upon an analysis made by the Contractor documenting how the proposed change would benefit the Nashville MTA. Nashville MTA may deny the change order or accept in whole or in part any change submitted by issuing a Change Order that will identify the change, the reasons for the change and the increase or decrease in the cost of the change. Any Change Order issued will be in compliance with Nashville MTA's change order policies.

7. Succession

The Contract will be binding on the parties, their successors, and assignees.

8. Captions/Headings

The paragraph captions contained herein are for reference only and shall in no way affect the meaning or interpretation of this Contract.

9. Notice to Proceed

Nashville MTA will give Notice to Proceed (NTP) with the services after receipt of all documentation (insurance, bonds, signed contracts, etc.) required from the Contractor. The Contractor is required to submit original copies of the signed contract along with required documentation within ten (10) days of Nashville MTA request. The NTP is expected to be issued within five (5) days of Nashville MTA's receipt of the signed contract and required documentation.

10. Definition of Days

Days are equal to calendar days.

11. Successful Execution of Contractor's Responsibility

The Contract will be considered successfully fulfilled when the work has been completed in accordance with the terms of the Contract; when final acceptance has occurred; when final payment has been authorized; when all of the obligations of the Contractor and his surety have been complied with; and when final payment has been made.

12. TERM

The term of this Contract shall not exceed eight (8) years from the effective date of this Contract unless terminated as provided herein. The term of this Contract will begin on the date first written above and is signed by the authorized representatives of the Contractor and the CEO of Nashville MTA.

The Contractor will complete the contract in conformance with the approved project schedule and;

The option to extend the term of the contract shall be exercised by and in the discretion of the Nashville MTA CEO.

13.1.1. COMPENSATION

1. Performance Phase Compensation

Total Compensation for the contract is \$6,537,068, unless changes are agreed to by both parties in writing and properly amended in accordance with Section 1.6 - Modification of Contract of this agreement and are exercised by the Nashville MTA, CEO. The total compensation is comprised of the performance phase which includes one year of warranty for \$5,756,767 and the extended maintenance and wayside passenger information sign options for \$780,301.

Nashville MTA will make payments as the work proceeds according to the following milestone payment provisions.

Nashville MTA Orbital AVL Contract Payment Schedule

Performance Phase Milestones	Scheduled Payment	
	% of Contract	Amount
Approval of Project Management Plan	5	\$287,838.35
Approval of Preliminary Design	15	\$863,515.05
Approval of Final Design	20	\$1,151,353.40
Approval of Factory Acceptance	15	\$863,515.05
Approval of Field Acceptance (mini fleet)	15	\$863,515.05
Completion of Fixed Route Vehicle Installation	7	\$402,973.69
Completion of Paratransit Vehicle Installation	5	\$287,838.35
Completing Training	3	\$172,703.01
System Approval	10	\$575,676.70
Final Acceptance	5	\$287,838.35
Performance Phase including one-year warranty Total	100	\$5,756,767.00
Maintenance and Options		
Year 2 Hardware/Software Maintenance		\$236,679.00
Year 3 Software Maintenance		\$101,554.00
Year 4 Software Maintenance		\$107,647.00
Year 5 Software Maintenance		\$114,106.00
Wayside Passenger Information Signs		\$220,317.00
Maintenance and Options Total		\$780,301.00
Contract Total		\$6,537,068.00

ATTACHMENT "A" details cost for the Performance PHASE and Maintenance options and is incorporated by reference.

2. Payment Request

The Contract Manager shall notify Contractor within 10 days of receipt of any issues that may result in the invoice not being approved. All payment requests shall be approved by the Contract Manager within 15 days of receipt. Nashville MTA shall make payment no later than fifteen (15) days after the payment request is approved.

The payment request shall be in accordance with the Contract Payment Schedule identified in Section 3.1 and shall be consistent with the Contract Documents. The payment request must show the project number, contract number and/or purchase order number and specify the Milestone for which payment is requested.

In the event of any inconsistency with invoice and work performed, product installed, or services rendered payment for the undisputed portion of the invoice will be processed by Nashville MTA. In the event both parties agree that it is advantageous to work on Milestones out of order, payment shall be made for work completed for each Milestone regardless of the order.

3. Final Payment -- Release of Claim—Final System Acceptance

Final payment to Contractor by MTA shall be made when all Services as required herein and in the prevailing documents have been completed, approved and accepted to the satisfaction of MTA, herein described as "Final System Acceptance".

At the time the final payment is made, the Contractor shall execute a general release of all future or additional claims against Nashville MTA arising out of, or connected with the Contract.

The Contractor shall provide all product warranties, operating manuals, instruction manuals and other record documents, and drawings as required by the RFP prior to project close-out and final payment.

4. Prompt Payment

The Contractor shall pay subcontractors and/or suppliers within thirty (30) calendar days of negotiated payments in accordance with each subcontract or order for work performed and approved and/or materials furnished. The Nashville MTA is under no obligation to pay monies to any sub-contractor or supplier.

4. TAXES

Nashville MTA shall not be responsible for any taxes that are imposed on Contractor. The Contractor understands that it cannot claim exemption from taxes by virtue of any exemption provided to Nashville MTA.

5. SCOPE OF SERVICES

1. General Scope of Services

The Contractor shall design, develop, furnish, install, test and make operational the complete comprehensive radio communications CAD/AVL system for the Nashville MTA. The 800 Mhz voice communication system with Computer Aided Dispatch (CAD), Automated Vehicle Location (AVL) digital cameras in all revenue vehicles, automatic stop enunciators, automatic passenger counters, on-board vehicle diagnostic monitors, mobile data terminals (MDT'S) for all revenue vehicles, a global positioning system and the capability of integrating with existing traffic controllers. The Contractor shall provide supporting documentation, training, and technical support as specified in the solicitation specifications, Contractor's offers and negotiations. The Contractor shall be responsible for all acts, tasks, equipment, system components, and services required, providing the agency with a turnkey radio communication CAD/AVL system. The system provided by the Contractor shall be fully functional in accordance with the Contract and all of the contract documents. The Contractor is responsible for voice and data communications to be fully operational and functional in the Davidson County area. This includes the new Music City Central transit building currently under construction. The Contractor shall be responsible for all goods or services whether or not specifically identified within this Contract or other documentation but is necessary for the radio communication CAD/AVL system to be fully operational and functional.

2. Scope of Work

The project will consist of the design and installation of the CAD/AVL functions for 137 Fixed Route buses and 64 AccessRide vehicles as well as support vehicles and ten (10) spare units comprised of 7 Fixed Route kits and 3 AccessRide kits. The equipment and functions to be provided include:

- 1) Onboard Computer,
- 2) Driver Control Module (DCM/MDT),
- 3) Voice and Data Radios, and
- 4) GPS equipment
- 5) Installation of Fixed-end equipment including servers and networking equipment to provide control of the voice radio system and AVL displays
- 6) Narrow banding existing UHF voice channels
- 7) Route Schedule Adherence (RSA)
- 8) Trapeze scheduling system interface
- 9) Wireless LAN
- 10) Automatic Passenger Counting (APC)
- 11) Automated Vehicle Announcements (AVL)
- 12) Cameras
- 13) Single login for radio, farebox, destination sign, voice announcement
- 14) Supervisor vehicle functions
- 15) Intermodulation and tower loading study
- 16) Installation of a three (3) site conventional one (1)-channel data system.
- 17) Software, engineering, training, warranty, and performance bond

The work will be performed in accordance with the RFP, and other contract documents.

Nashville MTA's present bus operations and radio system will not be affected prior to the completion of the new radio system. The Contractor will establish and utilize a careful, controlled cutover procedure when the new system is placed into service so Nashville MTA's present operation will not be affected.

Unless otherwise expressly agreed to in writing, all work under this Agreement shall be performed by the Contractor.

3. Communication CAD/AVL System for New Articulated Buses

Nashville MTA anticipates the purchase of five (5) to seven (7) articulated buses within the next 18 months. Nashville MTA reserves the right to amend this Contract to include these buses in this Contract. Nashville MTA will notify Contractor of their intent to purchase buses and a price to install the system in the buses will be negotiated at that time.

