



Request for Proposal Project # 2020-049

Replacement of Transfer Center Drive Ways and Parking Areas

SCHEDULE OF ACTIVITIES:

| | |
|---|---|
| RFP Released: | May 7, 2021 |
| Questions from Contractor Due to JATA: | May 14, 2021 @ 2:00 P.M. (EST) |
| Pre-Proposal Meeting (optional): | None scheduled |
| JATA's Responses to Questions Released: | May 21, 2021 |
| Number of Proposals and Due Date: | Submit (5) proposal copies and (1) electronic ("PDF") copy on CD/DVD or flash drive by 2:00 P.M. (EDT) on Friday June 11, 2021 |
| Oral Presentations (if deemed necessary): | None at this time |
| Anticipated Award Date: | June 15, 2021 |

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SECTION I: PROCUREMENT PROCESS

I-A ISSUING OFFICE

This Request for Proposal (“RFP”) is issued by the Jackson Area Transportation Authority (JATA), 2350 East High Street, Jackson, MI 49203. All communications regarding this project during the procurement process shall be in writing and addressed to the Program Manager:

Chad Cumberworth
Program Manager
Jackson Area Transportation Authority
2350 East High Street
Jackson, MI 49203
E-mail: Chad.Cumberworth@mijata.org

The above named individual will also serve as the project manager after contract award.

I-B PROJECT OVERSIGHT

The Contractor will be required to work with JATA staff and service agencies as directed by JATA throughout the duration of the Contract and attend progress meetings as required by the JATA Project Manager.

I-C INCURRING COSTS

JATA is not liable for any cost incurred by any party prior to signing of a contract with that party.

I-D CONTRACT TERM

The term of the proposed contract will enter into force on the date on which it is signed by the contracting party and will continue until project completion and satisfactory submission of any and all forms or documentation as required under all federal, state, and local guidelines, rules, or regulations and/or as outlined below for this solicitation.

I-E TYPE OF CONTRACT

The award of this solicitation will result in a Fixed-Price Contract.

I-F QUESTIONS/CHANGES TO THE RFP

JATA will post the same information on its website www.mijata.org to all interested parties to ensure fairness and impartiality in the procurement process. To that end, JATA will not respond

to telephone inquiries. **All questions to JATA are to be submitted in writing and be addressed to the Program Manager, Chad Cumberworth.**

Submit written questions (via U.S. postal service, e-mail, or fax) no later than the date and time indicated on the Schedule of Activities above. Any changes made to this RFP, in response to the questions or concerns raised in any scheduled pre-proposal meeting or through correspondence received by JATA prior to the pre-proposal meeting, will be put posted on JATA's website for firms attending any scheduled pre-proposal meeting or otherwise indicating an interest in this project by the date stated on the above Schedule of Activities page. No changes will be made in the RFP after such changes/answers are distributed.

I-G PRE-PROPOSAL MEETING

The Contract may call for a pre-proposal meeting prior to submitting their bid.

I-H PROPOSALS

To be considered for award, each respondent shall submit a complete response to the RFP, using the designated format and accepting the requirements of Sections II and III below. Proposals are to be submitted only to JATA. No other distribution of proposals is to be made. An official authorized to bind the respondent to the proposal shall sign the proposal in ink. Submission of a proposal shall bind the respondent to all provisions of the proposal, including costs, for a period extending not less than 90 days following the Proposal Due Date, which is stated in the Schedule of Activities above.

Submit the number of proposal copies per the directions indicated on the Schedule of Activities page. Proposals, including price sheets, shall be submitted to JATA by the time and date set as the Proposal Due Date. The respondent is solely responsible for the timely delivery of the proposal to JATA. Except as provided below, late proposals will not be considered.

Proposal shall contain a cover letter signed by a person authorized to bind the Contractor (i) agreeing that the Proposal shall remain valid for not less than 90 days (as extended in the event of a Protest) and (ii) providing a name, physical address, and email address of such person who is administering the Proposal, who has authority to bind the Contractor and to whom JATA may submit notices and writings regarding this RFP. It is to this person and at this email address that JATA will provide notices and other matters regarding this RFP.

Proposals shall be organized as follows:

Section 1: Introduction of Firm, to include the name and title of the person authorized to enter into a Contract on behalf of the company

Section 2: Capability, Qualifications, and Experience of Firm

Section 3: Proposed Approach

Section 4: Proposed Timeline and Major Milestones

Section 5: Proposed Cost

Section 6: Required Submittals (Forms and Exhibits)

In addition, all Contractors are required to complete the applicable certifications attached to this solicitation as Appendix A.

Submission of Proposals

The Contractor shall submit its Proposal, which shall be received by JATA no later than the date and time specified in Schedule of Activities on the RFP cover page.

Proposals may be hand delivered, emailed or sent via a reputable national courier (such as USPS, UPS or Fed-Ex). All Proposals shall be delivered to the following address:

Jackson Area Transportation Authority
Attn: Project Manager
2350 East High Street
Jackson, MI 49203

Email: Chad.Cumberworth@mijata.org

and shall be received by JATA by the date and time set forth in the Schedule of Activities of the Proposal Cover Page. For example, a postmark date on a mailed Proposal will not be considered as being received. If a Proposal is hand delivered, it shall be delivered to the front desk at the above address.

Any Proposal not timely received may, in JATA's sole and absolute discretion, be rejected. Late proposals which are received after the Proposal Due Date may be considered, if the respondent establishes to JATA's satisfaction within five (5) days of the Proposal Due Date that the delay was due to an independent event outside the control of respondent, such as acts of God or the public enemy, war, national emergency, labor strikes, the failure of the U. S. Postal Service to deliver first-class, registered, or certified mail within five (5) days, or the failure of a national courier service recognized by JATA to deliver as guaranteed or specified. JATA will require documentation to excuse late delivery, including, but not limited to, signed statements or affidavits, postmarks, original postal receipts, courier receipts, and shipment tracking logs in a form satisfactory to JATA. All proposals submitted in response to this RFP will become the property of JATA and will not be returned to the respondent.

I-I ACCEPTANCE OF PROPOSAL CONTENT

The contents of this RFP, its attachments, and the proposal will become contractual obligations if a contract ensues. Failure of the successful respondent to accept these obligations may result in elimination of the respondent from the selection process.

I-J ECONOMY OF PRESENTATION

Each proposal should be prepared simply and economically, providing a straightforward, concise description of the respondent's ability to meet the requirements and objectives of this RFP. Emphasis should be on completeness and clarity of content.

I-K PRIMARY CONTRACTOR RESPONSIBILITIES

The selected Contractor will be required to assume responsibility for all services offered in its proposal whether or not the Contractor performs them. Further, JATA will consider the selected

respondent to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract. If any part of the work is to be subcontracted, the prime Contractor shall provide a complete description of work subcontracted and descriptive information about the subcontractor's organization, capabilities, and Certified Disadvantaged Business Enterprise (DBE) and Small Business Enterprise (SBE) status. The prime Contractor is totally responsible for adherence by the subcontractors to all provisions of the contract. FTA and DBE certifications for any subcontractors shall be included in the proposals. All subcontractors shall be included in the proposal with descriptions of the firms' qualifications and the qualifications of the key individuals assigned to this project. All subcontractors are subject to JATA review and written approval prior to their participation in the project.

I-L OTHER DUTIES ASSIGNED BY JATA

The Contractor may be asked to provide additional goods or services that have not been outlined in this RFP. When additional goods or services beyond those outlined in this RFP and in the Contractor's proposal are identified, JATA and the Contractor will discuss the Contractor's ability to complete this work. If JATA determines the Contractor should provide such additional goods or services, the Contractor will provide a Request for a Task Order describing the goods or work to be done and all associated costs and prices. A written task order will then be issued by JATA.

I-M SELECTION CRITERIA

Responses to this RFP will be evaluated based upon the following factors as presented in the respondent's proposal. These are listed in order of importance:

Capability, Qualifications, and Experience of Firm. Respondents shall demonstrate the requisite capability, qualifications, and experience and provide evidence of successful engagements elsewhere including past records of performance with other customers on similar assignments (i.e. cost control, quality of work, ability to meet schedules).

Understanding of Scope of Work and Proposed Approach. How well the proposal addresses techniques for completing the tasks outlined in the Scope of Work and demonstrates an understanding of the overall project goals.

Proposed Timeline. Ability to complete the work by the scheduled due dates as well as timely delivery or completion of Contractor designed milestones.

Proposed Price/Cost.

Overall Evaluation. Overall evaluation of the proposal and the Contractor, including with respect to the Contractor, satisfactory references, legal status and compliance, experience with other projects and procurements, and other matters of concern as outlined above.

JATA will evaluate criteria on a best value basis which considers both price and the above technical factors to determine the offer that is most advantageous and presents JATA with the best overall value. The cost basis for the proposal will be used to evaluate the price proposal. Price will be evaluated in comparison to the above technical factors in the group.

Respondents may be required to update their proposals in writing if clarification or additional information is needed. Inquiries may be made of Respondents concerning their proposals. At any

time during this process, JATA reserves the right to re-bid, award, or cancel the project, as JATA determines.

Each Contractor should make every effort to include Disadvantaged Business Enterprises in this project.

I-O ORAL PRESENTATION

Those Respondents deemed by JATA to be most responsive to the needs of JATA may be asked to make oral presentations to JATA. These presentations provide an opportunity for the Respondent to clarify the proposals through mutual discussion. This is not a time to simply review the contents of the proposal, but to present to JATA your approach to this project. If oral presentations are held, Respondents will be notified of the date of the presentations and the time allowed.

I-P SELECTION PROCESS

JATA may select a comparative range of proposals for further negotiations and discussions. This will be based upon sufficient analysis of technical factors and cost/price to identify those proposals that may not be competitive or those where technical or cost/price elements need to be addressed as part of the negotiation process. All those Respondents that are determined to be within the competitive range may be invited to participate in oral and/or written discussions and in further negotiations regarding their proposals. All firms within the competitive range will have equal participation in the discussions and negotiations. JATA's goal is to obtain final and best offers from each of the firms from which it may then make a selection for final negotiations and the procurement award.

The final selection shall be made on a best value basis at the conclusion of negotiations and be based upon evaluation of the best and final offers, unless a determination has been made instead to make an award on the basis of initial proposals without conducting discussions.

I-Q RESERVATION OF RIGHTS

JATA reserves its rights to cancel, amend, or reissue this RFP or the Project at any time and may cancel any award pursuant to this RFP or seek amended or new proposals as JATA deems necessary. JATA further reserves the right to:

- Reject all proposals and re-solicit or cancel the RFP, if deemed by JATA to be in its best interest to do so;
- Enter into a contract with any Respondent, based upon the initial proposal, or on the basis of a Best and Final offer, with or without conducting written or oral discussions;
- Award a contract to a Respondent other than the Respondent that submitted the lowest price proposal.

I-R INDEPENDENT PRICE DETERMINATION

By submission of a proposal, the respondent certifies or, in the case of a joint proposal, each party thereto certifies as to its own organization, in connection with this proposal:

- The prices in the proposal have been determined independently and without consultation, communication, or agreement for the purpose of restricting competition as to any matter relating to such prices with any other respondent or with any competitor.
- Unless otherwise required by law, the prices that have been quoted in the proposal have not been knowingly disclosed by the respondent prior to award directly or indirectly to any other respondent or to any competitor.
- No attempt has been made or will be made by the respondent to induce any other persons or firm to submit or not submit a proposal for the purpose of restricting competition.

