

## **REQUEST FOR PROPOSAL**

The Tift County Board of Commissioners is issuing a Request for Proposals pertaining to the following:

To establish a contract with an independent provider of transportation services to manage and totally operate a rural public transportation program for residents of Tift County. There shall be no segregation of Public and other contracted purchase of service (POS) trips and client mixing shall take place during all hours of operation, including during peak services; however, priority should be given to public ridership. Tift County will provide continued oversight of FTA requirements to the successful bidder throughout the contract period.

### **Anticipated Schedule of Events:**

Issue Request for Proposal – May 24, 2018

Proposal Due – June 28, 2018

### **Inquiries for Technical Information should be directed to:**

Jim Carter, County Manager

Phone #: (229) 386-7850

Email: [jim.carter@tiftcounty.org](mailto:jim.carter@tiftcounty.org)

### **Return Proposal to the Listed Below by 4:00 p.m., June 28, 2018**

ATTN: RFP for Transportation Services

Miriam Jordan, County Clerk

c/o Tift County Board of Commissioners

Post Office Box 826

Tifton, GA 31793

**To be eligible for consideration, the original proposal for this request and two (2) copies must be received by the Board of Commissioners of Tift County no later than 4:00 pm on June 28, 2018.**

Proposal Packages can be obtained by calling (229) 386-7850.

Tift County reserves the right to reject any and all proposals/bids, to waive informalities, to re-advertise and/or to award the contract in accordance with FTAC 4220.1F, and to retain any and all Proposals/Bids for a period of thirty (30) days after opening.

## REQUEST FOR PROPOSAL

### **THIRD-PARTY OPERATOR (TPO) TO OPERATE A 5311 RURAL PUBLIC TRANSPORTATION SERVICE FOR RESIDENTS OF TIFT COUNTY**

#### **SUMMARY OF DESIRED SERVICES**

The Tift County Board of Commissioners desires an independent provider of transportation services to manage and totally operate a rural public transportation program for the general public who reside in Tift County. There shall be no segregation of Public and other contracted purchase of service (POS) trips and client mixing shall take place during all hours of operation, including during peak services; however, priority should be given to public ridership.

#### **OBJECTIVES OF THIS REQUEST FOR PROPOSAL**

1. To provide a fair and open service to all Tift County residents.
2. To identify a Third-Party Operator (TPO) who is prepared to work with Tift County to establish a new approach to meeting rural transportation needs and who has demonstrated such skills as necessary to achieve this goal;
3. To provide transportation services to the disadvantaged in Tift County to social services agencies.
4. To provide cost-effective transportation to medical services for those who are without transportation or have depended on more costly means of obtaining transportation.
5. To enhance the economic base of Tift County by providing transportation for shopping to grocery and other retail stores in the area.

#### **PROPOSAL DEADLINE DATE**

To be eligible for consideration, the original proposal for this request and two (2) copies must be received by the Board of Commissioners of Tift County, no later than **4:00 p.m. on June 28, 2018. If you have problems/questions about this RFP, please contact this office.**

Submit Proposal To:

Tift County Board of Commissioners  
c/o County Clerk  
Post Office Box 826  
Tifton, GA 31793  
(229) 386-7850

## SCOPE OF RESPONSIBILITES

Tift County will provide to the successful TPO:

The local match for the capital equipment;

Vehicle insurance as prescribed by the GDOT on the transit vehicles;

Administrative Assistance as needed.

The successful TPO shall provide the following for the proper management and operation of the Tift County Transit System:

All administrative services for the operation of a complete Section 5311 Rural Public Transportation System of Tift County. Program must be operated a minimum of 8 hours per day for at least 260 days per year, which will exclude county holidays in accordance with policies and procedures set by County and GDOT;

Day-to-day supervision of the Transit Drivers; to include strict enforcement of the Tift County Zero Tolerance Drug and Alcohol Testing Policy, and compliance with the Tift County Transit System Title VI Plan; both of which are in Final Draft and have been approved by GDOT. In addition, provide required training as prescribed by GDOT and/or other service agencies which Tift County elects to enter into a Purchase of Services agreement.

Supervise the overall upkeep of the transit vehicles which includes preventative maintenance, cleaning, repair and component replacement as necessary. All FTA assets must be maintained in a state of good repair at all times.