6. DELIVERY and INSTALLATION

Delivery and installation shall be made in accordance with the approved project schedule as defined by the Scope of Work. Modifications to the schedule may be made by written agreement signed by both parties.

The Contractor will notify Nashville MTA's Contract Manager when shipments will be delivered. All shipments will be shipped to the attention of:

Lee Jackson, Contract Manager
Nashville MTA,
130 Nestor Street,
Nashville, TN 37210.

All installations schedules will be approved by the Contract Manager and will be completed according to the requirements set forth in this contract and other contract documents.

7. DUTIES and RESPONSIBILITIES of CONTRACTOR

1. General

The Contractor will perform all work in accordance with the requirements of the Contract and all other relating documentation.

Contractor agrees to provide and Nashville MTA agrees to purchase the goods and services specified in the above documents.

Should Contractor and/or Nashville MTA fail to meet their deliverable dates as defined in the Scope of Work, the resultant time delay will be added to the completion date if mutually agreed to by both parties.

Contractor shall assume the overall responsibility for the work, including hardware and software, and shall provide the project management and expertise necessary to complete the contract in a professional and timely manner in accordance with this Contract and all documents identified.

Contractor will utilize a project control system to control items, which directly affect project progress, such as design change control, resource assignment and allocations, project schedules and problem issue escalation and resolution.

The Contractor is fully qualified to act as the Contractor for this Project and has, and shall maintain, appropriate licenses, permits or other authorizations necessary to act as the Contractor for this Project.

The Contractor has received, reviewed and carefully examined all of the documents which make up this Contract and has found them to be generally sufficient to indicate and convey understanding of the terms and conditions for implementation and completion of the Project. The Contractor agrees to notify the Nashville MTA immediately of all conflicts, errors, ambiguities, or discrepancies that are discovered in the Contract or other documentation.

The Contractor shall create and submit to the Nashville MTA copies of all manuals and related documentation pertaining to the hardware and software deliverables as specified in the RFP. Said information shall be submitted to the Nashville MTA upon final completion of the Project and receipt of same by the Nashville MTA shall be a condition of final payment to the Contractor.

Contractor agrees to and will perform other services requested by Nashville MTA if mutually agreed to by both parties.

Nashville MTA will work openly with the Contractor in providing information that may be needed for this project.

2. Meetings

The Contractor will request and coordinate site visits, meetings, installation and other necessary information with Nashville MTA's contact person Lee Jackson, Contract Manager or his designee.

Before the project starts, a meeting or telephone conference will be held to discuss the complete project. The detailed project schedule of project activities will be outlined in full and will be mutually agreed to in writing by both parties.

3. Standard of Care

The Contractor shall assign only competent and qualified personnel to provide services as set forth in this Contract and shall at all times be solely responsible for their work quality.

The Contractor shall promptly remove any employee or subcontractor who is determined by Nashville MTA, in writing to the Contractor, to be uncooperative, incompetent, a threat to the timely completion of the services, a threat to the safety of persons or property, or refuses to perform the services in a manner acceptable to Nashville MTA. Rejection by Nashville MTA and removal of assigned personnel shall not relieve the Contractor of its full responsibilities under the Contract, and shall not provide the basis for any claim or cause of action.

4. Compliance with Laws and Regulations

The Contractor shall comply with all applicable federal, state and local laws and regulations.

5. Independent Contractor Status

Contractor's employees or subcontractors working exclusively under their direction and supervision shall perform the services. Contractor will determine the means, methods and details of performing the work and services subject to the requirement of this Contract. It is understood and agreed by Nashville MTA that the Contractor or any subcontractors shall be viewed, treated and held out to be independent contractors and not as an employee of Nashville MTA. Contractor shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of services under this Contract and as required by law.

6. Subcontracting

The Contractor shall not subcontract rights or responsibilities in this Contract without the prior written approval of the CEO of Nashville MTA with the exception of Subcontractors included in Contractor's proposal. Any such transfer without prior written consent shall be void. Non-professional, temporary personnel agencies and vendors of standard materials and supplies are not considered as subcontractors. Subcontracts, if approved, shall contain a provision making them subject to all provisions stipulated in this Contract. The Contractor shall be fully responsible for all services performed by any subcontractor. The parties agree and any subcontract shall contain a written statement that the subcontractor agrees that Nashville MTA is not a party to such subcontract nor does the subcontract subject Nashville MTA to liability of any kind to said subcontractor.

7. Licensing and Permits

The Contractor and all subcontractors shall be appropriately licensed in the State of Tennessee to conduct the services and work required by this Contract. The cost for any required licenses shall be the responsibility of the Contractor. The Contractor shall be responsible for paying for permits and government fees (excluding FCC permits) if such fees have not been waived by the issuing authority necessary for the proper execution and completion of the Project.

8. Equal Opportunity Employment - Non Discrimination

It is the policy of the Nashville MTA not to discriminate on the basis of age, race, sex, color, national origin, creed, religion, handicap and/or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of this contract, Contractor certifies and warrants it will comply with this policy. No person shall be excluded from participation in, be denied benefits of, be discriminated against in the admission or access to, or be discriminated against in treatment or employment in Nashville MTA contracted programs or activities, on the grounds of age, race, sex, color, national origin, creed, religion, handicap and/or disability or any other classification protected by federal or Tennessee State Constitutional or statutory law; nor shall they be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of contracts with Nashville MTA or in the employment practices of Nashville MTA Contractors. Accordingly, all Proposers entering into contracts with Nashville MTA shall, upon request, be required to show proof of such nondiscrimination and to post in conspicuous places that are available to all employees and applicants, notices of nondiscrimination.

The Contractor shall insert this provision in all subcontracts (modified only to show the particular contractual relationship) so that such provisions will be binding upon each subcontract.

All solicitations or advertisements for employees, placed by or on behalf of the Contractor, will state that all qualified applicants will receive consideration for employment without regard to age, race, sex, color, national origin, creed, religion, handicap and/or disability.

9. Employment

Contractor shall not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal or laying off of any individual due to age, race, sex, color, national origin, creed, religion, handicap and/or disability which is in violation of applicable laws concerning the employment of individuals with disabilities.

10. Labor Requirements

1. Workers Compensation

The Contractor shall comply with the State Law known as the Workers' Compensation Act and shall pay into the State Insurance fund the necessary premiums required by the Act to cover all employees furnishing said services to Nashville MTA and under the control of the Contractor. The Contractor shall relieve Nashville MTA from any costs due to accidents and other liabilities mentioned in said Act.

2. Legal Resident Verification

The Contractor shall fully comply with all laws regarding employment of aliens and others, and that all employees performing Services under this Contract meet the citizenship or alien status requirements contained in Federal and state statutes and regulations including, but not limited to, the Immigration Reform and Control Act of 1986 (P. L. 99-603). Contractor shall obtain, from all covered employees performing services, all verification and other documentation of employment eligibility status required by Federal statutes and regulations as they currently exist and as they may be amended. Contractor shall retain such documentation for all covered employees for the period prescribed by law. Contractor shall indemnify, defend and hold Nashville MTA, its agents, officers and representatives harmless from employer sanctions and any other liability which may be assessed against Contractor or Nashville MTA or both in connection with any violation of Federal statutes or regulations pertaining to the eligibility for employment of persons performing Services under this Agreement.

11. Safety

The Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations and shall exercise all necessary precautions for the safety of employees and the conditions under which the work is performed.

Contractor shall adhere to all of Nashville MTA's safety requirements, which shall include that all personnel or subcontractors wear identification badges and check in with Nashville MTA supervisor on duty and sign in and out when applicable, in logbook when coming onto Nashville MTA's property.

The Contractor will hold harmless and indemnify Nashville MTA of all liability for potential injury endured by employees of the contractor or sub-contractors providing services on Nashville MTA property or in Nashville MTA buses and other vehicles provided that such injury is not caused by the negligence of Nashville MTA.

