

2023 PARATRANSIT VEHICLES

CITY OF RAPID CITY
300 Sixth Street
Rapid City, South Dakota 57701

July 17, 2023

Jason Salamun, Mayor

Council Members

Josh Biberdorf
Jesse Ham
Bill Evans
Lindsey Searchrist
Greg Strommen

Kevin Maher
Lance Lehmann
John Roberts
Rod Pettigrew
Pat Roseland

CONTACT PERSON

Megan Gould-Stabile
Rapid Transit System
(605) 394-6631

NOTICE FOR BIDS FOR THE PURCHASE OF
TWO (2) NEW 2023 ADA ACCESSIBLE RAISED FLOOR
PARATRANSIT VEHICLES

Notice is hereby given that sealed bids will be received by the Rapid City Common Council for the City of Rapid City, South Dakota, until 2:00 P.M. on August 15, 2023, at the Rapid City Finance Office in the City/School Administration Center, 300 Sixth Street, Rapid City, South Dakota 57701, at which time they will be publicly opened and read. The 2023 model paratransit vehicles are to be used by the City of Rapid City for the purpose of providing complementary ADA paratransit public transportation.

Specifications may be obtained at the Rapid Transit System Office, 333 Sixth Street, Rapid City, South Dakota 57701 or online at <http://www.rcgov.org/Public-Works/bids-and-rfps.html>.

The award of this contract shall be subject to the concurrence of the U.S. Department of Transportation (DOT). To be eligible to execute a contract, bidders will be required to comply with Federal requirements.

The purchase of these vehicles is subject to a "Financial Assistance Contract" between the City of Rapid City and the Federal Transit Administration. The City reserves the right to reject any or all bids, or to waive any informality and to accept the bid that is to the advantage of and is in the best interest of the City of Rapid City.

Daniel Ainslie
City of Rapid City Finance Director

INFORMATION AND INSTRUCTIONS TO BIDDERS

2.1 BID REQUIREMENTS:

All bids must be made on the forms provided in the bound copy of the specification and contract stipulations hereto attached. All proposals must be legibly written in ink, with all prices given in words and figures, and the written words shall govern. No alterations in proposals or in the printed forms will be permitted. Each bid (in its bound form as furnished by the City) shall be enclosed in a sealed envelope, addressed to the City Finance Officer, Rapid City, South Dakota, and endorsed on the outside with the Bidder's name and with the words, "Sealed Bid for TWO (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES." It must be filed at the Rapid City Finance Office (300 6th Street, Rapid City SD 57701) prior to the hour set for opening of the bids.

Bids shall be strictly in accordance with the prescribed forms. Bids carrying riders or qualifications of the bids, as submitted, may be rejected. The bids shall be based on the Contractor furnishing all of the necessary labor, tools, materials and equipment to fully construct the work in accordance with the specifications.

Each bid must be accompanied by a ten (10) percent Bid Bond, which can be a certified check or cashier's check to be certified or issued by either a State or National Bank and payable to the City of Rapid City, South Dakota, as a guarantee of the Bidder entering into the contract, and for performing under the contract provisions for supplying TWO (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES. All certified checks or bonds of the unsuccessful bidders will be returned within 30 days after the bids have been opened.

The bid guarantee shall be made payable (without conditions) to the City of Rapid City. The check will be retained by and forfeited to said Owner if such successful bidder fails to complete the contract.

Each bid must be signed in ink by the Bidder with his full name and address. In the case of a firm, the name and residence of each member must be inserted, and in case the bid is submitted by or in behalf of a corporation, it must be signed in the name of such corporation by an official authorized to bind the Bidder. No bidder may submit more than one bid. Two or more bids under different names will not be received from one firm or association.

2.2 ADDENDA AND INTERPRETATIONS:

Every request for such interpretation should be in writing, addressed to the Rapid Transit System at 333 Sixth Street, Rapid City, South Dakota 57701, and to be given consideration, it must be received at least seven (7) days prior to the date fixed for the opening of the bids. Any and all such interpretations and any supplemental instructions will be in the form of written addenda to the specifications which, if issued, will be mailed by certified mail with return receipt requested or personal delivery to all prospective bidders at the respective addresses furnished for such purposes. Failure of any bidder to receive any such addendum or interpretation shall not relieve

such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the contract documents.

2.3 TIME OF COMPLETION:

The time of completion of the work is of vital importance, and the Contractor will be required to complete the work within the time stipulated in the bid. It will be necessary for the Bidder to satisfy the Owner of his ability to execute the work within the stipulated time.

2.4 MODIFICATION OF BIDS:

No modification of bids already submitted will be considered unless such modifications are received prior to the hour set for opening. Telegraphic modifications will be rejected unless they conform to SDCL 5-18-8 and are confirmed in writing over signature of the Bidder within forty-eight (48) hours of the time set.

2.5 WITHDRAWAL OF BID:

A bidder may withdraw his bid at any time prior to the expiration of the period during which bids may be submitted. Bids may be withdrawn by letter, telegraphic communication, or in person before the time specified in the advertised notice. No bidder may withdraw a bid after the date and hour set for bid opening as noted in the advertised notice.

2.6 REJECTION OF BIDS:

The Owner reserves the right to award the work as is most advantageous to the City, or reject any or all bids.

2.7 BOND REQUIREMENTS:

The contractor to whom the work is awarded will have his Bid Bond returned at the time of delivery and acceptance of the transit vehicle by the City of Rapid City. Should the Contractor fail to perform as required in the Contract and Specifications, the Bid Bond will be retained by the City of Rapid City.

2.8 BOUND COPY OF CONTRACT DOCUMENT:

None of the Notice, Instruction to Bidders, Proposal, Insurance, Bid Bond, General Conditions, Special Conditions, Detailed Specifications and Addenda shall be removed from the bound copy of the Contract Documents prior to filing same.

