



Missoula Urban Transportation District (MUTD)  
1221 Shakespeare St  
Missoula, MT 59802  
Phone: 406-543-8386  
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**REQUEST FOR PROPOSALS**

FOR

**ORGANIZATIONAL LEADERSHIP & CAPACITY ASSESSMENT**

**RFP 26-02**

January 23, 2026

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# SECTION 1: SOLICITATION NOTICE

## 1.1 Notice

Notice is hereby given that Missoula Urban Transportation District (MUTD) has released Request for Proposals RFP 26-02 for an organizational leadership & capacity assessment. Proposals are due at **5:00 PM MDT on February 09, 2026.**

## 1.2 Communications with MUTD

Upon release of this solicitation document, all communications concerning this procurement must be directed to:

Frank Kuhl  
Procurement and Contracts Specialist  
Missoula Urban Transportation District  
1221 Shakespeare St, Missoula, MT 59802  
[procurement@mountainline.com](mailto:procurement@mountainline.com)  
(406) 215-2468

Unless authorized by the General Manager in writing, no other MUTD official or employee is empowered to speak for MUTD with respect to this Request for Proposals (RFP).

## 1.3 Submission of Proposals

Proposals shall be prepared as described in Section 3 of this RFP.

Submissions shall be sent via email in PDF format to Frank Kuhl, Procurement and Contracts Specialist, at [procurement@mountainline.com](mailto:procurement@mountainline.com).

## 1.4 Schedule

RFP Issued: January 23, 2026

Clarifications/Questions Due: January 30, 2026

MUTD Responses to Clarifications/Questions: February 4, 2026

Proposals Due: February 9, 2026, 5PM MDT

|   |                   |
|---|-------------------|
| <u>Invitation for Demos:</u>              | February 10, 2026 |
| <u>Interviews:</u>                        | Feb 18, 2026      |
| <u>Notification of Selected Supplier:</u> | February 19, 2026 |
| <u>Board Approval:</u>                    | February 26, 2026 |
| <u>Notice to Proceed:</u>                 | February 27, 2026 |

## 1.5 Nonresponsive Submittals

MUTD reserves the right to reject as non-responsive any submittal which is incomplete, obscure or irregular, or from Offerors who have previously failed to perform properly, or to complete on time, contracts of any nature. MUTD reserves the right to reject any or all submittals, based on its discretion alone.

## 1.6 Late Submittals, Modifications of Submittals, and Withdrawals of Submittals

A modification of a submittal already received will be considered only if the proposed modification is received prior to the established deadline. Any submittal or modification received at the office designated in the solicitation after the exact time specified for receipt will be considered non-responsive and will be returned to the Offeror not opened.

The time of receipt at MUTD is the time-date stamped on the email or submittal envelope, or other documentary evidence of receipt maintained by MUTD.

Submittals may be officially withdrawn from consideration only by a written request to MUTD's point of contact as identified in Section 1.2 prior to the response deadline.

No Offeror may withdraw its submittal after the time announced for submitting or before the award and execution of the contract, unless the award is delayed for a period exceeding ninety (90) days.

## 1.7 Pre-Contractual Expenses

MUTD will not be responsible for any expenses incurred in preparing, submitting, or negotiating this proposal, and such costs should not be included in the proposal.

## 1.8 Requests for Clarification or Approved Equals

All requests for clarifications, explanations, changes, substitutions, or approval of items equal to items with specified brand names must be submitted via email to the officer listed in Section 1.2 no later than the date listed in Section 1.4.

MUTD will provide a single written response to all properly submitted requests for clarification or approved equals as addendum on or before **February 4, 2026**. All addenda will be posted on the MUTD website at <http://www.mountainline.com/> under the “Current Solicitations” tab.

## 1.9 Acknowledgement of Addenda

Please send an email to [procurement@mountainline.com](mailto:procurement@mountainline.com) to state your interest in submitting a proposal and to receiving any issued addenda.

While MUTD will make efforts to provide addenda to all interested parties, it is the Offeror’s responsibility to ensure that they have received and understand any and all addenda issued.

A completed Addendum Acknowledgement Form (Exhibit A) shall be included with all proposals.

## 1.10 Protest Procedures

**Grounds for Protest** – A protest may be filed by any interested party on the grounds that MUTD has:

- Failed to comply with its procurement procedures;
- Failed to comply with the terms of the solicitation in question, including the failure to adhere to the evaluation criteria set forth in the solicitation, if applicable;
- Issued restrictive or discriminatory specifications; or,
- Made an award to other than the lowest responsive and responsible bidders on formally advertised procurements.

**Protest Contents** – Written protests should be concise, logical, and clearly state the grounds for the protest. They must include the following information:

- Name, address, and telephone number of protestor
- Identification of the solicitation or contract number
- A detailed statement of the legal and factual grounds of the protest including copies of relevant documents
- A statement as to what relief is requested.

All protest documents received by the General Manager shall be stamped with date and time received and logged into a file folder with a copy to the Master File.

**Pre-Bid and Pre-Award Protests** – Protests addressing the solicitation process or the solicitation documents, including the specifications, must be received by the General Manager within seven (7) calendar days of the decision to award a contract. Thereafter, any protest based on such grounds will not be considered.

**Post-Award Protests** – Protests addressing the approval or award, including the evaluation of bids or proposals, must be received by the General Manager within five (5) days after the decision to award a contract. Thereafter, any protest based on such grounds will not be considered. MUTD will notify all unsuccessful bidders or proposers of its intent to award a contract at the same time it notifies the successful bidder or proposer.

**Protest Response** – MUTD will notify the protestor within 3 days of receipt that the protest is being considered. Upon receipt of a timely protest regarding the solicitation process, MUTD will postpone the opening of bids until resolution of the protest. The filing of the protest will not, however, change the date on which bids are due, unless otherwise noticed.

Upon receipt of a timely protest regarding the evaluation or award, MUTD will suspend contract approval or other pending action until resolution of the protest, unless the General Manager determines in writing that:

- The items to be procured are urgently required; or
- Delivery or performance will be unduly delayed by failure to make the award promptly; or
- Failure to make prompt award will otherwise cause undue harm to MUTD or the State or the Federal Government.