12. Installation, Testing, Implementation and Training Hours

The Contractor shall be responsible for the installation of all equipment, systems and parts furnished by Contractor and Nashville MTA in accordance with the requirements under this contract. It is understood by the parties that equipment provided by Nashville MTA under this contract is required along with equipment, systems, and parts furnished by Contractor to create a complete functional system. All in-vehicle equipment installations shall not in any way disrupt the daily operation of the bus site and bus operations. If an electrical or any other problem resulting from the installations is detected, causing the vehicle to be non-operational, the problem(s) must be fixed immediately.

Normal voice communications must be maintained during the in-vehicle equipment installation.

The Contractor will submit a detailed installation schedule, to be approved by Nashville MTA's Project Manager, in writing, before starting to install any equipment. The Contractor's project manager will work with the Nashville MTA Contract Manager or his designee to coordinate and accomplish all installations smoothly.

Testing of all equipment shall be compliance with the RFP and all Contract documents. The Contractor is required to submit a Test Plan for Nashville MTA's Project approval, in writing, prior to commencing any testing. The test plan must include: component, subsystem, and system level testing. Factory acceptance testing and field acceptance testing will be clearly defined.

The Nashville MTA and the Contractor will develop and approve in writing the schedule for all training and support services. The training and support services shall comply with the RFP and all Contract documents.

13. Site Cleanup

The Contractor shall maintain the work site in a reasonably clean condition during the performance of the work. At the end of each work day the Contractor will store all equipment and materials in a neat and orderly manner in a designated area.

14. Warranty/Service Agreement/HW/SW

The Contractor warrants to Nashville MTA that the radio communication/CAD/AVL system, including all materials and equipment furnished by Contractor as part of the project, shall be new, of the best quality, in conformance with the Contract Documents and free of defects in materials and workmanship.

The one year hardware and software warranty period commences on the date of Final Acceptance of system by Nashville MTA unless a longer warranty is provided by the manufacturer. This includes all installed equipment and software.

During the warranty period, Nashville MTA may request that Contractor repair or replace any defective hardware or software, by written notice to the Contractor. Contractor shall repair or replace defective hardware or software at Contractor's expense within thirty (30) days.

The XTL 2500 Motorola radios purchased by Nashville MTA are excluded from Contractor's warranty.

After Final Acceptance of system Nashville MTA will pay for additional maintenance support in accordance with Paragraph 3.1.

Upon the expiry of the one year warranty period, Nashville MTA shall pay an annual long-term support fee, at the beginning of each annual renewal, for four (4) years unless terminated in writing, to Orbital as specified in Paragraph 3.1. The Contractor shall invoice Nashville MTA for the specified amount. Nashville MTA shall issue a Purchase Order annually for the specific amount set forth in Paragraph 3.1 for each of the four (4) years. If the Nashville MTA chooses not to pay the annual maintenance fee for a product, such decision shall not terminate the License for such product, however, Nashville MTA acknowledges there may be additional costs and fees associated with re-instating maintenance services for a product for which maintenance services had been earlier terminated.

Any additional services performed outside the scope of this Agreement shall be performed under a written work order to be agreed to by both parties and signed by Nashville MTA's CEO and Contractors authorized representative.

8. DUTIES AND RESPONSIBILITIES OF NASHVILLE MTA

Nashville MTA will collaborate with the Contractor and will provide assistance in getting the Radio Communication/CAD/AVL system completed within the time frame outlined.

Nashville MTA will provide vehicles for the installation of radio and other equipment at a number mutually agreed to by both parties.

Nashville MTA will provide Contractor with working space for the installation of the radio systems in the fixed route, AccessRide buses and support vehicles.

Nashville MTA will provide additional space for storage of supplies and equipment but Contractor will be responsible for securing the area, keeping track of inventory and cleaning area when needed.

Nashville MTA will provide information to the Contractor for the passenger signs that will be needed for the new downtown transit center (Music City Central). Nashville MTA presently has nine (9) NextBus arrival signs at different locations. Contractor will work with Nashville MTA in providing the number of signs required, appropriate sizes and installation. Nashville MTA and Contractor will negotiate cost for these additional signs when number and design have been determined.

9. INSPECTION OF WORK

All work performed by Contractor or subcontractors shall be subject to inspection and test by Nashville MTA to the extent practicable at all times and places during the term of the Contract. All inspections by Nashville MTA shall be made in such a manner as to not delay the work.

If any work performed is not in conformity with the requirements of the Contract, Nashville MTA shall have the right to require the Contractor to perform the work again in conformity with such requirements at no increase in the total Contract amount. If the Contractor fails to promptly perform the work again, Nashville MTA shall have the right to have the work performed in conformity with the Contract requirements and charge to the Contractor any costs that are

directly related to the performance of such work, or terminate the Contract for default as provided in the Contract.

10. NASHVILLE MTA PROPERTY

Any Nashville MTA property, including but not limited to books, records and equipment that is in Contractor's possession shall be maintained by Contractor in good condition and repair, and shall be returned to Nashville MTA by Contractor upon completion or termination of the contract. All goods, documents, records, and other work product and property first produced and delivered during the performance of this contract are deemed to be Nashville MTA property.

11. ACCOUNTING RECORDS and AUDIT ADJUSTMENTS

1. Maintenance of Accounting Records

Contractor shall maintain complete and accurate documentation for all charges with respect to all costs and expenses incurred under this Contract in accordance with generally accepted accounting principles. All such records shall be clearly identifiable. The Contractor agrees that Nashville MTA, or any of its duly authorized representative at any reasonable time and reasonable notice shall for the purpose of audit and examination, be permitted to inspect all work, materials, payrolls, or other data and records; and to audit the books, records, and accounts relating to the performance of the Contract. The books, records, and documents of Contractor, as they relate to work performed or money received under the contract, shall be maintained for a period of three (3) full years from the date of final payment. If the Contract is terminated in whole or in part, the Contractor must maintain all record for a period of three (3) years after final termination settlement.

2. Audit Adjustments

Appropriate financial adjustments may be made by Nashville MTA based upon any inconsistency, irregularity, discrepancy or unsubstantiated billing revealed as a result of an audit. Financial adjustments reflecting an overcharge to Nashville MTA may be charged against Contractor's future invoices.

The Contractor shall include these audit requirements in all subcontracts.

12. NOTICES and DESIGNATION OF AGENT FOR SERVICE OF PROCESS

1. Nashville MTA's Representative

Nashville MTA designates Lee Jackson, Contract Manager, to act as its representative for the performance of this Contract. Nashville MTA's representative shall act on behalf of Nashville MTA's for all purposes under this Contract.

2. Contractor's Representative

Contractor designates Ann Nicklas to act as its representative for the performance of this Contract. Contractor's representative shall act on behalf of Contractor for all purposes under this Contract.

The Contractor designates the above person as the Contractor's agent for service of process and will waive any objection to service of process if process is served upon this agent.

3. Delivery of Notices

Communications in connection with this Contract shall be delivered personally, or by regular, registered, or certified mail addressed to the designated recipients of Nashville MTA and of the Contractor to receive such communications. Telephone calls, facsimile and electronic mail may be used to expedite communications but shall not be official communication unless confirmed in writing, as stated above.

All notices permitted or required under this Contract shall be given to the respective parties at the following address, or at such other address as the respective parties may provide in writing for this purpose.

Contractor: Orbital Sciences Corporation, TMS Division
Ann Nicklas
7160 Riverwood Drive
Columbia, MD 21046
443-259-7167 (Phone)
443-259-7001 (Fax)
nicklas.ann@orbital.com (E-mail)

Nashville MTA Lee Jackson, Contract Manager
130 Nestor Street
Nashville, TN 37210
615-880-3933 (Phone)
615-566-0616 (Cell)
615-862-6208 (Fax)
Lee.Jackson@nashville.gov (E-Mail)

With a copy mailed or hand delivered to the recipients below:

Nashville MTA: Robert Baulsr, COO
130 Nestor Street
Nashville, TN 37210
615-862-6178 (Phone)
615-862-6209 (Fax)
Robert.baulsr@nashville.gov (E-Mail)

Nashville MTA: Frances C. Hunter, Special Projects Administrator
130 Nestor Street
Nashville, TN 37210
615-862-6118 (Phone)
615-862-6208 (Fax)
Frances.hunter@nashville.gov

13. INSURANCE

During the term of this Contract, Contractor shall at its sole expense obtain and maintain in full force and effect for the duration of the Contract and any extension the following types and amounts of insurance for claims which may arise from or in connection with this Contract.

