

FTA TERMS AND CONDITIONS

1. **Incorporation of FTA Terms.** The following provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1F 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 Authority requests which would cause the Authority to be in violation of the FTA terms and conditions.

2. **Access to Records.** The following access to records requirements applies to this Agreement:
 - a. Where the Authority is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C. F. R. 18.36(i), the Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States or any of them authorized representatives' access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C. F. R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
 - b. Where any Agency is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Authority, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
 - c. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - d. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Authority, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i) (11).

3. Civil Rights

- a. Nondiscrimination – In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. §2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
- b. Equal Employment Opportunity– The following equal employment opportunity requirements apply to the Agreement:
 - i. Race, Color, Creed, National Origin, Sex– In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor” 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246,“Equal Employment Opportunity”” as amended by Executive Order No. 11375,“Amending Executive Order 11246 Relating to Equal Employment Opportunity” 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - ii. Age– In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
 - iii. Disabilities– In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the

Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act" 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- c. The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

4. Disadvantaged Business Enterprises.

- a. This Agreement 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.
- b. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The Contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT assisted contract. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as Authority deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. The Authority does not have a DBE goal for this project. Contractor will be required to report its DBE participation obtained through race neutral means throughout the period of performance of this Agreement.
- d. Contractor is required to pay its subcontractors performing work related to this Agreement for satisfactory performance of that work no later than 10 days after the Contractor's receipt of payment for that work from the Authority. In addition, the Contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
- e. The Contractor must promptly notify Authority whenever a DBE subcontractor performing work related to this Agreement 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 Authority.

5. Energy Conservation. The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

6. Federal Changes. Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed

directly or by reference in the Master Agreement between Authority and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this Agreement.

7. **Fly America Requirements.** The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.
8. **Cargo Preference.** Use of United Flag Vessels. The Contractor agrees: (1) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (2) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and (3) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.
9. **Disputes, Breaches, Defaults, and Litigation Notification.** Notification to the Authority; Flow Down Requirement. If a current or prospective legal matter that may affect the Authority or Federal Government emerges, the Contractor must promptly notify the Authority. The Contractor must include a similar notification requirement in its subcontractor contracts. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Authority or Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
10. **EEO.** This contractor and subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against

qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

11. No Obligation By The Federal Government. The Authority and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to the Authority, Contractor, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the Agreement. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

12. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies" 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the Agreement, the 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 Agreement or the FTA assisted project for which the Services are being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.
- b. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.
- c. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

13. ADA Compliance. The Contractor will be required to meet all requirements of the Americans With Disabilities Act of 1990 (ADA) and any and all regulations and rule

adopted pursuant thereto in performing its Agreement with Authority, and to inform the Authority regarding any and all changes/modifications that are deemed necessary to assure the Project is in complete compliance with ADA.

14. Davis-Bacon and Copeland Anti-Kickback Acts.

a. Minimum wages

i. All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full number of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employee's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

ii. (A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination, and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and The classification is utilized in the area by the

construction industry; and The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

iii. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

iv. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset

for the meeting of obligations under the plan or program.

v. (A) The contracting officer shall require that any class of laborers or mechanics who is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

1. The work to be performed by the classification requested is not performed by a classification in the wage determination;
2. The classification is utilized in the area by the construction industry;
3. The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

- b. Withholding - The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally- assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances

as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [insert name of grantee] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

c. Payrolls and basic records –

i. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

ii. (A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Authority for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014- 1), U.S. Government

Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

1. That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

2. That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR p 3;

3. That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

iii. The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

iv.

d. Apprentices and trainees

i. Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

ii. Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than

permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

iii. Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

- e. Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
- f. Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
- g. Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
- h. Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this act.

- i. Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- j. Certification of eligibility –
 - i. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - ii. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
 - iii. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

15. Patent and Rights in Data.

- a. Rights in Data
 - i. The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.
 - ii. The following restrictions apply to all subject data first produced in the performance of the Agreement:
 - 1. Except for its own internal use, the Authority or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Authority or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.
 - 2. In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others

to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below.

As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

- a. Any subject data developed under this Agreement, whether or not a copyright has been obtained; and
 - b. Any rights of copyright purchased by the Authority or Contractor using Federal assistance in whole or in part provided by.
3. When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Authority and the Contractor performing experimental, developmental, or research work required by the Agreement agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Agreement, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the Agreement, is not completed for any reason whatsoever, all data developed under the Agreement shall become subject data as defined in subsection (i) of this clause and shall be delivered as the Federal Government may direct. This subsection (iii), however, does not apply to adaptations of automatic data processing equipment or programs for the Authority or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.
 4. Unless prohibited by state law, upon request by the Federal Government, the Authority and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Authority or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Authority nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
 5. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal

Government under any patent.

