



**REQUEST FOR QUOTE (RFQ) FORM**

**PROJECT TITLE & NUMBER:** 2022050 Bus Stop Improvements at Murfreesboro Rd. & Millwood Dr. (WB)  
**QUOTE/PROPOSAL DUE DATE:** Friday, June 3, 2022, by 9:00 AM CT

**FACILITATOR CONTACT INFORMATION**

**Name:** Lydia Benda  
**Phone Number:** (615) 686-8923

**Email:** Lydia.Benda@nashville.gov

**SCHEDULE**

Request for Quote Release Date:	Tuesday, May 10, 2022
Site Visit:	Thursday, May 19, 2022, at 10:00 AM CT
Question/Clarification Submittal Deadline	Tuesday, May 31, 2022, by 1:00 PM CT
Request for Quote Due Date:	Friday, June 3, 2022, by 9:00 AM CT
Construction Start Date:	Upon receipt of purchase order
Project Completion Date	Friday, September 9, 2022

**Question/Clarification Period:**

All questions, requests for clarification, and other inquiries related to this RFQ must be received by Lydia Benda, Project Manager, no later than **10:00 a.m. Central Time (CT), Tuesday, May 31, 2022**, via e-mail at [Lydia.Benda@nashville.gov](mailto:Lydia.Benda@nashville.gov).

Indicate any exceptions to the Scope of Work, general terms and conditions, or other requirements listed in this RFQ and the Proposed Statement of Work in a separate attachment titled “Exceptions” by **Tuesday, May 31, 2022**, by 10:00 AM CT.

**SCOPE OF WORK:**

The scope of work is to construct the transit stop platform, sidewalk, and bicycle lane ramps for a Shared cycle track transit stop on Murfreesboro Pike and Millwood Drive as shown on the construction plans. The scope includes curb changes and bicycle ramps to sidewalk elevation on Murfreesboro Pike, signage, striping, sidewalk, and electrical installations. The scope also includes associated permitting requirements, and traffic and pedestrian control according to TDOT standard roadway specifications. **The construction shall be complete on or before September 9, 2022.**

**Evaluation:** The Project Owner will evaluate quotes received and award the most advantageous quote based on the Project Schedule and Cost.

**Invoices:**

Awarded Contractor shall submit invoices to: [mta.accounts payable@nashville.gov](mailto:mta.accounts payable@nashville.gov) and copy [Lydia.Benda@nashville.gov](mailto:Lydia.Benda@nashville.gov)

**Insurance Requirements:**

During the term of this agreement, Contractor shall, at its sole expense, obtain and maintain in full force and effect for the duration of the agreement and any extension hereof the types and amounts of insurance identified below.

- General Liability Insurance in the amount not less than one million dollars (\$1,000,000) combined single limit each occurrence for bodily injury and property damage.
- Automobile Liability Insurance in the amount not less than a combined single limit of one million dollars (\$1,000,000) covering Contractor's owned, non-owned, leased or rented vehicles.
- Worker's Compensation Insurance with statutory limits required by the State of Tennessee or other applicable laws and employer's liability insurance with limits of no less than one hundred thousand (\$100,000) dollars, as required by the laws of Tennessee. (Not required for companies with fewer than five (5) employees).

**Requirements:**

Please complete the provided "Request for Quote Form - 2022050 Murfreesboro Pk. & Millwood Dr. Bus Stop Improvements" and provide your "Quote Proposal" on the following factors below. Return required documents via email at [Lydia.Benda@nashville.gov](mailto:Lydia.Benda@nashville.gov). Any missing requirements will be deemed as non-responsive.

