

# **REQUEST FOR PROPOSALS**

**CONSTRUCTION MANAGEMENT SERVICES (at risk)  
for the**

**HARBOR TRANSIT  
OPERATIONS CENTER**



Harbor Transit  
440 N. Ferry Street  
Grand Haven, MI 49417

Issue RFP  
Non-Mandatory Pre-Proposal Meeting  
Questions/Clarifications  
Response to Questions  
Proposals Due

July 15, 2024  
July 29, 2024 @ 10:00 am  
August 1, 2024 @ 5:00 pm  
August 5, 2024  
August 9, 2024 @ 2:00 pm

## TABLE OF CONTENTS

<b><u>SECTION</u></b>	<b><u>PAGE</u></b>
<i>NOTICE REQUEST FOR PROPOSAL FOR CONSTRUCTION MANAGEMENT (at Risk) SERVICES</i>	ii
1. INVITATION FOR PROPOSALS	1
2. SCOPE OF WORK	4
3. CONTENT OF PROPOSAL	12
4. EVALUATION OF PROPOSALS	15
5. PROPOSAL SUBMISSIONS	17
6. FTA REQUIRED CLAUSES AND FTA REQUIRED CERTIFICATIONS	18

## NOTICE

### REQUEST FOR PROPOSAL FOR CONSTRUCTION MANAGEMENT SERVICES (at Risk)

Sealed proposals for Construction Management Services at Risk (CMAR) will be received in the offices of the Harbor Transit, 440 N. Ferry Street, Grand Haven, MI 49417 until August 9, 2024 at 2:00 p.m., local time. Project specifications are available from the Harbor Transit Purchasing Manager. **A non-mandatory pre-proposal meeting is scheduled for July 29, 2024 from 10:00 am to 11:00 am** at the City of Grand Haven located at 519 Washington Avenue, Grand Haven, MI 49417.

Proposals shall be subject to all applicable State and Federal laws and subject to financial assistance contracts between the Harbor Transit Board of Directors and the United States Department of Transportation, under the Federal Transit Act of 1964, as amended, and the Michigan Department of Transportation. The successful CMAR will be required to comply with all applicable Equal Employment Opportunity Laws and Regulations. All proposers will be required to certify that they are not on the Comptroller General's list of ineligible CMARs.

The Harbor Transit Board of Directors hereby notifies all proposers that it will affirmatively insure, in regard to any contract entered into pursuant to this advertisement, that Disadvantaged Business Enterprises will be afforded full opportunity to submit proposals in response to this Request For Proposal and will be not discriminated against on the grounds of race, color, religion, sex, handicap, or national origin in consideration for an award.

The Harbor Board of Directors reserves the right to postpone, accept or reject any and all proposals, in whole or in part, for sound, documentable business reasons, subject to the rules and regulations set forth by the Federal Transit Administration and the Michigan Department of Transportation.

No proposal may be withdrawn for at least ninety (90) days after the scheduled closing time of the proposals. An original and three (3) copies plus one electronic copy of the proposal should be submitted to the Executive Director.

Scott Borg  
Executive Director  
(616) 842-3220  
sborg@harbortransit.org

Harbor Transit  
440 N. Ferry Street  
Grand Haven, MI 49417

## **1.0: INVITATION FOR PROPOSALS**

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### **1.1 Invitation**

Qualified firms are invited to submit a proposal package as described in Section 3 of the RFP for the provision of Construction Management services for the Harbor Transit Administration Building and Maintenance Facility.

### **1.2 Introduction**

Harbor Transit is seeking the submission of proposals from a construction management (at risk) firm interested in constructing the new Harbor Transit Operations Center.

With more than 65 employees, Harbor Transit provides more than 198,000 annual rides to residents and visitors in a service area of 55 square miles including the City of Ferrysburg, City of Grand Haven, Grand Haven Township, Village of Spring Lake, and Spring Lake Township. Harbor Transit provides an on-demand, curb-to-curb transit system. Visit [harbortransit.org](http://harbortransit.org) for more information.

Fleet – 29 accessible buses

Service Area – 55 sq miles

The new HQ facility will house administration, maintenance, and vehicle storage. The bus storage garage will be approximately 50,000 sq ft. and the maintenance facility will house 4 maintenance bays.

#### **1.2.1 BACKGROUND INFORMATION**

Harbor Transit is the transit authority that provides a variety of public transportation services for the 55 square mile area that includes the City of Ferrysburg, City of Grand Haven, Grand Haven Township, Village of Spring Lake, and Spring Lake Township. It is organized and operates under Michigan Public Act 196 of 1986.

Harbor Transit operates on demand service with seasonal trolley and beach express deviated routes.

The activities of Harbor Transit are overseen by an 11-member board of directors that represent the entire service area.

#### **1.2.2 HARBOR TRANSIT ADMINISTRATION BUILDING AND MAINTENANCE FACILITY DESCRIPTION**

The purpose of the Harbor Transit Operations Center is to store and maintain the vehicles that provide enhanced transit access to centers of residential, employment, recreational and

educational opportunities within the 55 square mile service area. The Harbor Transit service area is experiencing significant growth and the Authority needs to anticipate the need for more service, exceeding the capacity of the current garage and administration facility. Estimated completion date of construction is anticipated by spring of 2026, contingent on approvals from authorities having jurisdiction.

### Project Schedule

The following information is a tentative schedule for the Harbor Transit Operations Center. The schedule is subject to availability of funding, contracting methods, and review times by various agencies.

Tentative Schedule for Construction of Harbor Transit Operations Center	
TASK	DATE
Schematic Design	Complete
Design Development	TBD
Construction Documents	TBD
Bidding	TBD
Award of Contracts	TBD
Construction	TBD

### Project Organization

Planning for the new headquarters facility and transfer station facility is being done by Harbor Transit in close coordination with Grand Haven Township, the City of Grand Haven, Ottawa County, and the Department of Transportation. Although Harbor Transit is responsible for project development, the overall project requires coordination and approval from Grand Haven Township and with other significant entities. The selected construction manager will report directly to Harbor Transit.