Each person signing the proposal certifies that she/he:

- Is the person in the respondent's organization responsible within that organization for the decision as to the prices being offered in the proposal and has not participated (and will not participate) in any action contrary to the requirements indicated in the bullets above.
- Is not the person within the respondent's organization responsible for the decisions as to the pricing being offered in the proposal but has been authorized, in writing, to act as an agent for the persons responsible for such a decision and certifying that such persons have not participated (and will not participate) in any action contrary to the requirements indicated in the bullets above.

I-S PRICING & PAYMENT

The Contractor shall submit a detailed cost estimate including cost of services, travel cost, materials and printing, indirect costs and fees. Indicate the number of hours per task and title of staff included in the lump sum fee. JATA reserves the right to negotiate final contract price for completion of all project tasks. The resulting contract shall be a fixed/firm price type contract.

Costs are to be **reimbursed upon the accomplishment of defined milestones** based on the approval of the JATA project manager. **Prior to the beginning of this project JATA will have a meeting with the awarded Contractor to define the milestones.** Please complete **Attachment A - Resurface of the JATA Transfer Center Drive and Parking Areas – Price Proposal.**

I-T CERTIFICATIONS

FTA regulations require JATA to obtain properly executed certifications, dependent on price and other factors, from the Contractor. JATA shall consider any proposal lacking those certificates as non-responsive. See Appendix A for certifications.

I-U TERMINATION OF AGREEMENT

Notwithstanding any other provision of agreement, JATA, at its sole option, may terminate the agreement with or without cause, for no cause, at any time by giving 20 days' written notice to the Contractor.

In the event of termination, the payment of monies due to the Contractor for undisputed services performed prior to effective date of such termination shall be paid within 30 business days after receipt of an invoice as provided in the agreement. Immediately upon termination the Contractor agrees to promptly provide and deliver JATA all original documents, reports, specifications which are in the possession of the Contractor and pertain to JATA.

I-V BUY AMERICA

Buy America Certification (Steel and Manufactured Products)

Applicability – Construction contracts and acquisition of goods or rolling stock (valued at more than \$150,000. Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in Federal Transit Administrator (FTA)-funded projects are produced in the United States, unless a waiver has been granted by the FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operation or planning funds. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors. For more information on "Buy America" please see **Attachment B – Construction of more than \$150,000**. This document also covers lobbying, government and wide debarment and suspension (non-procurement). We ask that each Contractor sign this document if their proposal is more than \$150,000 and the statements made in the document are known to be true.

SECTION II: STATEMENT OF WORK

II-A BACKGROUND

The Jackson Area Transportation Authority (JATA) has been serving the Jackson area for more than 50 years. It was initially formed through a partnership between the Chamber of Commerce and local merchants after a private transportation provider discontinued service in the area. From there it grew, gained new funding sources, and became an authority under Michigan's Public Act 196 in 1986. Today, JATA operates nine fixed-routes in the Jackson urbanized area and provides demand response service throughout both urban and rural Jackson County. In total, JATA provides about a half of a million trips annually.

The JATA Transfer Center not only serves employees but it is a frequent point of contact for customers as well. The Transfer Center is where all the buses begin and end their routes. This location has a constant flow of traffic and is an essential location for all customers departing to their destinations. Furthermore, the City of Jackson Transportation Authority values its customers

and their entire experience. The parking lot is essential as they are often the first impression customers have of the organization. Proper upkeep of the parking lots is integral in maintaining customer satisfaction and staying competitive with sales as there are now other available transportation options.

While JATA has provided appropriate routine maintenance to the parking lot, it was originally paved in 1983. Normal wear and tear on the parking lots in addition to the significant weather requires resurfacing on a routine basis. The curbs are crumbling, and the manholes are sinking. In its current state, the parking lot is in ill repair.

The impact of resurfacing the parking lot is multifactorial. The safety of JATA employees and customers is of the utmost importance. Maintaining the integrity of the parking lot is key in ensuring all who walk the parking lot are free from trip and fall hazards. It is also necessary to maintain the parking lot and ensure they are in a state of good repair to protect the investment in the land and maintain the assets. In addition, resurfacing this lot would aid in maintaining the vehicles and reduce unnecessary wear and tear on buses from potholes, decreasing the amount of vehicle repairs and preserving the investment in the fleet of transportation vehicles.

II-B OBJECTIVES OF THE PROJECT

The primary objectives of this project are:

- a. Completely remove the existing concrete parking lot.
- b. Haul away of the old concrete.
- c. Grading and leveling of the ground beneath the existing concrete.
- d. Installation of the new concrete, including drains and curbs where necessary.
- e. Painting the parking lot to its original condition.

II-C SCOPE OF WORK

1. Project Readiness

- a. JATA Transfer Center parking lot.
- b. The JATA Transfer Center parking lot total approximate square footage is 38,360 feet.
- c. Technical feasibility
- d. Plans, measurements, or architectural drawings (no provided by JATA)

The scope of work considered for this job is the following:

- a. The Work shall be governed by JATA.
- b. The Contractor is responsible for compliance with all codes; Work not in compliance with the codes shall be deemed to be unacceptable.
- c. All proper city/work permits shall be correctly prepared and turned into the city before any work can be performed.
- d. Working with the city of Jackson on installation of curb on the West side of the Transfer Center near the city sidewalk.

For the requirements for this project please see **Attachment C – Resurface of the Transfer Drive and Parking Area – Requirements Worksheet.**

2. Project Risks

- a. Employees may not have access to their regular parking lot for several days.
- b. **Mitigation Strategy** – Park in alternative lot.
- c. Potential delay to fleet routes.
- d. **Mitigation Strategy** – Perform the project in phases so there is not a disruption of service. Communicate project to public.
- e. Weather which could cause potential delay.
- f. **Mitigation Strategy** – Build potential inclement weather delays into the project schedule.
- g. Contractor availability and throughput.
- h. **Mitigation Strategy** – Build milestones into project schedule so the Contractor is paid on these milestone dates.

II-D JATA RESPONSIBILITY

JATA will work closely with the Contractor on this project and will provide staff hours and information as needed.

SECTION III: APPENDICES AND ATTACHMENTS

Appendix A: Terms and Conditions

Appendix B: Prohibition of Discrimination in State contracts

Attachment A: Resurface of the JATA Transfer Center Drive and Parking Areas – Price Proposal.

Attachment B: Construction of more than \$150,000.

Attachment C: Attachment C – Resurface of the JATA Transfer Center - Requirements Worksheet

Resurface of the JATA Transfer Center Drive and Parking Areas Price Proposal

Instructions for filling out the Price Proposal

Contractors must provide a base price for the Scope of the concrete removal and the installation of the concrete surface including all materials and component parts needed. The Total Proposed Price will be used for evaluation scoring, although JATA may choose to not proceed with if JATA deems it to be in JATA's best interest. A detailed, cost breakdown of the base price and the alternate prices must be attached to Attachment B.

| Item | Description | Price |
|------|--|-------|
| 1. | Surveying the site, project implementation plan/engineering plan and other documents created by the Contractor. | \$ |
| 2. | Complete removal all of all concrete materials which includes the haul away of the old surface and subsurface. | \$ |
| 3. | Grading of the surface, installation of drains, manhole/drain covers and any ADA ramps which need to be part of the installation of the new concrete. | \$ |
| 4. | Installation of all concrete curbs, ADA complaint surface construction and other necessary components to complete the project. | \$ |
| 5. | Cost of services to be provided. | \$ |
| 6. | Cost of materials. | \$ |
| 7. | Cost of painting the drives and parking areas. | \$ |
| 8. | Pricing Additional Information: Contractors are to provide additional details needed to fully understand the proposed pricing contained in this pricing table. Please provide response in the text box below | |
| 9. | Contractors must describe any assumptions made in providing pricing. Contractors must describe any relevant information needed in understanding the pricing approach | \$ |

Resurface of the JATA Transfer Center Drive and Parking Areas
Price Proposal

| Item | Description | Price |
|------|---|-------|
| | <p>being proposed. Contractors to describe any additional discounts or charges not covered within the pricing table.</p> <p>Contractor Response:</p> | |
| 10. | TOTAL LUMP SUM PROPOSED PRICE | \$ |
| 11. | <p>OPTION – 1 Sidewalks</p> <p>This is to be priced separately for price evaluation only. JATA would like to have a lump sum price proposal for the complete removal and installation of all sidewalks that lead up to and surround the Transfer Center.</p> | \$ |

ATTACHMENT B

**Resurface of the JATA Transfer Center Drive and Parking Areas
Price Proposal**

Company Name: _____

Print Name of Signer and Title: _____

Signature

Date

Attachment C

Attachment number or letter

Michigan Department
of Transportation
3163 (08/19)

CONSTRUCTION MORE THAN \$150,000

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LOBBYING

Applicability – construction/architectural and engineering/acquisition of rolling stock/professional service contract/operational service contract/turnkey contracts over \$150,000.

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

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.

| |
|---------------------------|
| CONTRACTOR / COMPANY NAME |
|---------------------------|

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

| | |
|--------------------|-------|
| TYPE OR PRINT NAME | TITLE |
| SIGNATURE | DATE |

BUY AMERICA CERTIFICATION (STEEL AND MANUFACTURED PRODUCTS)

Applicability – construction contracts and acquisition of goods or rolling stock (valued at more than \$150,000).

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, as amended by MAP-21 stating that Federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$150,000) made with capital, operating or planning funds. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

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.

| |
|---------------------------|
| CONTRACTOR / COMPANY NAME |
|---------------------------|

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

| | |
|--------------------|-------|
| TYPE OR PRINT NAME | TITLE |
| SIGNATURE | DATE |

Only sign either Certificate of **Compliance** or Certificate of **Non-Compliance**

Certificate of **Non-Compliance** with Buy America Steel or Manufactured Products Requirements The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. 661.7.

| |
|---------------------------|
| CONTRACTOR / COMPANY NAME |
|---------------------------|

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

| | |
|--------------------|-------|
| TYPE OR PRINT NAME | TITLE |
| SIGNATURE | DATE |

GOVERNMENT WIDE DEBARMENT AND SUSPENSION (NON PROCUREMENT)

Applicability – all contracts more than \$25,000.

The Recipient agrees to the following:

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

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

| |
|---------------------------|
| CONTRACTOR / COMPANY NAME |
|---------------------------|

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL:

| | | |
|--------------------|-------|--|
| TYPE OR PRINT NAME | TITLE | |
| SIGNATURE | DATE | |

SEISMIC SAFETY

Construction of new buildings or additions to existing buildings. These requirements do not apply to micropurchases (\$10,000 or less, except for construction contracts of more than \$2,000).

Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards required in USDOT Seismic Safety Regulations 49 CFR 41 and shall certify compliance to the extent required by the regulation. Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

BONDING REQUIREMENTS

Applicability – for those construction or facility improvement contracts or subcontracts exceeding \$150,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

1. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certifies check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
2. A performance bond on the part to 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 obligations under such contract.
3. 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. Payment bond amounts required from Contractors are as follows:
 - a. 50% of the contract price if the contract price is not more than \$1 million;
 - b. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - c. \$2.5 million if the contract price is more than \$5 million.
4. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

Bid Bond Requirements (Construction):

- a. Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

- b. Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient). It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor. It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole. The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

- a. Performance bonds
 1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
 2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
- b. Payment bonds
 1. The penal amount of the payment bonds shall equal:
 - I. Fifty percent of the contract price if the contract price is not more than \$1 million.
 - II. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - III. Two and one half million if the contract price is more than \$5 million.
 2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

- a. The following situations may warrant a performance bond:
 1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
 2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
 3. Substantial progress payments are made before delivery of end items starts.
 4. Contracts are for dismantling, demolition, or removal of improvements.
- b. When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:
 1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
- c. A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.
- d. When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:
 1. The penal amount of payment bonds shall equal:
 - I. Fifty percent of the contract price if the contract price is not more than \$1 million;
 - II. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - III. Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds:

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Applicability – construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, of more than \$2,000.

1. Minimum wages - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the

Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and (4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. (iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. (iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall

- be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met: (1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (2) The classification is utilized in the area by the construction industry; and (3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination. (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
2. Withholding - The recipient shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the grantee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.
 3. Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all

payrolls to the recipient for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, and Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. (B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete; (2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section. (D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. (iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification.

If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. (iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

5. Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.
6. Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.
7. Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.
8. Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.
9. Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
10. Certification of Eligibility - (i) By entering into this contract, contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). (iii) The penalty for making false statements is prescribed in 18 USC 1001.

CONTRACT WORK HOURS & SAFETY STANDARDS ACT

Applicability – contracts of more than \$150,000.

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 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.
2. Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in para. (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.
3. Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours & Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in para. (2) of this section.
4. Subcontracts - Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. Prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

BREACHES AND DISPUTE RESOLUTION

Applicability – all contracts more than \$150,000.

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the False Claims Act, 31 U.S.C. § 3729. Performance During Dispute - Unless otherwise directed by the recipient, 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 ten days after the first observance of such injury or damage. Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

CLEAN AIR

Applicability – all contracts more than \$150,000.

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

CLEAN WATER

Applicability – all contracts and Subcontracts more than \$150,000. Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

FLY AMERICA REQUIREMENTS

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

CARGO PREFERENCE

Applicability – all contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall: a. use privately owned US-Flag commercial vessels to ship at least 50% 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 US flag commercial vessels; b. furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the recipient (through contractor in the case of a subcontractor's bill-of-lading.); c. include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material or commodities by ocean vessel.

ENERGY CONSERVATION

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

ACCESS TO RECORDS AND REPORTS

Applicability – as shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11). FTA does not require the inclusion of these requirements in subcontracts.

FEDERAL CHANGES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

RECYCLED PRODUCTS

Applicability – all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds.

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

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

1. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.
2. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.
3. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

TERMINATION

Applicability – all contracts more than \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000.

- a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.
- b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor, the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.
- c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.
- d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- g. Termination for Default (Transportation Services) if 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 contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after

termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

- h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. the recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if: (1). Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and (2). Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.
- i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

Applicability – when a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000) The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

CIVIL RIGHTS REQUIREMENTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

- a. FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and (2) The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program.
- b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued.
- c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964,

as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note.

- d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 implement a DBE program approved by FTA, and 3 establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation.
- e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

- f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a.
- g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance.
- h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2.
- i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: (1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005.

- j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.
- k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

DISADVANTAGED BUSINESS ENTERPRISE

Applicability – contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.
- b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
- d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
- f. The contractor must promptly notify the recipient whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work, and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the recipient.

PROMPT PAYMENT

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

Instructions for filling out the Requirements Worksheet

Contractors shall respond to this section within the Word form provided. Contractors shall respond to each requirement (row). Contractors shall not alter the structure or numbering system of the Word form. Failure to comply may result in the dismissal of the proposal.

A limited number of requirements are **Mandatory**. If a Contractor cannot perform one or more of the mandatory functions, the bidder's proposal **may be dismissed in its entirety**.

Comments

The requirements have a column for comments. JATA is allowing the Contractor the option to expand in writing on the functionality of its solution. Comments shall be limited to only those that pertain to the specific requirement. Comments should be clear and direct and be limited to no more than 250 words. Contractors may submit more detailed comments or promotional items separate from this form; however, additional comments and/or promotional materials will not be part of the formal evaluation process.

Definitions

Mandatory - the requirement must be present in the proposed solution, exactly as stated, or the solution may not be considered by the State of Michigan.

Expected - the requirement should be present in the proposed solution, exactly as stated, but the lack of the requirement would not disqualify the solution. However, the lack of one or more expected requirements will reduce a solutions technical score.

Optional - JATA would like the requirement to be present in the proposed solution or provided through an alternative approach or future enhancement. Responses to optional requirements will not be considered as points for passing, failing, or meeting a threshold for further consideration. However, the inclusion of optional requirements will contribute to determining the solution providing the best value.

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

| Req. No. | Requirement | Mandatory (M) Expected (E) Optional (O) | Req. Response (Yes/No) | Comments |
|--------------------------|---|---|------------------------|----------|
| Administration | | | | |
| 1. | All documentation provided by the Contractor(s) will be in the Microsoft Office 2007 suite or newer (e.g. Word, Excel, etc.) or PDF format and shall be made available to JATA in a digital format. | M | | |
| 2. | The Contractor shall responsible for compliance with all codes; work not in compliance with the codes shall be deemed to be unacceptable. | M | | |
| 3. | The Contractor shall work with the city of Jackson, MI to obtain the proper city/work permits to be correctly prepared and turned into the city before any work can be performed. | M | | |
| 4. | The Contractor shall work with the city of Jackson on the installation of curb on the West side of the Transfer Center near the city sidewalk. | E | | |
| Work Requirements | | | | |
| 5. | The Contractor shall remove all existing surfaces and old base materials (i.e. concrete). | M | | |
| 6. | The Contractor's plans should include details on how the removal and tear out of the installation is to occur. Both lanes of the Transfer Center are in use | E | | |

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

| Req. No. | Requirement | Mandatory (M) Expected (E) Optional (O) | Req. Response (Yes/No) | Comments |
|----------|--|---|------------------------|----------|
| | during the day and necessary steps shall be taken in order to limit interruption of traffic flow and services. | | | |
| 7. | The Contractor shall assess all points that are affected by holes and repair all areas, including any manhole covers and in-ground drains. | E | | |
| 8. | The Contractor shall check the slope of the existing surface. The slope shall be adjusted and corrected in such a way that, the rainwater drainage should be completed by gravity effects and the rainwater shall be drained to the existing drains in the driveway. | M | | |
| 9. | The Contractor shall provide and maintain work environments and procedures that will safeguard the public and personnel, property, materials, supplies, and equipment exposed to the Contractor operations and activities. | M | | |
| 10. | The Contractor shall provide and maintain work environments and procedures that will void interruptions of operations and delays in project completion dates; and control costs in the performance of this contract. | E | | |
| 11. | The Contractor shall provide appropriate safety barricades, and signs. | M | | |

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

| Req. No. | Requirement | Mandatory (M) Expected (E) Optional (O) | Req. Response (Yes/No) | Comments |
|----------|---|---|------------------------|----------|
| 12. | The Contractor shall use all precautionary measures to protect pedestrians and cars by installing all kind of safety signals as yellow warning tapes around the areas where the job is being performed, barricades blocking the traffic, plywood where the pedestrians have to walk off the sidewalk and the ground is irregular. | M | | |
| 13. | The Contractor shall comply with the standards issued by any local government authority having jurisdiction over occupational health and safety issues; and take any additional measures the Contracting determines to be reasonably necessary for this purpose. | E | | |
| 14. | The Contractor shall include excavation including the eviction of inappropriate existing material from the work area. | M | | |
| 15. | The Contractor shall use an appropriate base material. | M | | |
| 16. | The Contractor shall complete ground leveling considering the % slope allows the rainwater to be evacuated by gravity. | M | | |
| 17. | The Contractor shall install a layer of concrete, thickness level (e.g. six or eight inches). | M | | |

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

| Req. No. | Requirement | Mandatory (M) Expected (E) Optional (O) | Req. Response (Yes/No) | Comments |
|-----------------------------|--|---|------------------------|----------|
| 18. | The Contractor shall use roller compacted concrete. | E | | |
| 19. | The Contractor shall install appropriate Americans with Disabilities Act (ADA) ramp materials and signage. | M | | |
| 20. | The Contractor shall include the proper installation of expansion joints to prevent cracking in the surface. | M | | |
| 21. | The Contractor shall perform a final cleaning and evicting of debris. | E | | |
| 22. | The Contractor shall be responsible for any damage of premises resulting of this job. | E | | |
| 23. | Once job is finished, the Contractor shall inform Project Manager to inspect and approve the work performed. | E | | |
| OPTION 1 - SIDEWALKS | | | | |
| 24. | <i>This section is intended to be an option for JATA to exercise if it wishes to, upon evaluation of the pricing proposal, have the sidewalks remove and replaced which will be additional to the work already expected to be performed by the Contractor.</i> | | | |
| 25. | The Contractor shall ensure the complete removal and haul away of the sidewalks including the cement walkways that surround the entire | M | | |

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

| Req. No. | Requirement | Mandatory (M) Expected (E) Optional (O) | Req. Response (Yes/No) | Comments |
|----------------------------|--|---|------------------------|----------|
| | building (i.e., South side of the building). | | | |
| 26. | The installation of the new sidewalks including the placement of proper concrete forms and pouring the concrete to the proper depth as seen fit by the Contractor. | E | | |
| Accident Prevention | | | | |
| 27. | The Contractor shall provide and maintain work environments and procedures that will safeguard the public and personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities. | M | | |
| 28. | The Contractor shall provide and maintain work environments and procedures that avoid interruptions of operations and delays in project completion dates, and control costs in the performance of this contract. | E | | |
| Safety Schedule | | | | |
| 29. | Before starting any work, the Contractor shall submit a written proposal including a site visit (if not already done so) to properly evaluate the work area and get a full understanding of the work to be completed. | E | | |

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

| Req. No. | Requirement | Mandatory (M) Expected (E) Optional (O) | Req. Response (Yes/No) | Comments |
|------------------|--|---|------------------------|----------|
| 30. | Before starting any work, the Contractor shall meet with the Project Manager to discuss and develop a mutual understanding of the overall safety of the project. | E | | |
| 31. | The Contractor shall not be entitled to any equitable adjustment of the contract price or extension of to any equitable adjustment of the contract price or extension of the performance schedule for any suspension of work issued under this section. | E | | |
| Close Out | | | | |
| 32. | The Contractor shall paint the curbs, ADA areas, parking areas similar to its original state. | M | | |
| 33. | At completion of work, the Contractor shall clean any impacted areas to a condition equal to original condition. The Contractor shall clean the areas in premises where work was performed, removal of all materials, leftovers, debris and garbage from premises every day by the end of the day. | E | | |
| 34. | All materials and construction debris are to be disposed of in a legal manner outside of the JATA premise. | E | | |
| Records | | | | |

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

| Req. No. | Requirement | Mandatory (M) Expected (E) Optional (O) | Req. Response (Yes/No) | Comments |
|---------------------|--|---|------------------------|----------|
| 35. | The Contractor shall maintain an accurate record of exposure data on all accidents incident to work performed under this contract resulting in; i. Death ii. Traumatic injury iii. Occupational disease, or iv. Damage to or theft or loss of property, materials, supplies, or equipment. | E | | |
| Subcontracts | | | | |
| 36. | The Contractor shall be responsible for its subcontractors' compliance with this contract. | M | | |
| 37. | The Contractor shall be responsible for the conduct and workmanship of Subcontractors engaged in the Project, and for Subcontractor's compliance with the terms of this Statement of Work. (This project is a prevailing wage project, so Davis Bacon does apply) | E | | |
| 38. | The Contractor shall be responsible for the behavior and workmanship of Subcontractors while on the property. | E | | |

ATTACHMENT C

RESURFACE OF THE JATA TRANSFER CENTER DRIVE AND PARKING AREAS - REQUIREMENTS WORKSHEET

Company Name: _____

Print Name of Signer and Title: _____

Signature

Date



TERMS AND CONDITIONS

ADDENDA The Jackson Area Transportation Authority hereinafter know as (JATA) reserves the right to amend or add to this RFP at any time prior to the RFP due date. If it becomes necessary to change or add to any part of this RFP, the Program Manager will furnish an addendum to all prospective Contractors. All addenda will be identified as such and will be made available to all Contractor up to 48 hours prior to the proposal due date.

