

790 E Johns Prairie Rd
Shelton, WA 98584
Phone: 360.426.9434
www.masontransit.org



REQUEST FOR PROPOSALS

CAD/AVL System and Scheduling Software

RFP #2017-02

Release Date: November 16, 2017

QUESTION SUBMITTAL DEADLINE:

Date: December 8, 2017

Time: 5:00 PM

Submit by letter or email to Procurement Contact

SUBMISSION DEADLINE:

Date: **December 29, 2017**

Time: **NO LATER THAN 2:00 PM**

Location: Mason Transit Authority Administration Office

790 E Johns Prairie Rd

Shelton, WA 98584

CONTACT:

Jason Rowe

Mason Transit Authority

790 E Johns Prairie Rd

Shelton, WA 98584 Direct Line: (360) 432-5735

Email: jrowe@masontransit.org

Website: www.masontransit.org

Failure to include any of requested information and properly completed forms and documents may be cause for the rejection of the Bid.

Mason Transit Authority, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat., 252.42 U.S.C. 2000d to 2000-4 and Title 49, Code of Federal Regulations Department of Transportation, subtitle A, of the Secretary, Part 21, nondiscrimination in federally assisted programs of the DOT issued pursuant to such Act, hereby notifies all bidders that it will affirmatively insure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

Mason Transit Authority reserves the right to reject any and all Proposals without cause and to waive any informalities or irregularities.

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Section 1: RFP Introduction

1.1 Introduction

Mason Transit Authority (MTA) is soliciting proposals from qualified firms to provide and implement Computer Aided Dispatch/Automatic Vehicle Locator (CAD/AVL), automatic stop annunciators, mobile data terminals (MDTs), automatic passenger counting, and rider amenities to its current fleet of fixed route and Dial-A-Ride vehicles. Additionally, MTA wishes to implement a new ride scheduling system for general Dial-A-Ride.

Funding for the capital portion of this project is financed by State funds. On-going operating cost will be financed in part by Federal Funds and requires compliance with applicable laws and regulations as specified in applicable Federal terms, conditions and provisions incorporated herein. (Attachment F)

This document outlines information necessary to understand the documentation required to submit proposals for this project and the Contractor selection process. As used herein, the term "Transit" means Mason Transit Authority and "Contractor" means the Proposer chosen to complete the project.

1.2 Advertising

Advertised in: Mason County Journal
Daily Journal of Commerce
OMWBE
Mason Transit Authority website: www.Masontransit.org

1.3 Proposed Procurement Schedule

The following is the intended schedule for vendor selection:

ACTIVITY	DATE
Release of RFP	November 16, 2017
Last Day for Questions and Clarifications	December 8, 2017
MTA Answers Due	December 15, 2017
Proposals Due Date	NO LATER THAN 2:00 PM December 29, 2017
Evaluations Complete	January 5, 2017
Interviews (if necessary)	January 10 and 11, 2018
Board Award	January 16, 2018

1.4 Contact Information

Until this contract is awarded, all communication regarding this solicitation should be directed to:

Jason Rowe
790 E Johns Prairie Rd
Shelton, WA 98584
Phone: (360) 432-5735
E-Mail: jrowe@masontransit.org

1.5 Requests for Information (RFI), Communications and Addenda

Proposers who seek to obtain information, clarification, or interpretations from contacts other than the above listed contact are advised that such material is used at the Proposer's own risk. Mason Transit Authority will not provide binding oral interpretations, explanations, or instructions as to the meaning or interpretation of the solicitation documents. **This process will be the only opportunity for Proposers to ask questions. Mason Transit Authority staff will not answer questions regarding this RFP verbally. All questions must be submitted in writing, via USPS or email.**

To be given consideration, any and all communications requesting information, material substitutions, clarifications, and inquiries concerning this solicitation must be submitted in writing received by 5:00 PM on December 8, 2017 to be considered in an Addendum. Written inquiries shall be directed to Mason Transit Authority, using the contact information listed above, via USPS or email.

END OF SECTION 1

Section 2: Instructions to Proposers

Mason Transit Authority is a public transportation benefit authority (PTBA) with administrative offices located at 790 E Johns Prairie Rd, Shelton, WA 98584. Proposals are being solicited from qualified firms, hereinafter referred to as the Contractor, to provide and implement Computer Aided Dispatch/Automatic Vehicle Locator (CAD/AVL), automatic stop annunciators, mobile data terminals (MDTs), automatic passenger counting, and rider amenities to its current fleet of fixed route and Dial-A-Ride vehicles. Additionally, MTA wishes to implement a new ride scheduling system for general Dial-A-Ride.

Copies of the Request for Proposals may be obtained by contacting Jason Rowe at jrowe@masontransit.org or via MTA's website <http://www.masontransit.org>. Proposers downloading the RFP from the website must contact Jason Rowe at the email above to be placed on the Planholders' list to receive addenda/clarifications automatically.

2.1 Proposal Due Date

Mailed, couriered or hand-delivered sealed proposals will be accepted at Mason Transit's Main Administration Office, Reception desk **NO LATER THAN 2:00 PM**, on December 29, 2017 and must be addressed as **CAD/AVL System and Scheduling Software RFP MTA #2017-02 to Jason Rowe, Mason Transit Authority, 790 E Johns Prairie Rd Shelton, WA 98584**. Late proposals will be rejected and returned to the Proposer unopened after that time. Faxed or emailed proposals will NOT be accepted.

Mason Transit may refuse to consider a Proposer who it determines to have an unsatisfactory record of performance and/or integrity in connection with the proposal/bidding or performance phase of any previous contract.

Proposals will not be publicly opened and the information contained in all proposals will be kept strictly confidential until a Contract is fully executed.

2.3 Planholders' List:

It is recommended that Proposers notify Jason Rowe of their intent to submit a proposal and register with Mason Transit's Planholders' List in order to receive electronic notification of issued Addenda. Proposers that do not register will not be notified of Addenda and will need to periodically check for Addenda on MTA's website at <http://www.Masontransit.org> during the Proposal period and before submitting a Proposal.

All submitted proposals and attachments become the property of MTA and shall remain in effect for at least ninety (90) days after Proposal Due Date. The accepted Proposal shall remain in effect until the Contract is fully executed and will then become a part of the Contract, including any addenda and all attachments.

2.5 Payment

Mason Transit is a public agency. MTA cannot pay for services or materials that have not been received. Therefore, we cannot provide a deposit or advance payment for materials.

At the execution of the contract MTA will issue a contract for the full value of the project. Payments will be made against that total upon successful completion and acceptance of the total or a portion of the work and receipt of an invoice from the Contractor.

All payments to Contractor shall be remitted by US mail.

Invoices shall be mailed to:

Mason Transit

Attn: Finance Department
790 E Johns Prairie Rd
Shelton, WA 98584

No payment, whether monthly or final, to the Contractor for any services shall constitute a waiver or release by MTA of any claims, rights, or remedies it may have against the Contractor under this Contract or by law, nor shall such payment constitute a waiver, remission, or discharge by MTA of any failure or fault of the Contractor to satisfactorily perform the services as required under this Contract.