### 1.3 Plan of Activities

**Pre-Proposal Conference:** A non-mandatory pre-proposal meeting will be held at the City of Grand Haven located at 519 Washington Avenue, Grand Haven, MI 49417 on July 29, 2024 at 10:00 AM to further clarify the scope of the proposed project. Harbor Transit staff and consultants will be present to give a project overview and answer any questions related to the project.

**“Attendance at this meeting is not a prerequisite but is highly advised.”**

#### **1.4 Budget and Funding**

The administration building and maintenance facility has a total budget of approximately \$20,000,000 based on a spring 2025 start of construction. The above project total does not include A&E and construction contingency. Funding for this project will come from Federal (80%) and State (20%) capital grants.

#### **1.5 Schedule**

A detailed schedule for the construction of the headquarters facility and transfer station is to be developed by the Construction Team, comprised of the Construction Manager, Architect, and the Harbor Transit Project Manager.

#### **1.6 Professional Contracts**

Harbor Transit will use a modified AIA A133 CMC contract for Construction Manager services. In addition, all or part of the proposal submitted in response to this RFP by the Construction Management firm will include clauses in Sections 6-7-8-9 will be incorporated into the contract.

Based on the architectural program, the Harbor Transit Board of Directors retained the architectural team of Progressive AE to perform the programming and schematic design.

#### **1.7 RFP Schedule**

Issue RFP	July 15, 2024
Non-Mandatory Pre-Proposal Meeting	July 29, 2024 @ 10:00 am
Questions/Clarifications	August 1, 2024 @ 5:00 pm
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## 2.0 SCOPE OF WORK

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### 2.1 Required Construction Manager At Risk (CMAR) Services

The CMAR is being selected prior to construction in order to provide Harbor Transit and its Design Team with expertise and experience that will assist in Project decision making, and to ensure that procedures are implemented to aggressively manage the construction costs and schedule. The design must allow for economical and efficient methods for construction, and construction must be phased to maintain a high level of service to the public. Harbor Transit seeks the CMAR who can best provide the above services, manage a technically complex project, and coordinate the multiple disciplines and tasks of this Project.

The services requested of the CMAR will be provided in two phases, generally described below:

- (1) **Preconstruction Services.** Provide consultation and work with Harbor Transit and its Design and Engineering Team during the planning and design of the Project including, but not limited to, constructability reviews, value engineering, scheduling, estimating costs, and subcontracting services.
- (2) **Construction Services.** Management of Project bidding and completion of the construction work within the Guaranteed Maximum Price (GMP) and Project schedule including, but not limited to, value engineering, scheduling, estimating, subcontracting services, coordinating and managing the building process and consultation and work with the Design and Engineering Team and Harbor Transit. **The GMP will be approved and agreed on or after the various bid packages have been received.**

**The Construction Manager and the Construction Manager's firm will not be permitted to perform any construction services directly.**

The scope of services anticipated to be provided by the CMAR are more particularly summarized below.

### 2.2 Preconstruction Services

2.2.1 Preconstruction services shall be provided under the terms of the Contract executed by Harbor Transit and the successful Proposer, which Contract shall include the Standard Form of Agreement between Owner and Construction Manager - AIA A133 CMC contract, as modified by Harbor Transit. Harbor Transit will evaluate Proposals submitted by the due time and date listed on page 1 of this RFP in accordance with Section 2 of this RFP.

2.2.2 The scope of preconstruction services under the Contract are identified by task order number below. However, it is anticipated that the final description of preconstruction services will be negotiated prior to execution of the Contract.

The CMAR shall provide a dedicated Project Manager and support staff beginning with Notice to Proceed (NTP) for Preconstruction Phase Services and continuing throughout the Project as necessary to complete all Preconstruction Phase Services. The CMAR's Project Manager will be

available to the Project as his/her first priority and allow enough time to meet those tasks required in the Contract Documents.

The Project Manager's responsibilities include, but are not limited to:

- Ensure that FTA Guidance of Circular 4220.1f, Construction Project Management Handbook, and elsewhere as applicable is followed.
- Attendance and participation at meetings.
- Public involvement events with the media including Harbor Transit requested interviews, if necessary.
- Seeking out qualified minority and woman owned businesses and assisting Harbor Transit consultants with DBE reporting.
- Compliance with Buy America and all other relevant Federal requirements including BIL-FHWA.
- Preparation of a subcontracting plan.
- Cost estimating.
- Participation in Design Team collaborative discussions and problem- solving sessions.
- Research and development of documents and materials for Harbor Transit on topics specific to the risks and issues on the Project.
- Review and make recommendations to the owner regarding construction bid solicitation documents.
- Participate in preparation and review of third-party agreements (including utilities, local agency, and others), as needed.
- Participate in the preparation of Project environmental and construction permits.
- Schedule preparation and Work sequencing.
- Related Project management activities as directed by Harbor Transit.
- Other duties as required by the owner.

### **Task Order Number**

- 1. Project Bid-Item List and Construction-Cost Estimates** - Prior to the submittal of the proposed GMP by the CMAR, the CMAR shall prepare and submit complete bid-item lists for the Work Package to Harbor Transit for their use. The CMAR shall develop these bid-item lists and estimates in conformance with Harbor Transit procedures or a format established and provided by the Design Team.

After the bid-item list and work items within each bid item has been established, the CMAR shall develop a detailed cost estimate. All cost estimates shall be open-book estimates. The CMAR shall submit quantity calculations and unit-cost justification for all bid items. The CMAR shall provide the source of construction production rates used to determine the unit costs for the bid items.

In the event that unique items of Work are required, the CMAR shall provide a list of the Work items, along with justification for why each item of Work is required.

The CMAR shall submit an MS Excel spreadsheet with all construction cost bid items broken out by the major work categories, including, the Garage/Admin Facility and all of its components and systems, Support Facilities, site work and systems in a format agreed to by the Design Team. The CMAR's estimates shall be in the agreed-to format to facilitate quantity and reconciliation. The Project construction-cost estimate shall be independently prepared by the CMAR and shall reflect unit-cost prices that are current, specific to the location of the Project, and related to the complexity of the Project.