**Quote Proposal Format:**

**Required Forms:**

- a. Form 1 - Quote Form
- b. DBE Forms 3A – 3D
- c. Form 4 – Affidavit of Compliance – DBE
- d. Form 5- Proposer's Certification of Eligibility-The responsible awarded contractor must be registered with Sam's.gov
- e. Form 6– Certification Regarding Debarment and Suspension Primary Participant
- f. Form 7 – Certification of Lower Tier Participants Certification Regarding Debarment and Suspension

**REQUIRED FORMS**

**FORM 1 — BID FORM**

TO: Nashville MTA  
 430 Myatt Drive  
 Madison, TN 37115

QUOTE FOR: **2022050**  
**Murfreesboro Rd. & Millwood Dr. Transit Stop Improvements**

<b>Murfreesboro Pike &amp; Millwood Drive Transit Improvements Bid Form</b>					
<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>UNIT COST</b>	<b>TOTAL COST</b>
100-01	1-YEAR WARRANTY ON MATERIALS AND WORKMANSHIP	LS	1		
105-01	CONSTRUCTION STAKES, LINES AND GRADES	LS	1		
202-03.01	REMOVAL OF ASPHALT PAVEMENT	S.Y.	35		
202-03	REMOVAL OF RIGID PAVEMENT, SIDEWALK, ETC.	S.Y.	40		
202-08.15	REMOVAL OF CURB AND GUTTER	L.F.	52		
203-01	ROAD AND DRAINAGE EXCAVATION (UNCLASS)	C.Y.	30		
203-05	UNDERCUTTING	C.Y.	13		
203-06	WATER	MGAL	1		
209-09.41	CURB INLET PROTECTION (TYPE 2)	EACH	2		
303-01.08	MINERAL AGGREGATE, TYPE A BASE, GRADING D GRAVEL	TON	28		

303-10.01	MINERAL AGGREGATE (SIZE 57)	TON	3		
407-02.14	FULL DEPTH ASPHALT PAVEMENT REPAIR	S.Y.	50		
407-20.05	FULL DEPTH SAW CUTTING ASPHALT PAVEMENT	L.F.	120		
<b>ITEM NO.</b>	<b>DESCRIPTION</b>	<b>UNIT</b>	<b>QUANTITY</b>	<b>UNIT COST</b>	<b>TOTAL COST</b>
701-01.01	CONCRETE SIDEWALK (4")	S.F.	700		
701-02.06	DETECTABLE WARNING SURFACE	S.F.	80		
712-01	TRAFFIC CONTROL	LS	1		
713-02.14	FLEXIBLE DELINEATOR (WHITE)	EACH	1		
713-15.02	REMOVAL & RELOCATION OF SIGN AND SUPPORT (SPEED LIMIT)	EACH	1		
713-15.40	SIGN INSTALLATION (ONE R9-6 & ONE R9-9)	EACH	2		
714-04.01	CONDUIT (STRUCTURES – 1" RGS)	L.F.	50		
714-04.02	CONDUIT (STRUCTURES – 2" RGS)	L.F.	25		
714-05.04	PULL BOXES (TYPE C) (LABELED 'ELECTRIC')	EACH	1		
714-06.02	CABLE (1/C #12 AWG)	L.F.	50		
714-06.06	CABLE (1/C #4 AWG)	L.F.	50		
714-06.09	CABLE (#6 SOLID COPPER SOFT DRAWN) (GROUND)	L.F.	50		
714-06.10	CABLE (#6 COPPER SOFT DRAWN BARE) (GROUND)	L.F.	50		
714-06.12	CABLE (#2 ALUMINUM DUPLEX, CHOW XLP)	L.F.	250		
714-25	ELECTRICAL CONNECTION	EACH	1		

716-04	PVMT MARKINGS	LS	1		
717-01	MOBILIZATION	LS	1		
740-11.03	TEMPORARY SEDIMENT TUBE 18IN	L.F.	100		



ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT COST	TOTAL COST
801-01	SEEDING (WITH MULCH)	UNIT	1		
801-03	WATER (SEEDING & SODDING)	M.G.	1		

GRAND TOTAL \$ \_\_\_\_\_

(IN WORDS) \_\_\_\_\_

ESTIMATED COMPLETION DATE: \_\_\_\_\_

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title



FORM 2 – A

**DISADVANTAGED BUSINESS ENTERPRISE LETTER OF INTENT**

SUBMIT ONE FORM FOR EACH DBE SUBCONTRACTOR AND/OR SUPPLIER. IF THE DBE IS A 2nd, 3rd, or LOWER-TIER SUBCONTRACTOR, THIS FORM MUST ALSO BE SIGNED BY THE SUBCONTRACTOR THAT IS UTILIZING THE DBE.