**Protest Decision** – The decision of the General Manager shall be issued in writing within fourteen (14) days of receipt of the protest and shall be the final binding agency action. If the protest is upheld, MUTD will take appropriate action to correct the procurement process, such as a re-solicitation, revised evaluation, or termination of contract. If the protest is denied, MUTD will proceed with its procurement process.

The Federal Transit Administration will only entertain a protest that alleges the District failed to follow their protest procedures and such a protest must be filed in accordance with FTA Circular 4220.1F.

## 1.11 Public Disclosure of Information

All the information contained in the submittal is subject to the State of Montana public disclosure laws. If an Offeror feels that any information is confidential or proprietary in nature, the Offeror must submit all such information in a separate sealed envelope prominently marked with the Offeror's name and "Exempt from Public Disclosure". MUTD shall not release or divulge such information to third parties without the consent of the Offeror unless required to do so by applicable law or order of a court of competent jurisdiction.

MUTD assumes no responsibility or liability for any losses or damages which may result from the information contained in the submittal. Furthermore, it will be the responsibility of the Offeror to protect the confidentiality of any information submitted in the submittal, and the Offeror will assume all liability and responsibility for any information declared confidential and shall defend and hold MUTD harmless for any cost, penalties, and/or fees (including attorney fees) incurred in any action regarding the disclosure of said information.

## 1.12 Federal Clauses and Requirements

MUTD receives funding from the Federal Transit Administration to assist with transit operations and capital expenses. As such, third party contracts involving the use of federal funds are subject to applicable federal requirements. A full listing of these requirements can be found at:

<https://mountainline.com/business-policies/>

# SECTION 2: SCOPE OF WORK

## 2.1 Overview

**2.1.1 General** – Missoula Urban Transportation District (MUTD) is soliciting proposals from qualified vendors to provide an organizational leadership and capacity assessment.

The Missoula Urban Transportation District (MUTD, Mountain Line) has undergone substantial organizational growth and leadership changes in the last few years, and it is facing significant challenges related to a critical facilities project and its financing, as well as future service expansion and revenue.

**2.1.2. Background** – MUTD is Missoula's community transit service and is governed by a seven-member board of directors. MUTD is the direct recipient of FTA funding for Missoula Montana. MUTD's service area population does not exceed 100,000 people. The agency

provides hourly fixed-route service, seven days per week, on twelve routes as well as paratransit ADA services. MUTD's fleet consists of thirty (30) vehicles and is over 90% electric.

**2.1.3 Terms and Conditions** – The following terms and conditions will apply to each proposal.

1. Compliance with all applicable laws and regulations.
2. Confidentiality of district data.
3. Ownership of deliverables by the district.

## 2.2 Specifications of Services Needed

### 2.2.1 Purpose

On behalf of the MUTD Board, evaluate Mountain Line's leadership and its organizational effectiveness and capacity, identify gaps and risks, and provide actionable recommendations to strengthen performance, resilience, and future readiness.

### 2.2.2 Objectives

The MUTD Board's objectives are the following. Section 2.2.5 should produce the following:

1. Develop a roadmap for leadership development and capacity building
2. Inform Board oversight practices and procedures

We expect the following to be required to develop these:

3. Assess leadership, team, effectiveness, and organizational structure.
4. Evaluate organizational capacity to meet current and future workloads, challenges, and opportunities.
5. Identify gaps and opportunities for improvement in organizational structure, roles and responsibilities, and communication.

### 2.2.3 Timeline

1. The scope of work should be completed in a timely manner and "Timeline and Capacity to Deliver" will be part of the scoring criteria.
2. Work should start as soon as possible after an executed contract.
3. While the selected firm should propose a timeline, work should be completed within four months of a notice to proceed.

## 2.2.4 Experience and Qualifications

1. Firms with experience with transit, governmental, or quasi-governmental agencies are preferred.
2. Please include in your proposal samples of work and representative examples of deliverables. Samples can be anonymized if needed.

## 2.2.5 Tasks and Activities

### **Phase 1: Project Initiation and Planning**

1. Conduct kickoff meeting with district leadership.
2. Work directly with the MUTD Board Executive Committee in defining assessment parameters, roles and responsibilities, success criteria, and communication protocols.
3. Develop detailed project plan and timeline.

### **Phase 2: Data Collection and Review**

1. Gather and review organizational documents (strategic plans, budgets, policies, performance reports, surveys, etc.).
2. Conduct interviews with board members, executive leadership, and key staff.
3. Obtain feedback from staff and stakeholders on leadership and organizational effectiveness.
4. Define ideal state for leadership and operational excellence.

### **Phase 3: Analysis**

1. Perform **Leadership Assessment**:
  - a. Management team structure, decision-making processes, leadership alignment and accountability, board oversight process.
2. Conduct **Capacity Analysis**:
  - a. Staff skills, staffing adequacy and workloads, succession planning.
3. Conduct **Gap Analysis**:
  - a. Identify mismatches between current and ideal states, as well as barriers and opportunities.
4. **Benchmark** against peer transportation districts on KPIs recommended for ongoing tracking.
  - a. **Organizational structure**
  - b. **Management**

### **Phase 4: Reporting and Recommendations**

1. Prepare **Comprehensive Assessment Report**:
  - a. Findings, gaps, SWOT, and prioritized recommendations.
2. Develop **Leadership Development Plan**:
  - a. Structural changes, training programs, succession planning strategies, CEO assessment toolkit with annual timelines that routinize best practices
3. Create **Capacity Building Roadmap**:

- a. Resource allocation, management systems and tools, technology upgrades, operational improvements.
- 4. Create **Communications Plan**
  - a. Internal messaging to facilitate buy-in and implementation
- 5. **Presentation of Findings** to board and leadership team.