2.6 Disadvantaged Business Enterprise

The purpose of the Disadvantaged Business Enterprise (DBE) overall goal is to achieve a "level playing field" for ready, willing and able DBEs seeking to participate in federally-assisted contracts. MTA promotes equal employment opportunity and maximum practicable opportunity participation by DBE certified by the State of Washington office of Minority and Women-Owned Business Enterprises in its Contracts. MTA's DBE Policy and Goal may be found at www.masontransit.org/business/procurement.

2.7 Title VI

It is the policy of Mason Transit Authority to assure that no person shall, on the grounds of race, color, national origin and sex, as provided by Title VI of the Civil Rights Act of 1964, be excluded from participation in, be denied the benefits of, or otherwise be discriminated against under any of its federally funded programs and activities.

2.8 General Information for Proposers

Proposers must be fully insured and registered to conduct business in the State of Washington and licensed for business in their state of residence. Policies of insurance, as outlined in the Agreement shall be obtained and kept in force for the duration of the Contract.

By submitting a Proposal in response to this solicitation, Proposers agree to be bound by all legal requirements and contract terms and conditions contained in this RFP. Failure to include any of requested information and properly completed forms and documents may be cause for immediate rejection of the proposal.

Except as otherwise provided for herein, Proposals that are incomplete or that are conditioned in any way or contain erasures, alterations, or items not called for in the proposal or that are not in conformance with the law, may be rejected as non-responsive.

MTA reserves the right to accept or reject any and all submitted proposals, portions or parts thereof; to waive informalities and minor irregularities in proposals; to decline award based on available funding for the Contract; and to award based on the "best value" for the agency.

In consideration for MTA's review and evaluation of its proposal, the Proposer waives and releases any claims against MTA arising from any rejection of any or all proposals, including any claim for costs incurred by Proposers in the preparation of proposals submitted in response to this solicitation.

If MTA determines that collusion has occurred among Proposers, none of the proposals of the participants in such collusion will be considered. MTA's determination shall be final.

MTA may obtain clarification of any point in submitted proposals or request additional information, if necessary, to properly evaluate proposals. Proposers must be prepared to present necessary evidence of experience, ability, service facilities and financial standing to satisfactorily meet the requirements set forth or implied in the

Proposal. Failure of a Proposer to respond to such a request for additional information or clarification may result in rejection of that proposal.

2.9 Cancellation or Extension

MTA reserves the right to cancel this solicitation or extend the Proposal Due Date and time, by written Addendum, at any time *prior to* the set Proposal Due Date and time, or in the event only a single proposal or no proposals are received. If a Proposer pursues a protest or a request for reconsideration, its proposal is deemed extended until MTA executes the Contract, or until the protest or request for reconsideration is withdrawn by the Proposer.

2.10 Modifications

Proposers will not be allowed to alter proposals *after* the Proposal Due Date and time. Submitted proposals may only be changed if a written request is received by MTA *before* the set Proposal Due Date and time. Such requests must be signed by an individual authorized to submit proposals on behalf of the firm. All proposal modifications shall be made in writing, executed and submitted in the same form and manner as the original proposal. Nothing in this section shall be construed to permit the Proposer to alter its proposal *after* it has been submitted pursuant to the terms of this solicitation.

2.11 Withdrawal

Proposers will not be allowed to withdraw proposals *after* the Proposal Due Date and time unless the award is delayed for a period exceeding ninety (90) days. Any proposal not so timely withdrawn shall constitute an irrevocable offer, for a period of ninety (90) days, to provide MTA the services described herein, or until one or more of the proposals have been approved by MTA, whichever occurs first.

2.12 Award

Mason Transit reserves the right to make award within ninety (90) calendar days from the Proposal Due Date. Should award, in whole or part, be delayed beyond the period of ninety (90) days, such award shall be conditioned upon Proposer's acceptance.

Submitted Proposals shall be conclusive evidence to MTA that the Proposer has thoroughly examined and understands all requirements of the Proposal and the work to complete the Contract. The failure or neglect of a Proposer to receive or examine any proposal document or any part thereof, work site, statutes, regulations, ordinances or resolutions shall in no way relieve the Proposer from the obligations with respect to its Proposal or to the Contract. No claim for additional compensation shall be allowed which is based upon a lack of knowledge thereof. MTA will not be responsible for any costs incurred by Proposers in preparing, submitting, or presenting their response to this RFP.

All proposals and submissions become the property of MTA and are subject to public disclosure, unless certain provisions as described in Section 5 pertain.

2.13 Validity of a Protest

Proposers are advised that to be considered a valid protest, subject matter can only address issues associated with this Proposal process. Accordingly, the protest cannot be associated with, or challenge the recommendations of, MTA staff or its Evaluation Committee. A protest can only be put forth that MTA staff did not follow their own policies or procedures that govern procurement and, accordingly, a Proposer was unfairly treated. The protest cannot challenge MTA staff or the Evaluation Committee's recommendation of a

potentially successful Proposer. A copy of MTA's Appeals and Protest procedures is provided as Attachment D.

2.14 Non-Submittal/No Bid

If you determine not to submit a Proposal in response to this RFP, MTA would appreciate your completing and returning the "No Bid Form" (See Attachment C). Please state the reason why a proposal could not be submitted at this time. Information gathered will provide insight into how we can improve our process, conditions, or specifications to reach our goal of creating a competitive, level playing field for all potential Proposers. The "No Bid Form" may be sent via USPS or email.

END OF SECTION 2

Section 3: General Scope of Work

3.1 Background

Mason Transit Authority is a small rural public transit system with diverse services in Mason County, Washington, serving a population of over 62,000 residents in over 1,051 square miles. The current operational structure includes deviated fixed route (10 routes), general Dial-A-Ride, Link (Dial-A-Ride zone) route as well as commuter programs with a fleet of 14 fixed route buses, 22 cutaway buses and 4 Worker/Driver buses. Currently, MTA's fleet is not equipped with smart bus technology. Trapeze is used for scheduling rides for general Dial-A-Ride.

The purpose of this project is have an integrated system with CAD/AVL, automatic stop annunciators, mobile data terminals (MDTs), automatic passenger counting, and rider amenities to enhance the overall efficiency and effectiveness of our services and to provide tools for reporting ridership, miles and service hours. New ride scheduling system for general Dial-A-Ride is needed that allows the rider flexibility to schedule rides via a computer or smart phone. The scheduling system should also incorporate reservation policies, dispatching ability and be compliant with the Americans with Disabilities Act.

3.2 Requirements

The following is a list of objectives MTA hopes to accomplish as part of the work for this project. It is meant to demonstrate the expectations of Mason Transit and is not to be considered an all-inclusive list of the work required for this project. The Proposer is encouraged to provide, in its narrative response, any information it believes MTA should consider in reaching the project objectives.