**BIDDER:**

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

**DBE:**

Name of Firm: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Telephone: \_\_\_\_\_

**Description of work to be performed by DBE:**

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**The Bidder is committed to utilizing the above-named DBE for the work described above. The estimated dollar value of this work is \$ \_\_\_\_\_, which is \_\_\_\_\_% the total base bid proposal.**

**AFFIRMATION**

The above-named DBE affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By: \_\_\_\_\_

Signature of DBE and Title	Date	Name
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By: \_\_\_\_\_

Signature of Subcontractor and Title	Date	Name
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**If the Bidder does not receive award of the prime contract, any and all representations in this Letter of Intent shall be null and void.**

By: \_\_\_\_\_

Signature of Respondent and Title	Date	Name
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FORM 2 – B

**BIDDER DBE GOALS ACCOMPLISHMENT STATEMENT**

The undersigned Bidder has satisfied the requirements of the bid/proposal specification in the following manner (please complete the appropriate spaces):

\_\_\_\_\_The Bidder is committed to a minimum of \_\_\_\_% DBE utilization on this contract.

\_\_\_\_\_The Bidder is unable to meet the DBE goal of \_\_\_\_% but is committed to a minimum of \_\_\_\_% DBE utilization on this contract and submits the attached narrative and documentation demonstrating good faith efforts consistent with Appendix A of 49 CFR 26. **The Bidder should attach as many pages as necessary to provide a full and complete narrative and supporting documentation of good faith efforts made (See Form 6-C).**

**Please provide an explanation for the percentage quoted above:**

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If DBE and company will enter into a Joint Venture, please describe the terms of the relationship and attach a copy of the contract between the parties:

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It is the present intent of the Bidder to utilize the specific DBE firms identified in this proposal in the execution of this contract. If for any reason, one or more of the DBE identified here are unable or unwilling to participate, the Bidder will make good faith efforts to replace the DBE with a similar DBE.

Bidder's Name: \_\_\_\_\_

State Registration No.: \_\_\_\_\_

Federal Tax ID No.: \_\_\_\_\_

By: \_\_\_\_\_

Signature and Title

Date





**FORM 2 – C**

**NASHVILLE METROPOLITAN TRANSIT AUTHORITY  
 CONTRACTOR GOOD FAITH EFFORTS DOCUMENTATION FORM**

**CONTRACT NAME:** \_\_\_\_\_

**NAME OF CONTRACTOR:** \_\_\_\_\_

In addition to the disadvantage business enterprises (DBE)s that are listed and proposed for utilization on this contract, the following DBEs were also contacted regarding this contract.

Please use as many sheets necessary to document your efforts.

Firm Name & Address	Contact Person & Phone Number	Requested Bid Items: Supplies, Services or Materials	Bid Amount	Solicitation Method & Date	Reason Rejected

\_\_\_\_\_  
 Contractor's Authorized Signatory

\_\_\_\_\_  
 Date



**FORM 2 – D**

**NASHVILLE METROPOLITAN TRANSIT AUTHORITY  
 DBE UTILIZATION PLAN**

**CONTRACT NAME:** \_\_\_\_\_

**NAME OF CONTRACTOR:**  
 \_\_\_\_\_

The following Disadvantage Business Enterprises (DBE)s will be used on this Contract:

Please use as many sheets necessary to document your efforts.