## 2.2.6 Deliverables

- 1. **Project Plan & Timeline**
- 2. **Comprehensive Assessment Report**
- 3. **Leadership Development Plan with goals for the next 12 months**
- 4. **Capacity Building Roadmap with proposed org chart, management systems and tools.**
- 5. **Communications Plan for internal messaging**
- 6. **Presentation of Findings**

## 2.2.7 Additional Information

### Board Role, Governance & Oversight

- 1. The MUTD Board is a 7-member volunteer board, appointed to 2-year terms by Missoula County and City leadership.
- 2. Board role during the assessment: **Oversight only**.
- 3. Board currently conducts a CEO evaluation process and is seeking recommendations to improve oversight and evaluation of the CEO.
- 4. Governance documents to be evaluated: **MUTD Bylaws**.
- 5. Consultant is expected to identify **governance-level risks or challenges**.
- 6. Are there specific leadership transitions, organizational challenges, or risk areas that prompted the assessment: **Yes**
- 7. Board involvement beyond interviews: oversight only; a workshop may be useful to deliver recommendations for board governance and performance management.

### Leadership, Workforce & Organizational Scope

- 1. Assessment should prioritize **structure, systems, roles, and processes** over individual leadership performance.

2. While labor relations, union dynamics, and workforce morale may be tangentially related to this scope, management is the main focus.
3. Facilities project governance and financing should be explicitly analyzed as part of organizational capacity.
4. No topics are excluded from interviews or reporting.
5. Formalized staff performance review process begins in January 2026.
6. Recent relevant training for Admin and Operations teams includes a Real Colors program completed in spring 2025.

### **Participation, Interviews & Stakeholders**

1. Expected interviews: no more than **15–20** to cover board members, executives, managers, and staff (may vary based on initial assessment).
2. External stakeholders are not expected to be included.
3. Organizational chart and number of managers/leaders will be provided by staff.

### **Confidentiality, Transparency & Legal Considerations**

1. Staff interviews will be anonymous; results should be anonymized as much as possible.
2. Public-facing reports must follow Montana state law regarding public meetings and individuals' right to privacy.

### **Data Availability & Assessment Tools**

1. Organizational documents available: strategic plans, budgets, org charts, job descriptions, performance reports.
2. Some KPIs are tracked (e.g., staff turnover, workload in some units), but there is no formalized set of KPIs for organizational health.
3. Existing internal surveys do not generally cover the topics to be addressed.

### **Benchmarking & Performance Measurement**

1. Identified peer agencies: Flagstaff, AZ; Bend, OR; Bellingham, WA; Billings, MT; St. Cloud, MN; Fargo, ND; Burlington, VT. Consultant may propose peers.
2. Benchmarking should address governance practices, executive structure, staffing ratios, and leadership development programs.
3. KPIs should support SMART goals for GM/CEO performance evaluation (e.g., ridership, operating cost/efficiency, safety).

4. Quantitative benchmarking is preferred; qualitative/directional benchmarking is not excluded.

## **Deliverables & Level of Detail**

1. No expected page range for the Comprehensive Assessment Report or executive summary.
2. Recommendations should translate strategy into tactics.
3. Organizational chart expectations:
  - o High-level conceptual frameworks are adequate to demonstrate multiple options.
  - o If specific changes are proposed, FTE counts, transition plan, and timeline would be useful.
4. Leadership Development Plan execution approach: hybrid (internal and external resources can be recommended).
5. Communications Plan should include sample messaging and talking points.
6. Phased delivery with interim findings is acceptable.
7. This scope does not include an implementation phase.

## **Timeline, Scheduling & Availability Constraints**

1. Target completion timeframe following Notice to Proceed: **4 months**.
2. Budgets must be approved by June each calendar year.
3. CEO contract renewal decision is due 90 days before the end of the calendar year.

## **Proposal Content & Selection Process**

1. Selection committee will review proposals and conduct interviews.
2. For examples of past work, representative, anonymized work products highlighting approach, problems, and outcomes are preferred. Narrative summaries are acceptable.

Timeline responses should include estimates of per-person staff time required by phase.

# SECTION 3: SUBMITTAL REQUIREMENTS

## 3.1 Submittal Requirements

**3.1.1 Proposal Contents** – To be considered responsive, each proposal shall contain the following:

1. Letter of Transmittal (Section 3.1.2)
2. Technical Proposal (Section 3.1.3)
3. Required Forms and Certifications Exhibit A

**3.1.2 Letter of Transmittal** – A brief introductory letter to introduce the proposal shall be addressed to the procurement officer identified in Section 1.2 of this RFP, and must, at a minimum, contain the following:

1. Identification of the Vendor, including name and mailing address.
2. Acknowledgement of receipt of all RFP addenda, if any.
3. Name, title, address, and telephone number of contact person during period of proposal evaluation.
4. A statement to the effect that the proposal shall remain valid for a period of not less than 90 days from the date of submittal.
5. Signature of a person authorized to commit the Vendor to the terms of the proposal.

**3.1.3 Technical Proposal** – The technical proposal shall fully address the following areas:

1. **Company Profile:** Background, qualifications, and relevant experience.
2. **Project Approach:** Methodology and work plan.
3. **Team Qualifications:** Key personnel and resumes.
4. **Timeline:** Proposed schedule.
5. **Work Product:** Anonymous samples of work and representative examples of deliverables.
6. **Cost Proposal:** Detailed pricing, including labor rates and expenses.
7. **References:** At least three similar projects. Examples of previous work.

### 3.1.4 Required forms and certifications

Each of the forms in Exhibit A

## 3.2 Pricing

Offerors shall provide a breakdown of fees proposed on an annual. Proposed fees shall be included in the offeror's response. All task amounts must include associated meetings, progress reports and direct costs (travel, mileage, per diem, communications, etc.). All costs for travel to and from project sites, food, telephone, postage, data transfer, photographs, and printing for MUTD use (up to 6 copies of all documents) shall be included as part of basic services fee and will not be reimbursed by the MUTD.

The fee proposal shall also include specific written exceptions to the RFP at the time of submission. MUTD will not entertain any exception after submission nor additional exceptions that may have been omitted. Failure to submit such exceptions at the time of the proposal will constitute full acceptance of the information as written.

In the offer's fee proposal, please provide the following:

1. **Lump Sum Price per Contract year** – Total dollar amount for the scope of work in this solicitation.
2. **Conditions Attached to Fee Proposal** – Describe any conditions, assumptions, or contingencies that apply to the fee proposal. This includes – but is not limited to – assumptions related to project duration, number of financings, number of meetings or work sessions, market conditions, or scope of services.
3. **Hourly Rate** – If applicable, please provide an hourly rate for each team member that will work on this project.