2.9 CONTRACT AWARD:

No contract or other contract documents shall be executed until the proposal and qualifications of bidders have been examined and the award of the contract authorized by the Owner. No such document shall be effective until it has been approved by the Owner as to final execution.

2.10 DEVIATIONS OR VARIATIONS:

The City's intent is to obtain a reasonable bid from all interested bidders. If, for any reason, bidders are unable to meet or equal the following specifications, the City will receive for consideration minor deviations of specifications. Deviations and variations of specifications must be fully detailed and explained by the Bidder in a letter and received by the City no later than seven (7) days prior to bid opening. The City of Rapid City will respond within two (2) days, either approving or denying the deviations or variations in the same manner as Section 2.2 ("Addenda and Interpretations").

All bids must be accompanied by literature completely describing the TWO (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES to be furnished. Each bidder must be a certified dealer authorized by the manufacturer he/she represents. Each bid shall contain a dealer and/or factory warranty as a guarantee of the product to be furnished, the "Buy America" Certificate, the MTV Certificate, a floor plan showing detail of interior and air conditioning unit, description of passenger door entry and door entry device, period of time the prices are effective, delivery time of vehicle and color chips available.

The bidder's vehicle and equipment offered must be of equal or better than that specified by the purchaser. The vehicle offered by the bidder must also be the latest model available, with all standard production-line safety equipment required by law and/or advertised as standard equipment to meet the latest Federal Motor Carrier Safety Regulations (FMCSR). All bidders shall have the necessary authorized dealers to give proper service checks and to make repairs and replacement should they be necessary.

2.11 APPROVED EQUALS:

Requests for approved equals, clarification of specifications, and protest of specifications must be received by the City in writing not less than seven (7) full days before the date of scheduled bid opening. Any request for an approved equal, or protest of the specifications must be fully supported with technical data, test results, or other pertinent information as evidence that the substitute offered is equal to or better than the specification requirement.

2.12 BID PROTESTS:

Any bid protest must be done in accordance with FTA Circular 4220.1E. (See Appendix A for details on City's written Bid Protest Procedures.)

2.13 PROHIBITED ENTITY CERTIFICATION:

The Bidder must submit a Certification of Prohibited Entity Status with its bid that certifies that the Bidder is not a Prohibited Entity as defined in SDCL 5-18A-1(19A), defined as a company or organization which is ultimately owned or controlled by a foreign parent entity or the government of the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian

Republic of Venezuela. This Certification shall be provided in a form acceptable to the City of Rapid City. A Bidder shall provide any information requested by the City to verify the certification, upon request; however, the City may rely on the certification without conducting any further investigative research or inquiry. (See Appendix B for details on City's Certification of Prohibited Entity Status.)

**BIDDER'S PROPOSAL FOR
TWO (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES**

PLACE: _____

DATE: _____

TO: Common Council
Rapid City, South Dakota

Gentlemen:

In compliance with your invitation for bids to furnish two (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES complete and ready for use, as shown by the detailed plans and specifications as prepared by the Rapid Transit System and now on file in the Office of the City Finance Officer, Rapid City, South Dakota, the undersigned Bidder:

(1). A Corporation originated and existing under the Laws of the State of _____.

(2). A Partnership consisting of _____.

Having examined the detailed specifications and contract with bond hereto attached and being fully advised of the materials to be furnished and the work to be done in providing two (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES, hereby proposes to furnish the equipment and do all the work as specified to fully complete said vehicles according to specifications at the following unit prices, to-wit:

BID SHEET
TWO (2) 2023 ADA ACCESSIBLE PARATRANSIT VEHICLES

	<u>Unit Price</u>	<u>Extended Price</u>
Two (2) 24 ft. 2023 ADA ACCESSIBLE VEHICLES (WITH RAISED FLOOR)	\$ _____	\$ _____
Less trade in of two (2) 2014 25' Eldorado Aerotech	\$ _____	\$ _____
Total Net Bid for two (2) 2023 24' vehicles	\$ _____	\$ _____

Brand Name of Vehicle, Chassis & Year _____

Delivery Date _____

Vehicle Warranty _____

Proposed Warranty/Service Facilities _____
 (Letter must be attached)

Estimated Vehicle Life in Miles _____

Estimated Vehicle Cost Per Mile,
 Including Gas, Oil and Maintenance _____

The within Bidder's Proposal is based upon the conditions and stipulations within the Contract Documents named in Section 6.2 and shall be considered a part of this contract as if written herein at length. **Time is of the essence.** The work to be performed under this contract shall be commenced upon award of this contract and must be completed within **THREE HUNDRED Sixty-five (365) calendar days.**

The said Bidder further agrees and states that he has read the advertisement calling for bids, has studied the Contract Documents, is familiar with the terms and conditions stipulated therein, agrees to enter into the attached Contract and acknowledges receipt of the following Addenda.

NAME OF COMPANY
(Party of the Second Part)

AUTHORIZED SIGNATURE AND TITLE

ADDRESS

DATE

ADDENDA NO DATED

| BIDDER MUST FILL IN ALL SPACES PROVIDED ABOVE

CONTRACT BETWEEN
CONTRACTOR AND
CITY OF RAPID CITY

This Agreement, made the _____ day of _____, 2023, by and between _____, hereinafter called the "Party of the Second Part" (Contractor), and the CITY OF RAPID CITY, SOUTH DAKOTA, hereinafter called the "Party of the First Part," WITNESSETH:

That the "Party of the Second Part" (Contractor) and the "Party of the First Part" for the consideration hereinafter named agree as follows:

ARTICLE 1: SCOPE OF WORK

The "Party of the Second Part" (Contractor) shall furnish all of the materials, labor, and perform all of the work as described in the specifications (prepared by the Rapid Transit System, Rapid City, South Dakota) for providing two (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES and shall be everything required by the Contract, Notice, General Conditions, Special Conditions, and Detailed Specifications, which are hereby made a part of the Contract, including the following Addenda:

ADDENDUM NO	DATED
_____	_____
_____	_____

ARTICLE 2: TIME OF COMPLETION

The work to be performed under this Contract shall be commenced upon award of this contract and must be completed within **THREE HUNDRED Sixty-five (365) calendar days**. Requests for time extensions shall be made in writing to the Rapid Transit System as soon as possible before the project completion date. All time extensions will be issued by the Owner through the Rapid Transit System and will be granted only for good cause beyond the control of the Contractor. Failure of Contractor to secure chassis in a timely manner shall not constitute good cause.