ADDITIONAL ORDERS Unless it is specifically stated to the contrary in the proposal response, JATA reserves the option to place additional orders against a contract awarded as a result of this solicitation at the same terms and conditions, if it is mutually agreeable.

APPLICABLE LAW The contract shall be construed and interpreted according to Michigan law.

ARREARAGES By submitting a response to this solicitation, the Contractor hereby represents that it is not in arrears in the payment of any obligation due and owing monies, including the payment of taxes and employee benefits and that it shall not become so in arrears during the term of the contract if selected for contract award.

ASSURANCE OF NON-CONVICTION OF BRIBERY The Contractor hereby declares and affirms that, to its best knowledge, none of its officers, directors or partners and none of its employees directly involved in obtaining contracts has been convicted of bribery, attempted bribery or conspiracy to bribe under the laws of any state or the Federal government.

AUDIT Contractor shall permit audit and fiscal and programmatic monitoring of the work performed under any contract issued from this solicitation. JATA shall have access to and the right to examine and/or audit any records, books, documents and papers of Contractor and any subcontractor involving transactions related to this agreement during the term of this agreement and for a period of three (3) years after final payment under this agreement.

BID AND PERFORMANCE SECURITY If bid security is required, a bid bond or cashier's check in the amount indicated on the bid cover must accompany each proposal and be made payable to JATA. If bid security fails to accompany the proposal, it shall be deemed unresponsive, unless the Program Manager

deems the failure to be non-substantial. Such bid bonds or checks will be returned, upon request, to all except the three (3) lowest Contractors after the opening of price proposals, and the remaining checks or bid bonds will be returned, upon request, to all but successful Contractor(s) after award of contract. If a performance bond is required, the successful Contractor must submit an acceptable performance bond in the designated amount of the solicitation award, prior to award of contract. All bid bonds will be returned, upon request, to the successful Contractor after receipt of the performance bond.

BILLING AND PAYMENT Each invoice shall reference JATA purchase order number, as well as bid number for this solicitation. All invoices will be paid within completion of project unless otherwise specified in the RFP document or unless any item thereon is questioned, in which event payment will be withheld pending verification of the amount claimed and the validity of the claim.

BRAND NAMES Brand name materials used in these specifications are known and acceptable. Proposals to use alternate brands are invited as long as they are of equal type and equal or better quality. The burden of proof that alternate brands are in fact equal or better falls on the Contractor and proof must be provided to JATA.

CARE OF PREMISES Precautions taken for safety and protection shall be in accordance with the mandatory requirements of the safety codes prevailing within the jurisdiction in which the work is to be performed. During the performance of the contract, the Contractor shall take the necessary precautions to protect all areas upon which or adjacent to which work is performed as a part of this contract. Any damage caused as a result of Contractor's neglect, directly or indirectly, shall be repaired to JATA's satisfaction at the Contractor's expense.

CANCELLATION JATA reserves the right to cancel this solicitation or to reject all offers received, if the JATA's Program Manager, in accordance with procedures approved by the Board of Directors, determines that it is fiscally advantageous or in the best interest of JATA to cancel the RFP.

COMPLIANCE WITH THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 The Contractor warrants that both the Contractor and/or any subcontractor of the Contractor do not and shall not hire, recruit or refer for a fee, for employment under this Agreement or any subcontract, an alien knowing the alien is an unauthorized alien and hire any individual without complying with the requirements of the Immigration Reform and Control Act of 1986 (hereinafter referred to as "IRCA"), including but not limited to any verification and record keeping requirements. The Contractor agrees to indemnify and save JATA, its employees harmless from any loss, costs, damages or other expenses suffered or incurred by JATA, its employees by reason of the Contractors or any subcontractor of the Contractors noncompliance with "IRCA." The Contractor agrees to defend JATA, its employees in any proceeding, action or suit brought against JATA, including but not limited to administrative and judicial proceedings, arising out of or alleging noncompliance of the Contractor with "IRCA". The Contractor recognizes that it is the Contractors responsibility to ensure that all certifications and verifications as required by law are obtained and maintained for the applicable time period.

COMPLIANCE WITH LAWS Contractor agrees to comply, at no additional expense, with all applicable Executive orders, Federal, State, regional and local laws, ordinances, rules and regulations in effect as of the date of this agreement and as they may be amended from time to time. Contractor agrees to comply with all applicable JATA policies and procedures in effect as of the date of this agreement and as they may be amended from time to time during the term of this contract.

COMPLIANCE WITH APPLICABLE REQUIREMENTS - The Contractor shall conform to all applicable governmental requirements and regulations, whether or not such requirements and regulations are specifically set forth in the Contract Documents. The Contractor in this regard understands that JATA is a public agency which receives both federal and state funding and, if applicable, the Contract Documents and the performance by the Contractor shall be subject to any applicable rules and regulations promulgated by the Federal Transit Administration (FTA) and/or the Michigan Department of Transportation (MDOT).

- a) **Termination Due to Insufficient Funds** - If at any time during the term of the Contract the JATA Board of Director or the JATA Finance Director makes a determination that JATA has insufficient funds with which to carry out its performance and obligations under the Contract, then JATA may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to JATA.
- b) **Termination Due to Failure to Receive a Grant or other Funding Device** - If at any time during the term of the Contract JATA ceases to receive a grant or other funding device from a third party with which it intended to pay for the goods or services Contracted for, then, unless otherwise directed by the JATA Governing Board, JATA may terminate the Contract by delivering a notice of termination to the Contractor. The effective date of any termination shall be the date which is thirty (30) days following the delivery of the notice of termination or such later date, if any, specified in the notice of termination. The Contractor shall be paid its costs, including Contract closeout costs, and profit on Work performed up to the time of termination. The Contractor shall promptly submit its claim for final payment to JATA.
- c) **Accident Prevention** - The Contractor shall provide and maintain Work environments and procedures, which will safeguard the public and JATA personnel, property, materials, supplies, and equipment exposed to Contractor operations and activities; avoid interruptions of JATA operations and delays in project completion dates; and control costs in the performance of the Contract. Whenever the Contracting Officer becomes aware of any noncompliance with these requirements or any condition which poses a serious or imminent danger to the health or safety of the public or JATA personnel, the Contracting Officer shall notify the Contractor orally, with written confirmation, and request immediate initiation of corrective action. This notice, when delivered to the Contractor or the Contractor's representative at the work site, shall be deemed sufficient notice of the noncompliance and that corrective action is required. After receiving the notice, the Contractor shall immediately take corrective action. If the Contractor fails or refuses to promptly take corrective action, the Contracting Officer may issue an order stopping all or part of the Work until satisfactory corrective action has been taken. The Contractor shall not be entitled to any equitable adjustment of the Contract price or extension of the performance schedule on any stop work order issued under this clause. The Contractor shall insert this clause with appropriate changes in the designation of the parties, in subcontracts.

- d) **Application of Federal Laws Clause** - Contractor understands that Federal, state and local laws, regulations, policies, and related administrative practices ("Laws") applicable to the Contract on the date the Contract was executed (the "Execution Date") may be modified from time to time, or new Laws may be established after the Execution Date. Contractor agrees that the most recent of such Laws will govern the administration of the Contract at any particular time, unless there is sufficient evidence in the Contract of a contrary intent. Such contrary intent might be evidenced by express language in the Contract, or a letter signed by the Federal Transit Administrator, the language of which modifies or otherwise conditions the text of a particular provision of the Contract.
- e) **Compliance with Law** - Contractor shall perform all Work hereunder in compliance with all applicable federal, state and local laws and regulations, including, but not limited to, any applicable licensing or permitting laws. The Contractor shall use only licensed personnel to perform Work required by law to be performed by such personnel and shall bear the costs of obtaining all necessary licenses and permits.
- f) **Composition of Contractor** - If the Contractor hereunder is comprised of more than one legal entity, each such entity shall be jointly and several hereunder. 1.10 Contracts Involving Federal Privacy Act Requirements. The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any Contract:
 - i) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract.
 - ii) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.
- g) **Federal, State and Local Taxes** - The Contract price includes all applicable federal, state, and local taxes and duties. JATA is exempt from state and local sales and use taxes. In addition, any such taxes included on any invoice or voucher received by JATA shall be deducted from the amount of the invoice or voucher for purposes of payment.
- h) **Fly America Requirements** - The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 C.F.R. Part 301-10, which provide that recipients and sub recipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not

available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

- i) **Indemnification** - The Contractor shall indemnify and hold harmless JATA as well as its officers and employees from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract.
- j) **Independent Contractor** - The Contractor at all times shall be an independent contractor. The Contractor shall be fully responsible for all acts and omissions of its employees, subcontractors, and their suppliers, and shall be specifically responsible for sufficient supervision and inspection to ensure compliance in every respect with the Contract requirements. There shall be no contractual relationship between any subcontractor and supplier of the Contractor and JATA by virtue of the Contract. No provision of the Contract shall be for the benefit of any party other than JATA and the Contractor.
- k) **Interest of Public Officials** - Contractor represents and warrants that no employee, official, or member of the Board of JATA, during his or her tenure or two years thereafter, is or will have a pecuniary interest or benefit directly or indirectly from the Contract or the proceeds thereof. Contractor further represents and warrants that it has not offered or given gratuities (in the form of entertainment, gifts, or otherwise) to any employee, official, or member of the Board of JATA. For breach of any representation or warranty in this clause, JATA shall have the right to annul the Contract without liability and/or have recourse to any other remedy it may have at law.
- l) **Material and Workmanship** - All equipment, material, and articles incorporated into the Work covered by the Contract shall be new and of the most suitable grade for the purpose intended, unless otherwise specifically provided in the Contract. References in the specifications to equipment, material, articles, or patented processes by trade name, make, or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition. The Contractor at its option may use any equipment, material, article, or process that, in the judgment of the Contracting 60 Officer, is equal to that named in the specifications, unless otherwise specifically provided in the Contract.
- m) **Organization and Direction of the Work** - When the Contract is executed, the Contractor shall, at the request of the Project Manager, submit to the Project Manager a chart showing the general executive and administrative organization, the personnel to be employed concerning the Work under the Contract, and their respective duties. The Contractor shall keep the data furnished current by supplementing it, as additional information becomes available. Work performance under the Contract shall be under the full-time resident direction of:
 - i) The Contractor, if the Contractor is an individual;
 - ii) One or more principal partners, if the Contractor is a partnership; or
 - iii) One or more senior officers, if Contractor is a corporation, association, or similar legal entity. However, if the Contracting Officer approves, a specific person may represent the

Contractor in the direction of the Work or persons holding positions other than those identified in this paragraph.