## SECTION 4: EVALUATION PROCESS AND AWARD

### 4.1 Evaluation Committee

Evaluations will be performed by a committee composed of MUTD staff. The evaluation committee will evaluate and select the proposal(s) that best address the requirements of the project, in accordance with the criteria stated herein. MUTD reserves the right to reject any or all submittals.

## 4.2 Evaluation Criteria

Each proposal will be evaluated based on the following factors:

| Factor                                    | Relative Weight |
|---|-----------------|
| <b>Experience &amp; Qualifications</b>    | 30%             |
| <b>Approach &amp; Methodology</b>         | 30%             |
| <b>Cost Proposal</b>                      | 15%             |
| <b>Timeline &amp; Capacity to Deliver</b> | 15%             |
| <b>References &amp; Past Performance</b>  | 10%             |

## 4.3 Selection Process

The responses to this solicitation will be evaluated based on their ability to meet MUTD's needs. The responses will be evaluated according to the criteria above by the selection committee, and the selection committee will make a recommendation to the MUTD Board of Directors to authorize the General Manager to execute a contract with the selected firm(s).

If an agreement cannot be reached with a selected firm, MUTD will terminate negotiations with that firm and open negotiations with the next ranked firm. The compensation discussed with one firm will not be disclosed or discussed with another firm.

# SECTION 5: Federal Clauses and Certifications



**MISSOULA URBAN TRANSPORTATION DISTRICT**

**ADDENDUM ACKNOWLEDGEMENT**

Proposer/Bidder acknowledges receipt of the following addenda which are attached to the proposal/bid:

Addendum No. \_\_\_\_\_ Date \_\_\_\_\_

Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive and omitted from consideration.

MISSOULA URBAN TRANSPORTATION DISTRICT

# Debarment and Suspension Certification

## *All Contracts over \$25,000*

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

(2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:

- a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently: (1) Debarred, (2) Suspended, (3) Proposed for debarment, (4) Declared ineligible, (5) Voluntarily excluded, or (6) Disqualified,
- b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for: (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction, (2) Violation of any Federal or State antitrust statute, or (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
- c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
- d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
- e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
- f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it: (1) Equals or exceeds \$25,000, (2) Is for audit services, or (3) Requires the consent of a Federal official, and
- g. It will require that each covered lower tier contractor and subcontractor: (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be: (a) Debarred from participation in its federally funded Project, (b) Suspended from participation in its federally funded Project, (c) Proposed for debarment from participation in its federally funded Project, (d) Declared ineligible to participate in its federally funded Project, (e) Voluntarily excluded from participation in its federally funded Project, or (f) Disqualified from participation in its federally funded Project, and

(3) It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

### Certification

**Company** \_\_\_\_\_

**Signature of Authorized Official:** \_\_\_\_\_ **Date:** / /

**Name and Title of Authorized Official** \_\_\_\_\_

MISSOULA URBAN TRANSPORTATION DISTRICT

## Federal Tax Liability and Recent Felony Convictions

I, \_\_\_\_\_, hereby certify  
(Name and title of official)

on behalf of \_\_\_\_\_ that:  
(Name of Bidder/Company Name)

1. The Bidder/Company

- a. Does not have any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and
- b. Was not convicted of the felony criminal violation under any federal law within the preceding 24 months.

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

Type or Print Name\_\_\_\_\_

Signature of authorized representative\_\_\_\_\_ Date\_\_\_\_\_

MISSOULA URBAN TRANSPORTATION DISTRICT

## Certification and Restrictions on Lobbying

*All Contracts over \$100,000*

I, \_\_\_\_\_, hereby certify  
(Name and title of official)

on behalf of \_\_\_\_\_ that:  
(Name of Bidder/Company Name)

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

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

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

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

Type or Print Name\_\_\_\_\_

Signature of authorized representative\_\_\_\_\_ Date\_\_\_\_\_

## **Federal Contract Clauses**

### **No Government Obligations to Third Parties**

*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 and related acts**

*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.

### **Access to Records and Reports**

*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 \$100,000.
- 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**

*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.

## **Civil Rights (Title VI, EEO, ADA)**

*All Contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)*

The following requirements apply to the underlying contract:

- a) The Recipient agrees that it must comply with applicable federal civil rights laws, regulations, requirements, and guidance, and follow applicable federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or a federal program, including the Tribal Transit Program or the Indian Tribe Recipient, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service.
- b) Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that it and each Third Party Participant, will: (1) Prohibit discrimination based on the basis of race, color, religion, national origin, sex, disability, or age. (2) Prohibit the: (a) Exclusion from participation in employment or a business opportunity for reasons identified in 49 U.S.C. § 5332, (b) Denial of program benefits in employment or a business opportunity identified in 49 U.S.C. § 5332, or (c) Discrimination, including discrimination in employment or a business opportunity identified in 49 U.S.C. § 5332. (3) Follow: (a) 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, requirements, and guidance, and other applicable federal guidance that may be issued, but (b) FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its Underlying Agreement supported with federal assistance under the Tribal Transit Program.
- c) 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 race, color, or 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, and (3) Follow: (a) 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, requirements, 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) All other applicable federal guidance that may be issued.
- d) 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, sexual orientation, gender identity, 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" September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it in part and is applicable to federal assistance programs, (c) Comply with federal transit law, specifically 49 U.S.C. § 5332, as provided in section 12.a of this Master Agreement, (d) FTA Circular 4704.1, "Equal Employment Opportunity Program Guidelines for Grant Recipients," July 26, 1988, and (e) Follow other federal guidance pertaining to Equal Employment Opportunity laws, regulations, and requirements, and prohibitions against discrimination on the basis of disability, (2) Specifics. The Recipient agrees to, and assures that each Third Party Participant will: (a) Prohibited Discrimination. As provided by Executive Order No. 11246, as amended by any later Executive Order that amends or supersedes it, and as specified by U.S. Department of Labor regulations, ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their race, color, religion, national origin, disability, age, sexual orientation, gender identity, or status as a parent, (b) Affirmative Action. Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, recruitment, and employment, 2 Rates of pay and other forms of compensation, 3 Selection for training, including apprenticeship, and upgrading, and 4 Transfers, demotions, layoffs, and terminations, but (c) Indian Tribe. Recognize that Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer," and (3) Equal Employment Opportunity Requirements for Construction Activities. Comply, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), 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 in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note.