ARTICLE 3: THE CONTRACT SUM

The "Party of the First Part" shall pay the "Party of the Second Part" (Contractor) for the performance of the Contract, subject to additions and deductions provided therein, in the current funds as follows:

_____ (\$ _____)
DOLLARS

ARTICLE 4: ACCEPTANCE AND FINAL PAYMENT

Upon completion of all work under this Contract, the individual or department specified in Article 2 for making time extensions shall satisfy itself by examination that the work has been finally and fully completed in accordance with the specifications and contract and report such completion to the Owner. The Contractor must complete and return a proper City Voucher, and payment will be made on said voucher as soon as possible after approval by the Common Council.

ARTICLE 5: THE CONTRACT DOCUMENTS

The Notice for Bids, Bid Bond, General Conditions, Special Conditions, Addenda and the Specifications together with this Agreement, form the Contract and all are as fully a part of the Contract as if hereto attached or herein repeated.

The said "Party of the Second Part" further agrees and states that he has read the advertisement calling for bids and has studied the Detailed Specifications and that he is familiar with the terms and conditions stipulated therein.

IN WITNESS WHEREOF: The CITY OF RAPID CITY, SOUTH DAKOTA ("Party of the First Part"), its Common Council having duly approved this Contract, has caused this Contract to be executed in its behalf by its Mayor, thereunto duly authorized, attested thereto by its Finance Officer and has hereto attached its corporate seal this _____ day of _____, 2023.

THE CITY OF RAPID CITY, SOUTH DAKOTA

ATTEST:

Daniel Ainslie
City Finance Director

Jason Salamun, Mayor
Party of the First Part

(S E A L)

Date: _____

NAME OF COMPANY
Party of the Second Part

(CORPORATE SEAL)

By: _____

Its: _____
Title

Address: _____

Date: _____

ARTICLE 6: GENERAL CONDITIONS

6.1 SCOPE:

That the Contractor shall, in good and first-class workmanlike manner and at his own cost and expense, furnish all of the labor, tools, materials, and equipment necessary to complete ready for use all of the work as designated and as described by the Specifications, Contract Stipulation, Notice, Instruction to Bidders, Bid on file with the Finance Officer of the City of Rapid City, Rapid City, South Dakota, all of which Contract Documents form the Contract and are as fully a part thereof as if repeated verbatim herein, all the work done to be under the direct supervision and to the entire satisfaction of the Public Works Department and the Owner, and in accordance with the Laws of the State of South Dakota.

6.2 CONTRACT DOCUMENTS:

It is to be understood and agreed that the work shall be done fully in accordance with this Contract which includes: Notice, Instructions to Bidders, Bid, Bid Bond, General Conditions, Special Conditions, Detailed Specifications and Addenda. Detailed plans and/or specifications that are furnished by the Contractor to clarify or define the Owner's Contract must be approved by the Public Works Department. Upon approval, said plans and/or specifications shall be considered a part of this Contract.

6.3 DEFINITIONS:

That whenever any word or expression defined in this Article, or pronoun used in its stead, occurs in these documents, it shall have and is mutually understood to have the meaning herein given:

- a. "Contract" or "Contract Documents" shall include all of the documents and plans enumerated in Section 6.2.
- b. "Owner" or the words, "Party of the First Part," shall mean the City of Rapid City, acting through its Common Council.
- c. "Contractor" or the words "Party of the Second Part," shall mean the party entering into contract for the performance of the work covered by this Contract and his duly authorized agents or legal representatives.
- d. "Date of Signing of the Contract" or words equivalent thereto, shall mean the date upon which this Contract, executed by the Contractor, is signed by the Owner.
- e. "Day" or "Days," unless herein otherwise expressly defined, shall mean a calendar day or days of twenty-four (24) hours each.
- f. "Work" shall mean the furnishing of all labor, materials, equipment and other

incidentals necessary to the successful completion for the project.

- g. "Written Notice" shall be deemed to have been duly served if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered mail to the last business known to him who gives the "Notice."
- h. All time limits stated in the Contract Documents are of the essence.

6.4 VERBAL STATEMENTS NOT BINDING:

It is understood and agreed that the written terms and provisions of this Agreement shall supersede all prior verbal statements of the Officials, Rapid Transit System, or other representatives of the City, and such statements shall not be effective or be construed as entering into, or forming a part of, or altering in any way whatsoever the written Agreement.

6.5 SUBHEADINGS AND TITLES:

The titles of subheadings used in this contract and on the specifications, are understood to be for convenience or reference only, and shall not be taken or considered as being a part thereof, or as having any bearing on the interpretation thereof.

6.6 COPIES OF CONTRACT:

Not less than two (2) copies (and as many more as may be required) of the bound volumes of the proposal, contract, and specifications shall be prepared, and each shall contain an exact copy of the Contract signed by both parties thereto. Additional copies shall be filed where and as may be required.

6.7 SCOPE, NATURE AND INTENT OF CONTRACT PLANS AND SPECIFICATIONS:

The said Specifications and Contract are intended to supplement, but not necessarily duplicate each other, and together constitute one complete set, so that any work covered in the one and not in the other shall be executed just as if it had been set forth in the Contract in order that the work shall be completed according to the specifications decided and determined by the Rapid Transit System. Should anything be omitted from the specifications, plans, and contract which are necessary to clear understanding of the work, or should it appear various instructions are in conflict, the Contractor shall secure written instructions from the Rapid Transit System before proceeding with the construction affected by such omissions or discrepancies. It is understood and agreed that the work shall be performed and completed according to the true spirit, meaning, and intent of the contract and specifications.