DBE Firm Name & Address	Contact Person & Phone Number	Bid Items Provide by DBE: Supplies, Services or Materials	DBE Contract Value (Required)	Percentage of Total Prime Contract Cost
<b>Total DBE Contract(s) Value &amp; Overall Percentage:</b>				

\_\_\_\_\_  
 Contractor's Authorized Signatory

\_\_\_\_\_  
 Date



**FORM 4**

**AFFIDAVIT OF COMPLIANCE**

**TO BE COMPLETED BY DISADVANTAGED BUSINESS ENTERPRISE/WB DISADVANTAGED BUSINESS**

State of \_\_\_\_\_ County of \_\_\_\_\_ I hereby certify that I am the \_\_\_\_\_ (title) and; duly authorized representative of \_\_\_\_\_ (name of firm); whose address is \_\_\_\_\_.

I do hereby declare and affirm that I am a Disadvantaged Business Enterprise (DBE) as defined by the ITB and I will provide information requested by the Nashville MTA to document this fact.

I do solemnly declare and affirm, under the penalties of perjury, that the contents of the document are true and correct, and the above firm has authorized me to execute this affidavit.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



**FORM 5**

**PROPOSER'S CERTIFICATION OF ELIGIBILITY**

The \_\_\_\_\_ (Name of Proposer) hereby certifies that (Check appropriate box)  is or  is not included on the United States Comptroller General's "Consolidated List of Persons or Firms Currently Debarred for Violation of Various Public Contracts Incorporation Labor Standards Provision"

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

\_\_\_\_\_  
SAM Number

\_\_\_\_\_  
DUNS Number

NOTE: The System for Award Management (SAM) is an official website of the U.S. government.

There is no cost to use SAM. You can use this site for FREE to:

- Register to do business with the U.S. government
- Update or renew your entity registration
- Check status of an entity registration
- Search for entity registration and exclusion records

<https://www.sam.gov>

Subscribed and sworn to before me the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_



**FORM 6**

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION PRIMARY PARTICIPANT**

The prospective contractor certifies, by submission of this Bid, that neither it nor its “principals” as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency as defined at 49 CFR 29.940 and 29.945.

The contractor must 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 enters into.

By signing and submitting its Bid, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by Nashville MTA. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to Nashville MTA, 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 period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title



**FORM 7**

**CERTIFICATION OF LOWER-TIER PARTICIPANTS**

**CERTIFICATION REGARDING DEBARMENT AND SUSPENSION**

The prospective lower tier participant contractor certifies, by submission of this Bid, that neither it nor its “principals” as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any governmental department or agency as defined at 49 CFR 29.940 and 29.945.

By signing and submitting its Bid, the Contractor certifies as follows:

The certification in this clause is a material representation of fact relied upon by Nashville MTA. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to remedies available to Nashville MTA, 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 period of any contract that may arise from this offer. The Contractor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

\_\_\_\_\_  
Company

\_\_\_\_\_  
Authorized Signature /Date

\_\_\_\_\_  
Name Printed

\_\_\_\_\_  
Title

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**STATEMENT OF WORK (PROPOSED)**

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**NOTE: This is a Proposed Statement of Work. RTA reserves the right to make changes to this Proposed Statement of Work prior to execution.**

**STATEMENT OF WORK (SOW) 2022050**

**BETWEEN**

**METROPOLITAN TRANSIT AUTHORITY**

**AND**

**CONTRACTOR NAME**

**FOR**

**MURFREESBORO PK. AND MILLWOOD DR. TRANSIT STOP IMPROVEMENTS**

This Statement of Work (SOW) is made and entered into this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by and between Metropolitan Transit Authority (hereinafter referred to as “MTA”), of Nashville, TN., with its principal office located at 430 Myatt Drive, Madison, TN 37115, and **Contractor Name** with its principal office located at, **Contractors Address**.