e) Disadvantaged Business Enterprise. To the extent authorized by applicable federal laws and regulations, 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 Underlying Agreement as follows: (1) Statutory and Regulatory Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of the FAST Act, 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 provided in section 12.a of this Master Agreement. (2) DBE Program Requirements. A Recipient that receives planning, capital and/or operating assistance and that will award prime third party contracts exceeding \$250,000 in a federal fiscal year must have a DBE program meeting the requirements of 49 C.F.R. part 26, that is approved by FTA, and establish an annual DBE participation goal. (3) Special Requirements for a Transit Vehicle Manufacturer (TVM). The Recipient agrees that: (a) TVM Certification. Each TVM, 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, and (b) Reporting TVM Awards. Within 30 days of any third party contract award for a vehicle purchase, the Recipient must submit to FTA the name of the TVM contractor and the total dollar value of the third party contract, and notify FTA that this information has been attached to FTA's electronic award and management system, the Recipient must also submit subsequent notifications if options are exercised in

subsequent years to ensure the TVM is still in good standing. (4) Assurance. As required by 49 C.F.R. § 26.13(a): (a) Recipient Assurance. The Recipient agrees and assures that: 1 It must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted contract, or in the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 It must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts, 3 Its DBE program, as required under 49 C.F.R. part 26 and as approved by U.S. DOT, is incorporated by reference and made part of the Underlying Agreement, and 4 Implementation of its DBE program approved by U.S. DOT is a legal obligation and failure to carry out its terms shall be treated as a violation of this Master Agreement. (b) Subrecipient/Third Party Contractor/Third Party Subcontractor Assurance. The Recipient agrees and assures that it will include the following assurance in each subagreement and third party contract it signs with a Subrecipient or Third Party Contractor and agrees to obtain the agreement of each of its Subrecipients, Third Party Contractors, and Third Party Subcontractors to include the following assurance in every subagreement and third party contract it signs: 1 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FTA or U.S. DOT-assisted subagreement, third party contract, and third party subcontract, as applicable, and the administration of its DBE program or the requirements of 49 C.F.R. part 26, 2 The Subrecipient, each Third Party Contractor, and each Third Party Subcontractor must take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of U.S. DOT-assisted subagreements, third party contracts, and third party subcontracts, as applicable, 3 Failure by the Subrecipient and any of its Third Party Contractors or Third Party Subcontractors to carry out the requirements of this subparagraph 13.d(4)(b) is a material breach of this subagreement, third party contract, or third party subcontract, as applicable, and 4 The following remedies, or such other remedy as the Recipient deems appropriate, include, but are not limited to, withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the Subrecipient, Third Party Contractor, or Third Party Subcontractor from future bidding as non-responsible. (5) Remedies. Upon notification to the Recipient of its failure to carry out its approved program, FTA or U.S. DOT may impose sanctions as provided for under 49 C.F.R. part 26, and, in appropriate cases, refer the matter for enforcement under either or both 18 U.S.C. § 1001, and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq.

f) 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.

g) 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, 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, (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, Projects, and related activities receiving federal assistance, (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, and (5)

Federal transit law, specifically 49 U.S.C. § 5332.

h) Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following federal prohibitions against discrimination on the basis of disability: (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 assisted Programs, Projects, 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 For FTA Recipients generally, Titles I, II, and III of the ADA apply, but 2 For Indian Tribes, Titles II and III of the ADA apply, but Title I of the ADA does not apply because it 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 federal laws, regulations and requirements pertaining to access for seniors 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) 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, (d) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (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 (k) Other applicable federal civil rights and nondiscrimination guidance.

i) 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.

j) Access to Services for Persons with Limited English Proficiency. The Recipient agrees to promote accessibility of public transportation services to persons with limited understanding of English 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.

k) Other Nondiscrimination Laws, Regulations, Requirements, and Guidance. The Recipient agrees to

comply with other applicable federal nondiscrimination laws, regulations, and requirements, and follow federal guidance prohibiting discrimination. I. Remedies. Remedies for failure to comply with applicable federal Civil Rights laws, regulations, requirements, and guidance may be enforced as provided in those federal laws, regulations, or requirements.

### **Incorporation of FTA Terms**

*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 current FTA Circular 4220.1, 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.

### **Energy Conservation**

*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.

### **Disadvantaged Business Enterprises (DBEs)**

*Contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs*

This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs and with section 1101(b) of SAFETEA LU, 23 U.S.C. § 101.

The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this FTA-assisted 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 MUTD deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph. The successful proposer/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

### **Prompt Payment**

*All contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000)*

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 MUTD. In addition, the contractor may not hold retainage from its subcontractors. The contractor must promptly notify MUTD 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 MUTD.

### **Contracts Involving Federal Privacy Act Requirements**

*When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$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.

### **Patent and Rights in Data**

*Research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual or to micro-purchases (less than \$10,000)*

- a) General. The Recipient agrees that: (1) Depending on the nature of the Project, the Federal Government may acquire patent rights when the Recipient or Third Party Participant produces a patented or patentable: (a) Invention, (b) Improvement, or (c) Discovery, (2) The Federal Government's rights arise when the patent or patentable information is: (a) Conceived under the Project, or (b) Reduced to practice under the Project, and (3) When a patent is issued or patented information becomes available as described in Patent Rights section A(2), the Recipient agrees to: (a) Notify FTA immediately, and (b) Provide a detailed report satisfactory to FTA,
- b) Federal Rights. The Recipient agrees that: (1) Its rights and responsibilities, and the rights and responsibilities of each Third Party Participant, in that federally funded invention, improvement, or discovery will be determined as provided by applicable Federal laws, regulations, and guidance, including any waiver thereof, and (2) Unless the Federal Government determines otherwise in writing, irrespective of the Recipient's status or the status of any Third Party Participant as a large business, a small business, a

State government, a State instrumentality, a local government, an Indian tribe, a nonprofit organization, an institution of higher education, or an individual, the Recipient agrees to transmit the Federal Government's patent rights to FTA as specified in: (a) 35 U.S.C. § 200 et seq., and (b) U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. part 401, and

c) C. License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for patents, patent applications, and inventions derived from the Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing.