6.8 RESPONSIBILITY OF CONTRACTOR:

General Responsibility - The Contractor shall furnish all transportation, ways, works, machinery, and plant and all suitable appliances required for the safe, proper, and lawful construction, maintenance, and use thereof. He shall cover and protect his work from damage and all injury to the same. Before the completion and acceptance of this contract he shall be solely answerable for all damage to the Owner, or the property of the Owner, to other contractors, or other employees of the Owner, to the neighboring premises, or to any private or personal property, due to improper, illegal, or negligent conduct of himself or his subcontractors, employees or agents in and about said work, or in the execution of the work covered by this Contract or any extra work undertaken herein provided, or to any defect in, or the improper use of, any scaffolding, shoring, apparatus, ways, works, machinery or plant), he shall indemnify and save harmless the Owner and its officers and agents from all claims relating to labor and materials furnished for the work.

6.9 CONTRACTOR LIABILITY INSURANCE:

The Contractor shall maintain insurance as will protect him from claims under workmen's compensation acts and from any other claims for damages for personal injury, including death, which may arise from or by any subcontractor or anyone directly or indirectly employed by either of them.

6.10 GUARANTEES:

The Contractor guarantees to complete the project as specified and agree that loss as a result of any occurrence shall not relieve them of their obligation. If, for any reason (including but not limited to: bankruptcy, plant closure, or embargo), it becomes apparent to the City that delivery of the completed TWO (2) 2023 ADA RAISED FLOOR ACCESSIBLE PARATRANSIT VEHICLES is not possible within thirty (30) days subsequent the **THREE HUNDRED Sixty-five (365) calendar days** after Contractor receives notice to proceed, the City reserves the right to deem the Contractor in default, terminate the contract, and forfeit the surety bond. Although the City may have the right to deem Contractor in default, it may, in its absolute discretion, waive such default.

6.11 CLAIMS AND DAMAGES:

Any claim for damage arising under this contract shall be made in writing to the party liable, within a reasonable time of the first observance of such damage, and not later than the time of final payment, except as expressly stipulated otherwise in the case of faulty work or materials, and shall be adjusted by agreement or by arbitration.

6.12 WAIVER OF RIGHTS:

Neither the inspection by the Owner or the Rapid Transit System or any of their employees, nor any order by the Owner for payment of money, nor any payment for, or acceptance of, the whole or any part of the equipment, material, or work by the Owner or the Rapid

Transit System, nor any extension of time, nor any possession taken by the Owner or its employees, shall operate as a waiver of any provision of this Contract, or of any power herein reserved to the Owner or any right to damages herein provided, nor shall any waiver or any breach in this Contract be held to be a waiver of any other or subsequent breach.

TIMELINES FOR REQUEST FOR BIDS

REQUEST FOR BID TIMELINES

<u>DATE</u>	<u>DAY</u>	<u>TIME-MDT</u>	<u>EVENT</u>
7/22/2023	Saturday	~	Legal Notice/Ad
7/29/2023	Saturday	~	Legal Notice/Ad
8/08/2023	Tuesday	4:00 p.m.	Request for Approved Equals Due
8/15/2023	Tuesday	2:00 p.m.	Public Bid Opening

PLEASE SUBMIT TWO (2) COPIES OF BID, PROPOSAL AND DOCUMENTATION.

EQUALS AND CLARIFICATIONS Bidders and suppliers must submit to the City Finance office requests for approved equals and clarifications of specifications provided that such requests for approved equals and clarifications of specifications are:

- (1) Submitted in writing and received by City of Rapid City Finance office no later than Tuesday, August 8, 2023, 4 p.m. MDT as identified in the Timelines for **PARATRANSIT BUSES** request for bids and;
- (2) Supported by evidence such as technical data, test results, or other pertinent information that demonstrates that the substitute offered is equal to or better than the specification requirement.

**City of Rapid City
Bid Specifications
24' Cutaway Body on Gas Chassis**

1. DIMENSIONS:

Responders must note any variations from these minimums or maximums.
The overall length of the vehicles will be approximately 24 feet.
The maximum exterior height will be 9 feet 7 inches.
The minimum interior height will be 74 inches at center aisle.
There will be a minimum of 32 inches seat spacing between passenger seats.
All passenger seats are to be double notchback three-step foldaway with aisle seat grab rails and USB retractable seat belts.

2. CHASSIS COMPONENTS: No exceptions permitted

2023 Cutaway Chassis
6.8L Gas Engine (minimum)
Shuttle Bus Prep Package
Front Bumper and Grill
Dual Composite Halogen Headlamps
Tilt Wheel
Engine Block Heater
Dual Rear Wheels
Limited Slip Differential
Wheels Painted White
Cruise Control
Power Driver Door Window
Power Driver Door Lock
All Season Front Tires
Mud and Snow Rear Tires
Spares four (4) all Season Spare Tires Mounted on OEM Wheels
Steel Tire Valve Stems – Extended Stems on Inside Dual Tires
225 Amp Alternator
55 Gallon Fuel Tank Capacity
Driver Side Air Bag
Dual Note Horn
Front Intermittent Wet Arm Wipers with Pulse Washers
Front License Plate Kit
Driver's Sun Visor
External Transmission Cooler
4-Wheel Anti-Lock Disc Brakes
Daytime Running Lamps
Dual Matching Group 27 Batteries or approved equal
Power Steering
Instrumentation, analog with speedometer, odometer, fuel level, voltmeter,

engine temperature and oil pressure
5,000 GAWR front axle and 9,600 GAWR rear axle
OEM Exhaust System with exhaust directed out the street side rear of the vehicle
Transmission to be six (6) speed automatic
Minimum wheelbase of the vehicle to be 176"
Rear suspension to include Mor Ryde or approved equal
Romeo Rim rear help bumper or approved equal with Hawkeye reverse sensing system or approved equal

3. ELECTRICAL

The electrical system is designed to provide and distribute 12-volt DC power to all electrical components in the bus. All add-on components must be "plug and play" to the wiring harness. All primary connector circuit labels must be "hot-stamped" into the connector housing.