1. **Commercial General Liability Insurance** occurrence version commercial general liability insurance or equivalent form with a limit of not less than one million (\$1,000,000.00) dollars each occurrence for bodily injury, personal injury, and property damage. If such insurance contains a general aggregate limit, it shall apply separately to the work/location in this Agreement or be no less than two times the occurrence limit.

Such insurance shall:

a. Contain or be endorsed to contain a provision that includes Nashville MTA, Davidson Transit Organization its officials, officers, employees, and volunteers as additional insured with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. The coverage shall contain no special limitations outside the scope of the terms and conditions of the policy on the scope of its protection afforded to the above-listed insurers.

b. For any claims related to this agreement, Contractor's insurance coverage shall be primary insurance as respects Nashville MTA, Davidson Transit Organization, its officials, officers, employees, and volunteers. Any insurance or self-insurance programs covering Nashville MTA, Davidson Transit Organization, its officials, officers, employees, and volunteers shall be excess of Contractor's insurance and shall not contribute with it.

c. Shall cover liability from premises, operations, independent contractors, products-completed operations, personal and advertising injury and liability assumed under an insured contract (including the tort liability or another assumed in a business contract) and shall name Nashville MTA, Davidson Transit Organization, its officials, officers, employees and volunteers as an additional insured.

2. **Automotive Liability Insurance** including vehicles owned, hired, and non-owned, with a combined single limit of not less than one million (\$1,000,000.00) dollars each accident. Such insurance shall include coverage for loading and unloading hazards. Insurance shall contain or be endorsed to contain a provision that includes Nashville MTA, its officials, officers, employees, and volunteers as additional insurers with respect to liability arising out of automobiles owned, leased, hired, or borrowed by or on behalf of Contractor.

3. **Worker's Compensation** Contractor shall maintain workers' compensation insurance with statutory limits as required by the State of Tennessee or other applicable laws and employers' liability insurance with limits of not less than \$100,000. Contractor shall require each of its subcontractors to provide Workers' Compensation for all of the latter's employees to be engaged in such work unless such employees are covered by Contractor's workers' compensation insurance coverage.

4. Other Insurance Requirements.

Contractor shall:

- a. Prior to commencement of services, furnish Nashville MTA with original certificates effecting coverage required by this section and provide that such insurance shall not be cancelled, allowed to expire, or be materially reduced in coverage except on 30 days' prior written notice to Nashville MTA's, Edward Oliphant, CFO, 130 Nestor Street, Nashville, TN 37210. Nashville MTA shall also be added on as additional insured for notice purposes as required herein.
- b. Replace certificates for any such insurance expiring prior to completion of services.
- c. Maintain such insurance from the time services commence until services are completed. Failure to maintain or renew coverage or to provide evidence of renewal may be treated by Nashville MTA as a material breach of contract.
- d. Place such insurance with insurer licensed to do business in Tennessee and having A.M. Best Company ratings of no less than A-. Modification of this standard may be considered upon appeal to the Nashville MTA, CFO.
- e. Require all subcontractors to maintain during the term of the agreement Commercial General Liability Insurance, Business Automobile Liability insurance, and Worker's Compensation/Employers Liability insurance (unless subcontractor's employees are covered by Contractor's insurance) in the same manner as specified for Contractor. Contractor shall furnish subcontractor's certificates of insurance to Nashville MTA without expense immediately upon request.
- f. Any deductibles and/or self-insured retentions greater than \$10,000.00 must be disclosed to Nashville MTA prior to the commencement of services.
- g. If the Contractor has or obtains primary and excess policies, there shall be no gap between the limits of the primary policy and the deductible features of the excess policies.

5. Professional Liability (including Errors & Omissions)

Contractor shall provide professional liability insurance covering claims arising from real or alleged errors, omissions, or negligent acts committed in the performance of professional services under this contract with limits of \$5,000,000 and shall name Nashville MTA, Davidson Transit Organization, its officials, officers, employees, and volunteers as an additional insured on such policy.

4. PERFORMANCE BOND

1. Bond Requirements

The Contractor shall obtain at its own expense and furnish to Nashville MTA a Performance Bond in an amount equal to one hundred percent (100%) of the Contract as security for the faithful performance of this Contract. The bonding company shall be domiciled and legally

authorized to do business in the State of Tennessee, with an "A.M. Best" rating of not less than A-. A company with a local office is preferred. The agent's name, address, telephone number, and e-mail address must be submitted.

The Nashville MTA will approve the surety company. The bond will be kept current during the performance phase and one year warranty term of the Contract.

An additional performance bond protection may be required if the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price, unless otherwise agreed upon in writing by the parties.

2. Failure to Perform

If Nashville MTA determines that the Contractor has failed to keep and perform the covenants, conditions and agreements in the Contract Documents, then Nashville MTA may require the Surety to perform, or may exercise or collect or cause to be exercised or collected, the obligations under the performance bond. In such an event, Nashville MTA shall notify the Surety and give the Surety an opportunity to perform within a reasonable time. If the Surety fails to perform, Nashville MTA shall perform and assess the Surety on its bond for the cost of such performance. The cost of such performance includes the costs of all labor and equipment reasonably necessary to perform the work in the Contractor's absence.

15. PAYMENT BOND

1. Requirement

The Contractor shall obtain at its own expense a payment bond satisfactory to Nashville MTA in an amount equal to fifty (50) percent of the contract not to exceed \$2.5 million. Said amount may be reduced or eliminated in the sole discretion of MTA by written notice to the Contractor.

The bonding company shall be domiciled and legally authorized to do business in the State of Tennessee and with an "A.M. Best" rating of not less than A-. A company with a local office is preferred. The agent's name, address, telephone number, and e-mail address must be submitted.

2. Condition

The condition of the payment bond shall be that the Contractor shall pay, as required by law, all persons supplying labor and material in the execution of the work provided for in this Contract.

16. LIQUIDATED DAMAGES

1. Amount

It is mutually understood and agreed by and between Nashville MTA and the Contractor that any failure of the Contractor to complete System Acceptance of the Radio Communications/CAD/AVL System within the time specified in the contract will cause damage to Nashville MTA. The amount of said damages being difficult if not impossible to define with proof, it is agreed that the amount of such damages due Nashville MTA shall be fixed at \$500 per day capped at \$200,000. Contractor shall pay liquidated damages until Final System

acceptance as defined in Section 3, Compensation, paragraph 4. It is agreed that a sixty (60) day grace period is added to the final system acceptance before liquidated damages will begin. After the sixty (60) days liquidated damages for each day shall continue until the project is satisfactorily completed and accepted or until the cap is reached.

Said liquidated damages shall only apply to claims for delays pursuant to the terms of this Agreement and do not apply or limit damages Nashville MTA has for other claims, including but not limited to, bodily injury, property damage, breach of contract, breach of warranty or breach of maintenance agreements.

The Contractor will not be held liable for Nashville MTA caused delays, so long as the Contractor gives timely written notice that Nashville MTA is causing the delays and Nashville MTA acknowledges in writing it is the reason for said delay.

2. Deductions

The Contractor agrees to pay this amount as fixed, agreed upon and liquidated damages and not as a penalty and further authorizes Nashville MTA to deduct the amount of the damages from money due the Contractor under the Contract. If the monies due the Contractor are insufficient or no monies are due the Contractor the Contractor shall pay Nashville MTA the difference or the entire amount, whichever may be the case, within 30 (thirty) calendar days after receipt of a written demand by the Contract Manager.