2. **Course of Construction** - Submit written "course of construction" plan to Harbor Transit for review and approval, which plan shall address proposed construction phasing, staging, and field office needs; parking requirements during construction; construction equipment storage and use of public roadways; coordination of work with public, including utility disruptions; protection of private and public properties; dirt/debris mitigation; storm water drainage management; temporary facilities; construction zone pedestrian and vehicular traffic management, including signage, noise, and vibration control; work hours, including number of shifts and weekends; temporary road closures or detours; emergency vehicle provisions; maintenance of access to all properties; public and worker safety protections; construction restrictions during special events; and security and maintenance of construction work zones. Revise and resubmit the plan, as necessary.
3. **70% of Final Design and Construction Drawings** - Review 70% final design and construction drawings and specifications, identify revisions to improve clarity for bidding, and propose revisions that reduce construction costs and time of performance. Provide value engineering, constructability, and material availability review.
4. **Constructability Reviews and Recommendations** - The CMAR shall provide the staff necessary to work collaboratively with the Design Team to answer questions and provide recommendations on constructability. The CMAR shall have 14 calendar days following receipt of each Design Team submittal to provide written comments and red-lined drawings to Harbor Transit. The comments and red-line drawings should focus on substantive concerns, issues, and clarifications to improve the quality of the drawings and specifications. The purpose of the reviews is to reduce risk, schedule and/or cost of the Project and to improve the Project to meet the goals of Harbor Transit. Harbor Transit anticipates that both the CMAR's Project Manager and the personnel performing constructability review services will participate in the development of the review comments.

Review all final construction documents, identify revisions that improve clarity for bidding, reduce construction costs and time of performance, and eliminate areas of conflict or overlapping in work to be performed by subcontractors.

Identify any long lead items in a letter to Harbor Transit that should be procured prior to completion of 100% final design so that the milestone schedule is met.

5. **Finalize Contracting Plan** - Work with Harbor Transit to finalize a contracting plan for accomplishment of all construction. Recommend division of the work to facilitate bidding and award of trade contracts. Recommend which work, if any, should be procured through

value-based competitive selection, in lieu of low bid. Identify the plan to manage any CMAR who is not performing in accordance with the Project's requirements for budget control, on time schedule performance, safety, and quality control.

- 6. (a) Project Scheduling** - The CMAR shall develop and maintain the Project's Baseline CMAR Schedule (including Preconstruction Phase tasks, design, and construction activities). The schedule will include Critical Path elements of the Work including design schedule and deliverables, overall quality assurance activities for Design and Construction, right-of-way, third-party agreements, in-water work windows, permitting, Early Work Packages, construction activities, utility relocations, construction stages, lane closures, and shifts. The CMAR will consult with the Design Team and Harbor Transit for design and permitting activities. The Project schedule will be updated monthly to incorporate actual dates and percent complete of ongoing activities. Harbor Transit shall have access to the Microsoft Project files for the base and updated schedules at all times.
- (b) Base Schedule** - The CMAR shall provide the base schedule for the entire Project duration within 45 calendar days of NTP for Preconstruction Phase Services. Harbor Transit will review and comment on the base schedule within 10 calendar days of submission.
- (c) Monthly Updates and Schedule Review** - The CMAR shall meet **monthly** with other members of the Design Team to review these schedules and discuss tasks, percentages of completion, changes in sequences to optimize Work, construction windows, and any other possible options for reducing schedule and cost impacts. Monthly CPM schedules shall be provided to Harbor Transit for approval in color hard copy (four hard copies) and electronic formats (Adobe PDF and Microsoft Project format).
- 7. Public Meeting** - Attend and participate in public meetings, as requested by Harbor Transit, to assist in resolution of any Project-related issues.
- 8. Construction Cost Estimating** - Prepare and submit to Harbor Transit, for review, construction-cost estimates at the Schematic Design Phase, the Design Development Phase, and when the design and construction documents are 70% complete and 100% complete. If a preliminary construction-cost estimate is exceeded, identify feasible cost-reducing options, including projected cost savings offset with any additional design costs, to bring construction costs for the line segment within the estimate. Revise and resubmit the estimates, as necessary.
- 9. Safety Plan** - Prepare and submit to Harbor Transit, for review and approval, a safety plan in compliance with current OSHA and MDOT requirements for use during construction. Revise and resubmit plan, as necessary.
- 10. Quality Control Plan** - Prepare and submit to Harbor Transit, for review and approval, a quality control plan in compliance with FTA, Grand Haven Township and Ottawa County field quality control inspection requirements and **material testing QA/QC** procedures for use during construction. Revise and resubmit plan, as necessary.

- 11. Hazardous Materials** - Prepare and submit to Harbor Transit, for review and approval, a plan to handle unanticipated hazardous materials that may be encountered during construction. Revise and resubmit plan, as necessary.
- 12. Erosion Control Plan** - Prepare and submit an erosion control plan to Harbor Transit, for review and approval, to manage storm water runoff and maintain water quality during construction in accordance with the appropriate jurisdictional criteria. Plans shall be prepared under the supervision of and stamped by a licensed professional engineer of the State of Michigan. Revise and resubmit plan, as necessary.
- 13. Safety Certification Plan** - Work with Harbor Transit as requested to prepare a safety certification plan for use during and for close out of construction.
- 14. Guaranteed Maximum Price** - Once bid packages for the various trades have been received and evaluated, the CMAR will prepare and submit a construction cost estimate that, when agreed to by Harbor Transit, will become the Guaranteed Maximum Price (GMP). GMP shall include the total sum of the preconstruction fee, the CMAR fee, general conditions and the Cost of the Work as more fully described in the Standard Form.

The CMAR shall meet with Harbor Transit and Design Team to review the GMP proposal and the written statement of its basis. If Harbor Transit or Design Team discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the CMAR, who shall make appropriate adjustments to the GMP proposal, its basis, or both.

If the initial GMP construction cost estimate appears to be exceeding Harbor Transit's established construction budget, the CMAR shall notify Harbor Transit accordingly and propose how to complete the work within budget.

If Harbor Transit and the CMAR cannot agree on a GMP, Harbor Transit reserves the right to terminate the CMAR contract and procure the work in an alternative manner as Harbor Transit deems appropriate.

In the event of early termination, Harbor Transit will compensate the CMAR contractor based upon work performed prior to the termination.