Term: The term of this agreement shall continue until completion and acceptance of the project. Start date: upon receipt of purchase order. End Date: TBD. A purchase order (PO) will be issued to awarded firm.

Compensation: The cost shall be in accordance with the proposed quote “Attachment A”.

Liquidated Damages: The parties agree that any failure of Contractor to attain Construction Completion and Acceptance before the expiration of the Term as set forth in this Contract will cause damage to Nashville MTA. Since the amount of said damages for delay are difficult to determine, the parties agree that the amount of such damages due Nashville MTA for such delay shall be fixed at ( \$481 ) per day (“**Liquidated Damages**”) for each day after the Term. Contractor agrees to pay Liquidated Damages in said amount and agrees that said Liquidated Damages do not constitute a penalty. Nashville MTA may deduct the amount of the Liquidated Damages from any money due Contractor under the Contract. Nashville MTA shall have the right to pursue the collection of Liquidated Damages as with any other remedy. The Liquidated Damages apply only to Claims for delays pursuant to this Contract and do not apply or limit any other damages, rights or remedies Nashville MTA may have for other Claims and Default, including, but not limited to, bodily injury, real property damage, infringement, breach of warranty, or for any other damages that may be suffered by Nashville MTA arising out of this Contract or Contractor or Contractor’s Agents’ failure to perform or Default. Contractor shall not be held liable for any delays caused by Nashville MTA, so long as Contractor gives timely notice to Nashville MTA that it maintains that Nashville MTA caused the delay and Nashville MTA acknowledges in writing that it is the cause of said delay.

**Warranty**

Contractor warrants that the Services provided by Contractor reflect high professional and industry standards, procedures and performances. Contractor warrants the preparation of materials, the selection of personnel, the fitness and operation of its recommendations, and the performance of the Services shall conform to a high standard of performance in the

profession. Contractor warrants that it will exercise diligence and due care and perform in a good and workmanlike manner all of the Services pursuant to this Contract.

Contractor shall be responsible for using due diligence to correct errors, deficiencies or unacceptable Services. Contractor shall, at no cost to Nashville MTA remedy any errors, deficiencies or any service, work or other work products found unacceptable, in Nashville MTA's sole discretion, as soon as possible, but in all cases within fifteen (15) days of Contractor's receipt of written notice of said errors, deficiencies or unacceptable Services. For the Warranty Period, as defined below, Contractor's obligation shall be to replace, resolve or correct, at Contractor's own expense, any defects in the Services.

Warranty Period is defined as a period of One (1) year(s) beginning on the date Nashville MTA accepts the Services, until Contractor has remedied all problems of which Contractor was notified prior to expiration of the warranty period ("**Warranty Period**").

In the event that during the Term and applicable Warranty Period any Services do not operate in all material respects as specified in the Contract, Nashville MTA shall be entitled to terminate this Contract for Default in accordance with the terms and conditions of this Contract and shall be entitled to a full refund for any such defective Services.

**MTA Responsibilities:**

1. Hereby agrees to issue a purchase order (PO) to awarded firm.
2. Shall provide a point of contact.
3. Hereby agrees to notify Contractor for required services.
4. Shall make reasonable efforts to make payments within thirty (30) days of receipt of approved invoice.

**Contractor's Responsibilities:**

1. Contractor shall, at its sole expense, obtain and maintain in full force and effect for the duration of the agreement and any extension hereof the types and amounts of insurance identified below.
  - a. General Liability Insurance in the amount not less than one million dollars (\$1,000,000) combined single limit each occurrence for bodily injury and property damage.
  - b. Automobile Liability Insurance in the amount not less than a combined single limit of one million dollars (\$1,000,000) covering Contractor's owned, non-owned, leased or rented vehicles.
  - c. Worker's Compensation Insurance with statutory limits required by the State of Tennessee or other applicable laws and employer's liability insurance with limits of no less than one hundred thousand (\$100,000) dollars, as required by the laws of Tennessee. (Not required for companies with fewer than five (5) employees).
2. Contractor shall submit invoices to: [mta.accountspayable@nashville.gov](mailto:mta.accountspayable@nashville.gov)
3. Contractor shall adhere to the terms and conditions of the purchase order (PO) (**Attachment A**).