3. Payment in Lieu of Damages

The payment of the above mentioned fixed, agreed upon and liquidated damages shall be in lieu of any damages for any increase in costs, loss of profit, loss of revenue, loss of use, or for any other direct, indirect, special or consequential losses or damages of any kind whatsoever that may be suffered by Nashville MTA arising at the time from the failure of the Contractor to fulfill the obligations referenced in this clause in a timely manner.

17. LICENSE

Contractor warrants and represents that it is the owner of or otherwise has the right to and does hereby grant Nashville MTA a license to use the OrbCAD software provided in accordance with the terms of the Software License Agreement to be executed by the parties. For all 3rd Party software provided under this contract, Contractor grants to Nashville MTA non-exclusive, non-transferable, non-assignable licenses for the purposes for which the software was obtained.

18. TITLE and RISK of LOSS

Title to equipment shall pass to Nashville MTA upon payment. The rights and responsibilities of Nashville MTA with regard to the software supplied under this contract shall be in accordance with the End User Licenses attached and incorporated by reference.

Contractor will share risk of loss for all equipment received by Nashville MTA. Nashville MTA will assume all risk of loss after installation approval.

19. COPYRIGHTS, TRADEMARK, SERVICE MARK, OR PATENT INFRINGEMENT

A. Contractor shall, at its own expense, be entitled to and shall have the duty to defend any suit which may be brought against Nashville MTA to the extent that it is based on a claim that the products or services furnished infringe a U.S. copyright, Trademark, Service Mark, or patent. Contractor shall further indemnify and hold harmless Nashville MTA against any award of damages and costs made against Nashville MTA by a final judgment of a court of last resort in any such suit. Nashville MTA shall provide Contractor immediate notice in writing of the existence of such claim and full right and opportunity to conduct the defense thereof, together with all available information and reasonable cooperation, assistance and authority to enable Contractor to do so. No costs or expenses shall be incurred for the account of Contractor without its written consent. Nashville MTA reserves the right to participate in the defense of any such action. Contractor shall have the right to enter into negotiations for and the right to effect settlement or compromise of any such action, but no such settlement or compromise shall be binding upon Nashville MTA unless approved by the Nashville MTA CEO, or Board of Directors in accordance with Section B below.

B. If the products or services furnished under this contract are likely to, or do become, the subject of such a claim of infringement, then without diminishing Contractor's obligation to satisfy the final award, Contractor may at its option and expense:

- 1) Procure for Nashville MTA the right to continue using the products or services.
- 2) Replace or modify the alleged infringing products or services with other equally suitable products or services that are satisfactory to Nashville MTA, so that they become non-infringing.
- 3) Remove the products or discontinue the services and cancel any future charges pertaining thereto.
- 4) Provided, however, that Contractor will not exercise option 19.B.3 until Contractor and Nashville MTA have determined that options 19.B.1 and 19.B.2 are impractical.

20. CONFLICT OF INTEREST

1. Interest of Members of Nashville MTA

No member of the governing body of Nashville MTA, and no other officer, employee or agent of Nashville MTA who exercise any functions or responsibilities in connection with the carrying out of the activities to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

2. Interest of other Local public Officials

No member of the governing body of Metropolitan Government of Nashville, and other public official of such locality, who exercises any functions or responsibilities in the review or approval of the carrying out of activities to which this Agreement pertains, shall have any personal interest, direct or indirect, in this Agreement.

3. Interest of Members, or Delegates to Congress

In accordance with 18 U.S.C. Section 431, no member of or delegate to the Congress of the United States shall be admitted to any share or part of this Agreement or to any benefit to arise therefrom

4. Interest of Contractor

Contractor covenants that both itself, employees and subcontractors presently have no interest and shall not acquire any interest, direct or indirect which would conflict in any manner or degree with the performance of services required to be performed under this Agreement.

2. GENERAL TERMS and CONDITIONS:

1. Termination

1. Termination for Convenience

The Nashville MTA may terminate this contract, in whole or in part, at any time by a written thirty (30) day notice to the Contractor when it is in Nashville MTA's best interest. In such event Nashville MTA shall pay the Contractor the value of its costs including contract closeout costs, costs associated with implementing the termination for convenience and profit on work performed up to the date of termination. If the Contractor has any property in its possession belonging to the Nashville MTA, the Contractor will account for the same, and dispose of it in the manner the Nashville MTA directs.

2. Termination for Breach of Contract and Default

Should Contractor fail to materially fulfill in a timely and proper manner its obligations under this contract or violate any of the material terms of this contract, Nashville MTA shall have the right to immediately terminate the contract if the Contractor has not cured the breach within thirty (30) days of receipt of written notice from Nashville MTA to the Contractor. Such termination shall not relieve the Contractor of any liability to Nashville MTA for direct damages sustained by virtue of the breach by Contractor. In the event of such termination, Nashville MTA shall pay Contractor for all work satisfactorily performed up to the final date of termination after consideration and deduction of any direct damages due Nashville MTA because of said breach of Contract. *[If it is later determined that the termination was in error, the termination shall be converted to a termination for convenience and services shall be paid as provided in subparagraph 1 above.]*

In the event of breach or default by the Contractor, Nashville MTA shall be entitled to all of its direct damages and reasonable expenses, and its costs incurred by reason of such default.

3. Opportunity to Cure

In the case of a termination for breach or default by Contractor, Nashville MTA shall allow the Contractor thirty (30) days in which to cure the defect. The notice of termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to Nashville MTA's satisfaction the breach or default of any of the material terms, covenants, or conditions of this Contract within thirty (30) days after receipt of written notice setting forth the nature of said breach or default, Nashville MTA shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not preclude Nashville

MTA from also pursuing all available remedies against Contractor and its sureties for said breach or default as provided herein. By utilizing this cure provision, Nashville MTA does not waive any rights it has for breach of contract and/or default pursuant to any other provision herein.

4. Termination Funding

Should funding for this contract be discontinued, reduced, or delayed, in whole or in part, Nashville MTA shall have the right to terminate the contract immediately upon written notice to Contractor. Contractor shall have thirty (30) days from receipt of notification to submit its final invoice for its costs including contract closeout costs, costs associated with implementing the termination for convenience and profit on work performed up to the date of termination. Contractor shall endeavor to minimize contract close out costs to the extent possible. Termination for lack of funds will be considered a Termination for Convenience.

5. Termination Violation of Applicable Laws

This Contract may be terminated by either party, upon written notice, without liability to the other party should the Contract violate or conflict with any applicable law or regulation as determined by a governmental authority (other than Nashville MTA) or final judgment of a court with jurisdiction.

2. Partnership/Joint Venture

Nothing herein shall in any way be construed or intended to create a partnership or joint venture between the parties or to create the relationship of principal and agent between or among any of the parties. None of the parties shall hold itself out in a manner contrary to the terms of this paragraph. No party shall become liable for any representation, act or omission of any other party contrary to the terms of this paragraph.

3. Waiver

No waiver of any provision of this contract shall affect the right of any party thereafter to enforce such provision or to exercise any right or remedy available to it in the event of any other default.

4. Ethical Standards

1. Gratuities and Kickbacks.

It shall be a breach of ethical standards for any person to offer, give or agree to give any Nashville MTA employee or former Nashville MTA employee, or for any Nashville MTA employee or former Nashville MTA employee to solicit, demand, accept or agree to accept from another person, a gratuity or an offer of employment in connection with any decision, approval, disapproval, recommendation, preparation of any part of a program requirement or a purchase request, influencing the content of any specification or procurement standard, rendering of advice, investigation, auditing or in any other advisory capacity in any proceeding or application, request for ruling, determination, claim or controversy or other particular matter, pertaining to any program requirement of a contract or subcontract or to any solicitation or proposal.

It shall be a breach of ethical standards for any payment, gratuity or offer of employment to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or a person associated therewith, as an inducement for the award

of a subcontract or order. Breach of the provisions of this paragraph is, in addition to a breach of this contract, a breach of ethical standards which may result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor under Nashville MTA contracts.

2. Contingent Fees

It shall also be a breach of ethical standard for a person to be retained, or to retain a person, to solicit or to secure a contract with the Nashville MTA upon the agreement or understanding for a contingent commission, percentage or brokerage fee, except for the retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business.