All general-purpose wiring is cross-linked polyolefin insulated, colored, numbered, and function-coded every 6" for positive identification, and meets the requirements of SAE J1127 and J1128, types GXL and SGX. Precautions must be taken to avoid damage from heat, water, solvents, or chafing by proper routing, clamping and the use of grommets for suitable elastomeric cushion materials. Harnesses are designed to resist abrasion by the use of Packard Electric flex-guard plastic loom. Harnesses are sectional terminating at insulated multi-pin quick disconnects or junction blocks.

All electrical harness connectors are one-way, plug-in type connectors. All exterior electrical connectors are coated with di-electric spray to protect them from moisture and corrosion. Primary distribution must contain (2) spare battery fuses and (2) spare ignition fuses to be used for add-on items rated at a max of 30 amps. All relays must be removable. All connections on the distribution center must be "Plug and Play" connectors. All connectors on the distribution center must be clearly marked with circuit number and color-coded to ensure proper installation.

Electric junction panel is installed for easy access. Circuit breaker circuit protection is standard but spade type fuses may be used when expressly required by the component manufacturer. All components are placed on the front of the electrical panel for ease of service. A heavy-duty power distribution panel is provided and equipped with heavy-duty 12-volt DC relays.

All fuse and relay identification are incorporated within the electrical panel. The power distribution post must be directly tied to the distribution center for minimum heat build-up. All fuses must contain a flashing red LED light to indicate when a fuse is non-functional. All relays must contain a green LED light to indicate when relay output is "active". The system must have a yellow LED light for relay "energized" operation.

The driver switch panel is located to the right of the OEM instrument cluster, integrated into the OEM dash for driver convenience, maximization of visibility and knee room. All

panel switches and function lights must use the same cut-out within the panel to allow for changes in location. The OEM cigarette lighter/power distribution plug must remain available to the driver. All driver switch labels must be located on the switch itself and include an amber LED backlight. Amber function LED lights must be present on switches that operate devices that cannot readily be identified by the driver as being powered. All add-on A/C systems must use the OEM rear A/C switch when available on the chassis. Switches must use universal symbols instead of text. No switches are to be mounted on the engine compartment cover or “dog house”. All lights on the vehicle, except for chassis OEM, must be LED. Interior dome lights are to be Optronics Optibrite 540 lumen dome lights or approved equal. Three dome lights with one on the curbside and two on the street side with one directly across from the lift are to be installed. The step well light is to be a 540 Lumen light mounted directly above the step well to illuminate the step well and landing area. One Optibrite or approved equal dome light to be directly above the driver and operated by the chassis switch.

4. BODY

OEM Multi-point rubber isolators are used to mount the body to the cab chassis. All structural fabrication consists of 1010/1020 low carbon cold rolled steel. The substructure consists of a combination of at least five (5) 2” x 2”, 11-gauge, tubular steel outriggers, 1.25” x 4.25”, 11-gauge C-Channel, 12 gauge “seat track” and 1” x 1.5” x 2” 14-gauge Z-channel welded onto a ladder type structure and bolted to the OEM chassis frame on rubber isolators.

The vehicle, upon completion, is to be water-leak tested for a minimum of 10 minutes in a water spray booth specifically designed for such tests. Any leaks detected during the test are to be repaired immediately and extreme leaks require a second test. Extreme leaks are defined as any leak that creates a stream of water that rapidly pools on the interior of the bus. A water test certificate showing that the bus has met the requirements above.

Exterior body materials are fabricated of a matrix of fiberglass reinforced plastic with an inner thickness of resin-hardened craft honeycomb material. This construction and these materials are designed to form a unibody design, reducing maintenance, extending durability, providing consistency of appearance throughout the life of the bus, and have a low sound and temperature absorption rate. Exterior seams and protrusions are to be smooth to allow for washing with an automated bus washing system.

Body panel assemblies are Body Armor™ (or approved equal) and consist of a matrix of fiberglass reinforced plastic with an inner core of combination polypropylene honeycomb and resin-hardened craft honeycomb materials. Steel skin is not acceptable.

The order of matrix assembly is as follows:

- Exterior surface is a minimum .018” thickness of high gloss gel-coat to prevent moisture penetration and corrosion.
- Secondary surface has a minimum .121” thickness of resin-hardened fiberglass reinforced plastic.

- The center composite layer consists of a 1" thick resin-hardened craft honeycomb material laid on edge to allow maximum column strength of each cell.
- Wall structure includes a minimum of one (1) 1.5" wide longitudinal section of 18-gauge flat steel extending from the forward body seam to the rearward body seam to provide an additional attachment point for the integrally welded sidewall seat rail.
- Roof structure to be of single piece design and included a minimum of 5 longitudinal sections of 18-gauge flat steel extending from the forward body seam to the rearward body seam. All flat steel sections are fully integrated into the roof matrix and provide additional structural integrity and a secure attachment surface for ceiling panels, handrails and stanchion fixtures.
- Final surface of the body structure is a minimum 3/32" thickness of resin-hardened fiberglass reinforced plastic.
- Window framing in sidewall is a heavy gauge, galvanized steel ladder-type assembly. Window pillars are minimum 1.5" x 1" 14-gauge galvanized steel tube.
- Top and lower horizontal ladder bridge rails are minimum 1"x 2" 12-gauge galvanized steel angle section. Attachment of the ladder assembly to roof and lower wall section is grade 5, #10 x .75" mechanical fasteners on not more than 8" center. In addition, interface of wall and roof to window ladder assembly surfaces includes a high contact adhesive, Sikaflex 252, to provide a 100% bonding and sealing at these locations.
- Lower body panels are to be fiberglass and curved inward toward the bottom of the bus to help prevent damage from snow piles on corners.

