



## COOPERATIVE PURCHASING AGREEMENT

**MDX PROCUREMENT/CONTRACT NO.** MDX-18-02  
**MDX WORK PROGRAM NO.** VARIOUS  
**MDX PROJECT/SERVICE TITLE:** TOLL COLLECTION SYSTEM: EQUIPMENT, INSTALLATION, MAINTENANCE, AND SUPPORT SERVICES

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**THIS COOPERATIVE PURCHASING AGREEMENT** (the "Agreement"), is made and entered into as of the 1st day of February, 2018 (the "Effective Date"), by and between the **MIAMI-DADE COUNTY EXPRESSWAY AUTHORITY D/B/A MIAMI-DADE EXPRESSWAY AUTHORITY** (as "MDX"), a body politic and corporate, a public instrumentality and an agency of the State of Florida, created under Chapter 348, Part I, Florida Statutes, acting by and through its Governing Board, and **TRANSCORE, LP**, a corporation organized and existing under the laws of the State of Delaware, and duly authorized to transact business in the State of Florida, **F.E.I.N. 25-1730334**, having its principal office at 150 4<sup>TH</sup> Avenue North, Suite 1200 Nashville, TN 37219, (as the "CONTRACTOR") (collectively, referred to herein as the "Parties" to this Agreement).

### WITNESSETH:

**WHEREAS**, pursuant to RFP-DOT-15/16-8001-WS, the Florida Department of Transportation (FDOT) competitively procured for a Toll Equipment Contractor and subsequently on May 17<sup>th</sup>, 2017 entered into Standard Written Agreement No. BE355 with the CONTRACTOR for a term of ten (10) years (the "FDOT Contract") attached hereto as Exhibit "A" and incorporated herein by reference; and

**WHEREAS**, subject to §43 (Cooperative Purchasing) of the DMS PUR 1000, and as permitted by Section 4.7 (Cooperative Purchasing and Piggy-Backing) of the MDX Procurement Policy, MDX desires to enter into this Agreement with the CONTRACTOR to provide Toll Collection System: Equipment, Installation, Maintenance, and Support Services (the "Services"), as solicited for, and in accordance with the terms and conditions of the FDOT Contract, unless otherwise set forth herein; and

**WHEREAS**, for purposes of this Agreement, the references to "Director" under the FDOT Contract shall be replaced with the "MDX Executive Director and his delegates" as it relates to the language and provisions of the FDOT Contract.

**NOW, THEREFORE** in accordance with Article 8.3 "APPROVAL AUTHORITY OF AGREEMENTS AND SUPPLEMENTAL AGREEMENTS" of MDX's Procurement Policy (publicly available on MDX's Website: [www.mdxway.com](http://www.mdxway.com), and incorporated herein by reference to the extent applicable to the Services provided by this Agreement), and in consideration of the mutual understandings and covenants set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

### 1. RECITALS

The foregoing recitals are true and correct and are incorporated herein.



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## **2. EFFECTIVE DATE AND TERM**

Subject to the termination provisions included herein and an annual appropriation of funds, this Agreement shall become effective as of the date fully executed by and between the Parties. The term of this Agreement shall run concurrent with the FDOT Contract ("Initial Term") and should the FDOT Contract be extended pursuant to its terms, this Agreement may be extended upon mutual agreement by and between the Parties, to further run concurrent with the FDOT Contract's extension period, in whole or in part, or increments thereto (the "Extension Period(s)") at the sole discretion of MDX. Any extension to this Agreement shall be in the form of a Supplemental Agreement.

The CONTRACTOR shall not commence any Services under this Agreement until a fully executed Task Authorization (TA) has been issued for a specific assignment.

## **3. COMPENSATION/PAYMENT OF INVOICES**

For Services rendered, the CONTRACTOR shall be compensated pursuant to the contractual rates set forth by the FDOT Contract.

The total contract value for Services performed under this Agreement shall not exceed a total of Thirty-three Million, Six Hundred Nine Thousand, Seven Hundred Forty Five Dollars (\$33,609,745) without MDX's written consent, and therefore execution of a Supplemental Agreement by and between the Parties.

Paragraph H of Section 3 (Compensation and Payment) of the FDOT Contract is hereby deleted.

During the term of this Agreement, inclusive of any Extension Period if exercised, payment of invoices shall be made in accordance with the Local Government Prompt Payment Act, Sections 218.70-218.80, Florida Statutes.

Invoices shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof to the attention of:

Director of Toll Operations  
Miami-Dade Expressway Authority  
3790 NW 21<sup>st</sup> Street  
Miami, Florida 33142

Invoice submittals shall include the following forms (the "Invoicing Forms"). If only one invoice is required for a particular Task Authorization, all forms below must be submitted with the invoice.

- MDX Invoice Tracking Form
- Certificate of Partial Payment/Final Payment, Waiver and Release From Contractor/Consultant\*
- Certification of Disbursement to Subcontractors/Subconsultants/Suppliers\*\*
- Contractor's/Consultant's Final Release and Affidavit\* (*this form is only applicable to the final payment under a Task Authorization or the Agreement*)





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\*For multiple invoice submittals under one Task Authorization, these forms are not required for the first invoice.