Project Objectives:

- Install smart bus or Intelligent Transportation technology on fleet of 14 fixed route buses and 22 cutaway buses.
- Real-time automated vehicle location awareness and mobile data communication to ensure staff and rider safety, rider satisfaction and operational efficiencies with all areas of operations, including scheduling trips more efficiently, dispatching and reporting.
- Improve staff and management ability to record, collect, organize, monitor and respond to information generated by system operations, such as trip performance, scheduling statistics and real-time vehicle locate, communication and data capture.
- Replace current scheduling software for General Dial-A-Ride.
- Schedule trips more efficiently and effectively.
- Streamline the collection and accuracy of information required for National Transit Database (NTD) reporting and other requirements for grant reporting.
- Centralize and automate the collection and management of data and generation of reports.
- Provide amenities for riders such as next bus technology and ability to schedule rides via an app or through MTA website.
- Ability to coordinate with other systems MTA may use currently or in the future.
- Ensure that the technology capabilities procured and implemented through this RFP are designed to facilitate in a cost effective manner the ability to add additional features or enhancements as technology progresses, needs are identified or a funds become available.
- Ensure a single interface for all modes of transportation.
- The system is to be hosted, stored and retrievable through a web-based application.
- Implement technology in phases, if necessary.

3.3 System Requirements

The system should include the following but not limited to:

3.31 System Architecture/Data Management

- System must be a web-based application.
- System should use a robust database engine. Database platform must be the most current version. All data collected should be backed up so that no data is lost.
- System should support multiple browsers, and update to ensure compatibility with new browser versions.
- Operations and performance data will be stored in a historical database that will provide rapid access for common and recurring operational reports and a database reporting tool for developing ad-hoc reports.
- Minimum and recommended hardware requirements for servers, work stations and software necessary to operate the system(s) must be specified.
- Fixed route data must be GTFS compliant.
- Capacity to integrate third-party data.

3.32 Computer Aided Dispatch/Automated Vehicle Location (CAD/AVL) and Scheduling

- Demand Response scheduling and dispatch software.
- Live bus tracking from dispatch with a display that is capable of displaying real-time locations of entire Fixed Route fleet vehicles.
- Ability to show real-time information and historic playback.
- Arrival predications.
- Ability to accommodate deviations from fixed routes to accommodate demand response riders.
- Auto refresh rate of every 1-6 seconds for vehicle GPS locations.
- Allow in-take and assign demand trips.
- Display electronic manifest for drivers.
- Allow messages between driver and dispatch.
- Driver management and access to manifest from terminals.
- Customer information and management.

3.33 Mobile Data Terminal (MDT)

- Unique Driver log in.
- Route selection.
- Next stop arrival times.
- Driver manifest for Dial-A-Ride with trip updates pushed to device in real-time.
- Maps or navigation system with turn by turn directions.
- Manual ridership counting.
- Integration with Luminator signs.
- Off the shelf MDTs are preferred.
- Ability to provide an audible tone to alert the driver of incoming messages.
- Device shall not be usable by the Driver when the vehicle exceeds 5 mph.

3.34 Automated Voice Annunciators (AVA)

- Internal and external audio announcements with automated pre-set messages at designated locations.
- Ability to announce major advertised stops, key transfer points and public service announcements.
- Ability to program remotely and push to vehicles.
- Announcements can be controlled by user, if desired, with bus microphone.
- Independent volume settings must be permitted for the interior and exterior announcements.

- In the event that a vehicle is operating off-route, the internal automated announcements/displays shall not be made. Once the route is reacquired, the system shall automatically determine and announce the next valid bus stop or other designated location. The response of the AVA to off-route and on-road detection shall be automatic and not require operator intervention or action.
- Provide for the use of internal LED "Next Stop" scrolling signs.

3.35 Automatic Passenger Counters (APC)

- Tracking of boardings and alightings with APCs installed at front and back doors.
- Accurately count bike rack usage and wheelchair lift/ramp deployment by stop, routes and runs.
- Passenger counting sensors used in the program shall have a proven accuracy level of at least 95% of actual boardings and alightings. Counting accuracy should have features to reduce or eliminate counting inaccuracies caused by passengers carrying items such as packages, boxes or backpacks onto the vehicle.
- Must not interfere electronically with the operation of the transit vehicle or its onboard electronic equipment such as security equipment, engine control, etc. APC hardware must be durable to withstand the environment and elements associated with transit operations.
- Ability to collect data through GPS.
- Reports including ridership by route and stop for specific periods (yearly, monthly, weekly, daily, etc.)

3.36 Reporting

- Specific required reports include, but are not limited to, the following:
 - Ridership by routes and stops in summary and detail for specific periods.
 - Schedule adherence, on-time reporting, dwell time, missed stops.
 - Vehicle hours and mileage in summary and detail for specific periods.
 - Trip times for each route.
 - NTD Report to include all categories required in the report.
 - Ad-hoc report generator.
 - Driver manifest.
 - Operating Statistics.
 - Cancellations and No Shows.
 - Scheduling Refusals.
 - Route productivity.
 - Trip summary.

3.37 Mobile App

- Live bus tracking by public users
- Ability to provide riders with arrival predictions, schedules, custom alerts, etc.
- User favorites (route and stop)

3.38 Training, Customer Support and Warranties

- The Contractor will provide training for authorized personnel to ensure satisfactory competence in using the entire system. Adequate training will be provided on the use and maintenance of the system leading to a satisfactory level of competence by the appropriate MTA administrative, operational, maintenance, technical and transit service operators.
- Additional training by the Contractor will be provided as necessary and within reason during the succeeding twelve (12) months.
- Equipment and labor warranty for the duration of the contract (minimum 3 years) on all hardware installed with a full replacement or five day repair.
- For all returned hardware due to malfunction, MTA and selected proposer agree to split the shipping costs with each party paying from their destination. Two day shipping required.
- Adaptability to change as needed.

- All software updates will be supplied at no cost throughout the life of the contract (minimum 3 years).

MTA reserves the right to phase the above requirements based on funding availability.

END SECTION 3

Section 4: Evaluation

The successful proposal will be selected using a weighted criteria evaluation. The award of the contract will be based on certain objective and subjective considerations listed below. Criteria are weighted as listed below:

1. Technical Qualifications and Experience of Firm (30%)

- Experience in performing work similar in nature and/or related to the work described in Requirements.
- Experience working with similar sized transit agencies.
- Strength, stability and future expansion of technology.
- Logic of project organization and implementation including options to phase project.