**Contractor shall provide:**

**Required Forms:**

- a. Form 1 - Quote Form
- b. DBE Forms 3A – 3D





Nashville MTA Main Office  
430 Myatt Drive  
Nashville, TN 37115

- c. Form 4 – Affidavit of Compliance – DBE
- d. Form 5- Proposer’s Certification of Eligibility-The responsible awarded contractor must be registered with Sam’s.gov
- e. Form 6– Certification Regarding Debarment and Suspension Primary Participant
- f. Form 7 – Certification of Lower Tier Participants Certification Regarding Debarment and Suspension

SIGNATURE

Nashville Metropolitan Transit Authority

[Contractor Company]

\_\_\_\_\_  
Authorized Signatory

\_\_\_\_\_  
Authorized Signatory

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## Attachment A

### Purchase Order Terms and Conditions for Construction Services Over \$25,000 in value [Purchase\\_Order\\_Full\\_Clauses.pdf \(wegotransit.com\)](#)

By acceptance of this purchase order, contractors/vendors are required to adhere to the following federally required contract clauses:

#### FEDERAL TRANSIT ADMINISTRATION REQUIRED CLAUSES

##### 1. ACCESS TO RECORDS AND REPORTS

- a) Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-Contracts, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b) Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at 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 records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c) Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d) Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

##### 2. AMERICANS WITH DISABILITIES ACT (ADA)

The contractor agrees to comply with the requirements of 49 U.S.C. § 5301 (d), which states the Federal policy that the elderly and persons with disabilities have the same right as other persons to use mass transportation service and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement that policy. The contractor also agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with 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 persons with disabilities, including any subsequent amendments to that Act, and with 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 persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

##### 3. CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts.

1. Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to:
  - a. Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
  - b. Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. Nondiscrimination on the Basis of Sex. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
3. Nondiscrimination on the Basis of Age. The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals aged 40 and over on the basis of age.
4. Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

#### Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. Nondiscrimination. In accordance with 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, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., 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. chapter 60, and 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. 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, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, 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.
3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC)

regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., 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 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.

4. Disabilities. In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
5. Promoting Free Speech and Religious Liberty. The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

#### 4. DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT

- a) In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- b) The Non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

##### "Compliance with the Copeland Anti-Kickback" Act.

1. Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
2. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FTA may by appropriate instructions require, and also 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 of these contract clauses.
3. Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

#### 5. DEBARMENT AND SUSPENSION

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs for a contract in the amount of at least \$25,000

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) The accompanying certification is a material representation of fact relied upon by the subrecipient. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the Agency and subrecipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

#### 6. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. 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 Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a).

Finally, for contracts with defined DBE contract goals, each FTA Recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts.

#### 7. 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.

#### 8. EQUAL EMPLOYMENT OPPORTUNITY

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. 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. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

**9. FEDERAL CHANGES**

49 CFR Part 18 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 Purchaser 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 contract.

**10. INCORPORATION OF FEDERAL TRASIT ADMINISTRATION (FTA) TERMS**

Incorporation of Federal Transit Administration (FTA) Terms - The provisions within 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 the current FTA Circular 4220 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 Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

**11. NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

The Agency and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Agency, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the 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. NOTIFICATION TO FTA**

If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The Recipient must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

- (1) 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.
- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- (3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient 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, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. 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 the Recipient.

**13. PROCUREMENT OF RECOVERED MATERIALS**

- (1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired—
  - i. Competitively within a timeframe providing for compliance with the contract performance schedule;
  - ii. Meeting contract performance requirements; or
  - iii. At a reasonable price.
- (2) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

**14. PROGRAM FRAUD AND FALSE OR FRADULENT STATEMENTS AND RELATED ACTS**

The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this

contract.”