The Contractor affirms that it has not been retained or has retained anyone which would violate the provisions of the above paragraph. A breach of ethical standards is a material breach of this Contract and could result in civil or criminal sanction and/or debarment or suspension from being a contractor or subcontractor with the Nashville MTA, in addition to other remedies for breach of this contract as provided herein.

5. Indemnification and Hold Harmless

Contractor agrees that it shall indemnify and hold harmless Nashville MTA's directors, officers, agents, and employees, including Davidson Transit Organization's employees, from and against any suit, claims, damages, cost and attorney's fees for injuries or damages arising in part or in whole, from the negligent or intentional act or any omissions of Contractor its officers, employees and/or agents included its sub or independent contractors in connection with performance of the Contract, and any claims, damage, penalties, cost or attorney fees arising from any failure of Contractors, its officers, employees and/or agents included its sub or independent contractors to observe applicable laws relating but not limited to, labor and minimum wage laws

6. Assignment—Written Consent Required

The provisions of this contract shall inure to the benefit of and shall be binding upon the respective successors and assignees of the parties. Neither this contract nor any of the rights and obligations of Contractor shall be assigned or transferred in whole or in part, except for rights more explained herein. Any assignment of any right to money to the Contractor shall require written approval of the CEO of Nashville MTA, which shall not be unreasonably withheld. Any such assignment or transfer shall not release Contractor from its obligations. NOTICE OF ANY PROPOSED ASSIGNMENT AND ANY ASSIGNMENT OF ANY RIGHTS TO MONEY DUE TO CONTRACTOR UNDER THIS CONTRACT MUST BE SENT TO THE ATTENTION OF THE CEO OF NASHVILLE MTA, 130 Nestor Street, Nashville, TN 37210, with a copy sent to Nashville MTA recipients listed in Section 12, subparagraph 3 Delivery of Notices.

7. Force Majeure

No party shall have any liability to the other by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform was due to cause beyond the control and without the fault or negligence of either party. Force majeure, meaning any act of God, storm, fire, floods, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of Government other than Nashville MTA, act of public enemy, or other cause of similar or dissimilar nature beyond its control.

The Contract shall not be revoked or either party penalized for such noncompliance, provided that the Party who invokes the Force Majeure takes reasonable and diligent steps to bring itself back into compliance with this Contract and to comply as soon as possible under the circumstances without unduly endangering the health, safety, and integrity of the Party's employees or property, or the health, safety, and integrity of the public, public property, or private property.

8. Attorney Fees

The parties agree that, in the event either party takes legal action to enforce any provision of the contract or to obtain a remedy for any breach of this contract, the party that does not prevail in such action shall pay the expenses of such action incurred at any and all stages of the litigation, including costs, and reasonable attorney fees to the prevailing party.

9. Governing Law

The validity, construction and effect of this contract and any and all extensions and/or modifications thereof shall be governed by the laws of the State of Tennessee. Tennessee law shall govern regardless of any language in any attachment or other document that the Contractor may provide.

10. Venue

Any action between the parties arising from this agreement shall be maintained in the courts of Davidson County, Nashville, Tennessee. The Contractor shall include this provision verbatim in every subcontract entered into by the Contractor in the performance of its obligations under this Contract.

11. Severability

Should any provision of this contract be declared to be invalid by any court of competent jurisdiction, such provision shall be severed and shall not affect the validity of the remaining provisions of this contract.

12. Limitation of Liability

Except for bodily injury or property damage, notwithstanding any other provision of this contract, Contractor shall not be liable for damages in excess of the 1.5 times the total contract amount under this Agreement. In no event shall Contractor be liable or responsible for more than 10% of the contract value for procurement costs (Nashville MTA's labor and material effort to prepare for procurement), loss of profits, loss of use, special, incidental, consequential or punitive damages of any kind, even if advised of the possibility thereof.

22. FEDERAL REQUIREMENTS

1. Incorporation of Federal Transit Administration (FTA) Terms and Conditions.

The Contractor recognizes that this Contract is subject to and includes certain terms and conditions required by the FTA whether or not expressly set forth in the Contract or in other documentation. All contractual provisions required by FTA, as set forth in FTA Circular 4220.1E, are incorporated. If any of the provisions of the Contract are contrary to the FTA's mandated terms and conditions, such terms and conditions shall control.

The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Nashville MTA requests which would cause Nashville MTA to be in violation of the FTA terms and conditions.

2. False or Fraudulent Statements or Claims

By executing this Contract, the Contractor acknowledges that if it makes a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose penalties under the program Fraud Civil Remedies Act of 1986.

3. Americans with Disabilities Act

The Contractor shall ensure that the equipment provided under the terms of this Contract meets the applicable Accessibility Guidelines for Transportation Facilities set out as Appendix A to 49 C.F.R. Part 37 and the accessibility specifications for Transportation Vehicles set out in 49 C.F.R. Part 38.

4. Contract Work Hours and Safety Standards Act

The Contractor shall comply with the provisions of the Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. sections 327-333, and implementing U. S. Department of Labor regulations, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. Part 5; and U.S. DOL regulations, "Safety and Health Regulations for Construction," 29 C.F.R. Part 1926. The contractor shall comply with the clauses set forth at 29 C.F.R. 5-5 (b) as if such clauses were set forth in their entirety in this Contract.

5. Recycled Products

The Contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 49 C.F.R. Part 247.

6. Energy Conservation Requirements

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et seq.).

7. Environmental Requirements

This Contractor shall be responsible for the disposal of hazardous materials, in accordance with applicable Federal, State and local laws and regulations.

8. National ITS Architecture

The Contractor certifies that the proposed system will interface or is compatible for future interface, with the local ITS architecture that exist in the Nashville Regional Intelligent

Transportation System (ITS) Architecture which included Cheatham, Davidson, Robertson, Rutherford, Sumner, Williamson and Wilson Counties.

To the extent applicable, Nashville MTA and the Contractor agree to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by Section 5206(e) of TEA-21, 23 U.S.C. § 502 note, and comply with FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and other Federal requirements that may be issued.

9. Disadvantaged Business Enterprise (DBE)

The DBE goal established for this project is seven (7%) percent.

The Contractor agrees to subcontract to CDA Services, Inc. 98 Clinton Road, Fairfield, New Jersey 07004, a woman owned small business. Contractor shall provide monthly documentation to Nashville MTA of amount paid to DBE contractors for work performed.

The Contractor shall ensure that minority business enterprises, as defined in 49CFR Part 26, have the maximum opportunity to compete for and participate in the performance of any subcontracts or team arrangements utilized by the Contractor to complete this Contract.

10. No Federal Government Obligations

Although this Contract is funded with Federal grant funds, absent the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to the Contractor, or any other person other than Nashville MTA in connection with the performance of this Contract. Concurrence that may be provided by the Federal Government in or approval of any solicitation, or contract, the Federal Government has no obligations or liabilities to any party, including the Contractor.

23. PUBLICATIONS, PUBLICITY AND ENDORSEMENTS

1. Use of Nashville MTA's Name in Advertising or Public Relations

Nashville MTA reserves the right to review and approve related copy prior to publication. The Contractor agrees not to allow Nashville MTA related copy to be published in Contractor's advertisements or public relations programs unless such copy has been submitted and received prior written approval from Nashville MTA. Such approval shall not be unreasonably withheld.

The Contractor shall include this requirement in all subcontracts.

NASHVILLE METROPOLITAN TRANSIT
AUTHORITY

BY: *Paul J. Ballard*
Paul J. Ballard, CEO

DATE: Nov. 16, 2007

ATTEST:

BY: *Edward W. Oliphant*
Edward W. Oliphant, CFO

DATE: Nov. 16, 2007

ORBITAL SCIENCES CORPORATION, by and
through its TMS DIVISION

BY: *A. David Kachemov*
A. David Kachemov, Sr. Vice President and
General Manager, TMS

DATE: November 19, 2007

Sworn to and subscribed to before me, a
Notary Public, this

19th day of
November, 2007, by

A. David Kachemov, the
Sr. VP & GM of Contractor and
duly authorized to execute this instrument on
Contractor's behalf.

Mary B. Goundy
Notary Public Mary B. Goundy
My Commission Expires November 1, 2008

AFFIDAVITS

State of Maryland County of Howard

As used herein, "Offeror" will include Bidders and Proposers.