2. Record of Past Performance of Firm and Key Personnel (20%)

- Proven track record of completed work.
- Work experience with regulatory agencies and in regulatory compliance on transit.
- Satisfaction of key references.
- Qualifications and previous experience of personnel.
- Ability to meet needs of MTA in terms of performance and scheduling
- Ability to make recommendation for phasing project if needed

3. Price (30%)

- Competitive and reasonable.
- Price will be evaluated on the basis of the lowest overall cost to MTA, which is defined as the cost of ownership over a five (5) year period including the application purchase prices, additional cost of operating system hardware and software required, implementation services and continuing maintenance and support cost. The lowest total price proposal will receive the maximum number of points allocated to price. The price point allocation on the other proposals will be determined using the following formula:

$$(\text{Lowest Proposal Price}) \times (\text{Total Cost Points}) / \text{Price of Proposal Being Rated}$$

4. Support, service, maintenance and warranty (10%)

- Includes support, service, maintenance and warranty for five years at a minimum.

5. Product demonstration (10%)

An evaluation committee of qualified Mason Transit Authority staff or other persons selected by Mason Transit Authority will conduct evaluations of proposals. The committee will evaluate all responsive proposals based upon the information and references contained in the proposals as submitted. The committee shall review each proposal and rank each proposer's evaluation criteria as stated in this RFP.

Proposers, limited to the top three (3), falling into the competitive range will be invited to participate in an interview with the Evaluation Committee to discuss all aspects of the proposal and present a demonstration. After the interviews, Mason Transit Authority may ask for Best and Final Offers (BAFO). In this event, each proposer in the competitive range will be afforded the opportunity to amend their Proposal and submit their BAFO. These BAFO's will be evaluated by the Committee and the highest scoring proposal shall be recommended to the Mason Transit Authority Board for award.

Mason Transit Authority reserves the right, before awarding the contract, to require a Proposer to submit evidence of its qualifications, as Mason Transit Authority deems necessary. In addition, Mason Transit Authority may consider any evidence available of financial, technical and other qualifications and capabilities; including performance experience with past and present users.

Mason Transit Authority reserves the right to request additional clarifying information and request an oral presentation from any and all Proposers prior to determination of award.

Mason Transit Authority reserves the right to award the contract to that Proposer who will best serve the interest of Mason Transit Authority. Mason Transit Authority reserves the right based upon its deliberations and in its opinion, to accept or reject any or all proposals. Mason Transit Authority also reserves the right to waive minor irregularities or variations to the specifications and in the bidding process.

Mason Transit Authority uses a mathematical formula for determining allocation of evaluation criteria including cost points, to each responsive, responsible proposer. Each evaluation criteria stated in the RFP has an identified weighted factor. Each evaluation committee member will rank each criterion, from each proposer.

END OF SECTION 4

Section 5: Proposal as Public Records

By submitting a proposal, the Proposer has thereby agreed to the provision of this Section. Except to the extent permitted by Washington State public disclosure laws RCW Chapter 42.56, Mason Transit Authority will regard proposals as public records which will be available for public inspection and/or copying following contract award, regardless of any markings or notices contained in the proposal documents. Information will not be released by Mason Transit Authority *prior to* contract award in order to protect the integrity of the procurement process, unless otherwise required by law. All proposals will remain confidential until a contract is awarded and fully executed by all parties involved.

If a Proposer considers portions of its proposal to be protected under Washington State law, the Proposer shall clearly identify and mark such portions as "CONFIDENTIAL" or "PROPRIETARY" and submit such portions in a sealed envelope separate from the rest of the proposal. It is not usually reasonable or legally defensible to mark an entire proposal as "confidential" or "proprietary". Marking the entire proposal as such will not be honored and the proposal may be rejected as non-responsive. Mason Transit Authority shall not release or divulge such information to third parties without the consent of the Proposer, unless required to do so by applicable law or order of a court of competent jurisdiction. If a member of the public demands to review portions of a proposal marked "Confidential", Mason Transit Authority will notify the affected Proposer of the request and the date that such records will be released unless the Proposer obtains a court order enjoining that disclosure.

It will be the responsibility of the Proposer to protect the confidentiality of any information submitted in the Proposal and the Proposer shall take such legal actions as it may determine to be necessary to protect its interest. If the Proposer has not commenced such action within five (5) calendar days after receipt of the notice, Mason Transit Authority will make the requested portions available to the Requestor. The Proposer, asserting that portions of its proposal are legally protected, will assume all liability and responsibility for any information declared confidential and shall defend and hold Mason Transit Authority harmless for any cost, penalties, and/or fees (including reasonable attorney fees) incurred in any action regarding the disclosure of said information. Mason Transit Authority assumes no responsibility or liability for any losses or damages which may result from the information contained in the proposal.

By submitting a proposal, the Proposer has thereby agreed to the provision of this Section.

END OF SECTION 5

Section 6: General Provisions

These General Provisions are complementary to the Contract which is required to properly define and delineate the responsibilities and rights of the parties to this Contract.

6.1 Conflicts of Interest

Current and Former Employees: Mason Transit Authority seeks to eliminate and avoid actual or perceived conflicts of interest and unethical conduct by current and former Mason Transit Authority employees in transactions with Mason Transit Authority. Consistent with this policy, no current or former Mason Transit Authority employee may contract with, influence, advocate, advise, or consult with a third party about a Mason Transit Authority transaction, or assist with preparation of bids submitted to Mason Transit Authority while employed by Mason Transit Authority or after leaving Mason Transit Authority's employment, if he/she was substantially involved in determining the Work to be done or process to be followed while a Mason Transit Authority employee.

Organizational Conflicts of Interest: An organizational conflict of interest is a situation in which, because of other activities, relationships, or contracts, a contractor or subcontractor is unable, or potentially unable, to render impartial assistance or advice to Mason Transit Authority; a contractor's objectivity in performing the contract work is or might be otherwise impaired; or a contractor has an unfair competitive advantage. Mason Transit Authority will evaluate future procurements related to this Contract to determine if there is an organizational conflict of interest. If an organizational conflict of interest exists, Mason Transit Authority may prohibit the contractor and any of its subcontractors from participating in such related procurements/projects.

6.2 Debarment and Suspension

Contractor must not be debarred or suspended in order to conduct business with Mason Transit Authority. Upon the Proposal Due Date and for the full duration of the Contract, the Contractor will not be debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal or State department or agency or from bidding on any public contract; and shall not be presently indicted for, or otherwise criminally or civilly charged by, a governmental entity (federal, State or local) with commission of any of the offenses enumerated in below.

Within a three (3) year period preceding this proposal, Contractor shall not have been convicted of or had a civil judgment rendered against them for: Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, State or local) transaction or contract; Violation of federal or State anti-trust statutes; Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property; or had one or more public transactions (federal, State or local) terminated for cause or default. If it is later determined that the Contractor knowingly rendered an erroneous certification under the Affidavit submitted with its proposal, or failed to notify Mason Transit Authority immediately of circumstances which made the original certification no longer valid, Mason Transit Authority may immediately terminate the Contract.