- n) **Prohibition Against Contingent Fees** - Contractor warrants that Contractor has not employed or retained any company or person, other than a bona fide employee working solely for Contractor to solicit or secure the Contract and that Contractor has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Contractor any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of the Contract. For the breach or violation of this provision, the Executive Director shall have the right to terminate the Contract without liability and, at its discretion, to deduct from the Contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.
- o) **Subcontractors and Outside Consultants** - Any subcontractors and outside associates or consultants required by the Contractor concerning the services covered by the Contract will be limited to such individuals or firms as were specifically identified and agreed to by JATA concerning the award of the Contract. Any substitution in such subcontracts, associates, or consultants will be subject to the prior approval of the Contracting Officer.

CONTINGENT FEES Contractor hereby declares and affirms that neither it nor any of its representatives has employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee or agent working for the Contractor, to solicit or secure a contract, and that it has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee or agent, any fee or any other consideration contingent on the making of a contract as a result of this solicitation.

CONTRACT AMENDMENTS JATA, without invalidating the contract documents, may submit a written request to order extra work or to make changes to the agreement by altering, adding to, or deducting from the work, and the contract sum shall reflect such changes. Price adjustments must be accepted, in writing, by JATA before the Contractor performs additional work on the project. The Contractor cannot accept purchase requests for products or services that are not covered in this contract or make changes to the Statement of Work unless a price for those products or services has been negotiated with JATA, and the Contractor has received a signed contract amendment from the Program manager.

CONTRACT DEADLINES The Contractor is contractually obligated to meet all agreed upon deadlines. Failure of the Contractor to meet any deadline is grounds for termination by default. If the Contractor defaults, JATA reserves the right to assess liquidated damages and/or make an open market purchase. **CONTRACT DOCUMENTS** The general conditions of this RFP, the Contractor's proposal, and the signed Agreement form the contract. The documents shall have the following order of precedence: this RFP, the Agreement, the Contractor's proposal.

CONTRACT TERMINATION The contract may be terminated for any of the following reasons: failure of the Contractor to meet the mandatory requirements as described in this solicitation; failure of the Contractor to meet required deadlines; failure of the Contractor to resolve problems in a timely manner; or lack of JATA funding.

CONTRACTORS This RFP is extended to individuals or firms as primary Contractors, and the Contractor will execute the work specified with bona fide employees. Subcontractors cannot assume the primary

award of this contract on behalf of the primary Contractor nor can the awarded Contractor be relieved of its obligation or responsibility to this contract. JATA reserves the right to reject any subcontractor.

DELIVERY AND PACKING Prices shall be Free On Board (FOB) Destination freight prepaid to the delivery designated. Contractor shall retain title and control of all goods until they are delivered, and the contract of coverage has been completed. All risk of transportation and all related charges shall be the responsibility of the contractor. All claims for visible and concealed damage shall be filed by the Contractor. Unauthorized shipments are subject to rejection and return at Contractor's expense. All prices quoted must include delivery. All goods delivered under this contract shall be packed in accordance with accepted trade practices. No charges may be made over and above the bid price for packaging, or for deposits or containers unless specified in the bid. No charge will be allowed for cartage unless by prior written agreement. Complete deliveries must be made by the successful Contractor to the designated location as indicated on the JATA purchase order. A packing slip shall be included in each shipment. All deliveries must be prepaid and must be delivered to each location designated on purchase order at no additional cost. DELIVERIES MUST BE MADE TO THE SPECIFIED LOCATION. NO COLLECT SHIPMENTS OR SIDEWALK DELIVERIES WILL BE ACCEPTED. DELIVERY OF PROPOSALS Sealed proposals must be received in the Procurement Office by the date and time specified in the RFP in order to be considered. NO LATE PROPOSALS WILL BE ACCEPTED. Late proposals will be returned to the Contractor unopened.

ERRORS IN PROPOSALS Contractors are assumed to be informed regarding conditions, requirements, and specifications prior to submitting proposals. Failure to do so will be at the Contractors risk. Proposals already submitted may be withdrawn without penalty prior to proposal opening date. Errors discovered after proposal opening may not be corrected. In the case of an error in price extension, the unit price will govern. The intention of the Contractor must be evident on the face of the proposal.

FAILURE TO DELIVER If the Contractor fails to comply with any established delivery requirements, JATA reserves the right to make an open market purchase of required items and to assess, as liquidated damages, the difference between the contract price and the actual cost incurred by JATA and to invoice charges to the Contractor.

FINANCIAL DISCLOSURE The Contractor shall comply with the provisions which requires that every business that enters into contracts, leases, or other agreements with JATA or its agencies during a calendar year under which the business is to receive in the aggregate \$100,000 or more, shall, within 30 days of the time when the aggregate value of these contracts, leases or other agreements reaches \$100,000.

HAZARDOUS AND TOXIC SUBSTANCES Contractor must comply with all applicable Federal, State, and County laws, ordinances and regulations relating to hazardous and toxic substances, including such laws, ordinances and regulations pertaining to access to information about hazardous and toxic substances, and as amended from time to time. Contractor shall provide JATA with a "Material Safety Data Sheet" or in the case of a controlled hazardous waste substance, a hazardous waste manifest for all hazardous chemicals listed or subsequently added to the Chemical Information List in compliance with applicable laws, ordinances and regulations.

INDEMNIFICATION The Contractor shall be responsible for any loss, bodily injury, personal injury, expense, death and any other damage which may occur by reason of Contractor's acts, negligence, willfulness or failure to perform any of its obligations under this agreement. Any acts, negligence,

willfulness or failure to perform any of the Contractor's obligations under this agreement, on the part of any agent, director, partner, servant or employee of Contractor are deemed to be the Contractor's acts. Contractor agrees to indemnify and hold harmless JATA and its Board of Directors and employees, from any claim, damage, liability, injury, expense, and loss, including defense costs and attorney's fees, arising directly or indirectly out of Contractor's performance under this agreement. Accordingly, JATA shall notify Contractor promptly in writing of any claim or action brought against JATA in connection with this agreement. Upon such notification, Contractor shall promptly take over and defend any such claim or action. JATA shall have the right and option to be represented in any such claim or action at its own expense. JATA will not indemnify the Contractor. This indemnification provision shall survive the termination or completion of this agreement.

INSPECTION OF PREMISES If a site visit is recommended or required, each Contractor is responsible for visiting the site(s) prior to submitting a bid in order to observe the existing conditions affecting the work, and to obtain precise dimensions of the area(s) involved. No allowance will be made to the successful Contractor, at a later date for additional work required because of his or her failure to visit the site and/or to obtain the exact dimensions. Discrepancies, if any, must be reported to JATA.

INSURANCE If a contract results from this bid, the Contractor shall maintain such insurance as will indemnify and hold harmless JATA from Workmen's Compensation and Public Liability claims for property damage and personal injury, including death, which may arise from the Contractor's operations under this contract, or by anyone directly or indirectly employed by the Contractor.

MINORITY PARTICIPATION It is the policy of JATA to strongly encourage minority businesses to provide goods and services for the performance of JATA projects. Minority businesses are defined as firms that are 51% owned and controlled by a member of a socially or economically disadvantaged minority group, which includes African Americans, Hispanics, Native Americans, Alaskan Natives, Asians, Pacific Islanders, women, and the mentally or physically disabled.

NON-ASSIGNMENT AND SUBCONTRACTING Contractor shall not assign any contract or any rights or obligations hereunder without obtaining prior written consent of JATA. No contract shall be made by Contractor with any other party for furnishing the services to be performed under a contract issued from this solicitation without the written approval from JATA. These provisions will not be taken as requiring the approval of the contract of employment between Contractor and its personnel.

NON-COLLUSION Contractor certifies that it has neither agreed, conspired, connived, or colluded to produce a deceptive show of competition in the compilation of the bid or offer being submitted herewith; Contractor also certifies that it has not in any manner, directly or indirectly, entered into any agreement, participated in any collusion to fix the bid price or price proposal of the Contractor or Contractor herein or any competitor, or otherwise taken any action in restraint of free competitive bidding in connection with the contract for which the bid or offer is submitted.

NON-DISCRIMINATION The Contractor agrees: (a) not to discriminate in any manner against an employee or applicant for employment because of race, color, religion, creed, age, sex, marital status, national origin, ancestry or disability of a qualified individual with a disability; (b) to include a provision similar to that contained in subsection (a), above, in any subcontract except a subcontract for standard commercial supplies or raw materials; and (c) to post and to cause subcontractors to post in conspicuous places available to employees and applicants for employment, notices setting forth the substance of this clause.

NOTICE TO CURE JATA reserves the right to cancel the contract if the Contractor's performance is unsatisfactory to the Authority. It is understood, however, that if at any time during the term of the contract, performance is deemed to be unsatisfactory, JATA shall so notify the Contractor in writing, and the Contractor shall correct such unsatisfactory conditions within thirty (30) calendar days from receipt of such notification. If such corrections are not made within the specified period, JATA may terminate the contract.

PATENTS Contractor guarantees that the sale and/or use of the goods offered will not infringe upon any U.S. or foreign patent. Contractor will at his/her own expense, indemnify, protect and save harmless JATA, its Board of Directors, and employees with respect to any claim, action, cost or judgment for patent infringement, arising out of the purchase or use of goods.

PERFORMANCE ACCEPTANCE PERIOD The selected Contractor(s) must agree to an acceptance trial period of performance not to exceed ninety (90) consecutive calendar days. During the 90-day acceptance period, the Contractor's performance must be consistent with the specifications contained herein and the Contractors proposal. Failure to satisfy the "acceptance trial period of performance" may result in cancellation of the contract. In the event that the Contractor fails to meet all requirements, JATA shall declare the Contractor's services unacceptable and the Contractor in default, and terminate all agreements, written or verbal, without penalty or obligation to JATA. Further, should there be any dispute/discrepancy on acceptability of said service, decisions made by JATA will prevail and be final.

PREPARATION OF PROPOSAL Proposals submitted must be hand signed by an authorized agent of the company submitting the proposal. Notification of award will be made by "Notice of Intent to Award" and/or purchase order. Contractor may attach a letter of explanation to the proposal for clarification. Contractors will be required, if requested by JATA, to furnish satisfactory evidence that they are, in fact, bona fide manufacturers of or dealers in the items listed, and have a regularly established place of business. JATA reserves the right to inspect any Contractors place of business prior to award of contract to determine Contractor responsibility.

PROPOSAL INSTRUMENTS Proposal instruments include the RFP, addenda, terms and conditions, contract terms, and specifications. Proposals should be prepared simply and economically, and should provide a straightforward, concise description of the Contractors capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. The Contractor will bear any and all costs incurred in the preparation and submission of proposals.