Implementation of such service expansions or improvements as may be recommended by TPO and approved by County and GDOT, or as may otherwise be agreed upon between the parties from time to time.

## SCOPE OF SERVICES

The TPO shall offer the following services:

Services will be demand response transportation for all residents of Tift County, as approved by the Tift County Board of Commissioners. The aforementioned services are defined as follows:

1. Demand Response Service constitutes service with at least 24 hours' advance notice. Any advance notice less than 24 hours should be worked into regular schedule if feasible.
2. Regular hours of service shall be from 7 am to 6 pm. Hours may be extended as needed to support needs of community but in no case, shall a passenger be refused service within the regular service hours unless extenuating circumstances exists, such as no seat capacity in existing vehicles.
3. Passenger constitutes any resident of Tift County and a passenger-trip constitutes transporting one passenger one-way between two locations.

## **CONTRACT TERMS**

The contract term will be from award of contract to June 30, 2019. The contract may be amended in writing from time to time by mutual consent of the parties. The resulting contract does not guarantee volume or a commitment of funds. Any change to original contract scope must not take place and should be discussed with GDOT in every situation.

## **OPERATING SERVICES**

The TPO shall provide all reservations and scheduling functions as outlined in the following (any schedule changes must be approved by the County):

1. General Tasks - The TPO shall respond to telephone requests from 7 am to 6 pm, Monday thru Friday, except County holidays, and maintain a daily log record of all telephone calls received;
2. The TPO shall maintain a monthly log of all trip denials, noting passenger names, destination requests and time of service requested as all as the reason for the denial.
3. Demand Responsive Services Reservation Procedures - The TPO shall accept reservations for demand response service up to 3 p.m. the day prior to the day of trip, Monday thru Friday. Reservations should be made on the working day in advance of the trip. The dispatcher shall maintain a demand response reservation log, recording the name, address and telephone number of the caller and the requested pick-up times and locations for both the originating and the return trips. If the trip can be accommodated, the dispatcher will make the reservations, record method of payment, type of trip, and Medicaid number, if warranted. If trip cannot be accommodated, the dispatcher shall note this on the demand response log as designed by Contractor and County.

## **SERVICE DELIVERY PROCEDURES**

The TPO shall adhere to the following mandatory service delivery requirements:

1. The drivers must accept all trip requests related to him/her by the dispatcher so long as they are within his/her specified service area and within the specified service time. There shall be no right of refusal based on vehicles availability (except the passenger maximum load factor) or any consideration other than verifiable catastrophic mechanical failure of the vehicles in the fleet;
2. The vehicles must be on time, unless there are extenuating circumstances beyond the TPO's or driver's control. A 95% on-time performance rate is required. Notification must be given by the Contractor to the passenger in the event of unavoidable delays;
3. For social service clients, drivers must wait five (5) minutes after the appointed pick-up time before a passenger can be considered a no-show. (A no-show is a passenger who is not at the appointed pick-up location at the scheduled time and who has not informed the TPO in advance that he/she would be absent)

4. Drivers shall offer assistance to all passengers as needed to board and depart from the vehicles; secure all wheelchairs according to ADA requirements, and request that all passengers buckle their seatbelts;
5. Drivers shall not smoke, eat or drink while passengers are in the vehicles. Drivers shall enforce with the passengers the policy of no smoking, eating, and drinking in the vehicles; the driver shall notify the supervisor if a passenger refuses to observe the policy.
6. Drivers shall maintain daily records of mileage, time, type and number of trips, and passenger types as required by GDOT and the County. These records shall be turned in to Contractor on a weekly basis.
7. Drivers shall inform supervisors of any passenger complaints. Thereafter, the supervisors shall complete passenger complaint forms and send copies to the County for record purposes or for any appropriate action if necessary. The complaint shall be filed with County within one (1) week from the date of the occurrence.
8. The County, through the TPO, shall inform the appropriate social services agency representative regarding any difficulties experienced in transporting an agency client, whether related to safety, behavior, or other reason;
9. Drivers and TPO are prohibited from soliciting or accepting any tips or other forms of gratuity other than the approved fare from system riders.