6. Data developed by the Authority or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the Agreement is exempt from the requirements of subsections (2), (3), and (4) of this clause, provided that the Authority or Contractor identifies that data in writing at the time of delivery of the contract work.
 7. Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
- iii. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Authority and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
 - iv. The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.
- b. Patent Rights
- i. General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the Agreement, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Authority and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
 - ii. Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Authority and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.
 - iii. The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in

whole or in part with Federal assistance provided by FTA.

16. Seismic Safety. The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

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

18. Safe Operation of Motor Vehicles.

Seat Belt Use

The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or AUTHORITY.

Distracted Driving

The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

19. Suspension and Debarment.

a. This Agreement is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

b. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it entered into.

c. By signing this Agreement, the Contractor certifies as follows: The certification in this clause is a material representation of fact relied upon by the Authority. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to Authority, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The

Contractor agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the term of this Agreement. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

20. **Clean Air.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

21. **Clean Water.** The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

22. **Lobbying.** Contractor 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.

23. **Contract Work Hours and Safety Standards.**

1. Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any work week in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidate– damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in

excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

3. Withholding for unpaid wages and liquidate– damages - The (write in the name of the grantee) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

4. Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this on.

25. Buy America. The Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 70 percent domestic content.

Build America, Buy America Act. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget, the U.S. Department of Transportation, and FTA. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b).

A Proposer or Offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all Proposals or offers on FTA-funded contracts, except those subject to a general waiver. Proposals or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The Proposer or Offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date _____

Signature _____

Company _____

Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The Proposer or Offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company _____

Name _____

Title _____

26. Prohibition on providing or using certain telecommunications and video surveillance services or equipment. Consistent with Section 889 of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. 115-232 (Aug. 13, 2018), CONTRACTOR must not: (a) provide “covered telecommunications equipment or services” (as that term is defined in Section 889 of the Act) as part of its performance under this Contract, if such equipment or services will be used as a substantial or essential component of any system or as critical technology as part of any system; or (b) use such covered telecommunication equipment or services as a substantial or essential component of any system or as critical technology as part of any system, regardless of whether that use is in connection with performance of work under this Contract, subject only to the exception that covered telecommunications equipment or services may be provided or used if the equipment or services cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

27. 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 the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.
- b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be affected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the (Recipient) that the 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 the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the 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 the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (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 (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 (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s 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 Government's interest. If this 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 the 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 the Contractor a Notice of Termination specifying the nature of the default. The Contractor will 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 the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

- g. Termination for Default (Transportation Services) If the 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 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 the Contractor a Notice of Termination specifying the nature of default. The Contractor will 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 the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

- h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, 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 the Contractor a Notice of Termination specifying the nature of the 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. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the 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. The contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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

- i. Termination for Convenience or Default (Architect and Engineering) The (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the 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 the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

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

If the termination is for the convenience of the (Recipient), the 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 the 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 the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

28. Conformance with ITS National Architecture.

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

29. Trafficking in Persons.

The contractor agrees that it and its employees that participate in the Recipient's Award, may not: Engage in severe forms of trafficking in persons during the period of time that the

Recipient's Award is in effect; Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or Use forced labor in the performance of the Recipient's Award or sub agreements thereunder.

30. Federal Tax Liability and Recent Felony Convictions.

The contractor certifies that it:

a. Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and

b. Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.

The Contractor shall flow this requirement down to participants at all lower tiers, without regard to the value of any sub agreement.

31. Notice to Third Party Participants.

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

32. Notification to FTA.

If a current or prospective legal matter that may affect the Federal Government emerges, Contractor must promptly notify the Authority, which must then promptly notify the FTA Chief Counsel and FTA Regional Counsel for Region 9. Contractor must include an equivalent provision in its sub agreements at every tier for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

a. Types of Legal Matters Requiring Notification. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

b. Matters Affecting the Federal Government. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the Contract, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

c. Additional Notice to U.S. DOT Inspector General. Contractor must promptly notify the Authority, which must then promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for Region 9 if Contractor has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Contract or another agreement between the Authority and FTA, or an agreement

involving a principal, officer, employee, agent, or Third-Party Participant of the Authority. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of Contractor. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision also applies to all divisions of the Authority, including divisions tasked with law enforcement or investigatory functions.

Required Forms and Certifications

CERTIFICATIONS AND RESTRICTIONS ON LOBBYING

I, _____ hereby

certify (Name and title of Principal)

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.