## 2.3 Construction Services

Construction phase services will be provided under the terms of the Contract executed by Harbor Transit and the successful Proposer, which Contract shall include Standard Form of Agreement between Owner and Construction Manager AIA A133 CMC and the General Conditions of the Contract for Construction – AIA Document 201, which may be modified by Harbor Transit. The scope of the CMAR construction services will include the following items, many of which will be started in the preconstruction phase and executed in the construction phase:

- (1) Solicit and publicly conduct subcontractor bidding for all construction work in accordance with all applicable federal and state public bidding requirements.
- (2) Maintain a qualified, full-time Superintendent with needed staff at the job site to coordinate and provide direction of the work. Include an explanation of who will manage quality control and Project scheduling.
- (3) Maintain the critical path schedule and keep Harbor Transit and the Design Team fully advised of work progress status. Maintain and update construction phasing as the work progresses according to the adopted Project Management Plan (PMP)
- (4) Develop and monitor an effective system for Project cost control; provide monthly reports of actual costs and work progress as compared to cost estimates and scheduled work progress. Meet with the Project Team bi-weekly to manage change orders, RFI's, etc. Provide supporting information for any variances as requested by Harbor Transit and the Design Team; maintain cost accounting records, provide Owner access to these records, and preserve for at least three years after final payment.
- (5) Establish an effective quality control plan for all construction and inspect the work as it is being performed to assure that materials furnished and quality of work performed are in accordance with the plan and construction documents.
  - (a) **Project Records** - The CMAR shall maintain Project Records so that they include this Contract and all Project reporting, test results, survey records, engineering computations, assumptions, working drawings, meeting minutes, correspondence, memos, transmittals, notes, and other written materials generated in the course of performing the Work identified in the Contract Documents for the Project. The CMAR's compiling of Project Records shall be an ongoing task, commencing upon receipt of NTP for Preconstruction Phase Services from Harbor Transit, incorporating documents as they are generated, and continuing through completion and Final Acceptance. Project Records shall be available for review by Harbor Transit, at the CMAR's office, at any time. Project Records shall be submitted to Harbor Transit within 30 calendar days of request, or 30 calendar days following completion and acceptance of the Work by Harbor Transit.
- (6) Establish job-site safety program.
- (7) Perform inspections during construction.
- (8) Strict adherence to Davis-Bacon requirements.
- (9) Require compliance with Buy America regulations for all procurements.

- (10) Establish programs for maintaining current job-site records, labor relations, and DBE participation, as a minimum.
- (11) Work with Harbor Transit and Grand Haven Township to obtain permits for contractor-designed portions of the work.
- (12) Review and process all applications for payment by sub-contractors and material suppliers in accordance with the terms of their contract. Review and resolve, on behalf of Harbor Transit, all subcontractors' and/or material suppliers' requests for additional costs.
- (13) Schedule and conduct job meetings to ensure orderly progress of the Work. Prepare and distribute records of the meetings to meeting attendees, Harbor Transit, and the Design Team.
- (14) Resolve, in connection with Harbor Transit, all disputes that may arise between subcontractors and/or suppliers as a result of the construction.
- (15) As construction is completed, the CMAR shall provide the following close-out services:
  - (a) Perform the necessary work to satisfy Harbor Transit that the Administration Building and Maintenance Facility operates as designed before the facility is deemed substantially complete. This service is known as commissioning.
  - (b) Convene and conduct Final Inspection in conjunction with A/E firm.
  - (c) Coordinate and expedite the submittal of record documents.
  - (d) Organize and index operations and maintenance manuals.
  - (e) Provide all required training of Harbor Transit personnel in the operation of installed equipment and systems.
  - (f) Coordinate and Manage As-built Documentation Activities.
  - (g) Assist in securing occupancy permits.
  - (h) Provide continuing change order review and processing services.
  - (i) Prepare final report of all construction costs. Assist in Harbor Transit audit of final cost report and all supporting documentation. Provide lien waivers from all subcontractors and material suppliers.

## 2.4 Special Requirements

Prior to completion of the Construction Documents used for bidding, the CMAR shall contact potential subcontractors and material suppliers to encourage their interest in bidding on the Work. Except as otherwise provided by the Contract Documents, the CMAR shall subcontract the Work to subcontractors other than the CMAR, its subsidiaries, or other affiliates. Further, the CMAR shall comply with all applicable federal and state bidding requirements for the solicitation of bids, including the encouragement of DBE, unions and apprenticeships participation in bidding on the work.

It is the objective of Harbor Transit to obtain the best value for the funds expended. Competition is the preferred method of assuring the best value for the least cost. Unless specifically waived in writing by Harbor Transit, the selection of all subcontractors shall be made by competitive bid or quotes in a manner that will not encourage favoritism or substantially diminish competition. The CMAR will be expected to publicly conduct the sub-bidding of all construction work including, where applicable, developing a subcontractor prequalification process for critical items of work. This will include the following:

- (1) All bids for work valued at more than \$5,000 are required to be sealed, written, and submitted to a specific location at a specific time. A Harbor Transit representative will be present during bid openings. The CMAR shall provide an analysis of bids to Harbor Transit.
- (2) Solicitations for bids shall be advertised at least ten (10) business days in advance of the bid opening. Solicitations shall be advertised on the Harbor Transit website.
- (3) **The CMAR shall attempt to obtain a minimum three (3) bids for each package of work bid.**

The award of subcontracts by the CMAR shall be subject to the following:

- (1) Harbor Transit concurrence in the award of subcontracts is required, with some specific exemptions as outline in the Contract.
- (2) Advance approval by Harbor Transit is required for any sole-source subcontract awards.

The CMAR shall pass all flow-through federal and state regulations onto the subcontractors. At a minimum, all workers on this Project shall be paid in accordance with the provisions of the Davis-Bacon Act.

### **3.0: CONTENT OF PROPOSAL**

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#### **3.1 Cover Letter**

The proposal must include a cover letter that identifies the proposing firm/organization, mailing address, contact person, and telephone number. The cover letter must acknowledge the receipt of all addenda issued to the Request For Proposal (RFP) and be signed by the individual who is authorized to negotiate and execute a contract on behalf of the proposing firm/organization.