PROVISIONS APPLICABLE TO CONTRACTS EXCEEDING \$10,000

- a) **Approval of Materials** - When required by the Contract or by the Contracting Officer, the Contractor shall obtain the Contracting Officer's approval of the material or articles, which the Contractor contemplates incorporating into the work. When requesting approval, the Contractor shall furnish to the Contracting Officer full information concerning the material or articles, including, but not limited to the name of the manufacturer, the model number, and other information concerning the performance, capacity, nature, and rating of the machinery and mechanical and other equipment. When directed to do so by the Contracting Officer, the Contractor shall submit samples for approval at the Contractor's expense, with all shipping charges prepaid. Machinery, equipment, material, and articles that do not have the required approval shall be installed or used at the risk of subsequent rejection. All Work under the

Contract shall be performed in a skillful and workmanlike manner, unless a higher standard of care is specified. The Contracting Officer may require, in writing, that the Contractor removes from the Work any employee the Contracting Officer deems incompetent, careless, or otherwise objectionable.

b) Changes

- i) The Contracting Officer may, at any time, without notice to the sureties, if any, by written order designated or indicated to be a change order, make changes in the Work within the general scope of the Contract, including changes:
 - (1) In the specifications (including drawings and designs;
 - (2) In the method or manner of performance of the work;
 - (3) In the Government-furnished facilities, equipment, materials, services, or site; or
 - (4) Directing acceleration in the performance of the work.
- ii) Any other written or oral order (which, as used in this paragraph (b), includes direction, instruction, interpretation, or determination) from the Contracting Officer that causes a change shall be treated as a change order under this clause, provided, that the Contractor gives the Contracting Officer written notice stating:
 - (1) The date, circumstances, and source of the order; and
 - (2) That the Contractor regards the order as a change order.
- iii) Except as provided in this clause, no order, statement, or conduct of the Contracting Officer shall be treated as a change under this clause or entitle the Contractor to an equitable adjustment.
- iv) If any change under this clause causes an increase or decrease in the Contractor's cost of, or the time required for, the performance of any part of the Work under the 63 Contract, whether or not changed by any such order, the Contracting Officer shall make an equitable adjustment and modify the Contract in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under paragraph (b) of this clause shall be made for any costs incurred more than twenty (20) days before the Contractor gives written notice as required.
- v) In the case of defective specifications for which the Government is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.
- vi) The Contractor must assert its right to an adjustment under this clause within thirty (30) days after:
 - (1) Receipt of a written change order under paragraph (a) of this clause or
 - (2) The furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of the proposal, unless this period is extended by the Government. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.
- vii) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under the Contract.

- c) Errors and Omissions** - Notwithstanding the provision of data supplied by JATA, the Contractor shall have the responsibility of supplying all details required to make the product or service

complete and ready for use although such details may not be specifically mentioned in the specifications. The Contractor shall take no advantage of any apparent error or omission, which he might discover in the plans or specifications, but shall forthwith notify the Contracting Officer of such discovery, who will then make such corrections and interpretations as he deems necessary for reflecting the actual spirit and intent of the plans and specifications.

- d) **Insurance** - The Government and the Authority requires insurance coverage to be carried by the Contractor covering the materials, equipment and/or other goods for the time period from shipment and delivery at the designated receiving area, through final acceptance of the goods, services and/or equipment by the Authority. In addition, the contractor will be required to show evidence of automobile and general liability insurance, which is acceptable to the Authority. The general liability insurance shall name the Jackson Area Transportation Authority as an additional insured. The contractor shall secure and maintain during the progress of the work such insurance from a financially responsible insurance company, licensed in the State of Michigan, and approved by the Authority, that will protect himself, his sub-contractors, and the Authority from claims for bodily injury, death, or property damage which may arise from performance of this contract. The amounts and types of such insurance shall be not less than the following:
- i) **Worker's Compensation Insurance:** The Contractor and any subcontractor shall furnish proof of worker's compensation insurance to cover all employees during delivery, installation, assembly or related services in conjunction with this Project and to hold the Authority harmless from any costs due to accidents or other liabilities mentioned in the Worker's Compensation Law. The Contractor shall also furnish, at the time of delivery of this contract and at such other times as may be requested, a copy of such insurance policies herein referred to.
 - ii) **Automotive Liability and Property Damage Insurance** with limits of at least:
 - (1) Bodily Injury, each person \$500,000
 - (2) Bodily Injury, each occurrence \$500,000
 - (3) Property Damage, each occurrence \$100,000 (or in alternative to 1, 2, and 3)
 - (4) Bodily Injury and Property Damage Combined Single Limit, each occurrence \$500,000.
 - iii) **Comprehensive General Liability** of at least:
 - (1) Bodily Injury, each occurrence \$1,000,000
 - (2) Bodily Injury, aggregate \$2,000,000
 - (3) Property Damage, each occurrence \$1,000,000
 - (4) Property Damage, aggregate \$2,000,000 (or in alternative to 1, 2, 3 and 4)
 - (5) Bodily Injury and Property Damage Combined Single Limit each occurrence \$1,000,000 and aggregate \$2,000,000.
 - iv) To comply with the required limits of liability, such insurance may be placed in more than one policy, including an excess umbrella type policy.
 - v) **Certificates of Insurance:** Before commencing prosecution of the Contract, Contractor shall mail to JATA Certificates of Insurance satisfactory to JATA from each insurance company evidencing the insurance as required above is in force, stating policy number(s), dates of expiration and limits of liability there under. All copies of policies and Certificates of Insurance submitted to JATA shall be in form and content acceptable to JATA.

- vi) **Approval of Forms and Companies:** Each policy shall provide for ten (10) days written notice to the Authority for cancellation, expiration, termination, or change in condition of policy. The Contractor shall submit evidence of coverage required, including certificate of insurance, to the Authority for review and indicate its approval or disapproval. New policies shall be provided to the Authority in place of all policies disapproved. Insurance which expire before Contractor's work is accepted by the Authority shall be renewed and evidence of such renewal shall be submitted to the Authority for approval.
- vii) **Subcontractors:** If any part of the Work is sublet, the Contractor shall require any and all subcontractors performing Work under the Contract to carry insurance of the type and limits of liability as the Contractor shall deem appropriate and adequate. In the event, a subcontractor is unable to furnish adequate insurance as provided above, the Contractor shall endorse the subcontractor as an Additional Insured. The Contractor shall obtain and furnish to JATA certificates of insurance evidencing subcontractors' insurance coverage.
- e) **Notice of Labor Dispute -**
 - i) If the Contractor has knowledge that any actual or potential labor dispute is delaying or threatens to delay the timely performance of the Contract, the Contractor immediately shall give notice, including all relevant information, to the Contracting Officer.
 - ii) The Contractor agrees to insert the substance of this clause, including this paragraph (b), in any subcontract under which a labor dispute may delay the timely performance of the Contract, except that each subcontract shall provide that in the event its timely performance is delayed or threatened by delay by any actual or potential labor dispute the subcontractor shall immediately notify the next higher tier subcontractor or the Contractor, as the case may be, of all relevant information concerning the dispute.

PROVISIONS APPLICABLE ONLY TO CONTRACTS EXCEEDING \$150,000

- a) **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.
- b) **4.3 Record Keeping Requirements.** The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the Work and shall preserve them for a period of three years from the completion of the Contract for all laborers and mechanics, including guards and watchmen, working on the Contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. The records to be maintained under this paragraph shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by authorized representatives of JATA and the Department of Labor, and the Contractor or subcontractor will permit such representatives to interview employees during working hours on the job.
- c) **Performance during Dispute -** Unless otherwise directed by JATA, Contractor shall continue performance under the Contract while matters in dispute are being resolved.

PROVISION RELATING TO ARCHITECTURAL AND ENGINEERING SERVICES CONTRACTS

- a) **Special Termination Provisions** - JATA may terminate the Contract in whole or in part, for the convenience of JATA or because of the failure of the Contractor to fulfill the Contract obligations. JATA shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing the Contract, whether completed or in process. If the termination is for the convenience of JATA, the Contracting Officer shall make an equitable adjustment in the Contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the Contract obligations, JATA may complete the Work by Contract or otherwise and the Contractor shall be liable for any additional cost incurred by JATA. 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 JATA.

PROVISIONS RELATING TO CONSTRUCTION CONTRACTS

- a) **Cleaning Up** - The Contractor shall at all times keep the work area, including storage areas, free from accumulations of waste materials. Before completing the work, the Contractor shall remove from the Work and premises any rubbish, tools, scaffolding, equipment, and materials that are not the property of JATA. Upon completing the work, the Contractor shall leave the work area in a clean, neat, and orderly condition satisfactory to the Contracting Officer.
- b) **Continuing the Work** - The Contractor shall carry on the Work and maintain the progress schedule during all disputes or disagreements with JATA. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the Contractor and JATA may otherwise agree in writing. Suspension of the Work by the Contractor during any dispute or disagreement with JATA shall entitle JATA to terminate the Contract for cause, except as otherwise provided in the General Provisions. This section supersedes other sections concerning continuing work.
- c) **Cooperation of Contractor** - The Contractor will be supplied with three (3) copies each of the plans and specifications. Contractor shall have available on the work site at all times one copy each of the plans and specifications. The Contractor, for the cost of reproduction, may obtain additional copies of plans and specifications. The Contractor shall give constant attention to the Work to facilitate the progress thereof, and he shall cooperate with the Project Manager and any inspectors and with other contractors in every way possible. The Project Manager shall allocate the Work and designate the sequence of construction in case of controversy between contractors. The Contractor shall have a competent superintendent on the work site at all times who is fully authorized as his agent. The superintendent shall be capable of reading and thoroughly understanding the plans and specifications and shall receive and fulfill instructions from the Project Manager or his authorized representative.

- d) **Veterans Employment** - As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Contractor agrees and assures that it:
- i) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a capital project supported with funds made available or 51 FTA Master Agreement MA(21), 10-1-2014 appropriated for 49 U.S.C. chapter 53, and
 - ii) Will not be required 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.
- e) **Differing Site Conditions**
- i) The Contractor shall promptly, and before the conditions are disturbed, give a written notice to the Contracting Officer of: (1) Subsurface or latent physical conditions at the site which differ materially from those indicated in the Contract; or (2) Unknown physical conditions at the site, of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inhering in Work of the character provided for in the Contract. The Contracting Officer shall investigate the site conditions promptly after receiving the notice. If the conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performing any part of the Work under the Contract, whether or not changed as a result of the conditions, an equitable adjustment shall be made under this clause and the Contract modified in writing accordingly.
 - ii) No request by the Contractor for an equitable adjustment to the Contract under this clause shall be allowed, unless the Contractor has given the written notice required; provided, that the time prescribed in paragraph (a) of this clause for giving written notice may be extended by the Contracting Officer. No request by the Contractor for an equitable adjustment to the Contract for differing site conditions shall be allowed if made after final payment under the Contract.
- f) **Layout of Work** - The Contractor shall lay out its Work from base lines and benchmarks indicated on the drawings, and shall be responsible for all measurements concerning the layout. The Contractor shall furnish, at its own expense, all stakes, templates, platforms, equipment, tools, materials, and labor required to lay out any part of the work. The Contractor shall be responsible for 77 executing the Work to the lines and grades that may be established or indicated by the Project Manager. The Contractor shall also be responsible for maintaining and preserving all stakes and other marks established by the Project Manager until authorized to remove them. If such marks are destroyed by the Contractor or through its negligence before their removal is authorized, the Project Manager may replace them and deduct the expense of the replacement from any amounts due or to become due to the Contractor.
- g) **Maintenance during Construction** - The Contractor shall maintain the Work during construction and until the Work is accepted. This maintenance shall constitute continuous and effective Work prosecuted day by day, with adequate equipment and forces so that the Work is maintained in satisfactory condition at all times. All costs of maintenance Work during construction and before the project is accepted shall be included in the unit prices bid on the various Contract items, and the Contractor will not be paid an additional amount for such work. Should the Contractor at

any time fail to maintain the work, the Project Manager shall immediately notify the Contractor of such noncompliance. Such notification shall specify a reasonable time within which the Contractor shall be required to remedy such unsatisfactory maintenance condition. The time specified will give due consideration to the exigency that exists. Should the Contractor fail to respond to the Project Manager's notification, the Project Manager may suspend any Work necessary for JATA to correct such unsatisfactory maintenance condition, depending on the exigency that exists. Any maintenance cost incurred by JATA shall be deducted from monies due or to become due the Contractor.