6.3 Defective Materials or Services

When and as often as Mason Transit Authority determines that the products or services furnished under the Contract are not fully and completely in accordance with any requirement of the Contract, Mason Transit Authority may give written notice and description of such non-compliance to the Contractor. Within seven (7) calendar days of receiving such written notification, Contractor must supply Mason Transit Authority with a written detailed plan of action that indicates the time and methods needed to bring the products or services

within acceptable limits under the Contract. Mason Transit Authority may reject or accept this plan at its discretion.

In the event this plan is rejected or the defect has not been remedied within thirty (30) days of Contractor's receipt of notice, the products or services will be deemed not accepted and returned to the Contractor at the Contractor's expense. Mason Transit Authority, in its sole discretion, may purchase a replacement from another source and charge-back the cost for such warranty replacement to the Contractor. This procedure to remedy defects is not intended to limit or preclude any other remedies available to Mason Transit Authority by law, including those available under the Uniform Commercial Code, Title 62A RCW.

6.4 Limitation of Liability

A. Non-conforming Services – For any services which fail to conform to the scope of the Contract and such failure is caused solely by the negligence of the Contractor, no charge will be invoiced to Mason Transit Authority. If both parties are negligent, they agree to apportion between them the damage attributable to the actions of each.

B. Damages – Neither party will seek damages, either direct, consequential, or otherwise against the other in addition to the remedies stated herein.

C. Third Party Claims – In the event that either party is found liable for damages to third parties as a result of the performance of services under this Contract, each party will be financially responsible for the portion of damages attributable to its own acts and responsibilities under this Contract.

6.5 Taxes

Any State sales/use tax, import revenues, or other taxes, which are not or which may hereafter be imposed by Congress, a State, or any political subdivision hereof and applicable to the sale or material delivered as a result of this RFP, and which by the terms of the tax law must be passed directly to Mason Transit Authority, will be paid by Mason Transit Authority from the Contractor's invoice.

All applicable taxes which the awarded firm is required to pay shall also be included in the proposed price for the work under this Contract. No adjustments will be made in the amount to be paid by Mason Transit Authority under the Contract because of any misunderstanding or any lack of knowledge of the Proposer as to liability for, or the amount of, any taxes or assessments which the Proposer may be liable or responsible for by law.

6.6 Contract Documents and Term

The successful Proposer will receive an award package from Mason Transit Authority that includes the Final Award Notice, two original duplicates of the Contract for signature, and other documents as required. Contractor must immediately sign and return all requested documents to Mason Transit Authority within ten (10) calendar days, unless indicated otherwise, or Mason Transit Authority may utilize their right to cancel the award and go to the next highest scoring Proposer. Proposers should already have preparations in place to notify their insurance broker and/or bonding agent to immediately obtain the required documents.

The contract to be awarded pursuant to this RFP is intended to be a firm fixed price contract.

6.7 Failure to Execute Contract

Should the awarded Contractor fail to execute the Contract within fifteen (15) days from the Final Award Notice date, Mason Transit Authority may withdraw the award and present the award to the next highest scoring

Proposer. Should events give rise to this instance, the Proposer failing to execute a contract may be removed from Mason Transit Authority's bid list for any future contracting opportunities.

END OF SECTION 6

Section 7: Requirements of the Proposal

Content and completeness are most important. Clear and effective presentations are preferred, with elaborate decorative or extraneous materials strongly discouraged. The proposal shall be submitted in an 8-1/2" X 11" format with foldouts from this basic sized utilized as necessary. Proposal submittal requirements are described below.

All proposals must be submitted as specified on the proposal pages, which follow. Any attachments must be clearly identified. To be considered, the proposal must respond to all parts of the RFP. Any other information thought to be relevant, but not applicable to the enumerated categories, should be provided as an appendix to the proposal. If publications are supplied by a proposer to respond to a requirement, the response should include reference to the document number and page number. Proposals not providing this reference will be considered to have no reference material included in the additional documents. Mason Transit Authority prefers all responses to this RFP to be less than 50 pages and that the Contractor utilize recyclable materials as much as possible. Expensive or fancy binders are not preferred.

All proposals must be submitted in a sealed package with the RFP number, due and open date, and RFP title clearly marked on the outside. If more than one package is submitted they should be marked 1 of 2, etc.

All proposals must be received by Mason Transit Authority at 790 E Johns Prairie Rd Shelton, WA 98584 NO LATER THAN 2:00 PM on December 29, 2017. Submittal of response by fax or e-mail will NOT be accepted.

PROPOSERS MUST SUBMIT AN IDENTIFIED ORIGINAL HARD COPY, PLUS (5) ADDITIONAL HARD COPIES OF THEIR PROPOSAL PAGES INCLUDING ANY ATTACHMENTS. THE ABOVE REQUIREMENTS TOTAL (6) HARD COPIES OF YOUR PROPOSAL.

The proposer understands that the information contained in these Proposal Pages is to be relied upon by the Mason Transit Authority in awarding the proposed Agreement, and such information is warranted by the proposer to be true. The proposer agrees to furnish such additional information, prior to acceptance of any proposal, relating to the qualifications of the proposer, as may be required by the Mason Transit Authority.

7.1 Required Submittals

One of the objectives of this RFP is to make proposal preparation easy and efficient, while giving the Contractor ample opportunity to highlight their proposal. The evaluation process must also be manageable and effective. When a Contractor submits a proposal, it shall be considered a complete plan for accomplishing the tasks described in this RFP and any supplemental tasks the Contractor has identified as necessary to successfully complete the obligations outlined in the RFP.

The proposal shall describe in detail the Contractor's ability and availability of services to meet the goals and objectives of this RFP as stated in the Scope of Work and Requirements.

The Contractor shall submit one (1) original proposal marked "ORIGINAL" and five (5) copies of the original marked "COPY". It is imperative to note that the Contractor submit only one original and the required number of copies. Costs for developing the proposal are solely the responsibility of the Contractor, whether or not any award results from this solicitation. MTA will not reimburse such costs.

The following section describes mandatory description and documents that shall be addressed in or included with each submittal. Failure to address or include all of the items discussed in this section may subject the submittal to immediate rejection. MTA will be the final authority in determining the responsiveness of submittals. All materials become the property of MTA.

Letter of Transmittal

Include a letter introducing the firm and the primary contact and which is signed by a representative authorized to bind the company.

7.11 Qualifications and Experience of Firm

Provide a description and listing of your firm, current size and years of experience. Describe key personnel involved in the completion of project requirements, including resumes.

Based on the information contained in the RFP, describe how the proposed system will meet the needs of MTA. Proposer should provide documentation outlining their understanding of each area as listed in the Scope of Work section (Section 3). Documentation shall include detailed description of previous experience and sample work.

A list of references for five (5) clients for whom similar projects have been completed must be provided. Include the name of the client organization, primary client contact information, description of work and time period in which work was completed.

7.12 Features of product, Implementation and Technology Expansion

Proposer should describe products that will be the requirements listed in Section 3.

Include an implementation plan with your description.

Proposer should describe how the firm will continue to meet and explore future technology.