#### **3.2 Qualifications of Respondents**

The evaluation of the proposals and subsequent contract award shall be based on considerations of the firm's ability to perform the services described herein. As a method of selection and award, major consideration shall be given (but not limited) to:

1. The successful completion of previous government projects comparable in design, scope, and complexity by the CMAR to be assigned to this project. Provide owner contact name and phone number for each project.
2. The resumes and experience of the key staff assigned to the project.
3. A list of owners, architects and engineers for whom the CMAR has provided construction management services. (Name, firm, email address and telephone number.) The specific dollar amount of the construction project should also be listed for comparison purposes.
4. The demonstrated ability of the CMAR to work cooperatively with owners and architects throughout the project to display leadership and initiative in performing tasks, and to act in harmony with the team as each performs his/her designated contractual responsibilities.
5. The demonstration of successful management systems for the planning, organizing and monitoring of construction projects.
6. The CMAR's knowledge and experience in the use of Value Engineering.
7. The ability of the Construction Manager to procure bidders on all phases of the work, to deliver materials and equipment on schedule, and to maintain maximum productivity and quality workmanship. Provide references of contractors with whom CMAR worked on comparable projects.
8. The firm's willingness to encourage and solicit participation of qualified minority and women contractors consistent with the principle of utilizing the most highly qualified and competitive firms, the firms affirmative action plan concerning its work force and procurement practices, and the firms record on policies of non-discrimination on the basis of race, creed, color, sex, or national origin in its employment or procurement practices.
9. The CMAR's experience in taking corrective action when deviations from standards of quality, time and budget have been identified. Include examples with your proposal.

10. The CMAR's experience in producing reports and other communication devices necessary to keep the Owner aware of project status at all times. Samples must be provided.

### **3.3 Proposal Format**

1. 8 ½" x 11" softbound sheets with a maximum of 25 – double sided pages.
2. Set forth the approach to fulfilling all the requirements listed herein.
3. Provide other materials documenting the CMAR's experience, requested references and samples.
4. Proposal contents are to follow the outline from under "Criteria for evaluation."
5. The cost proposal should be filled out with the following items to be included:
  - Pre construction services stipulated sum
  - Fixed Fee (expressed as a percentage). This amount shall be divided into overhead and profit.
  - Staff allowances (by category – Project Director, Project Mgr., Project Superintendent, etc. showing total hours and total dollars).
  - General Conditions (list categories and costs).
6. Provide an overhead rate on direct labor,
  - A) Provide an audited copy of overhead rates for the most recent fiscal year.
7. Submit one original and three copies and one electronic copy.

### **3.4 DBE Information**

Information on any Disadvantaged Business Enterprise (DBE) participation shall be submitted. Harbor Transit has established a DBE Participation Policy Statement and although no DBE participation goal is being mandated for the CMAR services based on local availability, DBE participation is encouraged wherever it is appropriate, cost effective and meets the goals of the prime contractor. Specific information regarding the policy and goals is provided in Section 6: Instructions to Proposers, 6.27. If DBE services are utilized, that information shall include, at a minimum,:

- A description of any DBE firm(s) and the work it (they) will perform.
- Evidence of the firm's DBE certification.
- Estimated value of services to be performed and/or materials to be provided by DBE firm(s) under the proposal.

### **3.5 Firm Certification**

The following items shall be completed and submitted as part of the proposal. Compliance with these requirements is mandatory for contract award.

- DBE Participation Form
- Certification of Lower-Tier Participants (Subcontractors) Regarding Debarment, Suspension, and Other Ineligibility and Voluntary Exclusion
- Certification of Primary Contractor Regarding Debarment, Suspension, and Other Responsibility Matters
- Certification of Restrictions on Lobbying
- Buy America Certification

## 4.0: EVALUATION OF PROPOSALS

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### 4.1 Interview and Selection Process

The Selection Committee will be comprised of Harbor Transit's Executive Director and Harbor Transit staff. It may also include technical consultants. They will review each proposal and select the most qualified ones for further consideration. The initial selection criteria will include, but not be limited to, such factors as number and level of experience of staff assigned to this project, methodology of managing the project, references of projects of similar size and complexity.

Those firms selected may be required to give an oral presentation to the Selection Committee. If required, the purpose of the presentation will be to clarify the proposals and ensure a mutual understanding of the project. All key members of the project team will be required to attend. Upon notification the selected firms will submit a fixed fee proposal to the Selection Committee.

Harbor Transit reserves the right to conduct interviews with those proposers in a competitive range in person, by phone or by video conference. The original scoring of the non-price criteria may be modified based on the results of the interview.

Any materials or documents produced as a result of this agreement become the exclusive property of Harbor Transit. Harbor Transit retains the rights to use or duplicate the information for the project. Information submitted is subject to the Michigan Freedom of Information Act and may not be held in confidence after the proposals are opened.

### 4.2 Criteria for Evaluation

The proposals will be evaluated with regard to the factors set forth below. They are presented in their relative order of importance by section. No points will be awarded for the certifications but failure to sign and return the certifications may lead to disqualification. Price is relatively less important than the other criteria as a whole and Harbor Transit reserves the right to award to other than the lowest price proposal.

1. Capacity to Perform
  - A. Experience of the Firm
  - B. Depth of the Firm
  - C. Similar type of projects
  - D. Similar size of projects
  - E. Understanding of Project
  - F. Knowledge of Building / Project Type
  - G. Interest/Commitment
  
2. Management
  - A. Organizational Concepts
  - B. Methodology of Managing the Project
  - C. Administrative Ability
  - D. Local Knowledge and Experience
  - E. Non-Discrimination Methods

- F. Knowledge of Buy America requirements and all other relevant Federal requirements including BIL-FHWA.
  - G. Knowledge of Building type
3. Proposal Price
- A. Price will be evaluated using the following formula:  
Lowest price proposal / price being evaluated \* available points
4. Previous Work
- A. References
5. Firm Certifications (Must all be completed)
- DBE Participation
  - Certification of Restriction on Lobbying
  - Certification of Debarment (Primary Contractor)
  - Build America, Buy America
  - Iran Sanctions
- A) If any work is to be subcontracted to another firm(s), the proposal must include the above firm and staff qualification information for each subcontractor, a description of the services the firm(s) will be performing and estimated fees for their services.