#### Rights in Data and Copyrights

a) Definition of "Subject Data" means recorded information: (1) Copyright. Whether or not copyrighted, and (2) Delivery. That is delivered or specified to be delivered under the Underlying Agreement,

b) Examples of "Subject Data." Examples of "subject data": (1) Include, but are not limited to: (a) Computer software, (b) Standards, (c) Specifications, (d) Engineering drawings and associated lists, (e) Process sheets, (f) Manuals, (g) Technical reports, (h) Catalog item identifications, and (i) Related information, but (2) Do not include: (a) Financial reports, (b) Cost analyses, or (c) Other similar information used for Project administration,

c) General Federal Restrictions. The following restrictions apply to all subject data first produced in the performance of the Recipient's Project supported by the Underlying Agreement: (1) Prohibitions. The Recipient may not: (a) Publish or reproduce any subject data in whole or in part, or in any manner or form, or (b) Permit others to do so, but (2) Exceptions. The prohibitions of Rights in Data and Copyrights C(1) do not apply to: (a) Publications or reproductions for the Recipient's own internal use, (b) An institution of higher learning, (c) The portion of subject data that the Federal Government has previously released or approved for release to the public, or (d) The portion of data that has the Federal Government's prior written consent for release,

d) Federal Rights in Data and Copyrights. The Recipient agrees that: (1) License Rights. The Recipient must provide a license to its "subject data" to the Federal Government, which license is: (a) Royalty-free, (b) Nonexclusive, and (c) Irrevocable, (2) Uses. The Federal Government's license must permit the Federal Government to take the following actions provided those actions are taken for Federal Government purposes: (a) Reproduce the subject data, (b) Publish the subject data, (c) Otherwise use the subject data, and (d) Permit other entities or individuals to use the subject data, and

e) Special Federal Rights in Data for Research, Development, Demonstration, Deployment, and Special Studies Projects. In general, FTA's purpose in providing Federal funds for a research, development, demonstration, deployment, or special studies Project is to increase transportation knowledge, rather than limit the benefits of the Project to the Recipient and its Third Party Participants, therefore, the Recipient agrees that: (1) Publicly Available Report. When the Project is completed, it must provide a Project report that FTA may publish or make available for publication on the Internet, (2) Other Reports. It

must provide other reports pertaining to the Project that FTA may request, (3) Availability of Subject Data. FTA may make available to any FTA Recipient or any of its Third Party Participants at any tier of the Project, either FTA's copyright license to the subject data or a copy of the subject data, except as the Federal Government determines otherwise in writing, (4) Identification of Information. It must identify clearly any specific confidential, privileged, or proprietary information submitted to FTA, (5) Incomplete Project. If the Project is not completed for any reason whatsoever, all data developed under the Project becomes "subject data" and must be delivered as the Federal Government may direct, but (6) Exception Rights in Data and Copyrights Section E does not apply to an adaptation of automatic data processing equipment or program that is both: (a) For the Recipient's use, and (b) Acquired with FTA capital program funding,

f) License Fees and Royalties. As permitted by 49 C.F.R. parts 18 and 19: (1) License fees and royalties for copyrighted material or trademarks derived from Project are program income, and (2) The Recipient has no obligation to the Federal Government with respect to those license fees or royalties, except: (a) For compliance with 35 U.S.C. § 200 et seq., which applies to patent rights developed under a federally funded research-type project, and (b) As FTA determines otherwise in writing,

g) Hold Harmless. Upon request by the Federal Government, the Recipient agrees that: (1) Violation by Recipient. (a) If it willfully or intentionally violates any: 1 Proprietary rights, 2 Copyrights, or 3 Right of privacy, and (b) Its violation occurs from any of the following uses of Project data: 1 Publication, 2 Translation, 3 Reproduction, 4 Delivery, 5 Use, or 6 Disposition, then (c) It will indemnify, save, and hold harmless against any liability, including costs and expenses of: 1 The Federal Government's officers acting within the scope of their official duties, 2 The Federal Government's employees acting within the scope of their official duties, and 3 Federal Government's agents acting within the scope of their official duties, but (2) Exceptions. The Recipient will not be required to indemnify the Federal Government for any liability described in Rights in Data and Copyrights section G(1) if: (a) Violation by Federal Officers, Employees or Agents. The violation is caused by the wrongful acts of Federal employees or agents, or (b) State law. If indemnification is prohibited or limited by applicable State law,

h) Restrictions on Access to Patent Rights. Nothing in this Rights in Data and Copyrights section pertaining to rights in data either: (1) Implies a license to the Federal Government under any patent, or (2) May be construed to affect the scope of any license or other right otherwise granted to the Federal Government under any patent,

i) Data Developed Without Federal Funding or Support. The Recipient understands and agrees that in certain circumstances it may need to provide data developed without any Federal funding or support to FTA. Nevertheless: (1) Protections. Rights in Data and Copyrights Sections A, B, C, and D generally do not apply to data developed without Federal funding, even though that data may have been used in connection with the Project, and (2) Identification of Information. The Recipient understands and agrees that the Federal Government will not be able to protect data developed without Federal funding from unauthorized disclosure unless that data is clearly marked "Proprietary" or "Confidential," and

j) Requirements to Release Data. The Recipient understands and agrees that the Federal Government may be required to release Project data and information the Recipient submits to the Federal Government as required by: (1) The Freedom of Information Act, 5 U.S.C. § 552, (2) Another applicable Federal law

requiring access to Project records, (3) U.S. DOT regulations, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations," specifically 49 C.F.R. § 19.36(d), or (4) Other applicable Federal regulations and guidance pertaining to access to Project records.