h) Operations and Storage Areas -

- i) The Contractor shall confine all operations (including storage of materials) on JATA premises to areas authorized or approved by the Project Manager. The Contractor shall hold and save JATA, its officers, agents, free, and harmless from liability of any nature occasioned by the Contractor's performance.
- ii) Temporary buildings (e.g., storage sheds, shops, offices) and utilities may be erected by the Contractor only with the prior written approval of the Project Manager and shall be built with labor and materials furnished by the Contractor without expense to JATA. The temporary buildings and utilities shall remain the property of the Contractor and shall be removed by the Contractor upon completion of the work. With the written consent of the Project Manager, the buildings and utilities may be abandoned and need not be removed.
- iii) The Contractor shall, under regulations prescribed by the Project Manager, use only established roadways, or use temporary roadways constructed by the Contractor when and as authorized by the Project Manager. When materials are transported in prosecuting the work, vehicles shall not be loaded beyond the loading capacity recommended by the manufacturer of the vehicle or prescribed by any Federal, State, or local law or regulation. When it is necessary to cross curbs or sidewalks, the Contractor shall protect them from damage. The Contractor shall repair or pay for the repair of any damaged curbs, sidewalks, or roads.

- i) **Protection of Vegetation, Structures, Equipment & Utilities** - The Contractor shall preserve and protect all existing structures, equipment, and vegetation (such as trees, shrubs, and grass), on or adjacent to the work site, which are not to be removed and which do not unreasonably interfere with the Work required under the Contract. The Contractor shall only remove trees when specifically authorized to do so, and shall avoid damaging vegetation that will remain in place. If any limbs or branches of trees are broken during Contract performance, or by the careless operation of equipment, or by workmen, the Contractor shall trim those limbs or branches with a clean cut and paint the cut with a tree-pruning compound as directed by the Project Manager. The Contractor shall protect from damage all existing improvements and utilities at or near the work site, and on adjacent property of a third party, the locations of which are made known to or should be known by the Contractor. The Contractor shall repair any damage to those facilities, including those that are the property of a third party, resulting from failure to comply with the requirements of the Contract or failure to exercise reasonable care in performing the work. If the Contractor fails or refuses to repair the damage promptly, the

Project Manager may have the necessary Work performed and charge the cost to the Contractor.

- j) **Safety** - Contractor agrees to provide appropriate safety barricades, signs, and signal lights; comply with the standards issued by the Secretary of Labor at 29 C.F.R. Part 1926 and 29 C.F.R. Part 1910; and ensure that any additional measures the Contracting Officer determines to be reasonably necessary for the purposes are taken.
- k) **Schedules for Construction Contracts** -
 - i) The Contractor shall, within five days after the Work commences on the Contract or another period of time determined by the Contracting Officer, prepare and submit to the Contracting Officer for approval three copies of a practicable schedule showing the order in which the Contractor proposes to perform the work. The Contractor will supply the dates on which the Contractor contemplates starting and completing the several salient features of the Work (including 79 acquiring materials, plant, and equipment). The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of Work scheduled for completion by any given date during the period. If the Contractor fails to submit a schedule within the time prescribed, the Contracting Officer may withhold approval of progress payments until the Contractor submits the required schedule.
 - ii) The Contractor shall enter the actual progress on the chart as directed by the Contracting Officer, and upon doing so shall immediately deliver three copies of the annotated schedule to the Contracting Officer. If, in the opinion of the Contracting Officer, the Contractor falls behind the approved schedule, the Contractor shall take steps necessary to improve its progress, including those that may be required by the Contracting Officer, without additional cost to JATA. In this circumstance, the Contracting Officer may require the Contractor to increase the number of shifts, overtime operations, days of work, and/or the amount of construction plant, and to submit for approval any supplementary schedule or schedules in chart form as the Contracting Officer deems necessary to demonstrate how the approved rate of progress will be regained.
 - iii) Failure of the Contractor to comply with the requirements of the Contracting Officer under this clause, shall be grounds for a determination by the Contracting Officer that the Contractor is not prosecuting the Work with sufficient diligence to ensure completion within the time specified in the Contract. Upon making this determination, the Contracting Officer may terminate the Contractor's right to proceed with the work, or any separable part of it, in accordance with the default terms of the Contract.
- l) **Specifications and Drawings** -
 - i) The Contractor shall keep on the work site a copy of the drawings and specifications and shall at all times give the Project Manager access thereto. Anything mentioned in the specifications and not shown on the drawings, or shown on the drawings and not mentioned in the specifications, shall be of like effect as if shown or mentioned in both. In case of difference between drawings and specifications, the specifications shall govern. In case of discrepancy in the figures, in the drawings, or in the specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination shall be at its

own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

- ii) Wherever in the specifications or upon the drawings the words “directed”, “required”, “ordered”, “designated”, “prescribed”, or words of like import are used, it shall be understood that the “direction”, “requirement”, “order”, “designation”, or “prescription”, of the Contracting Officer is intended and similarly, the words “approved”, “acceptable”, “satisfactory”, or words of like import shall mean “Approved by,” or “acceptable to”, or “satisfactory to” the Contracting Officer, unless otherwise expressly stated.
- iii) Where “as shown,” as indicated”, “as detailed”, or words of similar import are used, it shall be understood that the reference is made to the drawings accompanying the Contract unless stated otherwise. The word “provided” as used herein shall be understood to mean, “provide complete in place,” that is “furnished and installed”.
- iv) "Shop drawings" means drawings, submitted to JATA by the Contractor, subcontractor, or any lower tier subcontractor pursuant to a construction Contract, showing in detail the proposed fabrication and assembly of structural elements, and the installation (i.e., fit, and attachment details) of materials or equipment. It includes drawings, diagrams, layouts, schematics, descriptive literature, illustrations, schedules, performance and test data, and similar materials furnished by the Contractor to explain in detail specific portions of the Work required by the Contract. JATA may duplicate, use, and disclose in any manner and for any purpose shop drawings delivered under the Contract.
- v) If the Contract requires shop drawings, the Contractor shall coordinate all such drawings, and review them for accuracy, completeness, and compliance with Contract requirements and shall indicate its approval thereon as evidence of such coordination and review. Shop drawings submitted to the Contracting Officer without evidence of the Contractor’s approval may be returned for resubmission. The Contracting Officer will indicate an approval or disapproval of the shop drawings and if not approved as submitted shall indicate JATA’s reasons therefor. Any Work done before such approval shall be at the Contractor’s risk. Approval by the Contracting Officer shall not relieve the Contractor from responsibility for any errors or omissions in such drawings, nor from responsibility for complying with the requirements of the Contract, except with respect to variations described and approved in accordance with (f) below.
- vi) If shop drawings show variations from the Contract requirements, the Contractor shall describe such variations in writing, separate from the drawings, at the time of submission. If the Contracting Officer approves any such variation, the Contracting Officer shall issue an appropriate Contract modification, except that, if the variation is minor or does not involve a change in price or in time of performance, a modification need not be issued.
- vii) The Contractor shall submit to the Contracting Officer for approval four (4) copies (unless otherwise indicated) of all shop drawings as called for under the various headings of these specifications. Three (3) sets (unless otherwise indicated) of all shop drawings, will be retained by the Contracting Officer and one set will be returned to the Contractor. Upon completing the Work under the Contract, the Contractor shall furnish a complete set of all

shop drawings as finally approved. These drawings shall show all changes and revisions made up to the time the equipment is completed and accepted.

m) Suspension of Work -

- i) The Contracting Officer may order the Contractor, in writing, to suspend, delay, or interrupt all or any part of the Work of the Contract for the period of time that the Contracting Officer determines appropriate for the convenience of JATA.
- ii) If the performance of all or any part of the Work is, for an unreasonable period of time, suspended, delayed, or interrupted:
 - (1) By an act of the Contracting Officer in the administration of the Contract, or
 - (2) By the Contracting Officer's failure to act within the time specified in the Contract (or within a reasonable time if not specified), an adjustment shall be made for any increase in the cost of performance of the Contract (excluding profit) necessarily caused by the unreasonable suspension, delay, or interruption, and the Contract modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of the Contractor, or for which an equitable adjustment is provided for or excluded under any other term or condition of the Contract.
- iii) A claim under this clause shall not be allowed for any costs incurred more than twenty (20) days before the Contractor shall have notified the Contracting Officer in writing of the act or failure to act involved. Nevertheless, this requirement shall not apply as to a claim resulting from a suspension order unless the claim, in an amount stated, is asserted in writing as soon as practicable after the termination of the suspension, delay, or interruption, but not later than the date of final payment under the Contract. 82

n) Use and Possession Prior To Completion -

- i) JATA shall have the right to take possession of or use any completed or partially completed part of the work. Before taking possession of or using any work, the Contracting Officer shall furnish the Contractor a list of items of Work remaining to be performed or corrected on those portions of the Work that JATA intends to take possession of or use. However, failure of the Contracting Officer to list any item of Work shall not relieve the Contractor's responsibility for complying with the Contract terms. The Government's possession or use shall not be deemed an acceptance of any Work under the Contract
 - ii) While JATA has such possession or use, the Contractor shall be relieved of the responsibility for the loss of or damage to the Work resulting from JATA's possession or use. If prior possession or use by JATA delays the progress of the Work or causes additional expense to the Contractor an equitable adjustment shall be made in the Contract price or the time of completion, and the Contract shall be modified in writing accordingly.
- o) Utilities -** Contractor shall be responsible for all utilities that are necessary to perform the Work required by the Contract.
- p) Department of Labor Equal Opportunity Employment -**

Notice of Requirement for Affirmative Action To Ensure Equal Employment Opportunity (Executive Order 11246) Must be included in construction contracts and subcontracts that exceed \$10,000

- i) The Offeror's or Bidder's attention is called to the "Equal Opportunity Clause" and the "Standard Federal Equal Employment Specifications" set forth herein.
- ii) The goals and timetables for minority and female participation, expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered area.
 - 1. These goals are applicable to all the Contractor's construction work (whether or not it is Federal or federally assisted) performed in the covered area. If the Contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed. With regard to this second area, the Contractor also is subject to the goals for both its federally involved and non-federally involved construction.
 - 2. The Contractor's compliance with the Executive Order and the regulations in 41 CFR part 60-4 shall be based on its implementation of the Equal Opportunity Clause, specific affirmative action obligations required by the specifications set forth in 41 CFR 60-4.3(a), and its efforts to meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract, and in each trade, and the Contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from contractor to contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order and the regulations in 41 CFR part 60-4. Compliance with the goals will be measured against the total work hours performed.
- iii) The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of \$10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor; employer identification number of the subcontractor; estimated dollar amount of the subcontract; estimated starting and completion dates of the subcontract; and the geographical area in which the subcontract is to be performed.
- iv) As used in this Notice, and in the contract resulting from this solicitation, the "covered area" is (insert description of the geographical areas where the contract is to be performed giving the state, county and city, if any).