Sides and roof, front and rear crowns are insulated by dead air cells of the body assembly composite. The insulation provides an R-6 thermo-barrier, and sound absorption. Insulation meets or exceeds all Federal requirements in FMVSS 302.

Body undercoating to be Tectyl 571 applied 5-7 mils thick to underside of flooring before install. Frame rails and skirts to be undercoated. Undercoating must meet ASTM B-117 (1000 hr salt spray) SAE-J2338.

The cab area is to be undercoated with 76 M Waterborne undercoating applied 10-12 mils (dry film) thick to front inner fenders on underside of cab directly below driver step well and to underside of cab in front of entry door, to meet chassis OEM specifications.

Body wheel housings are constructed of 14-gauge steel and welded to the floor structure and properly sealed and undercoated. Skirts are to be full length curved,

reinforced fiberglass with replaceable contoured wheel well fenders. Mud flaps shall be 3/16" thick rubber composite and installed behind the front and rear tires.

Exterior lighting other than chassis OEM lighting is to be LED, including 4" stop and taillight lens vertically mounted on the rear corners. Back up lights shall be grouped with and below the stop and taillights with one on each side. Identification and clearance lights shall be roof mounted consisting of five amber at the front and seven red lights in the rear. Side marker lights shall be amber and incorporated with the parking lights. The rear side marker lights shall be red. Tag light to be LED. Front and side reflectors shall be incorporated with the parking lights. The rear, side reflectors and rear reflectors shall be mounted on the rear corners above the bumper. Rear directional lights shall be amber in color and grouped with the stop, tail and back-up lights.

Step well to be stainless steel with both batteries mounted in the step well. Both batteries must be mounted in a stainless-steel box located behind step and accessible through the stepwell to eliminate corrosion issues. The entry door shall have a header panel molded to fit the roof contour and shall be removable. Bus subfloor shall be .75" composite. Floor covering to be Gerflor Transflor Sirius Griffon or approved equal. All step nosing and standee line to be yellow.

Interior wall panel shall be a minimum of .045" thickness of high durable bright white gel-coated fiberglass, resistant to vandalism and easy to clean. The ceiling panels are Federal Foam polyester plastic that meets or exceeds FMVSS 302. Passenger windows are to be Kinro 41" tall and 29" wide with top T-slider or 41" tall x 19" wide non-ventilating type as required by the floor plan. Fixed, bounded style glass windows are not acceptable. Egress windows are provided to meet applicable egress standards. Glazing is .125" thick with 19% limo tint. Window framing is black anodized aluminum with interior clamp ring attachment design. Windows are located in the sidewall to provide a minimum upper viewing height of 59" measured from the raised floor. The window seal is .375" thick and .625" wide.

Entry door frame along with step well must be stainless steel. The entry door shall be a minimum of 36" and shall be an aluminum power door. This frame structure shall be powder coated in bright white to match the vehicle exterior base color. The door includes a two-panel design. Perimeter door edges are sealed with neoprene bulb seals. The bottoms of the entrance door are to be equipped with brushes. The center of the door assembly is equipped with overlapping a neoprene 2" leading edge seals. Seals overlap front to rear to provide an air and watershed. The lift doors are two-panel design with stainless steel frames painted to match the exterior of the vehicle and shock absorber type hold-open devices located at the top of the doors. No T-type hold-open devices on the exterior will be accepted. A 6" x 16" overhead interior mirror shall be provided. Front stanchions on each side of the aisle at passenger entry are to be installed, one to the rear of the step well and one behind the driver seat. A left and right entry assist handrail is provided in the

step well area. Also, one overhead handrail is to be installed in passenger area to meet ADA requirements. All stanchions, rails and stanchions to be yellow powder coated. Modesty panels are to be installed behind driver and behind the step well. The modesty panel will be 5/8" particle board with 1/16" laminate on both sides.

Decals are as follows:

- No Standing
- Watch Your Step
- Keep Head, Hands, Feet Inside Vehicle with Symbol
- Emergency Window Exit

Heaters are to be (2) two 65K BTU vertical mount heaters. The air conditioner will be an ACT 70K BTU system with rooftop 3-fan condenser. Chassis OEM heater, defroster and air are to be included. The air conditioner evaporator in the interior of the bus on the rear wall is to be enclosed as part of the interior wall to show a more finished appearance.

Body to be built with raised floor to allow the elimination of rear wheel wells in the interior. The raised floor must be extended into the cab area so there will be no steps behind the driver area. All step nosings and standee line to be yellow. The mirrors are to be Rosco or approved equal Heated/Remote controlled from the driver seat. A reverse alarm will be installed. Exhaust must be routed to exit the street side of the bus behind the rear wheels. The front wheels must be aligned with computer printout presented at delivery.

A ground plane shall be installed above driver with coaxial pull wire leading to interior of the vehicle. Additionally, a power line from electrical panel to right side of Bulkhead storage compartment will be installed. The interior surveillance camera system shall be equipped with eight (8) cameras, and shall be a SEON NX16 NVR Hybrid 16 channel (12 IP) (or approved equal) system with front cover and rear shroud 1TB hard drive, 8 port PoE switch, mounting plate, power cables and misc hardware. Also, a Trooper TL, TL-HD and TH, Explorer TX8 and HX16 wiring bundle (or approved equal) with adapter harness, diagnostic indicator/alarm button cable 20 ft., five signal input 20 ft., GPS 4 receiver magnetic mount 20 ft. Exterior cameras shall be HD 720P 3.6 MM lens size exterior. Interior cameras to be HD dome cameras with 1080p progressive scan – to use with NX16 DVR. The software kit shall include one (1) vMax View Software, hand-held mouse, HDD-DOCK2/ USB Docking station and one (1) Explorer HX16 media cartridge kit, with 1 TB (2x500GB) HDD 2.5 in Spare Hard Drive. Placement of cameras shall be selected when order is placed.