**Bus Testing**

*Rolling stock, except minivans*

NOT APPLICABLE

**Pre-Award and Post-Delivery Audit Requirements**

*Rolling stock*

NOT APPLICABLE

**Cargo Preference**

*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).*

NOT APPLICABLE

**Fly America**

*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.

**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 over \$2,000).*

NOT APPLICABLE

**Davis-Bacon and Copeland Anti-Kickback Act**

*Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000*

NOT APPLICABLE

**Bonding**

*For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:*

NOT APPLICABLE

**Termination Provisions**

*All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$250,000*

a) Termination for Convenience (General Provision). The recipient may terminate this contract, in whole or in part, by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit a claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for 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 required by the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate the contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the nature of the default. Contractor shall only be paid the contract price for supplies delivered and accepted, including those 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 natural disaster, flood, events which are not the fault of contractor or are beyond the control of contractor, the recipient, after setting forth the nature of the default 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 terminal default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the termination shall state the time period in which cure is permitted and other appropriate conditions if contractor fails to cure the defect. If contractor fails to cure the defect or if the recipient is not satisfied with the breach or default or any of the terms, covenants, or conditions of the contract, the recipient may terminate the contract for default. Within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of the default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. The 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 of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit it from waiving any subsequent 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 will be entitled to payment under the payment provisions of this contract for services rendered before the effective date of termination.

### **Recycled Products**

*All contracts over \$10,000 for items designated by the EPA*

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.

### **Gov't-wide Debarment and Suspension**

*All Contracts over \$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," <https://www.sam.gov>, 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 <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

### **Buy America**

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

NOT APPLICABLE

**Breaches and Dispute  
Resolution**  
*All contracts over \$250,000*

NOT APPLICABLE

**Lobbying**  
*All contracts over \$100,000*

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 \$100,000 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.

**Clean Air**  
*All contracts over \$250,000*

NOT APPLICABLE

**Clean Water**  
*All Contracts and Subcontracts over \$100,000*

NOT APPLICABLE

**Contract Work Hours and Safety Standards Act**  
*Contracts over \$100,000*

NOT APPLICABLE

**Other Federal  
Requirements**

*The following requirements are not federal clauses, but apply to all contracts except micro-purchases (\$3,500 or less)*

**Full and Open Competition**

In accordance with 49 U.S.C. § 5325(a) all procurement transactions shall be conducted in a manner that provides full and open competition.

#### **Prohibition Against Exclusionary or Discriminatory Specifications**

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

#### **Conformance with ITS National Architecture**

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

#### **Access Requirements for Persons with Disabilities**

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

#### **Notification of Federal Participation**

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

#### **Interest of Members or Delegates to Congress**

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

#### **Ineligible Contractors and Subcontractors**

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

## **Compliance with Federal Regulations**

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

## **Real Property**

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

## **Access to Services for Persons with Limited English Proficiency**

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

## **Environmental Justice**

Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following: (1) Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low- Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance.

## **Environmental Protections**

Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource

Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

### **Geographic Information and Related Spatial Data**

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

### **Geographic Restrictions**

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

### **Organizational Conflicts of Interest**

The Recipient agrees that it will not enter into a procurement that involves a real or apparent organizational conflict of interest described as follows: (1) When It Occurs. An organizational conflict of interest occurs when the Project work, without appropriate restrictions on certain future activities, results in an unfair competitive advantage: (a) To that Third Party Participant or another Third Party Participant performing the Project work, and (b) That impairs that Third Party Participant's objectivity in performing the Project work, or (2) Other. An organizational conflict of interest may involve other situations resulting in fundamentally unfair competitive conditions, (3) Disclosure Requirements. Consistent with FTA policies, the Recipient must disclose to FTA, and each of its Subrecipients must disclose to the Recipient: (a) Any instances of organizational conflict of interest, or (b) Violations of federal criminal law, involving fraud, bribery, or gratuity violations potentially affecting the federal award, and (4) Failure to Disclose. Failure to make required disclosures can result in remedies for noncompliance, including debarment or suspension.

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

Non Federal entities that expend \$750,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, "Audits of States, Local Governments, and Non Profit Organizations" (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable). Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than the amount above in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in Sec. 215 (a) of OMB Circular A-133 Subpart B--Audits, records must be available for review or audit by appropriate officials of the cognizant Federal agency the New York State Department of Transportation, the New York State Comptrollers Office and the U.S. Governmental Accountability Office (GAO). Non Federal entities are required to submit a copy of all audits, as described above, within 30 days of issuance of audit report, but

no later than 9 months after the end of the entity's fiscal year, to the New York State Department of Transportation, Contract Audit Bureau, 50 Wolf Road, Albany, NY 12232. Unless a time extension has been granted by the cognizant Federal Agency and has been filed with the New York State Department of Transportation's Contract Audit Bureau, failure to comply with the requirements of OMB Circular A-133 may result in suspension or termination of Federal award payments.

### **Veterans Preference**

**Veterans Preference.** As provided by 49 U.S.C. § 5325(k), to the extent practicable, the Recipient agrees and assures that each of its Subrecipients: (1) Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party contract in connection with a Capital Project supported with federal assistance appropriated or made available for 49 U.S.C. chapter 53, and (2) Will not require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

### **Safe Operation of Motor Vehicles**

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

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

### **Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

### **CFDA number for the Federal Transportation Administration**

Nonurbanized Area Formula (Section 5311) is 20.509. A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," (replaced with 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards" effective December 26, 2014 as applicable) agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number,

and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC.

### **Other Contract Requirements**

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

#### **Prohibition on certain telecommunications and video surveillance services or equipment.**

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

- 1) Procure or obtain;
- 2) Extend or renew a contract to procure or obtain; or
- 3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

- (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

- (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.

- (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

- b) In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered



communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

c) See Public Law 115-232, section 889 for additional information.

d) See also § 200.471.

#### **Federal Tax Liability and Recent Felony Convictions**

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

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

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

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

# PROFESSIONAL SERVICES AGREEMENT

## Project: Management Consultant

**THIS AGREEMENT** is made and entered into this 23rd day of January 2025, by and between the **MISSOULA URBAN TRANSPORTATION DISTRICT** whose address is 1221 Shakespeare Street, Missoula, Montana 59802 (hereinafter referred to as "MUTD"), and CONTRACTOR NAME, whose address is CONTRACTOR ADDRESS, hereinafter referred to as "Contractor."