Compliance with Laws: After first being duly sworn according to law, the undersigned states that he/she is the Sr. Vice President and General Manager, of TMS Orbital Sciences Corporation Offeror and that Offeror is presently in compliance with, and will continue to maintain compliance with, all applicable laws. Thus, Affiant states that Offeror has all applicable licenses, including business licenses, copies of which are attached hereto. Finally, Affiant states that Offeror is current on its payment of all applicable gross receipt taxes and personal property taxes.

Contingent Fees: In accordance with the Metropolitan Government's 1992 Procurement Code, and Nashville MTA Purchasing Policy and FTA rules it is a breach of ethical standards for a person to be retained, or to retain a person, to solicit or secure a Nashville MTA contract upon an agreement or understanding for a contingent commission, percentage, or brokerage fee, except for retention of bona fide employees or bona fide established commercial selling agencies for the purpose of securing business. The undersigned, after first being duly sworn according to law, states that the Offeror has not retained anyone in violation of the foregoing.

Non-Discrimination: After first being duly sworn according to law, the undersigned (Affiant) states that by its employment, policy, standards, and practices the Offeror does not subscribe to any personnel policy which permits or allows for the promotion, demotion, employment, dismissal, or laying off of any individual due to his/her race, creed, color, national origin, age, or sex; and that the Offeror is not in violation of and will not violate any applicable laws concerning the employment of individuals with disabilities.

It is the policy of the Nashville MTA, FTA and the Metropolitan Government not to discriminate on the basis of age, race, sex, color, national origin, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services, and activities. With regard to all aspects of its contract with the Nashville MTA, Offeror certifies and warrants it will comply with this policy.

And Further Affiant sayeth not:

By: A. David Kibben
Title: Sr. Vice President and General Manager, TMS
Address: 7160 Riverwood Drive
Columbia, MD 21046

Sworn to and subscribed before me on this 19th day of November, 2007

Mary B. Goundry
Notary Public Mary B. Goundry

My commission expires: November 1, 2008

E.I. Number: 06-1209561
(Number used on Employer's Quarterly Federal tax return)

Exhibit A.
FINAL

Nashville MTA
Single Phase Project Pricing
November 16, 2007

Orbital TMS

Base Proposal - Single Phase Project

Item	Single Phase Price	Includes
Total Buses	\$1,671,474	137 vehicles - All onboard equipment - IVU, DCM, GPS, APC, AVA, CDM 1250, farebox connection, 37 Camera Systems, installed and spares; central recording station. XTL2500 Customer furnished (CFE)
Total Paratransit	\$394,604	64 vehicles - All core onboard equipment - VLU, Color DCM, GPS, CDM1250 - installed - XTL2500 Customer Furnished (CFE)
Total Supervisory Vehicles	\$325,612	16 vehicles - All core onboard equipment - VLU, DCM, GPS, CDM1250 - installed - XTL2500 Customer Furnished; Supervisor Laptop installed
Total Spares	\$79,514	10% for all active components, excludes XTL2500 spares (CFE)
Total Comms	\$1,128,369	3 site, non simulcast data system. Intermod / tower studies, 2 MIP 5000 consoles, 8 consoles, Antenna & Line, spares & installation, voice recorder
Total Fixed End HW & SW	\$535,934	Voice/Data coverage for bus areas in 2 floors of transit center. All central computer equipment and dispatch, DGPS, etc. required software
Total PMO	\$1,298,768	WLAN (D/G/access points), Citrix (3 servers, license), Trapeze FX-MQCN, PASS-MON
Total Training/Hardware	\$186,531	Engineering, Test, Deployment, & Program labor also includes travel
Total Other Costs	\$2,381	2 training Bus-In-a-Box (BIB), 1 maintenance laptop, manuals & training
		Lycde Energy

TOTAL BASE PROPOSAL \$5,623,216

Performance Bond \$133,551

TOTAL BASE, (with bond) \$5,756,767

Options (Increase)

A. Wayside Passenger Information Signs (ATIS)	\$220,317	9 signs, 3 line Amber, installed into pre-developed sites. RF interface, central server and software
B. Yr 2 Hardware / Software Extended Warranty	\$236,678	Includes all hardware, Orbital software, and annual maintenance agreement for Trapeze FX-MQCN & Pass-Mon
C. Yr 3 Software Maintenance	\$101,554	Includes Orbital Software and annual maintenance for Trapeze
D. Yr 4 Software Maintenance	\$107,647	Includes Orbital Software and annual maintenance for Trapeze
E. Yr 5 Software Maintenance	\$114,106	Includes Orbital Software and annual maintenance for Trapeze
TOTAL OPTIONS	\$780,301	

Total +/- Op Options \$6,537,068

Options (Decrease)

Verint Video (vs RFI)	(\$29,440)
Total +/- All Options	\$6,507,628

Notes:

Base price includes 1 yr HW/SW warranty
All values rounded to nearest dollar. Prices valid as shown.

**CHANGE ORDER
NASHVILLE METROPOLITAN TRANSIT AUTHORITY
AND
Affiliated Computer Services
Transportation Management Solutions Division**

DATE: December 8, 2008

FTA GRANT NO:

CHANGE ORDER NO: No.1

DATE OF CONTRACT: November 19, 2007

CONTRACT FOR: Purchase of Goods and Services for Radio Communications/CAD/AVL System

These changes will comply with all conditions of the following:

Original RFP 041806 and Addenda 1, 2 and 3;
ACS: Transportation Management Solutions, Proposal and cost proposal dated June 28, 2006
Contract number 111607 dated November 19, 2007

TO: ACS: Transportation Management Solutions
7160 Riverwood Drive
Columbia Md. 21046

NATURE OF CHANGES TO CONTRACT:

Changes made to contract due to addition and removal of equipment.

1. Credit for IT equipment purchase done by MTA
2. Credit for removal of ATIS option from contract
3. The installation of MARCH camera system.
4. Credit for the reduction in camera systems needed
5. Credit for the reduction in the number of supervisor vehicles
6. The addition of interior signs for the buses

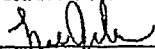
1. Cost or credit of additional changes

1. Credit for IT equipment purchase done by MTA	(credit)	\$303,879.00
2. Credit for removal of ATIS option from contract	(credit)	\$220,317.00
3. The installation of MARCH camera system.		\$222,639.00
4. Credit for the reduction in camera systems needed	(credit)	\$ 20,838.00
5. Credit for the reduction in the number of supervisor vehicles	(credit)	\$ 11,283.00
6. The addition of interior signs for the buses		\$ 57,440.00
Total change order credits	(credit)	\$276,236.00
Total Change Order #1-	(credit)	\$276,236.00

The changes result in the following adjustment of contract price and/or contract time.

1. Original contract price	\$ 8,537,068
2. Change Order Net Increase / (decrease)	(\$276,236)
3. Current contract price including these changes	\$ 6,260,832

CHANGE ORDER CHANGES REQUESTED BY:



Lea Jackson, Contract Manager

APPROVALS:

This change order is approved by the following authorized representative.