Signature of authorized representative (Principal) _____

Type or print name: _____

NON-COLLUSION CERTIFICATION OF PROPOSING PRIME CONTRACTOR

I _____ of _____ certify that:
(Printed name of authorized representative) (Proposing Company name)

- 1) Am fully informed with respect to the preparation and contents of the attached Proposal and all pertinent circumstances respecting such Proposal;
- 2) Such Proposal is genuine and is not a collusive or sham Proposal;
- 3) Neither the said Proposing Company nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly with any other Proposer, Bidding Sub-contractor, firm or person to submit a collusive or sham Proposal in connection with the Contract for which the attached Proposal has been submitted or to refrain from submitting a proposal in connection with such Contract or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other Proposing company, firm or person to fix the price or prices in the referenced proposal or of any other Bidding or Proposing Company, or to fix any overhead, profit or cost element of the proposed price or the proposed price of any other Bidding or Proposing Company, or to secure through any collusion conspiracy, connivance or unlawful agreement any advantage against any person interested in the proposed Contract; and
- 4) The price or prices quoted in the attached Proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Proposing Company or any of its agents, representatives, owners, employees, or parties in interest, including the undersigned.

Signature: _____

Title: _____

Date: _____

DBE PARTICIPATION

The following stated dollar (\$) amount will be the compensation paid to Disadvantaged Business Enterprise (DBE) Firms certifiable or certified under the provisions of the "Yuba-Sutter Transit Authority DBE Program".

Total Contract Amount \$ _____

Firm Name: _____

Firm Address: _____

Description of Work: _____

Total Contract Amount \$ _____

Firm Name: _____

Firm Address: _____

Description of Work: _____

Total Contract Amount \$ _____

Firm Name: _____

Firm Address: _____

Description of Work: _____

Total DBE percentage participation _____ %

Total dollar value of DBE participation \$ _____

The undersigned hereby certifies that the foregoing statements and information are true and correct.

Name of Bidder: _____

Company Name: _____

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

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 Governmentwide 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
 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. Proposed for debarment 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, an

- g. It will require that each covered lower tier contractor and subcontractor:
 - 1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
 - 2. 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 TrAMS-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.

Contractor Name: _____

Date: _____

Signature of Authorized Official _____

Name and Title of Contractor's Authorized Official _____

CALIFORNIA LEVINE ACT

California Government Code Section 84308 (commonly referred to as the "Levine Act") prohibits any Agency Board Member from participating in any action related to a contract, if he or she receives any political contributions totaling more than \$250 from the person or company awarded the contract within the previous twelve (12) months, and for three (3) months following the date a final decision concerning the contract has been made. The Levine Act also requires a member of the Agency Board who has received such a contribution to disclose the contribution on the record of the proceeding.

Proposers also are required to disclose such contributions, if any; and are responsible for accessing the links below to review the names of Board members prior to answering the below questions:

Board Members: <https://www.yubasuttertransit.com/board-members>

Have you or your company, or any agent on behalf of you or your company, made any political contributions of more than \$250 to any Agency Board Member in the twelve (12) months preceding the date of the submission of your proposal(s) or the anticipated date of any Board action related to this contract?

YES NO. If yes, please identify the Board Member(s):

Do you or your company, or any agency on behalf of you or your company, anticipate or plan to make any political contribution of more than \$250 to any Agency Board Member in the three (3) months following any Board action related to this contract?

YES NO. If yes, please identify the Board Member(s):

Answering yes to either of the two (2) questions above does not preclude the Agency from awarding a contract to your firm or taking any subsequent action related to the contract. It does, however, preclude the identified Board Member(s) from participating in any actions related to this solicitation and resulting contract(s).

DRUG FREE WORKPLACE CERTIFICATION

I, _____, hereby certify on behalf
of (Name of authorized official)

_____ that
(Name of company)

The CONTRACTOR named above, and all Sub-Contractors working on this contract, will comply with Government Code Section 8355 in matters relating to providing a drug-free workplace. The CONTRACTOR and all Sub-Contractors will therefore:

Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance are prohibited, and that specified actions will be taken against employees for violation of these prohibitions, as required by Government Code Section 8355(a).

Establish a Drug-free Awareness Program, as required by Government Code Section 8355(b), to inform employees all of the following:

1. The dangers of drug abuse in the workplace.
2. The firm’s policy of maintaining a drug-free workplace.
3. Any available counseling, rehabilitation and employee assistance programs, and
4. Penalties that may be imposed upon employees for drug abuse violations, including that no employee who tests positive for use of a controlled substance shall be permitted to work on this contract.

Provide, as required by Government Code Section 8355(c), that every employee who works on the proposed contract:

1. Will receive a copy of the firm’s drug-free policy statement, and
2. Will agree to abide by the terms of the firm’s statement as a condition of employment on the contract.

CERTIFICATION:

I, _____, hereby certify that the above-named company, which I am duly authorized to represent, will comply with the Drug Free Workplace requirements of this contract. I understand that this certification is made under penalty of perjury, under the laws of the State of California.

Executed this _____ day of _____, 20 _____

By _____
(Signature of authorized official)

(Title of authorized official)