5. ADDITIONAL OPTIONS

- Fuel Sender Access Plate
- Fast Idle with Interlock
- Stainless Steel Exterior Screws
- Two Matching Batteries in Enclosed Step well

- Hour meter
- Interior Enclosed Cab Liner with Storage
- 16 Unit First Aid Kit
- 5 lb. Fire Extinguisher
- Emergency Triangles
- AM/FM Radio with One Speaker to be directed at driver with no speakers in the passenger area and Street Side, Curb Side and Rear Observation Cameras activated by Turn Signals and Reverse Gear with Monitor included in rearview mirror
- Body Fluid Clean Up Kit
- Phoenix Stainless Steel Wheel bolt on simulators
- Plexiglas Panel Above Modesty Panel Behind Driver
- Driver Side Running Board
- Braun NCL 1000lb. FIB Lift or approved equal
- Intermotive ADA Gateway Interlock with Dash Power Switch
- Storage Bag Tie Down (1)
- ADA Decal Kit
- Transit Stripes up to 6" on Both Sides of Vehicle (color selected at time of award)
- Zinc Phosphate Rustproofing on Underside of Bus
- Undercoating on Body and Chassis
- Adnik or approved equal power driver seat base
- Freedman Shield Driver Seat or approved equal with Level 4 Cover
- Seat Covers Level 4 (selected at time of order)
- TDSS Tie Down Kits Under Seats (5)
- Freedman AV Grab Handles on Aisle Seats
- Freedman Three Step Double Foldaway Notchback Seats or approved equal with Aisle Armrests
- Three (3) QStraint QRT-8305-A1-SC Max Retractors and Three (3) QStraint ONE or approved equal. Shoulder Restraints to be mounted vertically

6. QUALITY AND CERTIFICATIONS

Body manufacturer must meet chassis manufacturer's quality program. Body manufacturer must be ISO 9001:2008 certified. All applicable FMVSS must be met. All parts of the vehicle must conform to applicable provisions of the Americans with Disabilities Act (ADA). Each vehicle must be water-leak tested for a minimum of ten (10) minutes in a water-spray booth specifically designed for such tests. During established warranty periods, the contract vendor and respective manufacturer will furnish all warranty parts at no cost to the transit system.

Replacement costs, parts and assemblies will be made without delay. The contract vendor will provide the recipient or a designated representative of the recipient the opportunity to inspect the vehicle for compliance with these specifications and applicable motor vehicle regulations. The inspection must be completed prior to delivery and acceptance of the vehicle. As built wiring diagrams shall be provided.

APPENDIX A
RAPID CITY, SOUTH DAKOTA
WRITTEN BID PROTEST PROCEDURES

PROTEST PROCEDURES

In accordance with the Federal Transit Authority (FTA), an agency of the United States Department of Transportation, the following are procedures which shall be used to protest a solicitation, contract, or procurement issued by the City of Rapid City.

Any proposer who is aggrieved in connection with any pre-award matters of a contract or procurement may protest such matters provided that ten (10) copies of a full and complete written statement specifying in detail the grounds of the protest and facts supporting the protest are received by the City Finance Director no later than seven (7) calendar days prior to the award of the contract.

The City Attorney shall have the authority to settle and resolve a protest of any aggrieved proposer concerning the solicitation or award of a contract or procurement.

The City of Rapid City may, at its discretion, submit a response or reply to any material issues raised in the protests.

If the protest is not resolved by mutual agreement, the City Finance Director or his designee with concurrence of the City Attorney shall, within fourteen (14) days of the protest, issue a decision in writing. The decision shall:

- 1) State the reason for the action taken; and
- 2) Inform the protestor of their right to administrative and judicial review.

A copy of an issued decision shall be mailed or otherwise furnished in a timely manner to the protestor and any other intervening party. The decision of the City Finance Director shall be final and conclusive unless:

- 1) The decision is fraudulent, or
- 2) The person adversely affected by the decision has submitted an administrative appeal to the Rapid City Common Council within seven (7) days of the decision of the City Finance Director.

In the event a timely protest is received under these regulations, the City of Rapid City shall not proceed further with the solicitation or with the awarding of the contract or procurement unless the City Finance Director, with concurrence of the City Attorney, makes a written determination that:

- 1) The items to be procured are urgently required;
- 2) Delivery or performance will be unduly delayed by failure to make the award promptly; or
- 3) Failure to make prompt award will otherwise cause undue harm to the Rapid Transit System or the Federal Government.

On any appeal of the decision of the City Finance Director, the City of Rapid City's Common Council shall decide within fourteen (14) days whether the solicitation or award was made in accordance with applicable law and the terms and conditions of the solicitation award.

A copy of the City of Rapid City Common Council's decision shall be mailed or otherwise furnished in a timely manner to the protestor or any other intervening party.

The decision of the City of Rapid City Common Council shall be final and conclusive unless:

- 1) The decision is fraudulent; or
- 2) In accordance with FTA Circular 4220.1F, the proposer adversely affected by the decision has a right appeal to the United States Department of Transportation, Federal Transit Authority (FTA), after having exhausted the local written protest procedures stated above. Any protest to FTA must be filed in accordance with FTA Circular 4220.1F.

APPENDIX B
RAPID CITY, SOUTH DAKOTA
CERTIFICATION OF PROHIBITED ENTITY STATUS
SDCL 5-18A-51

SDCL 5-18A-1(19A) defines "Prohibited Entity" as follows:

"[A]n organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates, of those entities or business associations, regardless of their principal place of business, which is ultimately owned or controlled by:

- (a) A foreign parent entity from the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela; or
- (b) The government of the People's Republic of China, the Republic of Cuba, the Islamic Republic of Iran, the Democratic People's Republic of Korea, the Russian Federation, or the Bolivarian Republic of Venezuela.