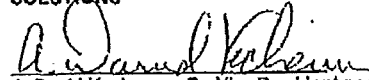
**NASHVILLE METROPOLITAN TRANSIT
AUTHORITY**



Paul J. Ballard, CEO

2-2-09
Date

**ACS: TRANSPORTATION MANAGEMENT
SOLUTIONS**



A. David Kachemov, Sr. Vice President and
Managing Director

1-23-09
Date

**CHANGE ORDER
 NASHVILLE METROPOLITAN TRANSIT AUTHORITY
 AND
 Affiliated Computer Services
 Transportation Management Solutions Division**

DATE: 01/21/10

FTA GRANT NO:

CHANGE ORDER NO: No.2

DATE OF CONTRACT: November 19, 2007

CONTRACT FOR: Purchase of Goods and Services for Radio Communications/CAD/AVL System

These changes will comply with all conditions of the following:

Original RFP 041906 and Addenda 1, 2 and 3;
 ACS: Transportation Management Solutions, Proposal and cost proposal dated June 28, 2006
 Contract number 111607 dated November 19, 2007

TO: ACS: Transportation Management Solutions
 7160 Riverwood Drive
 Columbia Md. 21046

NATURE OF CHANGES TO CONTRACT:

Changes made to contract due to addition and removal of equipment.

1. Credit for Motorola programming
2. Purchase of one additional work station license
3. Custom software interface for FX-MON to work with ORB-CAD
4. Gillig CAD/AVL vehicle equipment (4 buses)
5. Install CAD/AVL equipment Gillig buses
6. NABI CAD/AVL equipment (14 buses)
7. Install CAD/AVL equipment NABI buses

Cost or credit of additional changes

1. Credit for Motorola programming	(\$ 8,652.00)
2. Purchase of one additional work station license	\$ 13,438.00
3. Custom software interface for FX-MON to work with ORB-CAD	\$ 14,195.00
4. Gillig CAD/AVL vehicle equipment (4 buses)	\$ 86,153.23
5. Install CAD/AVL equipment Gillig buses	\$ 11,829.01
6. NABI CAD/AVL equipment (14 buses)	\$ 149,218.69
7. Install CAD/AVL equipment NABI buses	\$ 43,728.23

Total Change Order #2

\$ 258,910.18

The changes result in the following adjustment of contract price and/or contract time.

1. Original contract price	\$ 6,537,068.00
2. Change Order #1 Net Increase / (decrease)	(\$ 276,236.00)
3. Change Order #2 Net Increase / (decrease)	\$ 258,910.18
 Current contract price including these changes	 \$ 6,519,742.18

CHANGE ORDER CHANGES REQUESTED BY:

Lee Jackson 1/21/10
Lee Jackson, Contract Manager

APPROVALS:

This change order is approved by the following authorized representative.

**NASHVILLE METROPOLITAN TRANSIT
AUTHORITY**

Paul D. Ballard
Paul D. Ballard, CEO

1-21-10
Date

**ACS: TRANSPORTATION MANAGEMENT
SOLUTIONS**

A. David Kachemov
A. David Kachemov, Vice President

1/26/10
Date

**CHANGE ORDER
 NASHVILLE METROPOLITAN TRANSIT AUTHORITY
 AND
 Affiliated Computer Services
 Transportation Management Solutions Division**

DATE: 11/10/10

FTA GRANT NO:

CHANGE ORDER NO: No.3

DATE OF CONTRACT: November 19, 2007

CONTRACT FOR: Purchase of Goods and Services for Radio Communications/CAD/AVL System

These changes will comply with all conditions of the following:

Original RFP 041906 and Addenda 1, 2 and 3;
 ACS: Transportation Management Solutions, Proposal and cost proposal dated June 28, 2006
 Contract number 111607 dated November 19, 2007

TO: ACS: Transportation Management Solutions
 7160 Riverwood Drive
 Columbia Md. 21046

NATURE OF CHANGES TO CONTRACT:

Changes made to contract due to addition and removal of equipment.

1. Access Ride Fixed Route CAD/AVL equipment (5 vans)
2. Flood Recovery
3. Nashville MTA Reductions

1. Cost or credit of additional changes

- | | |
|---|--------------|
| 1. Access Ride Fixed Route CAD/AVL equipment (5 vans) | \$ 48,186.81 |
| 2. Install CAD/AVL equipment (5 vans) | \$ 13,595.94 |
| 3. NABI interior sign equipment, (14 buses), TSP installation | \$ 38,014.51 |

2. Flood Recovery

- | | |
|------------------------------------|--------------|
| 1. Fixed Route Bus in a Box | \$ 18,327.53 |
| 2. Replacement Fixed Routes Spares | \$ 59,087.58 |
| 3. Server relocation assistance | \$ 24,682.38 |

3. Nashville MTA Reductions

- | | |
|--------------------------|-----------------|
| 1. Paratransit Equipment | (\$ 129,699.29) |
| 2. Paratransit Install | (\$ 23,120.88) |
| 3. Warranty Reduction | (\$ 38,068.49) |

Total Change Order #3 \$ 10,906.08

The changes result in the following adjustment of contract price and/or contract time.

1. Original contract price	\$ 6,537,068.00
2. Change Order #1 Net increase / (decrease)	(\$ 276,236.00)
3. Change Order #2 Net increase / (decrease)	\$ 258,910.18
4. Change Order #3 Net increase / (decrease)	\$ 10,906.08
Current contract price including these changes	\$ 6,530,648.26

CHANGE ORDER CHANGES REQUESTED BY:

Lee Jackson
Lee Jackson, Contract Manager

APPROVALS:

This change order is approved by the following authorized representative.

NASHVILLE METROPOLITAN TRANSIT
AUTHORITY

Paul J. Ballard
Paul J. Ballard, CEO

11-12-10
Date

ACS: TRANSPORTATION MANAGEMENT
SOLUTIONS

Robert S. Jones, Jr.
Robert S. Jones, Jr.
Vice President, TSG Transportation
Solutions

11/15/10
Date

**CHANGE ORDER
 NASHVILLE METROPOLITAN TRANSIT AUTHORITY
 AND
 Affiliated Computer Services
 Transportation Management Solutions Division**

DATE: 05/12/11

FTA GRANT NO:

CHANGE ORDER NO: No.4Revised DATE OF CONTRACT: November 19, 2007

CONTRACT FOR: Purchase of Goods and Services for Radio Communications/CAD/AVL System

These changes will comply with all conditions of the following:

Original RFP 041906 and Addenda 1, 2, 3 and 4;
 ACS: Transportation Management Solutions, Proposal and cost proposal dated June 28, 2006
 Contract number 111607 dated November 19, 2007

TO: ACS: Transportation Management Solutions
 7160 Riverwood Drive
 Columbia Md. 21046

NATURE OF CHANGES TO CONTRACT:

Changes made to contract due to addition and removal of equipment.

1. Gillig 40' Vehicle Equipment and Installation
2. Option 1 – Interior AVL Signs Equipment and Installation

1. Cost or credit of additional changes

1. Gillig 40' Vehicle equipment (qty. 25)	\$9,209.18 ea.	\$ 230,229.50	<i>AB</i> <i>5-26-11</i> / <i>2007</i> <i>6/6/11</i>
2. Install of equipment (qty. 25)	\$1,527.93 ea.	\$ 38,198.28	
3. Option 1 Interior AVL signs Equipment and Installation (qty.25)	\$1,018.38 ea.	\$ 25,459.49	
Total Change Order #4		\$ 293,887.28	<i>AB</i> <i>5-26-11</i> / <i>2007</i> <i>6/6/11</i>

The changes result in the following adjustment of contract price and/or contract time.

1. Original contract price	\$6,537,068.00
2. Change Order #1 Net increase / (decrease)	(\$ 276,236.00)
3. Change Order #2 Net increase / (decrease)	\$ 258,910.18
4. Change Order #3 Net increase / (decrease)	\$ 10,906.08

Change Order # 4 Revised
ACS: Transportation Management Solutions
May 12, 2011

5. Change Order #4 Net increase / (decrease)

Current contract price including these changes

\$ 293,887,28²⁵ ~~NO~~ 52611

\$6,824,535.30

CHANGE ORDER CHANGES REQUESTED BY:

Greta Beard
Greta Beard, Procurement Manager

APPROVALS:

This change order is approved by the following authorized representative.

**NASHVILLE METROPOLITAN TRANSIT
AUTHORITY**

Raul J. Ballard
Raul J. Ballard, CEO

Date 5-16-11

ACS TRANSPORT SOLUTIONS, INC.

Ian Newberg
Ian Newberg, Vice President

Date 6.6.11