#### **VEHICLE MAINTENANCE**

The FTA vehicles under this agreement must be maintained in safe, good mechanical condition and in a state of good repair. The Vehicles will follow the preventive maintenance schedule as written in the county maintenance agreement and meet this schedule 80% of the time for all system vehicles. Vehicles should not be parked due to catastrophic breakdown. Any lift repairs shall be made within five (5) business days. Vehicles shall be subject to inspections by GDOT representatives. GDOT inspections will occur on an annual basis and in accordance with the Vehicle Monitoring Form. The Contractor shall submit the invoices of any work to the County for subsequent submission to the GDOT. These invoices shall be part of the Monthly Reports. The payment for these repairs and component replacements shall be made by the TPO and charged to the current Section 5311 Program Budget. Vehicles utilized for the Section 5311 Program shall be parked overnight and on weekends at places to be designated by the County. Mechanics must meet all requirements for a safety-sensitive employee described in the County's Zero Tolerance Drug and Alcohol Abuse Policy.

#### **VEHICLE INSURANCE AND LIABILITY INSURANCE COVERAGE**

Unless otherwise specifically required, Tift County must maintain insurance on the transit vehicles that meets the following GDOT criteria:

1. Vehicles with maximum capacity of 15 passengers or less - Liability coverage in an amount of \$500,000 for death or injury of one person, \$700,000 in the event of injury or death of two or more persons in a single accident including liability to and employees engaged in operation of the vehicles, and \$50,000 for property damage.

2. Vehicles with capacity over 15 passengers - Liability coverage in an amount of \$2,000,000 for the death or injury of person, \$1,000,000 in the event of injury or death of two or more persons in a single accident including liability to any employees engaged in operation of the vehicles, and \$50,000 for property damage. OCGA 36.92.2

### **OTHER COVERAGE**

Tift County will maintain collision, fire, theft, and comprehensive coverage in an amount required to pay for any damages to the vehicles and equipment utilized to carry out the provision of services as required.

The TPO shall at all times during the term hereof and at TPO's sole cost and expense, maintain in force insurance, as herein provided, to protect TPO, its agents, employees, and the County, its agents, officials, and employees from all liability in connection with TPO's performance of services under this agreement. The TPO shall provide certificates of such insurance to the County, and the policy or policies of coverage shall be issued by reputable, credit worthy carrier's licensed to provide insurance in the State of Georgia. In no event, shall the limits of the policy or policies be considered as limiting the liability of the TPO under this Agreement.

The TPO shall maintain commercial general liability insurance with combined single limits of \$3,000,000 per occurrence. The policy shall be endorsed to add Tift County and GDOT as additional insureds. The policy will also be endorsed to provide Tift County with a minimum of 30 days written notice in the event of cancellation for any cause other than non-renewal and 45 days written notice in the event of non-renewal. The policy should include coverage for loading and unloading of passengers.

The TPO shall maintain Workers' Compensation coverage for all employees of the TPO providing transit services on behalf of Tift County at all times during the term of this contract and at TPO's sole cost and expense, at a minimum payable amount of up to \$500,000 per occurrence.

### **QUALIFICATIONS AND TRAINING GUIDELINES**

The following qualifications and training guidelines must be met by the County and TPO:

1. Drivers' Qualifications – All drivers will be employed by the TPO. The TPO will assure that drivers have or will be able to obtain a valid Georgia License. A Class C Georgia Commercial License (CDL) will be required when the County provides a vehicle that will transport more than 15 passengers (including drivers); be able to read, write and make correct change; have the ability to physically assist in loading and unloading of elderly and disabled passengers when necessary; have a minimum of five (5) years driving experience; have thorough knowledge of traffic safety and excellent driving record; have 20/20 vision (corrected) and be in good physical health; have the ability to deal effectively with the elderly, disabled, and general public; have ability to arrive at work on time; have favorable job history and satisfactory references; and meet all requirements for a safety-sensitive employees described in the Tift County Zero Tolerance Drug and Alcohol Testing Policy. Provide a current MVR and pass a mandatory pre-employment drug screen per FTA requirements.
2. The TPO will design and provide a driver's training program that includes the following: use of equipment; defensive driving techniques; CPR training; First Aid; Passenger Service and Safety (PASS) assistance techniques for proper care and handling of disabled riders; fare structure; system information; preventative maintenance requirements; and record keeping.
3. Dispatcher Qualifications - Dispatcher is to be employed by the TPO, should have the following qualifications: skills and ability to use computer and computer software systems as prescribed by

GDOT, knowledge of county and city roads; verbal communication skills (good telephone manners); high school graduate or equivalent; experience in dispatching; favorable job history and satisfactory references; ability to coordinate variable routing needs; and meet all requirements for a safety-sensitive employee described in the Tift County Zero Tolerance Drug and Alcohol Testing Policy.