A prohibited entity does not include a citizen or legal permanent resident of the United States, or an individual foreign national;

The undersigned hereby certifies the following:

1. I am an authorized representative and agent of _____ ("Bidder");
2. Check one:
 Bidder is not a Prohibited Entity as defined by SDCL 5-18A-1(19A); or
 Bidder is a Prohibited Entity pursuant to SDCL 5-18A-1(19A) but grounds for waiver exist pursuant to SDCL 5-18A-52. *If marking this option, provide the basis for the requested grounds for waiver.*
3. I understand that a Bidder who becomes a Prohibited Entity, as defined above, at any time after making this certification that it is not a Prohibited Entity, Bidder must provide written notice to the City, who may terminate the contract.
4. I understand that the City of Rapid City has the right to terminate a contract with any contractor who submits a false certification, and that any bidder who submits a false certification may be subject to suspension or debarment under SDCL 5-18D-12.

Dated this _____ day of _____, 20__.

(Contractor Business Name)

By: _____

Printed name: _____

Title: _____

**APPENDIX C
REQUIRED
FEDERAL CLAUSES**

BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all 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.

Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 11758, 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).

Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements.

The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information please see the FTA's Buy America webpage at: <https://www.transit.dot.gov/buyamerica>.

BUS TESTING

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.

PREAWARD AND POSTDELIVERY AUDITS OF ROLLING STOCK PURCHASES

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

- a. No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay 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 any of the following covered Federal actions: 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.
- b. Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.
- c. Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using non-appropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
- d. Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.
- e. Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt 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 that loan insurance or guarantee.

Certification and disclosure.

- a. Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:
 - (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
 - (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.
- b. Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

- (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
- (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

- c. Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:
 - (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
 - (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
 - (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.
- d. Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:
 - (1) A subcontract exceeding \$100,000 at any tier under a Federal contract;
 - (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
 - (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,
 - (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,Shall file a certification, and a disclosure form, if required, to the next tier above.
- e. All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.
- f. Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.
- g. For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

- h. No reporting is required for an activity paid for with appropriated funds if that activity is allowable under either subpart B or C.

TRANSIT VEHICLE MANUFACTURER (TVM)

Pursuant to the provisions of Section 105(f) of the Surface Transportation Assistance Act of 1982, each bidder for this contract must certify that it has complied with the requirements of 49 CFR Part 26.49, regarding the participation of Disadvantaged Business Enterprises (DBE) in FTA assisted procurements of transit vehicles. Absent this certification, properly completed and signed, a bid shall be deemed nonresponsive.

CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

- a. 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;
- b. 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 loading for shipments originating outside the United States, a legible copy of a rated, "onboard" 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
- c. 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.

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 (42 U.S.C. § 6201).

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 12511387). Violations must be reported to FTA and the Regional

Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

Clean Air Act

- (1) 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.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

Federal Water Pollution Control Act

- (1) 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.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.”

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, 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. § 200.334. 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 in accordance with 2 CFR § 200.337.
- 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 in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor 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.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

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.

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).

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 Agreement (Form FTA MA(9) dated October 1, 2002) 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.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

Compliance with the Contract Work Hours and Safety Standards Act.

- (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 workweek 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; liquidated 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 (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), 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 liquidated damages. The agency 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 paragraph (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 section."

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Recipient 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 Recipient, 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.

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.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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 underlying contract, 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 underlying contract or the FTA assisted project for which this contract work is 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.

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. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

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.

DEBARMENT AND SUSPENSION

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. 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 (Non-procurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a. Debarred from participation in any federally assisted Award;
- b. Suspended from participation in any federally assisted Award;
- c. Proposed for debarment from participation in any federally assisted Award;
- d. Declared ineligible to participate in any federally assisted Award;
- e. Voluntarily excluded from participation in any federally assisted Award; or
- f. Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, 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. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, 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.

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 age 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. §§ 621634, 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.

VIOLATION AND BREACH OF CONTRACT

Disputes:

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the

Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance during Dispute:

Unless otherwise directed by the agencies authorized representative, contractor shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages:

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

Remedies:

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the agencies authorized representative and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

Rights and Remedies:

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

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all 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.

FLY AMERICA

a) Definitions. As used in this clause—

1. “International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. 2) “United States” means the 50 States, the District of Columbia, and outlying areas. 3) “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-flag air carriers for U.S. Government--financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and them personal effects) or property.

d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers

International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]:

e) Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) 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.

If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third-Party Agreement with the Third-Party Participant without FTA's written approval.

(2) Flow-Down. The Recipient agrees to require the contractor to flow this requirement down to participants at all lower tiers, without regard to the value of any sub agreement.

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 sub agreements 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.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

a. Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
 - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
 - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
 - iii. Telecommunications or video surveillance equipment or services procured or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

b. In implementing the prohibition under Public Law 115232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c. See Public Law 115232, section 889 for additional information.

d. See also § 200.471.

PROMPT PAYMENT

(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. 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.

The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

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.

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 Contract.

SIMPLIFIED ACQUISITION THRESHOLD

Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. § 1908, or otherwise set by law, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. (Note that the simplified acquisition threshold determines the procurement procedures that must be employed pursuant to 2 C.F.R. §§ 200.317–200.327. The simplified acquisition threshold does not exempt a procurement from other eligibility or processes requirements that may apply. For example, Buy America's eligibility and process requirements apply to any procurement in excess of \$150,000. 49 U.S.C. § 5323(j)(13).

SEVERABILITY

The Contractor agrees that if any provision of this agreement or any amendment thereto is determined to be invalid, then the remaining provisions thereof that conform to federal laws, regulations, requirements, and guidance will continue in effect.

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 closeout 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 effected 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 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 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: 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 Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. 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. 3. 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 closeout 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.

TRAFFICKING IN PERSONS

The contractor agrees that it and its employees that participate in the Recipient's Award, may not:

- a. Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- b. Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- c. Use forced labor in the performance of the Recipient's Award or sub agreements thereunder.

**APPENDIX D
REQUIRED
FEDERAL CERTIFICATIONS**