PRODUCT TESTING DURING TERM OF CONTRACT Goods delivered under any contract resulting from this RFP may be tested for compliance with specifications stipulated herein. Any shipment failing to meet or comply fully with the specification requirements will be rejected. The cost of testing a representative sample of an order or shipment for acceptance shall be borne by JATA unless the order is rejected for failure to meet specifications or purchase description. In such cases of rejection, the cost of testing will be charged back to the Contractor.

PUBLICITY The Contractor shall not in any way or in any form publicize or advertise in any manner the fact that it is providing services to JATA without the express written approval of JATA Government and Community Relations Manager obtained in advance, for each item of advertising or publicity. However, nothing herein shall preclude the Contractor from listing JATA on its routine client list for matters of references.

RECORD RETENTION If awarded a contract, Contractor shall maintain books and records relating to the subject matter of this agreement, including but not limited to all charges to JATA, for a period of three (3) years from the date of final payment under this agreement.

REFERENCES Contractor must provide at least three references from former or current clients who can confirm the Contractors experience with projects that are similar in size or scope. The references provided must be able to confirm, without reservation, the Contractors ability to provide the level of services requested in this solicitation.

REJECTIONS AND CANCELLATIONS JATA reserves the right to accept or reject any or all proposals in whole or in part for any reason. JATA reserves the right to waive any informality and to make awards in the best interest of the Authority. JATA also reserves the right to reject the proposal of any Contractor who has previously failed to perform adequately on a prior award for furnishing goods and/or services similar in nature to those requested in this RFP. JATA may cancel this solicitation in whole or in part, at its sole discretion.

RIGHT TO STOP WORK If the JATA determines, either directly or indirectly, that the Contractor's performance is not within the specifications, terms or conditions of this RFP and/or that the quality of the job is unacceptable, JATA has the right to stop the work. The stoppage of work shall continue until the default has been corrected and/or corrective steps have been taken to the satisfaction of JATA. JATA also reserves the right to re-solicit this contract if it is decided that performance is not within the specifications as set out.

SAMPLES AND CATALOG CUTS If samples are required, Contractor shall be responsible for delivery of samples to location indicated. Failure of the Contractor to clearly identify samples as indicated may result in rejection of the proposal. JATA reserves the right to test any materials, equipment or supplies delivered to determine if the specifications have been met. Samples will not be returned.

SIGNATURE Each proposal must show the full business address and telephone number of the Contractor and be signed by the person or persons legally authorized to sign such contracts. All correspondence concerning the RFP and contract will be mailed or delivered to the address shown on the proposal. NO BID WILL BE ACCEPTED WITHOUT ORIGINAL SIGNATURE. SPECIFICATIONS AND STATEMENT OF WORK The specifications listed herein may or may not specify all technical requirements which are needed to achieve the end result. When accepting the award, the Contractor assumes the responsibility of

accomplishing the task requested in this document. Any omission of parts, products, processes, etc. in the specifications are the responsibility of the Contractor and JATA will not bear the responsibility of their omission. If omissions in the specifications are discovered and these omissions will impact the contract price then it is the responsibility of the Contractor to note these omissions, in writing, prior to accepting the award. If these omissions are not noted prior to award then the Contractor's silence is deemed as full and complete acceptance and any additional costs will be borne by the Contractor.

**STANDARD FEDERAL EQUAL EMPLOYMENT OPPORTUNITY CONSTRUCTION CONTRACT
SPECIFICATIONS (EXECUTIVE ORDER 11246) MUST BE INCLUDED IN CONSTRUCTION CONTRACTS AND
SUBCONTRACTS THAT EXCEED \$10,000**

1. As used in these specifications:
 - a) "Covered area" means the geographical area described in the solicitation from which this contract resulted;
 - b) "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority;
 - c) "Employer identification number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.
 - d) "Minority" includes:
 - i) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin);
 - ii) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race);
 - iii) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands); and
 - iv) American Indian or Alaskan Native (all persons having o 84
- (1) Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of \$10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.
- (2) If the Contractor is participating (pursuant to 41 CFR 60-4.5) in a Hometown Plan approved by the U.S. Department of Labor in the covered area either individually or through an association, its affirmative action obligations on all work in the Plan area (including goals and timetables) shall be in accordance with that Plan for those trades which have unions participating in the Plan. Contractors must be able to demonstrate their participation in and compliance with the provisions of any such Hometown Plan. Each contractor or subcontractor participating in an approved Plan is individually required to comply with its obligations under the EEO clause, and to make a good faith effort to achieve each goal under the Plan in each trade in which it has employees. The overall good faith performance by other contractors or subcontractors toward a goal in an approved Plan does not excuse any covered contractor's or subcontractor's failure to take good faith efforts to achieve the Plan goals and timetables.

- (3) The Contractor shall implement the specific affirmative action standards provided in paragraphs 7 a through p of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered Construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the FEDERAL REGISTER in notice form, and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.
- (4) Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women shall excuse the Contractor's obligations under these specifications, Executive Order 11246, nor the regulations promulgated pursuant thereto.
- (5) In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals, such apprentices and trainees must be employed by the Contractor during the training period, and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.
- (6) The Contractor shall take specific affirmative action's to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractor shall document these efforts fully, and shall implement affirmative action steps at least as extensive as the following:
- (a) Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites, and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents, and other on-site supervisory personnel are aware of and carry out the Contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such sites or in such facilities.
 - (b) Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available, and maintain a record of the organizations' responses.

- (c) Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.
- (d) Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.
- (e) Develop on-the-job training opportunities and/or participate in training programs for the area which expressly include minorities and women, including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs, especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 7b above.
- (f) Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year; and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.
- (g) Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.
- (h) Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media, and providing written notification to and 86 discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.
- (i) Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to

minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the above, describing the openings, screening procedures, and tests to be used in the selection process.

- (j) Encourage present minority and female employees to recruit other minority persons and women and, where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.
 - (k) Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR part 60-3.
 - (l) Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc., such opportunities.
 - (m) Ensure that seniority practices, job classifications, work assignments and other personnel practices, do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.
 - (n) Ensure that all facilities and company activities are non-segregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.
 - (o) Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.
 - (p) Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.
- (7) Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p). The efforts of a contractor association, joint contractor-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female workforce participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

- (8) A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups, both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is underutilized).
- (9) The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex, or national origin.
- (10) The Contractor shall not enter into any subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.
- (11) The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246, as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.
- (12) The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications, so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.
- (13) The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at least include for each employee the name, address, telephone numbers, construction trade, union affiliation if any, employee identification number when assigned, social security number, race, sex, status (e.g., mechanic, apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.
- (14) Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g., those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

- (a) The notice set forth in 41 CFR 60-4.2 and the specifications set forth in 41 CFR 60-4.3 replace the New Form for Federal Equal Employment Opportunity Bid Conditions for Federal and Federally Assisted Construction published at 41 FR 32482 and commonly known as the Model Federal EEO Bid Conditions, and the New Form shall not be used after the regulations in 41 CFR part 60-4 become effective. [43 FR 49254, Oct. 20, 1978; 43 FR 51401, Nov. 3, 1978, as amended at 45 FR 65978, Oct. 3, 1980]

SUBCONTRACTORS Contractors must submit the names and addresses of all subcontractors to be retained for this project. JATA reserves the right to reject. Subcontractors shall conform in all respects to the applicable provisions specified for the prime contractor and shall be subject to approval by JATA. If a subcontractor is determined to be unacceptable by JATA, the firm shall substitute an acceptable subcontractor with no change in any Contract unit prices or overall Contract sum. If a firm fails, within a timely manner, to propose another subcontractor to whom JATA has no objection, JATA reserves the right to reject the proposal. The firm will use only those subcontractors approved by JATA. All subcontractors shall comply with federal and state laws and regulations which are applicable to the services covered by the subcontractor and shall include all terms and conditions set forth herein which apply with equal force to the subcontractor, as if they were the Contractor referred to herein. The Contractor is responsible for the Contract performance, whether or not subcontractors are used.

TAXES JATA is exempt from Federal and Michigan taxes. Contractor shall be responsible for the payment of any and all applicable taxes resulting from any award and/or any activities hereunder, including but not limited to any applicable amusement and/or sales taxes.

TERMINATION BASED ON LACK OF FUNDING Any contract awarded as a result of this solicitation will be subject to funding and continued appropriation of sufficient funds for the contract. For purposes of this solicitation, JATA's appropriating authority is deemed to be the Board of Directors of JATA. Insufficient funds shall be grounds for immediate termination of the contract.

TERMINATION OF CONTRACT JATA reserves the right to cancel the Contract awarded to the Contractor if, in JATA's judgment, performance under the Contract is unsatisfactory. It is understood, however, that if at any time during the term of the Contract, performance there under is deemed to be unsatisfactory, JATA shall so notify the Contractor in writing, and the Contractor shall correct such unsatisfactory conditions within fifteen (15) calendar days from the receipt of such notification. If such corrections are not made within the specified period, JATA may terminate the Contract at that time.

TERMINATION FOR DEFAULT If an award results from this RFP, and the Contractor has not performed or has unsatisfactorily performed the contract, payment shall be withheld at the discretion of JATA. Failure on the part of the contractor to fulfill contractual obligations shall be considered just cause for termination of the contract and the Contractor is not entitled to recover any costs incurred by the Contractor up to the date of termination.

TERMINATION FOR THE CONVENIENCE OF JATA The performance of the work or services under a contract as a result of this solicitation may be terminated in whole or in part, whenever the Executive Director shall deem that termination is in the best interest of the Authority. Such determination shall be at the sole discretion of the Executive Director. In such event, JATA shall be liable only for payment in accordance with the payment provisions of the contract for work or services performed or furnished

prior to the effective date of termination. The Contractor shall not be reimbursed for anticipatory profits. Termination hereunder shall become effective by delivery to contractor of written notice of termination upon which date the termination shall become effective.

WARRANTY Contractor expressly warrants that all articles, material and work offered shall conform to each and every specification, drawing, sample or other description which is furnished to or adopted by JATA and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect. Such warranty shall survive a contract and shall not be deemed waived either by JATA's acceptance of said materials or goods, in whole or in part, or by payment for them, in whole or in part. The Contractor further warrants all articles, material and work performed for a period of one year, unless otherwise stated, from date of acceptance of the items delivered and installed, or work completed. All repairs, replacements or adjustments during the warranty period shall be at Contractors sole expense.

WITHDRAWAL OF BIDS A proposal shall be withdrawn by written or fax request, confirmed immediately in writing, provided that such requests are received prior to the time of opening proposals. JATA shall not be held responsible for the timely receipt of any requests for withdrawal, and the Contractor is cautioned to transmit any such request in ample time for delivery before the proposal opening hour and date. No proposal received can be withdrawn by any Contractor after the opening, as no claim for release due to mistakes or omissions in the proposal shall be considered. Each Contractor shall be held strictly responsible for its proposal

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Public Act 453 of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220 of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status, or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, 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, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising such labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.

7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor, as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Michigan Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Michigan Civil Rights Commission may, as a part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Michigan Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Michigan Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Michigan Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Michigan Civil Rights Commission; all subcontracts and purchase orders will also state that said provisions will be binding upon each subcontractor or supplier.

Revised August 2011