4. Dispatcher Training - The TPO shall design and provide a dispatcher training program that includes the following: use of dispatching equipment; grouping of trips for more effective utilization of vehicles and resources; fare structures; system information; record keeping; and knowledge of special needs of social service agency clients.
5. TPO will agree to comply with and be responsible for implementing any drug testing program of all TPO's employees working on the Sections 5311 Program, full or part-time, if mandated by GDOT and adopted by the County and to comply with the requirements of Federal Transit Administration 49 CFR Part 40 Drug and Alcohol Testing Program.
6. Current drivers may be eligible for employment with the successful bidder if they have satisfactory employment history and meet the requirements as listed above.

#### **ADMINISTRATIVE RESPONSIBILITIES**

The County will provide oversight of the TPO related to FTA requirements and the TPO must be knowledgeable and experienced in FTA requirements.

The TPO shall operate the Section 5311 Program services in accordance with the guidelines and policies set by GDOT. TPO will maintain appropriate books, records, documents, papers and other evidence pertaining to public transportation for inspection, upon request by the County and GDOT, or their representatives for the contract period. These records must include work orders generated for maintenance and records of payments for said maintenance. The TPO will be responsible for completing GDOT monthly reports from information recorded by drivers and from information furnished by the County. These reports are to be sent to the County Clerk for review and approval. After review and approval, the County Clerk will submit reports to GDOT District 4, Tifton, Georgia. The reports for the month ended shall be submitted to the GDOT District Office by the tenth (10th) of the following month.

#### **AUDITING**

TPO will maintain an acceptable accounting system in accordance with Federal and State Regulations. TPO will be required to provide for an independent audit at the end of the contract period. This end-of-year audit also constitutes the final financial report. The audit shall be performed by a certified or licensed independent auditor. Further details are included in OMB Circular A-128.

#### **REVENUE AND EXPENSE REPORTS AND INVOICING**

Revenue: There will be a fare structure established by the County for the Transit System. Social Service agency riders will be paid for by the social service agency. TPO will be responsible for billing of these agencies for expenses on a monthly basis. All fares and purchase of service income must be documented on the invoice submitted by the County. Tift County will negotiate rate with main contractor. All POS Contracts must recover the cost of service based on the current fully allocated cost formula.

Expenses and Invoicing: TPO will submit monthly invoices to the Board of Commissioners of Tift County as part of the Monthly Operating Report. TPO will prepare the monthly GDOT Reimbursement Form, together with TPO's monthly invoice. The County Clerk will, after review and approval, sign and forward the Reimbursement Form to the GDOT District Office. TPO will make sure the Reimbursement Form is ready for signature in a timely manner. County will reimburse TPO in a timely manner for the services provided by TPO in accordance with the Contract, including any other incidental costs of the program that were approved by County and incurred by TPO.

### **ACCIDENT REPORTING**

The Drivers will report any accidents to the TPO and County within one (1) hour of the occurrence or, if the offices are closed, by cell phone. The drivers shall give TPO a copy of the investigating officer's accident report. The TPO will send copies of the report to the County and GDOT District Representative within three (3) work days from the date of the accident. The procedures required for a safety-sensitive employee described in the Tift County Zero Tolerance Drug and Alcohol Abuse Policy will be strictly followed related to post-accident testing.

### **CIVIL RIGHTS ASSURANCES**

The TPO must agree as a condition to receiving Federal assistance under Section 5311, as amended, that:

1. No person shall on the grounds of race, color, creed, national origin, sex, age, or handicap be excluded from participation in, or denied the benefits of, or be subject to discrimination under any project, program, or activity for which this recipient receives Federal Financial Assistance from the Federal Transit Act;
2. The TPO shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin, and shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, or national origin;
3. The TPO will conduct any program or operate any facility that receives or benefits from Federal financial assistance administered by the Department of Transportation in compliance with all requirements imposed by or pursuant to 49 CFR Part 27, Non-discrimination on the Basis of Handicap in Federally Assisted Programs and Activities received or benefiting from Federal Financial Assistance;
4. The TPO will fully implement the Tift County Transit Title VI Program.
5. The TPO shall insure that the Title VI notice is posted in view of all passengers on every transit vehicle.