\*\*Only applicable when invoicing for subcontracted services.

Failure to submit the above forms properly executed may be cause for rejection of the invoice.

All forms may be downloaded from the MDX website at <https://www.mdxway.com/business/procurement-documents>.

#### **4. PERFORMANCE**

This Agreement shall be performed in accordance with the Contract Documents.

The CONTRACTOR performance will be evaluated using the MDX Contract Performance Evaluation procedures described in the MDX Procurement Policy.

#### **5. CONFLICT OF INTEREST**

In addition to all other requirements of the Contract Documents related to avoidance and disclosures of Conflict of Interest, the Contractor is also required to annually submit to the MDX Ethics Officer the MDX Annual Disclosure Form, incorporated herein by reference and found in the MDX website, and provide the following information:

- (1) Any relationship that the Contractor has that will afford a current or future financial benefit to the Contractor, or to a relative or business associate of the Contractor, and which a reasonable person would conclude has the potential to create a prohibited Conflict of Interest.
- (2) Whether a relative of the Contractor is registered to lobby the Executive Branch of the State of Florida or the Florida Constitution Review Committee and, if so, the names of such lobbyist's clients must be provided in writing to the MDX Ethics Officer.
- (3) Any and all interest in real property held by the Contractor or the immediate family member of the Contractor, if such real property is located in or within a ½ mile radius of any actual or prospective MDX project. Prior to the execution of the Contract, the Contractor has been provided a corridor map and a related property ownership list for all real property within the disclosure area, and an alignment map with a list of associated owners.

The MDX Annual Disclosure Form must be submitted by the Contractor on the Effective Date of the Agreement and updated every year on the same date. It is the Contractor's responsibility to obtain from MDX an updated corridor map and a property ownership list for all real property within the disclosure area, and an alignment map with a list of associated owners in order to properly complete the MDX Annual Disclosure Form. Failure by the Contractor to timely submit the MDX Annual Disclosure Form is a default under the Agreement and MDX, at its sole discretion, may enforce all applicable provisions under the Contract, including and up to termination of the Contract.



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## **6. INSURANCE REQUIREMENTS**

The Contractor shall fully comply with the **Insurance Requirements** defined in the FDOT Contract. Except for the Worker's Compensation and Professional Liability insurances, MDX shall be included as an additional insured in all policies in compliance with this Agreement.

## **7. EMERGENCY PREPAREDNESS**

As may be applicable and compensable to the Work, in the event of an emergency, the Contractor shall coordinate with the MDX to identify and prepare to assume the necessary responsibilities of the then current Emergency Preparedness and Response Plan developed for MDX. The 2017 Emergency Preparedness and Response Plan is attached hereto as an Exhibit "H".

## **8. TERMINATION**

MDX may terminate this Agreement in whole or in part per the provisions of §6 (Termination and Default) of the FDOT Agreement.

The provisions of §6 (Termination and Default) of the FDOT Agreement are incorporated herein.

## **9. CONTRACT DOCUMENTS**

In the event of any conflict between this Agreement and the terms and conditions of the FDOT Contract, the terms and conditions of this Agreement shall prevail.

The following Exhibits and/or Attachments of the FDOT Contract are here by deleted:

- Attachments:
  - A.A Potential Toll Projects 2016-2026
  - A.C Initial Qualification Test (IQT) Site and Gantry Drawings
  - A.D Interface Control Documents (ICDs)
- Exhibits:
  - E Project Implementation Schedule
  - G Initial Qualifications Test

The following Exhibits of the FDOT Contract are hereby replaced with the Invoicing Forms referenced in Section 3 of this Agreement.

- Exhibit H - Certification Disbursement of Previous Payment
- Exhibit I - Certificate of Contract Completion





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#### **10. REQUIRED DOCUMENTATION**

The CONTRACTOR agrees it shall complete, sign accordingly and submit to MDX the **Vendor's Bill of Rights and Responsibilities**, attached hereto as Exhibit "F" and the **Sworn Statement on Public Entity Crimes and Debarment**, attached hereto as Exhibit "G".

The Contractor shall support an annual SSAE 18, SOC 1 and Type 2 audit report (the "Report") in accordance with AICPA standards. The Report shall be for the period of MDX's fiscal year (July 1<sup>st</sup> – June 30<sup>th</sup>) and be submitted no later than September 1<sup>st</sup> of each year. The report shall be prepared by a reputable national CPA firm that MDX will provide and be submitted directly to the MDX CFO. Any changes or recommendations provided by the MDX-provided auditors that are requested to be made to TransCore's systems or services may be compensated, as may be applicable and negotiated between the Parties. If and when such negotiation is required, the pricing of the Agreement shall govern.

#### **11. SOVEREIGN IMMUNITY**

No provision of the Contract Documents shall be construed as a waiver of sovereign immunity by MDX.