7.13 Price Proposal

Proposers shall complete the Proposal Pricing Form (Attachment A, Section 5). A breakdown of all cost is to be provided and attached to Attachment A, Section 5.

Indicate, if applicable, any minimum or maximum amounts of supplies or equipment that must be ordered.

All applicable taxes which the awarded firm is required to pay shall also be included in the proposed price for the work under this Contract. No adjustments will be made in the amount to be paid by Mason Transit Authority under this Contract because of any misunderstanding by or lack of knowledge of the Proposer as to liability for, or the amount of, any taxes for which the Proposer is liable or responsible by laws as it pertains to this Contract or because of any increases in tax rates imposed by any federal, state or local government.

All proposed prices shall remain firm for a minimum of ninety (90) days from the submittal date of the proposal. Prices quoted by the successful Proposer shall remain valid for the duration of the Contract term.

7.14 Support, Service, Maintenance and Warranty

Describe support, service, maintenance and warranty to be provided over life of the contract.

END OF SECTION 7

Section 8: Attachments

ATTACHMENT A

COST PROPOSAL FORM

PART 1 – INSTRUCTIONS

All entries below shall be legible and entered in ink or typed. Do not leave an item blank or your Bid may be considered non-responsive. Mark spaces that do not apply to your firm with the initials "N/A" (Not Applicable).

PART 2 – CONTRACTOR INFORMATION

Business Name, as registered: _____

Type of Business (sole proprietorship, partnership, corporation, other) _____

Name & Title of person preparing Bid: _____

Mailing Address, including Zip Code: _____

Physical Address, including Zip Code: _____

Telephone/Fax Numbers, including Area Code: Ph: _____ Fax: _____

E-mail Address: _____

Federal Tax Identification Number: _____

WA State Contractor Registration Number: _____

WA Unified Business Identification (UBI) Number: _____

WA Industrial Insurance Account Identification Number: _____

WA Employment Security Dept. Number: _____

WA State Excise Tax Registration Number: _____

DBE / OMWBE / MBE / SDB Certification Number(s): _____

PART 3 – RECEIPT OF ADDENDA

3.1 Call Jason Rowe at Mason Transit, prior to filling out this part to check for issued Addenda. FAILURE TO ACKNOWLEDGE RECEIPT OF ADDENDA MAY RESULT IN YOUR BID BEING CONSIDERED NON-RESPONSIVE.

3.2 Receipt of the following Addenda is acknowledged:

Addendum No.: _____ Received By: _____ Date: _____

Addendum No.: _____ Received By: _____ Date: _____

Addendum No.: _____ Received By: _____ Date: _____

Addendum No.: _____ Received By: _____ Date: _____

Addendum No.: _____ Received By: _____ Date: _____

3.3 No Addenda Received _____ (initial)

PART 4 – BIDDER’S CERTIFICATION AND GUARANTEE

4.1 I/WE CERTIFY, that to the best of my/our knowledge and belief that I/we fully understand:

- ❖ The nature of the Work and the goal of the Project;
- ❖ The instructions and requirements of the Contract Documents;
- ❖ The terms and conditions of the Contract Documents;
- ❖ That all costs are included in this Bid;
- ❖ That the information contained in this Bid is accurate and complete;
- ❖ The offer shall be kept open for a period of ninety (90) days from the Bid Due Date;
- ❖ That I/we have the legal authority to commit this company to a contractual agreement;
- ❖ That final funding is based upon budget amounts approved by the Mason Transit Board of Directors.
- ❖ That the submitted Bid will become part of the public record.

Authorized Signature Date

Printed Name & Title: _____

Company Name: _____

PART 5 – PRICING FORM

CAD/AVL and Scheduling Software

A breakdown of all costs must be attached to the pricing form.

	Proposed Cost
Proposed Cost for Requirement 3.31 System Architecture/Data Management	\$
Proposed Cost for Requirement 3.32 CAD/AVL/Scheduling	\$
Proposed Cost for Requirement 3.33 MDT	\$
Proposed Cost for Requirement 3.34 AVA	\$
Proposed Cost for Requirement 3.35 APC	\$
Proposed Cost for Requirement 3.36 Reporting	
Proposed Cost for Requirement 3.37 Mobile App	
Proposed Cost for Requirement 3.38 Training, Customer Service, Support and Warranties	
*Proposed Cost for Travel for the Entire Project	\$
Sub Total	\$
Wa. Sales Tax 8.6%	\$
Total	\$

***Note that travel shall be presented as a separate line item and shall include costs for all travel associated with the competition on the entire scope of work.**

For the bases of award, totals before tax will be used.

ATTACHMENT B

**MASON TRANSIT AUTHORITY
REQUEST FOR PROPOSAL MTA # 2017-02
BIDDER'S AFFIDAVIT**

NON-COLLUSION

The Bidder affirms that, in connection with this Bid, the prices or cost data have been arrived at independently, without consultation, communication, or agreement for the purpose of restricting competition and that the proposal herewith submitted is a genuine and not a sham or collusive Bid, or made in the interest or on behalf of any person not therein named; and further says that the said Bidder has not directly, or indirectly, induced or solicited any Bidder on the above Work or supplies to put a sham Proposal, or any other person or corporation to refrain from Bidding; and that said Bidder has not in any manner sought by collusion to secure to himself/herself an advantage over any other Bidders.

CONFLICTS OF INTEREST & ANTI-KICKBACKS

In regards to any performance of the Work or the provision of services or materials under the Contract resulting from this solicitation the Bidder affirms that:

1. It has no direct or indirect pecuniary or proprietary interest, and that it shall not acquire any such interest, which conflicts in any manner or degree with the services required to be performed under this Contract and that it shall not employ any person or agent having such interest. In the event that the Bidder, as Contractor, or its agents, employees or representatives hereafter acquires such a conflict of interest, it shall immediately disclose such interest to Mason Transit Authority and take immediate action to eliminate the conflict or to withdraw from said Contract as Mason Transit Authority may require.
2. No officer, employee, Board member, agent of Mason Transit Authority, or family member of same shall have or acquire any personal interest in this submittal, or have solicited, accepted or granted a present or future gift, favor, service, or other thing of value from or to any person involved in this submittal and that no such gratuities were offered or given by the Bidder or any of its agents, employees or representatives, to any official, member or employee of Mason Transit Authority or other governmental agency with a view toward securing a Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the Award or performance of this Contract.

CONTINGENT FEES AND GRATUITIES

The Bidder affirms that in connection with this Bid:

1. No person or selling agency, except bona fide employees or designated agents or representatives of the Bidder, has been employed or retained to solicit or secure this Contract with an agreement or understanding that a commission, percentage, brokerage, or contingent fee would be paid.
2. No gratuities, in the form of entertainment, gifts or otherwise, were offered or given by the Contractor or any of its agents, employees or representatives, to any official, member or employee of Mason Transit Authority or other governmental agency with a view toward securing this Contract or securing favorable treatment with respect to the awarding or amending, or the making of any determination with respect to the performance of this Contract.