## 5.0: PROPOSAL SUBMISSIONS

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Harbor Transit will receive sealed proposals until August 9, 2024, at 2:00 p.m. local time. Proposals shall be submitted to:

Scott Borg, Executive Director  
Harbor Transit  
440 N. Ferry Street  
Grand Haven, MI 49417

One (1) original and three (3) copies of the proposal are to be submitted. In addition, an electronic copy of the proposal (Thumb Drive) shall also be submitted. Harbor Transit assumes no responsibility for the premature opening of sealed proposals that do not have this label attached. **Proposals must be accompanied by a signed statement acknowledging the receipt of any addenda issued to this RFP.**

If the proposal is submitted by mail, it shall be mailed a minimum of three (3) days prior to the submittal date. The proposal envelope shall be postmarked by the U.S. Postal Service or other mail service. Postage meter dates are not acceptable. Proposals mailed less than three (3) days prior to the submittal date and received after the submittal deadline will not be accepted.

It is anticipated that recommendations on contract awards will be presented to the Harbor Transit Board of Directors in August, 2024. Board action authorizing contracts will be requested at that time, with the execution of agreements as soon as possible thereafter. Harbor Transit reserves the right to modify the schedule described below, or to withdraw this RFP, at any time without prior notice. Harbor Transit also makes no representations that any agreement will be awarded to any proposer responding to this RFP. Harbor Transit expressly reserves the right to reject any and all proposals for sound, documentable business reasons or to waive any irregularity or informality in any proposal and to be the sole judge of the suitability of the services to be rendered.

All issues related to the submission of the proposal, price proposal, completion of forms, evaluation procedures, contracts, etc., shall be directed to:

Scott Borg  
Executive Director  
Harbor Transit  
sborg@harbortransit.org

All questions and answers will be posted on Harbor Transit's website at [harbortransit.org](http://harbortransit.org)

## **FTA REQUIRED CLAUSES**

### **ACCESS TO RECORDS AND REPORTS**

1. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records. (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

2. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

3. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337.

4. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

### **AMERICANS WITH DISABILITIES ACT(ADA)**

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

### **BUY AMERICA REQUIREMENTS**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7.

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

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

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

### **BOND REQUIREMENTS**

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

- (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- (b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.
- (c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

It is also understood and agreed that if the bidder should withdraw any part or all of their bid within [90] days after the bid opening without the written consent of the Agency, or refuse or be unable to enter into this Contract as provided above, or refuse or be unable to furnish adequate and acceptable Performance and Payment Bonds, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, it shall forfeit its bid guaranty to the extent Agency's damages occasioned by such withdrawal, or refusal, or inability to enter into a Contract, or provide adequate security thereof.

It is further understood and agreed that to the extent the defaulting bidder's bid guaranty shall prove inadequate to fully recompense Agency for the damages occasioned by default, then the bidder agrees to indemnify Agency and pay over to Agency the difference between the bid guarantee and Agency's total damages so as to make Agency whole.

The bidder understands that any material alteration of any of the above or any of the material contained herein, other than that requested will render the bid unresponsive.

Performance Guarantee. A Performance Guarantee in the amount of 100% of the Contract value is required by the Agency to ensure faithful performance of the Contract. Either a Performance Bond or an Irrevocable Stand-By Letter of Credit shall be provided by the Contractor and shall remain in full force for the term of the Contract. The successful Bidder shall certify that it will provide the requisite Performance Guarantee to the Agency within ten (10) business days from Contract execution. The Agency requires all Performance Bonds to be provided by a fully qualified surety company acceptable to the Agency and listed as a company currently authorized under 31 C.F.R. part 22 as possessing a Certificate of Authority as described hereunder. Agency may require additional performance bond protection when the contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The Agency may secure additional protection by directing the Contractor to increase the amount of the existing bond or to obtain an additional bond.

If the Bidder chooses to provide a Letter of Credit as its Performance Guarantee, the Bidder shall furnish with its bid, certification that an Irrevocable Stand-By Letter of Credit will be furnished should the Bidder become the successful Contractor. The Bidder shall also provide a statement from the banking institution certifying that an Irrevocable Stand-By Letter of Credit for the action will be provided if the Contract is awarded to the Bidder. The Irrevocable Stand-By Letter of Credit will only be accepted by the Agency if:

1. A bank in good standing issues it. The Agency will not accept a Letter of Credit from an entity other than a bank.
2. It is in writing and signed by the issuing bank.
3. It conspicuously states that it is an irrevocable, non-transferable, "standby" Letter of Credit.
4. The Agency is identified as the Beneficiary.
5. It is in an amount equal to 100% of the Contract value. This amount must be in U.S. dollars.
6. The effective date of the Letter of Credit is the same as the effective date of the Contract
7. The expiration date of the Letter of Credit coincides with the term of the contract.
8. It indicates that it is being issued in order to support the obligation of the Contractor to perform under the

Contract. It must specifically reference the Contract between the Agency and the Contractor the work stipulated herein.

The issuing bank's obligation to pay will arise upon the presentation of the original Letter of Credit and a certificate and draft to the issuing bank's representative at a location and time to be determined by the parties. This documentation will indicate that the Contractor is in default under the Contract.

Payment Bonds. A Labor and Materials Payment Bond equal to the full value of the contract must be furnished by the contractor to Agency as security for payment by the Contractor and subcontractors for labor, materials, and rental of equipment. The bond may be issued by a fully qualified surety company acceptable to (Agency) and listed as a company currently authorized under 31 C.F.R. part 223 as possessing a Certificate of Authority as described thereunder.

## **CARGO PREFERENCE REQUIREMENTS**

The contractor agrees:

- a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA Recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

## **CHANGES TO FEDERAL REQUIREMENTS**

Federal requirements that apply to the Recipient or the Award, the accompanying Underlying Agreement, and any Amendments thereto may change due to changes in federal law, regulation, other requirements, or guidance, or changes in the Recipient's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement; and

Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

## **CIVIL RIGHTS LAWS AND REGULATIONS**

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

The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Act of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil rights Act, "49 C.F. R. Part 21 and any implementing requirement FTA may issue.

**1 Federal Equal Employment Opportunity (EEO) Requirements.** These include, but are not limited to:

- a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.

b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, "Equal Employment Opportunity," September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

**2 Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25 prohibit discrimination on the basis of sex.

**3 Nondiscrimination on the Basis of Age.** The "Age Discrimination Act of 1975," as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.