#### **12. CONSTRUCTION AND CAPTIONS**

All words used herein in the singular form will extend to and include the plural. All words used in the plural form will extend to and include the singular. All words used in any gender will extend to and include all genders. The captions contained in this Agreement are for the convenience of the Parties only and shall not be construed to limit or otherwise define the scope of this Agreement.

#### **13. EXECUTION**

This Agreement shall be executed by a duly authorized representative of each entity actively taking part in this Agreement, and MDX represents that it is authorized by the laws of the State of Florida to execute this Agreement.

#### **14. LAW AND VENUE**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venue of any litigation arising out of this Agreement shall be in Miami-Dade County, Florida.

#### **15. SERVICE OF PROCESS**

In the event of any litigation arising out of this Agreement, the CONTRACTOR acknowledges that service of process may be made on its registered agent, as designated in the corporate records of the Florida Department of State Division of Corporations.

#### **16. ENTIRE AGREEMENT**

This Agreement embodies the whole agreement between the Parties and there are no inducements, promises, terms, conditions, or obligations made or entered into by either MDX or the CONTRACTOR other than contained herein. This Agreement shall inure to the benefit of, and be binding on, the Parties or any successor(s) thereto.



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## **17. NOTICES**

Notices required under this Agreement shall be e-mailed, mailed (U.S. Certified Mail), or delivered as follows, unless a party directs in writing that notices shall be provided to it at another location or to another individual:

To MDX: Helen M. Cordero, CPPB  
Manager of Procurement & Contract Administration  
Miami-Dade Expressway Authority  
3790 N.W. 21<sup>st</sup> Street  
Miami, Florida 33142  
Tel: 305-637-3277 (ext. 1123)  
e-mail: [hcordero@mdxway.com](mailto:hcordero@mdxway.com)

With a copy to: Carlos M. Zaldivar, Esq.  
MDX General Counsel  
Miami-Dade Expressway Authority  
3790 N.W. 21<sup>st</sup> Street  
Miami, Florida 33142  
Tel: 305-637-3277 (ext. 2210)  
e-mail: [czaldivar@mdxway.com](mailto:czaldivar@mdxway.com)

To CONTRACTOR: Tracy Marks  
President  
TransCore, LP  
150 4<sup>TH</sup> Avenue North, Suite 1200  
Nashville, TN 37219  
e-mail: [Tracy.marks@transcore.com](mailto:Tracy.marks@transcore.com)

## **18. DEFINED TERMS**

Capitalized terms used herein, unless otherwise specifically defined in this Agreement, shall have the meanings ascribed to them in the Contract Documents.

## **19. SEVERABILITY**

If any one or more of the covenants, agreements or provisions of this Agreement shall be held invalid, it is the intent of the Parties that such covenants, agreements or provisions shall be deemed severable and the remaining provisions shall remain in full force and effect.

## **20. ACKNOWLEDGEMENT & REPRESENTATION**

The Parties to this Contract individually represent, warrant, and agree that:

- A. They have been represented by legal counsel of their choice in connection with the Contract;
- B. They are fully aware and clearly understand all of the terms and provisions contained in this Contract;





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- C. They have voluntarily, with full knowledge and without coercion or duress of any kind, entered into this Contract;
- D. They are not relying on any representation, either written or oral, express or implied, made to them by any other party other than as set forth in this Contract; and
- E. The consideration received by them to enter into this Agreement and the settlement contemplated by this Agreement has been actual and adequate.

## **21. EXHIBITS**

All Exhibits attached hereto contain additional terms of this Agreement and are incorporated as if actually set forth herein.

Exhibit A FDOT Contract No. BE355

Exhibit B Additional Scope of Services and Contract Prices

Exhibit C Software License Agreement

Exhibit D Escrow Agreement (Draft in substantial form attached hereto, pending execution of the final version at a later date)

Exhibit E MDX Annual Disclosure Form

Exhibit F Vendor's Bill of Rights and Responsibilities

Exhibit G Sworn Statement on Public Entity Crimes

Exhibit H MDX 2017 Emergency Preparedness and Response Plan



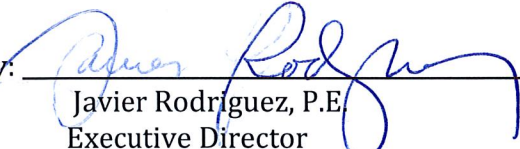
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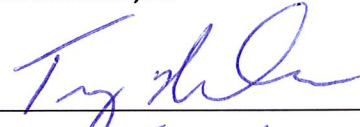
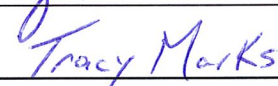
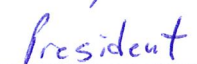
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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their respective and duly authorized officers as of the Effective Date defined herein.

MIAMI-DADE EXPRESSWAY AUTHORITY

TRANSCORE, LP

By:   
Javier Rodriguez, P.E.  
Executive Director

  
By:   
Title: 

{Corporate Seal}