### **SERVICE CRITERIA**

The TPO shall use the following service criteria as a guide for evaluation of vehicle utilization:

1. Service shall be provided fairly and openly to all Tift County residents.
2. The service should be complimentary and not duplicate other transportation services.
3. Monthly ridership should be 500 person trips per active vehicle in service.
4. Vehicle Utilization should be 120 hours per month per active vehicle.



5. Vehicles should be available for service during the approved hours of service.
6. Vehicle trips for contract service shall, at a minimum, recover all costs.
7. Regular service ridership should exceed 0.5 passengers per vehicle service mile.
8. Total system utilization should at a minimum achieve 10% of its ridership from fare-paying non-agency passengers.
9. Client mixing of all system users must take place
10. Clients of POS contracts shall not take precedence over Public ridership.

### **COMPLIANCE WITH LAWS**

The TPO must comply with relevant Federal and State Laws and regulations pertaining to FTA Section 5311 Program Funds, FTA C 9040.1G, to include the Office of Management and Budget Circular 74-7 in the Hatch Act. Procurement activities by TPO will be conducted accordance with FTA C. 4220.IF.

### **PROPOSAL FORMAT AND CONTENT**

Contents to be submitted:

- 1) Complete Cover Page
  - a. Name of Organization, Business Address, Contact Person, and Telephone Number
  - b. Legal Status of Organization (Indicate whether organization is a for-profit corporation, partnership, sole proprietorship, non-profit, government, etc.)
  - c. Description of Organization (Provide a brief description of the major business functions, history, and organization structure.)
  - d. Federal Tax ID number
  - e. E-Verify number and date
- 2) Service Proposal - Answer the six mandatory questions with all of the above factors as reference.
- 3) Submit a list of at least three references for which you have provided transportation services for the past five years.
- 4) Submit any letters of recommendation that you might receive from current human service agencies you are servicing.
- 5) Submit fully executed Affidavit Verifying Status for Public Benefit Application Contracts for S.A.V.E. (Systematic Alien Verification for Entitlements).
- 6) Worker's Compensation Insurance covering TPO's employees is required. Certificate of verification must be presented to Tift County.

- 7) Certificate Verification of Other General Liability Insurance Requirements
- 8) Submit Completed W-9 Request for Taxpayer Identification Number and Certification

### **PROPOSAL EVALUATION CRITERIA**

The Board of Commissioners of Tift County reserves the right to reject or accept any and all bids received as a result of this RFP, to negotiate with any source it deems to be qualified, or to cancel this RFP in part or its entirety, if it is in the best interest of Tift County.

The selection of the successful bidder will be made by the Tift County Board of Commissioners and in accordance with written standards of conduct and criteria and weights set forth herein.

1. Infrastructure:
  - a. Experience in transportation service, emphasis on delivery experience with specialized service for the elderly and disabled;
  - b. Qualifications and experience of key project personnel (computer training, personnel management, etc.);
  - c. Fleet management capability
  - d. Financial stability and management;
  - e. Supplemental vehicles.
2. Administration:
  - a. Ability to record and report, in a timely manner as required by the contracts, all information and reports required by the County and other State Agencies;
  - b. Ability to implement and enforce the County Zero Tolerance Drug and Alcohol Policy and the County Title VI Program;
  - c. Ability to maintain a clear and accurate recording, accounting and filing system.
3. Operations:
  - a. Supervision of drivers and services;
  - b. Ability to Schedule, Dispatch, and Verify all trips requested;
  - c. Ability to handle and resolve all complaints;
  - d. Ability to insure satisfactory needs of the County, GDOT and other State Agencies.
4. Familiarity with the area's needs and challenges both geographically and programmatically.
5. Flexibility to adapt to new needs, programmatic changes, and expansion or reduction of services.
6. Assurances to adhere to all GDOT and any other State Agency regulations and policies as well as any other federal, state, or local laws, ordinances, regulations, or policies.