**4 Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

### **Civil Rights and Equal Opportunity**

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

**1. Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**2. Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**3. Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.

**4. Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers

Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**5.Promoting Free Speech and Religious Liberty.** The Contractor shall ensure that Federal funding is expended in full accordance with the U.S. Constitution, Federal Law, and statutory and public policy requirements: including, but not limited to, those protecting free speech, religious liberty, public welfare, the environment, and prohibiting discrimination.

## **CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT**

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000:

### Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA.

### Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FTA."

## **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

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

## Compliance with the Contract Work Hours and Safety Standards Act.

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

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

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

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

## **DAVIS BACON ACT AND COPELAND ANTI-KICKBACK ACT**

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland "Anti-Kickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

## **DEBARMENT AND SUSPENSION**

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;

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

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

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## **DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

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

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

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

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

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

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

## **ENERGY CONSERVATION**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency, which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201).

## **EQUAL EMPLOYMENT OPPORTUNITY**

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without

regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

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

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **FLY AMERICA**

a) Definitions. As used in this clause—

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

b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, Agencies, and others use U.S.-

flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.

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

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

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

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

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

## **INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS**

The provisions within include, in part, certain Standard Terms and Conditions required under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (2 CFR § 200), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, detailed in 2 CFR § 200 or as amended by 2 CFR § 1201, or the most recent version of FTA Circular 4220.1 are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Contract. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any request which would cause a violation of the FTA terms and conditions.

## **NO GOVERNMENT OBLIGATION TO THIRD PARTIES**

The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

## **NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS**

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

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

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal

Government's administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS**

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

## **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.**

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

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

- ii. Telecommunications or video surveillance services provided by such entities or using such equipment.
  - iii. Telecommunications or video surveillance equipment or services procured or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c. See Public Law 115-232, section 889 for additional information.
- d. See also § 200.471.

## **PROMPT PAYMENT**

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

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.

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

## **RESTRICTIONS ON LOBBYING**

### **Conditions on use of funds.**

- (a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.
- (c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
- (d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of

Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

**Certification and disclosure.**

(a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:

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

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:

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

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

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:

- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
- (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,
- (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section:

- (1) A subcontract exceeding \$100,000 at any tier under a Federal contract;
- (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant;
- (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or,
- (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

**Shall file a certification, and a disclosure form, if required, to the next tier above.**

(e) All disclosure forms, but not certifications, shall be forwarded from tier to tier until received by the person referred to in paragraphs (a) or (b) of this section. That person shall forward all disclosure forms to the agency.

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification

or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

(g) For awards and commitments in process prior to December 23, 1989, but not made before that date, certifications shall be required at award or commitment, covering activities occurring between December 23, 1989, and the date of award or commitment. However, for awards and commitments in process prior to the December 23, 1989 effective date of these provisions, but not made before December 23, 1989, disclosure forms shall not be required at time of award or commitment but shall be filed within 30 days.

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

## **SAFE OPERATION OF MOTOR VEHICLES**

### **Seat Belt Use**

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

### **Distracted Driving**

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

## **SEISMIC SAFETY**

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

## **SIMPLIFIED ACQUISITION THRESHOLD**

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

## **SOLID WASTES (RECOVERED MATERIALS)**

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

## **SPECIAL DOL EEO CLAUSE FOR CONSTRUCTION PROJECTS**

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

## **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

Applies to States –

a. To the extent required under federal law, the State, as the Recipient, agrees to provide the following information about federal assistance awarded for its State Program, Project, or related activities:

- (1) The Identification of FTA as the federal agency providing the federal assistance for a State Program or Project;
- (2) The Catalog of Federal Domestic Assistance Number of the program from which the federal assistance for a State Program or Project is authorized; and
- (3) The amount of federal assistance FTA has provided for a State Program or Project.

b. Documents - The State agrees to provide the information required under this provision in the following documents:

- (1) applications for federal assistance,
- (2) requests for proposals or solicitations,
- (3) forms,
- (4) notifications,
- (5) press releases,
- (6) other publications.

## **TERMINATION**

### Termination for Convenience (General Provision)

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

### Termination for Default [Breach or Cause] (General Provision)

If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the Agency may terminate this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the Agency that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the Agency, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

### Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth

the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

#### Waiver of Remedies for any Breach

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

#### Termination for Convenience (Professional or Transit Service Contracts)

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

#### Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

#### Termination for Default (Transportation Services)

If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

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

#### Termination for Default (Construction)

If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will ensure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provision of this contract, Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Agency may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Agency resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Agency in completing the work.

The Contractor's right to proceed shall not be terminated nor shall the Contractor be charged with damages under this clause if: 1. The delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of Agency, acts of another contractor in the performance of a contract with Agency, epidemics, quarantine restrictions, strikes, freight embargoes; and 2. The Contractor, within [10] days from the beginning of any delay, notifies Agency in writing of the causes of delay. If, in the judgment of Agency, the delay is excusable, the time for completing the work shall be extended. The judgment of Agency shall be final and conclusive for the parties, but subject to appeal under the Disputes clause(s) of this contract. 3. If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the

rights and obligations of the parties will be the same as if the termination had been issued for the convenience of Agency.

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

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

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

If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency.

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

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

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

If the termination is for the convenience of Agency, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

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

## **VIOLATION AND BREACH OF CONTRACT**

### **Disputes:**

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

### **Performance during Dispute:**

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

### **Claims for Damages:**

Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages

therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

**Remedies:**

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

**Rights and Remedies:**

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

**VETERANS HIRING PREFERENCE**

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

**OTHER RECOMMENDED CONTRACT REQUIREMENTS**

**CONFORMANCE WITH ITS NATIONAL ARCHITECTURE**

Intelligent Transportation Systems (ITS) projects shall conform to the National ITS Architecture and standards pursuant to 23 CFR § 940. Conformance with the National ITS Architecture is interpreted to mean the use of the National ITS Architecture to develop a regional ITS architecture in support of integration and the subsequent adherence of all ITS projects to that regional ITS architecture. Development of the regional ITS architecture should be consistent with the transportation planning process for Statewide and Metropolitan Transportation Planning (49 CFR Part 613 and 621).

**FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS**

(1) The contractor certifies that it:

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

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

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

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

**SEVERABILITY**

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

## **TRAFFICKING IN PERSONS**

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

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

**DBE PARTICIPATION FORM**

Separate information is required for each DBE subcontractor. This form may be duplicated as necessary.

1. DBE Firm Name: \_\_\_\_\_

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

\_\_\_\_\_

2. Dollar amount awarded: \_\_\_\_\_

3. Description of work to be performed : \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**4. CONTRACTOR'S COMMITMENT TO USE DBE FIRM**

\_\_\_\_\_ is committed to utilize the DBE  
(Name of Contractor)

contractor to utilize the above named DBE subcontractor/supplier in the manner and amount described on this form.

Dated \_\_\_\_\_  
(Authorized Signature)

**5. DBE'S COMMITMENT TO PARTICIPATE**

\_\_\_\_\_, as a DBE firm, is committed to  
(Name of subcontractor/supplier)

perform the work as described above for the amount specified.

Dated \_\_\_\_\_  
(Authorized Signature)

**6. NO SUBCONTRACT OPPORTUNITIES, AVAILABLE.**

\_\_\_\_\_, has no subcontractor opportunities  
(Name of subcontractor/supplier)

available for work to be performed.

Dated \_\_\_\_\_  
(Authorized Signature)

## CERTIFICATION OF RESTRICTIONS ON LOBBYING

*Applies to All Contracts over \$100,000*

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

(Name and title of official)

on behalf of \_\_\_\_\_ that:

(Name of Bidder/Company Name)

1. No federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
2. If any funds other than federal appropriated funds have been paid or will be paid to any person influencing or attempting to influence an officer or employee of any agency, a Member of Congress, and officer or employee of Congress, or an employee of a Member of Congress in connection with the federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form – LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including sub-contracts, sub-grants and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

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

**Name of Bidder/Company Name** \_\_\_\_\_

**Signature of Authorized Representative** \_\_\_\_\_ **Date** \_\_\_\_\_

**Type or Print Name and Title of Authorized Official** \_\_\_\_\_

**CERTIFICATION OF PRIMARY CONTRACTOR REGARDING DEBARMENT, SUSPENSION, AND  
OTHER RESPONSIBILITY MATTERS**

*Applies to All Contracts over \$25,000*

The Primary Contractor, \_\_\_\_\_, 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 proposal 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 offense enumerated in paragraph (2) of this certification; and
4. Have not within a three (3) year period preceding this application/proposal had one (1) or more public transactions (Federal, State, or Local) terminated for cause or default.

If the above named Primary Contractor is unable to certify to any of the statements in this certification, the Primary Contractor shall attach an explanation to this certification.

The Primary Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of the contents of the statements submitted on or with this certification and understands that the provision of 31 U.S.C. Section 3801 et seq. are applicable thereto.

***Signature and Title of Authorized Official***

**VENDOR CERTIFICATION THAT IT IS NOT AN  
“IRAN LINKED BUSINESS”**

Pursuant To Michigan law, (*the Iran Economic Sanctions Act, 2012 PA 517, MCL 129.311 et seq.*), before accepting any bid or proposal, or entering into any contract for goods or services with any prospective Vendor, the Vendor must first certify that it is not an “IRAN LINKED BUSINESS,” as defined by law.

<b>Vendor</b>	
Legal Name	
Street Address	
City	
State, Zip	
Corporate I.D. Number/State	
Taxpayer I.D. #	

The undersigned, with: 1) full knowledge of all Vendors business activities, 2) full knowledge of the requirements and possible penalties under the law MCL 129.311 et seq. and 3) the full and complete authority to make this certification on behalf of the Vendor, by his/her signature below, certifies that: the Vendor is NOT an “IRAN LINKED BUSINESS” as required by MCL 129.311 et seq., and as such that Vendor is legally eligible to submit a bid and be considered for a possible contract to supply goods and/or services to the County of Ottawa.

Signature of Vendor's Authorized Agent:	
Printed Name of Vendor's Authorized Agent:	
Witness Signature:	
Printed Name of Witness:	

# BUILD AMERICA - BUY AMERICA CERTIFICATE

*Applies to All Construction Contracts and Acquisition of Goods or Rolling Stock valued at more than \$150,000*

Pursuant to Section 165 of the Surface Transportation Assistance Act of 1982, as amended by Section 337 of the Surface Transportation and Uniform Relocation Assistance Act of 1987, FTA regulations at 49 CFR, Part 661, and at 49 CFR, Part 663, and guidance issued by FTA including the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52. Section 70914, all bidders shall submit the following certificate with their bid or proposal. Failure to submit this certificate will automatically disqualify the bidder from consideration of a Contract award for this Project. An exemption from the "Buy America" requirements may be sought by ITP if grounds for an exemption exist.

**Please check the appropriate box (661.6 or 661.12) then complete remainder of form.**

**§661.6 Certification requirements for procurement of steel, construction materials or manufactured products.**

If steel, iron, construction materials or manufactured products (as defined in §§661.3 and 661.5 of this part) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder or offeror in accordance with the requirement contained in §661.13(b) of this part.

**§661.12 Certification requirement for procurement of buses, other Rolling Stock and associated equipment.**

If buses or other rolling stock (including train control, communication, and traction power equipment) are being procured, the appropriate certificate as set forth below shall be completed and submitted by each bidder in accordance with the requirement contained in §661.13(b) of this part.

### *Certificate of Compliance with Buy America Requirements*

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 CFR part 661 for Goods including the Infrastructure Investment and Jobs Act ("IIJA"), Pub. L. No. 117-58, which includes the Build America, Buy America Act ("the Act"). Pub. L. No. 117-58, §§ 70901-52. Section 70914 or for 49 CFR 661.11 for Rolling Stock.

DATED: \_\_\_\_\_

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

### *Certificate of Non-Compliance with Buy America Requirements*

The bidder or offeror hereby certifies that *it cannot* comply with the requirements set forth above.

DATED: \_\_\_\_\_

COMPANY: \_\_\_\_\_

SIGNATURE: \_\_\_\_\_

PRINTED NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_