**15. 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 Agency.

**Distractions 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 Contract.

**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 (DOT) Seismic Safety Regulations 49 C.F.R. 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. SPECIAL DOL EEO CLAUSE**

Applies to construction contracts > \$10,000; 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.

**18. TERMINATION**

Termination for Convenience (General Provision)

The Agency may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Agency’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 Agency to be paid the Contractor. If the Contractor has any property in its possession belonging to Agency, the Contractor will account for the same, and dispose of it in the manner Agency directs.

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 Agency 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 be paid only 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 Agency 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 Agency, 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.

Opportunity to Cure (General Provision)

The Agency, 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 Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency 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 Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

In the event that Agency elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this contract, such waiver by Agency shall not limit Agency’s remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

Termination for Convenience (Professional or Transit Service Contracts)

The Agency, by written notice, may terminate this contract, in whole or in part, when it is in the Agency’s interest. If this contract is terminated, the Agency shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

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 Agency may terminate this contract for default. The Agency 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 of 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 Agency.

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 Agency may terminate this contract for default. The Agency 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 Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency 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 Agency.

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 provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency 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 Agency 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 Agency in completing the work.

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

- a. 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 Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and
- b. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract.
- c. 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 Agency.

#### Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency 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 Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of the Agency, the Agency's 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 Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

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 Agency.

#### Termination for Convenience or Default (Cost-Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency 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 Agency, or property supplied to the Contractor by the Agency. If the termination is for default, the Agency 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 Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, 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 Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

## **19. VETERANS HIRING PREFERENCE**

Veterans Employment - Recipients of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

### **STATE OF TENNESSEE REQUIRED CLAUSES**

#### **1. Conflicts of Interest**

The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract.

#### **2. Lobbying**

The Grantee certifies, to the best of its knowledge and belief, that:

No federally 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 an agency, a Member of Congress, an 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 federally appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.

The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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 and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352.

#### **3. Nondiscrimination**

The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show

proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.

**4. Public Accountability**

If the Grantee is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

**5. Public Notice**

All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee, Department of Transportation." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

**6. Records**

The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control -Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

**7. Environmental Tobacco Smoke**

Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn Code Ann. §§39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract."

**General Terms and Conditions**

1. All materials furnished must be of the exact quality specified or the best of their respective kinds, and will be subject to our inspection, count and approval. If rejected, the Vendor shall be notified and be given the reason for the rejection. All rejected deliveries shall be held at the Vendor's risk and he/she shall bear the expenses of removal.

2. INVOICES AND PACKAGES MUST BEAR PURCHASE ORDER NUMBER.

3. The right is reserved to purchase in the open market and to charge the difference to the Vendor, together with any incidental or consequential damages, in the event that deliveries are not made at the time specified in the bid on this order.

4. Orders not shipped on date specified by us may be cancelled without obligation on our part.

5. Except where authorized in advance, no crating, boring, or packaging charges will be allowed.

6. All materials shall comply with regulations of all state and federal laws, and seller in accepting this order agrees to defend and save harmless purchasers from any loss or expense by reason of actual or alleged infringement of any patent.

7. Purchaser reserves the right to suspend shipment in the event of strikes, differences with workmen, accidents or other contingencies beyond our control.

8. Acceptance of this order includes acceptance of all terms, prices, delivery, instructions, specifications, and terms and conditions.

9. No charges in or cancellations of this purchase order shall be recognized by the vendor unless authorized by special form issued by the Purchasing Agent.

10. Each shipment and/or each purchase order shall be covered by separate invoice.

11. These agreements shall be governed by the laws of the State of Tennessee and any litigation arising from its performance shall be instituted in a court of competent jurisdiction in Davidson County, Tennessee.

## **Exhibit A**

## **Drawings**



## **Exhibit B**

### **Special Provisions**