### **MANDATORY QUESTIONS TO ANSWER**

Answer these questions in paragraph form identifying all relative information to the establishment, administration, and operations of DHS and Public Transportation Services.

The sub-parts of these questions are to assist you with the answers; they are not intended to be the complete questions. Proposals should provide additional information as needed to clearly identify the proposer's potential and abilities.

⇒ **Question One (Infrastructure) (15%):**

Describe current and potential infrastructure (excluding vehicles to be received from the Section 5311 program), experience, and management abilities. Please make sure to include the following areas of information:

Infrastructure

- Supplemental Vehicle Inventory (type, age, mileage, mechanical assessment)
- Base of Operations – Office Equipment (copiers, fax, etc.), Communications Equipment, Computer Equipment, Internet Access, and Email Account

Experience

- Staff - Positions, Duties, Experience, Training, Education (any related courses taken)
- Drivers - Experience, Training, Education (any related courses taken)

Management Abilities

- Computer Experience Proficiency
- Financial understanding of 5311 Grant and operations budgeting
- Personnel and vehicle management
- Vehicle maintenance policies and procedures

⇒ **Question Two (Administration) (15%):**

Describe current and potential administration abilities and procedures. Please make sure to include the following areas of information:

- What will be the trip order and scheduling procedure?
- Describe how your company will ensure that all trips are provided.
- Describe the accounting system and procedures that will be used to accurately reflect revenues and expenses.
- Describe the filing system that will be used for accounting records, trip orders, drivers' trip manifests, maintenance, etc.

⇒ **Question Three (Operations) (15%):**

Describe current and potential service delivery strategy to performing operations of public transit and/or coordinating other State Agency transportation services. Please make sure to include the following areas of information:

- Describe day-to-day scheduling and coordination.
- Describe how drivers will be instructed with day-to-day operations, such as trip manifests.
- What kind of contact will there be between the office and drivers (and other staff)?

- Describe how complaints will be handled internally. (Please exclude ~~the DHS~~ any other State Agency complaint procedures).
- Describe internal changes and actions that will be taken to ensure that the same kind of complaint does not recur.

⇒ **Question Four (Familiarity with the Area) (20%):**

Please discuss your familiarity with the geographic and programmatic needs and challenges of the area.

⇒ **Question Five (Flexibility) (20%):**

Please discuss your ability to accommodate changing needs, programmatic alterations, and any expansion or reduction of services that may be deemed necessary.

⇒ **Question Six (Assurances for Compliance) (15%):**

Please provide assurances that you are capable, adequately knowledgeable, and dedicated to adhering to all GDOT and other State Agency regulations and policies as well as any other federal, state, or local laws, ordinances, regulations, policies, or requirements.

⇒ **Explain proposed transition plan for existing Transit personnel.**

## **APPENDIX A**

### **Federally Required Clauses**

Charter Bus and School Bus Requirements  
School Bus Requirements  
Lobbying  
Access to Records and Reports  
No Government Obligation to Third Parties  
Program Fraud and False or Fraudulent Statements and Related Acts  
Termination  
Government-wide Debarment and Suspension (Nonprocurement)  
Contracts Involving Federal Privacy Act Requirements  
Civil Rights Requirements  
Breaches and Dispute Resolution  
Disadvantaged Business Enterprises (DBE)  
Prompt Payment  
Incorporation of Federal Transit Administration (FTA) Terms  
Drug and Alcohol Testing

### **Other Federal Requirements**

Full and Open Competition  
Access Requirements for Persons with Disabilities  
Ineligible Contractors and Subcontractors  
Compliance with Federal Regulations  
Real Property  
Access to Services for Persons with Limited English Proficiency  
Geographic Restrictions  
Organizational Conflicts of Interest

### **Federal Certifications**

Certification and Restrictions on Lobbying  
Government Wide Debarment and Suspension (Nonprocurement)

## FEDERALLY REQUIRED CLAUSES - THIRD-PARTY CONTRACT CLAUSES

### Charter Bus Requirements

Contractor shall comply with 49 USC 5323(d) and (r) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, "Charter Service," 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

### School Bus Requirements

Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions as permitted by federal transit laws, 49 U.S.C. § 5323(f) or (g), FTA regulations, "School Bus Operations," 49 C.F.R. part 605, and any other applicable federal "School Bus Operations" regulations, or applicable federal guidance. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

Violations. If a Recipient or any Third Party Participant has operated school bus service in violation of FTA's School Bus laws, regulations, and requirements, FTA may require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or bar the Recipient or Third Party Participant from receiving federal transit assistance.

### Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

### Access to Records and Reports

Applicability –

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
3. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
4. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

#### No Government Obligation to Third Parties

- (1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US

Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

### Program Fraud and False or Fraudulent Statements or Related Acts

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate. (2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate. (3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

### Termination

a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.

b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.



c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor

shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated.

This liability includes any increased costs incurred by the recipient in completing the work.

Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

#### [Government Wide Debarment and Suspension \(Non Procurement\)](#)

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200,

which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel, System for Award Management Registration <https://uscontractorregistration.com/>

#### Contracts Involving Federal Privacy Act Requirements

**When a grantee maintains files on drug and alcohol enforcement activities for FTA**, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000)

The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

## Civil Rights Requirements

The following requirements apply to the underlying contract:

a. The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, requirements, and guidance, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.

b. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third Party Participant, will: (1) Prohibit discrimination based on the basis of race, color, religion, national origin, sex, disability, or age. (2) Prohibit the: (a) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332,

(b) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or (c) Discrimination, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332. (3) Follow:

(a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, and other applicable federal guidance that may be issued, but

(b) FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.

c. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant, will: (1) Prohibit discrimination based on race, color, or national origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, and (3) Follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable federal laws, regulations, requirements, and guidance, (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) All other applicable federal guidance that may be issued.

d. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit, discrimination on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs, (c) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12.a of this Master Agreement, (d) FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients," July 26, 1988, and (e) Follow other federal guidance pertaining to Equal Employment Opportunity laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability, (2) Specifics. The Recipient agrees to, and assures that each Third Party Participant will: (a) Prohibited Discrimination. As provided by Executive Order No. 11246, as amended by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations, ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, (b) Affirmative Action. Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, recruitment, and employment, 2 Rates of pay and other forms of compensation, 3 Selection for training, including apprenticeship, and upgrading, and 4 Transfers, demotions, layoffs, and terminations, but (c) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

e. Disadvantaged Business Enterprise. To the extent authorized by applicable federal laws and regulations, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Underlying Agreement as follows: (1) Statutory and Regulatory Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of the FAST Act, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12.a of this Master Agreement. (2) DBE Program Requirements. A Recipient that receives planning, capital

and/or operating assistance and that will award prime third party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program meeting the requirements of 49 C.F.R. part 26, which is approved by FTA, and establish an annual DBE participation goal. (3) Special Requirements for a Transit Vehicle Manufacturer (TVM). The Recipient agrees that: (a) TVM Certification. Each TVM, as a condition of being authorized to bid or propose on

**Rolling Stock Procurements only**

FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, and (b) Reporting TVM Awards. Within 30 days of any third party contract award for a vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached to FTA's electronic award and management system, the Recipient must also submit subsequent notifications if options are exercised in subsequent years to ensure the TVM is still in good standing. (4) Assurance. As required by 49 C.F.R. § 26.13(a): (a) Recipient Assurance. The Recipient agrees and assures that: 1 It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts, 3 Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement, and 4 Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement. (b) Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance. The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs: 1 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT assisted subagreements, third party contracts, and third party subcontracts, as applicable, 3 Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 13.d(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable, and 4 The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible. (5) Remedies. Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in

appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

f. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25, and

(3) Federal transit law, specifically 49 U.S.C. § 5332.

g. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act, 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of Programs, Projects, and related activities receiving federal assistance, (4) U.S. Health and Human

Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, and (5) Federal transit law, specifically 49 U.S.C. § 5332.

h. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability: (1) Federal laws, including: (a) section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally assisted Programs, Projects, or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities: 1 For FTA Recipients generally, Titles I, II, and III of the ADA apply, but 2 For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable federal laws, regulations and requirements pertaining to access for seniors or individuals with disabilities. (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT



regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (d) U.S.

DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (k) Other applicable federal civil rights and nondiscrimination guidance.

i. Drug or Alcohol Abuse – Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2.

j. Access to Services for Persons with Limited English Proficiency. The Recipient agrees to promote accessibility of public transportation services to persons with limited understanding of English by following: (1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005.

k. Other Nondiscrimination Laws, Regulations, Requirements, and Guidance. The Recipient agrees to comply with other applicable federal nondiscrimination laws, regulations, and requirements, and follow federal guidance prohibiting discrimination. l. Remedies. Remedies for failure to comply with applicable federal Civil Rights laws, regulations, requirements, and guidance may be enforced as provided in those federal laws, regulations, or requirements.

#### Breaches and Dispute Resolution

All contracts over \$100,000

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient’s authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient’s CEO. In connection

with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

#### Disadvantaged Business Enterprise

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

- c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
  
- d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
  
- e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
  
- f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

#### [Prompt payment](#)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

#### [Incorporation of Federal Transit Administration \(FTA\) Terms](#)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in current FTA Circular 4220.1, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in

this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

#### Drug and Alcohol Abuse and Testing

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by FAST Act, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

## Other Federal Requirements

### Full and Open Competition

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

### Access Requirements for Persons with Disabilities

Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

### Ineligible Contractors and Subcontractors

Any name appearing upon the Comptroller General's list of ineligible contractors for federally-assisted contracts shall be ineligible to act as a subcontractor for contractor pursuant to this contract. If contractor is on the Comptroller General's list of ineligible contractors for federally financed or assisted construction, the recipient shall cancel, terminate or suspend this contract.

### Compliance with Federal Regulations

Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### Real Property

Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by FAST Act, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### Access to Services for Persons with Limited English Proficiency

To the extent applicable and except to the extent that FTA determines otherwise in writing, the Recipient agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d 1 note, and with the provisions of U.S. DOT Notice, "DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries," 70 Fed. Reg. 74087, December 14, 2005.

### Geographic Restrictions

The Recipient agrees that it will not use any State or local geographic preference, except: (1) A preference expressly mandated by applicable Federal law, or (2) A preference permitted by FTA; for example, a contractor's geographic location may be a selection criterion for a Recipient that is procuring architectural engineering or related services, provided that a sufficient number of qualified firms are eligible to compete for that contract, or (3) As provided in section 418 of the Consolidated and Further Continuing Appropriations Act, 2015, Public Law No. 113-235, December 15, 2014, geographic preferences in construction hiring are protected from enforcement under former 49 C.F.R. § 18.36(c)(2), in accordance with any applicable federal regulations, requirements, and guidance and as implemented by FTA.

### Organizational Conflicts of Interest

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

CERTIFICATION AND RESTRICTIONS ON LOBBYING

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I, \_\_\_\_\_,  
hereby certify

(Name and title of official)

On behalf of

\_\_\_\_\_ that:  
(Name of Bidder/Company Name)

No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

*This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.*

*The undersigned certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provisions of 31 U.S.C. Section 3801, et seq., are applicable thereto.*

Name of Bidder/Company Name

\_\_\_\_\_

Type or print  
name \_\_\_\_\_

Signature of authorized representative \_\_\_\_\_ Date  
\_/\_/\_\_\_

Signature of notary and SEAL

\_\_\_\_\_



## GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

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Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations,

“Nonprocurement Suspension and Debarment,” 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),” 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

- (1) Debarred,
- (2) Suspended,
- (3) Proposed for debarment,
- (4) Declared ineligible,
- (5) Voluntarily excluded, or
- (6) Disqualified,

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

- (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
- (2) Violation of any Federal or State antitrust statute, or

(3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

- (1) Equals or exceeds \$25,000,
- (2) Is for audit services, or
- (3) Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:

(4) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and

(5) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:

- a. Debarred from participation in its federally funded Project,
- b. Suspended from participation in its federally funded Project,
- c. Proposed for debarment from participation in its federally funded Project,

- d. Declared ineligible to participate in its federally funded Project,
- e. Voluntarily excluded from participation in its federally funded Project, or
- f. Disqualified from participation in its federally funded Project, and

3. It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

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Certification

Contractor \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Name and Title of Contractor's Authorized Official \_\_\_\_\_