SEGREGATED FACILITIES

The Bidder certifies that their company does not and will not maintain or provide for their employees any segregated facilities at any of their establishments, and that they do not and will not permit their employees to perform their services at any location under its control where segregated facilities are maintained. The Bidder agrees that a breach of this certification will be a violation of the Equal Opportunity or Civil Rights clause in any

Contract resulting from acceptance of this Bid. As used in this Certification, the term "segregated facilities" means any waiting rooms, Work areas, restrooms and washrooms, restaurants and other eating areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin because of habit, local custom, or otherwise.

DEBARMENT AND SUSPENSION

The Bidder certifies to the best of its knowledge and belief that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
2. Have not within a three (3) year period preceding this Bid been convicted of, or had a civil judgment rendered against them for, commission of fraud or a criminal offense in connection with obtaining, attempting to obtain or performing a public (Federal, State or local) transaction or Contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements or receiving stolen property;
3. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph 2 above; and
4. Have not within a three (3) year period preceding this Bid had one or more public transactions (Federal, State or local) terminated for cause or default.

If Bidder is unable to certify to any of the statements in this certification, the Bidder shall attach an explanation to this Section.

Note: The penalty for making false statements in offers is described in 18 U.S.C. 1001.

THE BIDDER CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 USC SECTIONS 3802, ET SEQ., ARE APPLICABLE THERETO.

Authorized Signature

Date

Printed Name & Title

Company Name

Subscribed and sworn to before me this _____ day of _____, 2016.

Notary Public in and for the State of _____,

residing in _____

****THIS FORM MUST BE NOTARIZED AND SUBMITTED WITH YOUR BID****

ATTACHMENT C

MASON TRANSIT AUTHORITY
REQUEST FOR PROPOSAL MTA # 2017-02
RFP

No Bid Response

Bid Number MTA 2017-02

Bid Title: CAD/AVL System and Scheduling Software

If electing not to submit a proposal for this project, please complete and mail this form to:
Jason Rowe, Lead Dispatcher/Scheduler, Mason Transit Authority, 790 E Johns Prairie Rd, Shelton, WA 98584

Company Name	Address
Business Phone Number ()	Email Address or Web URL

I/We respectfully decline this opportunity because:

- I/We cannot comply with the specifications listed
- I/We cannot meet delivery requirements
- I/We do not regularly manufacture or sell this type of commodity
- Other (please specify in box below)

Please Provide further explanation as needed for the reason(s) selected above:

- I/We desire to be retained on the mailing list for future procurements of this commodity and nature
- I/We do not desire to be retained on the mailing list for future procurements of this commodity and nature

Authorized Signature	Printed Name and Title
----------------------	------------------------

ATTACHMENT D

Complaint Policy / Protest and Appeal Policy

A. Purpose

To establish policies for vendor or service provider complaints and protests to ensure fair and open competition.

B. Complaint Policy

Who May Submit a Complaint

A potential bidder demonstrating a substantial economic interest in Mason Transit Authority's competitive bid process.

Timing of Complaint

Complaints must be received five business days prior to bid response deadline.

Basis of Complaint

Complaints must be based on the following criteria:

1. The solicitation unnecessarily restricts competition
2. The solicitation evaluation process is unfair or flawed
3. The solicitation requirements are insufficient to prepare a response

Complaint Form and Content

1. Complaints must be in writing
2. Complaints must be addressed to the General Manager
3. Complaints must clearly articulate the basis for the complaint
4. Complaints must include proposed remedy

Mason Transit Authority Response to Complaint

The General Manager will respond to complaints in writing within three business days of receipt.

C. Protest and Appeal Policy

Who May Protest or Appeal

A potential bidder demonstrating a substantial economic interest in Mason Transit Authority's competitive bid process.

Timing of Protest

A protest must be filed within five business days of the award of a contract or notice of apparent successful proposer/bidder, whichever is sooner.

Basis of Protest

Protests must be based on the following criteria:

1. A matter of bias, discrimination, or conflict of interest
2. Non-compliance with procedures described in the procurement documents
3. Error in computing scores

Protest Form and Content

1. Protests must be in writing
2. Protests must be addressed to the General Manager
3. Protests must clearly articulate specific grounds for the protest and include supporting documentation
4. Protests must include proposed remedy

Protest Procedure

A protest must be filed with Mason Transit Authority's General Manager within five business days of the award of a contract or notice of apparent successful proposer/bidder, whichever is sooner. Upon receipt of a timely written protest, the General Manager will consider the protest in accordance with established procedures and issue a written decision within five business days stating the reasons for the action taken and informing the allegedly aggrieved vendor or service provider (Protesting Vendor) of his/her right to appeal the decision.

Appeal Procedure

An appeal must be filed within five business days of the General Manager decision. The Finance Director and the procurements originating Department Director will consider the appeal and issue a written decision within five business days informing the Protesting Vendor of his/her right to further appeal the decision.

In the event the Protesting Vendor elects to continue the appeal process, a request for a second appeal must be filed within five business days of the decision of the first appeal. The Board Chair and general counsel will consider the appeal and issue a written decision within ten business days. The decision of the second appeal will be final and conclusive.

Failure to Comply with Requirements

Failure to comply with the protest and appeal requirements will render a protest or an appeal untimely or inadequate and may result in rejection thereof.

Protests to the Federal Transit Administration

When the award is funded in part by Federal Transit Administration (FTA) funds, the vendor or service provider may appeal to the FTA pursuant to FTA Regulations. Protests made to the FTA will be limited to Mason Transit Authority's (1) failure to have followed its protest procedures, (2) failure to review a complaint or protest, or (3) violations of Federal law or regulation. Any protest to the FTA must be made in accordance with the following guidelines:

1. A protest must be filed with the FTA no later than five business days after the Protesting Vendor exhausts Mason Transit Authority's protest and appeal procedures.
2. A protest to FTA must be filed in accordance with FTA Circular 4220.1F, as amended.

Exhausted Administrative Remedies

A Protesting Vendor may not commence litigation prior to exhausting all administrative remedies. Failure to exhaust all administrative remedies shall constitute an absolute waiver of the Protesting Vendor rights, if any, to commence litigation.

ATTACHMENT E

Federal Requirements

Federal Transit Administration (FTA) Provisions

Section 1

Fly America Requirements

Contractor shall comply with 49 USC 40118 (the "Fly America" Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

Section 2

Charter Bus Requirements

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

Section 3

School Bus Requirements

As amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities. Violations. If a Recipient or any Third Party Participant that has operated school bus service in violation of FTA's School Bus laws and regulations, FTA may: (1) Require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third Party Participant from receiving Federal transit funds.

Section 4

Energy Conservation

Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

Section 5
Clean Water

. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

Section 6
Lobbying

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104- 65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$150,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non- Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

Section 7
Access to Records and Reports

A. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.

B. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.

C. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.

D. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

E. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to

copy excerpts and transcriptions as reasonably needed.

F. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

Section 8

Federal Changes

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

Section 9

Clean Air

Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with FTA assistance.

Section 10

Recycled Products

All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

Section 11

Contract Work Hours & Safety Standards Act

A. 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 40 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 40 hours in such workweek.

B. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable 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 para. (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 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

C. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by 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 & 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 para.(2) of this section.

D. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

Section 12

No Government Obligation to Third Parties

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

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

Section 13

Program Fraud and False or Fraudulent Statements or Related Acts

A. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

B. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

C. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

Section 14

Termination

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

B. **Termination for Default.** If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies

delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract.

C. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

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

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

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

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

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

Section 15

Government Wide Debarment and Suspension

The Recipient agrees to the following:

A. It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following:

1. It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note,
2. It will review the U.S. GSA "System for Award Management," <http://https.www.sam.gov,.proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and
3. It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <http://https.www.sam.gov,.proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and

B. If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

Section 16

Contracts Involving Federal Privacy Act Requirements

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,500 or less, except for construction contracts over \$2,000) The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

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

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

Section 17

Civil Rights Requirements

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service: Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute):

A. FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

1. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with

applicable Federal laws, regulations, and guidance. (b)

2. U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

3. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing,

4. General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer".

B. Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,

C. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

D. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

E. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

F. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

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

H. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,

I. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.

J. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

Section 18

Breaches and Dispute Resolution

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729.

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

B. Claims for Damages - Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State.

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

Section 19

Transit Employee Protective Provisions

Public Transportation Employee Protective Arrangements. The Recipient agrees that 49 U.S.C. § 5333(b) requires employee protective arrangements to be in place as a condition of award of FTA assistance made available or appropriated for FTA programs involving public transportation operations. U.S. DOL recognizes the following categories of arrangements:

(1) U.S. DOL Certification. When its Project involves public transportation operations and is financed with funding made available or appropriated for 49 U.S.C. §§ 5307, 5309, 5312, 5337, or 5339, as amended by Map-21, or former 49 U.S.C. §§ 5308, 5309, 5312, or other provisions of law as required by the Federal Government, U.S. DOL must provide a Certification of employee protective arrangements before FTA may provide financial assistance for the Project. Therefore, the Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must carry out the Project as provided in its U.S. DOL Certification, which contains the terms and conditions that U.S. DOL has determined to be fair and equitable to protect the interests of any employees affected by the Project, (b) It must comply with 49 U.S.C. § 5333(b), and any future amendments thereto, (c)

It will follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (d) It must comply with the terms and conditions of the

U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, including: 1 Alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and

(e) It must comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement for the Project: 1 The U.S. DOL certification of public transportation employee protective arrangements for the Project, which certification is dated as identified on the Underlying Agreement, 2 The documents cited in that U.S. DOL certification for the Project, 3 Any alternative comparable arrangements that

U.S. DOL has specified for the Project, and 4 Any revisions that U.S. DOL has specified for the Project, (2) Special Warranty. When its Project involves public transportation operations, and is financed with funding made available or appropriated for 49 U.S.C. § 5311, as amended by Map-21, for former 49 U.S.C. § 5311 in effect in FY 2012, or a previous fiscal year, or for section 3038 of TEA-21, as amended by section 3039 of SAFETEA-LU, U.S. DOL will provide a Special Warranty for those projects, including projects under the Tribal Transit Program. Therefore, the Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that: (a) It must comply with Federal transit laws, specifically 49 U.S.C. § 5333(b),

(b) Follow the U.S. DOL guidelines, "Guidelines, Section 5333(b), Federal Transit Law," 29 C.F.R. part 215, except as U.S. DOL determines otherwise in writing, (c) It will comply with the U.S. DOL Special Warranty for its Project that is most current on the date when it executed the Underlying Agreement, and documents cited therein, including: 1 Any alternative comparable arrangements U.S. DOL has specified for the Project, 2 Any revisions U.S. DOL has specified for the Project, or 3 Both, and (d) It will comply with the following documents and provisions incorporated by reference in and made part of the Underlying Agreement: 1 The U.S. DOL Special Warranty for its Project, 2 Documents cited in that Special Warranty, 3 Alternative comparable arrangements U.S. DOL specifies for the Project, and 4 Any revisions that U.S. DOL has specified for the Project, and (3) Special Arrangements for 49 U.S.C. § 5310 Projects. The Recipient understands and agrees, and assures that any Third Party Participant providing public transportation operations will agree, that although pursuant to 49 U.S.C. § 5310, and former 49 U.S.C. §§ 5310 or 5317, FTA has determined that it was not "necessary or appropriate" to apply the conditions of 49 U.S.C. § 5333(b) to Subrecipients participating in the program to provide public transportation for seniors (elderly individuals) and individuals with disabilities, FTA reserves the right to make the following exceptions: (a) FTA will make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and (b) FTA reserves the right to make other exceptions as it deems appropriate.

Section 20

Disadvantaged Business Enterprise

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

B. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as

the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

C. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

D. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

E. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

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

Section 21

Prompt payment

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

Section 22

Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

Section 23

Drug and Alcohol Abuse and Testing

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants)," 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by Map-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

Section 24

Prohibition Against Exclusionary or Discriminatory Specifications

Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Section 25

Conformance with ITS National Architecture

Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by SAFETEA-LU Section 5307(c), 23 U.S.C. Section 512 and as amended by MAP-21 23 U.S.C. § 517(d), note and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg. 1455 et seq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

Section 26

Access Requirements for Persons with Disabilities

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

Section 27

Notification of Federal Participation

To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

Section 28

Interest of Members or Delegates to Congress

No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Section 29

Ineligible Contractors and Subcontractors

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

Section 30

Other Contract Requirements

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those provisions attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

Section 31

Compliance with Federal Regulations

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

Section 32

Real Property

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

Section 33

Access to Services for Persons with Limited English Proficiency

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

Section 34

Environmental Justice

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy

Guidance for Federal Transit Administration Recipients,” August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

Section 35

Environmental Protections

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

Section 36

Geographic Information and Related Spatial Data

Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

Section 37

Geographic Preference

All project activities must be advertised without geographic preference, (except in A/E under certain circumstances, preference for hiring veterans on transit construction projects and geographic-based hiring preferences as proposes to be amended in 2 CFR Part 1201.

Section 38

Organizational Conflicts of Interest

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows:

- (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage:
 - (a) To that Third Party Participant or another Third Party Participant performing the Project work, and
 - (b) That impairs that Third Party Participant's objectivity in performing the Project work, or
- (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions,
- (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient:
 - (a) Any instances of organizational conflict of interest, or
 - (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

Section 39

Federal Single Audit Requirements for State Administered Federally Aid Funded Projects Only

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

Section 40

Veterans Preference

Veterans Preference. As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients:

- (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and
- (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