In consideration of the mutual covenants and agreements herein contained, the receipt and sufficiency whereof being hereby acknowledged, the parties hereto agree as follows:

1. **Purpose:** MUTD agrees to hire Contractor as an independent contractor to perform services described in the Scope of Services/Fee Proposal attached hereto as Exhibit A and by this reference made a part hereof.
2. **Effective Date:** This Agreement is effective upon the date of its execution and shall expire on 31st, of January 2026.
3. **Scope of Work/Task Deadlines:** Contractor will perform the work and provide the services in accordance with the requirements of the Scope of Services/Fee Proposal (Exhibit A).
4. **Payment:** MUTD agrees to pay Contractor an annual lump sum of \$PRICE (PRICE 00/100 dollars) for services performed pursuant to the Scope of Services.

In the event Contractor anticipates the cost of the described work exceeding \$PRICE, Contractor shall provide MUTD with a written estimate detailing the nature and scope of the additional work, the estimated number of hours required, and the applicable hourly rate(s) for the work. No additional work shall be performed, and no extra charges shall be incurred, unless and until MUTD has reviewed and agreed to the estimate in writing.

Any alteration or deviation from the described work that involves extra costs will be performed by Contractor after written request by MUTD, and will become an extra charge over and above the contract amount. The parties must agree in writing upon any extra charges.

5. **Obligations of MUTD:**
  - a. **Compensation:** The total fee for the services as described shall not exceed \$PRICE. Any additional work must be pre-approved in writing by MUTD.
  - b. **Payment:** Payment shall be made by MUTD within thirty (30) days of receipt of a correct invoice from the Contractor. MUTD will accept invoices for work completed or expenses incurred during mobilization for construction, not to exceed 50% of total contract cost prior to final acceptance. Incorrect invoices are subject to rejection or correction by MUTD.
  - c. **Subcontractor Billing:** The Contractor shall audit and review all invoicing and billing of subcontractor and assure MUTD that all proper personnel and rates are applied in strict conformance with the Contract.
6. **Independent Contractor Status:** The parties agree that Contractor is an independent contractor for purposes of this Agreement and the parties agree that Contractor is and shall be an independent contractor when performing services pursuant to this agreement.

Contractor is not subject to the terms and provisions of MUTD's personnel policies handbook and may not be considered an MUTD employee for workers' compensation or any other purpose. Contractor is not authorized to represent MUTD or otherwise bind MUTD in any dealings between Contractor and any third parties.

Contractor shall comply with the applicable requirements of the Workers' Compensation Act, Title 39, Chapter 71, MCA, and the Occupational Disease Act of Montana, Title 39, Chapter 71, MCA. Contractor shall maintain workers' compensation coverage for all members and employees of Contractor's business, except for those members who are exempted by law. Contractor shall furnish MUTD with copies showing one of the following: (1) a binder for workers' compensation coverage by an insurer licensed and authorized to provide workers' compensation insurance in the State of Montana; or (2) proof of exemption from workers' compensation granted by law for independent contractors.

- a. **Subcontractors:** Subcontractors, if any, who will perform work under this Contract shall be the firms designated in this Contract, if any. No other subcontractors shall perform the services required under this Contract without the express written permission of MUTD. The Contractor is expected to audit and review all invoicing and billing by subcontractors and will ensure that all personnel and billing rates are applied in strict conformance of the Contract.

7. **Ethics:**

- a. The Contractor warrants that it has not employed nor retained any company, firm or person, other than a bona fide employee working solely for it, to solicit or secure this Contract, and that it has not paid or agreed to pay any company, firm or person, other than a bona fide employee working solely for it, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, MUTD shall have the right to annul this Contract without liability.
- b. No member or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising there from.
- c. No member, officer, or employee of MUTD or of a local public body during his tenure shall have any interest, direct or indirect, in this Contract or its proceeds.
- d. Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, disability, age, marital status, political affiliation, national origin, and/or any protected classifications under state or federal laws.

8. **Indemnity and Insurance:** For other than professional services rendered, to the fullest extent permitted by law, Contractor agrees to defend, indemnify, and hold MUTD harmless against claims, demands, suits, damages, losses, and expenses connected therewith that may be asserted or claimed against, recovered from or suffered by MUTD by reason of any injury or loss, including but not limited to, personal injury, including bodily injury or death, property damage, occasioned by, growing out of, or in any way arising or resulting from any intentional or negligent act on the part of Contractor or Contractor's agents or employees.

For the professional services rendered, to the fullest extent permitted by law, Contractor agrees to indemnify and hold MUTD harmless against claims, demands, suits, damages, losses, and expenses, including reasonable defense attorney fees, to the extent caused by the negligence or willful misconduct of the Contractor or Contractor's agents or employees.

For this purpose, Contractor shall provide MUTD with proof of Contractor's liability insurance issued by a reliable company or companies for personal injury and property damage in amounts not less than as follows:

- a. Commercial General Liability – \$1,000,000 per occurrence; \$2,000,000 annual aggregate.
- b. Professional Liability – \$1,000,000 per claim; \$2,000,000 annual aggregate
- c. An Additional Insured endorsement shall be provided to MUTD naming MUTD as additional insured under the commercial general liability policy.

9. **Professional Service:** Contractor agrees that all services and work performed hereunder will be accomplished in a professional manner.

10. **Compliance with Laws:** Contractor agrees to comply with all federal, state and local laws, ordinances, rules and regulations. Contractor agrees to purchase a city business license.

11. **Default and Termination:** If either party fails to comply with any condition of this Agreement at the time or in the manner provided for, the other party, at its option, may terminate this Agreement and be released from all obligations if the default is not cured within ten (10) days after written notice is provided to the defaulting party. Said notice shall set forth the items to be cured. Additionally, the non-defaulting party may bring suit for damages, specific performance, and any other remedy provided by law. These remedies are cumulative and not exclusive. Use of one remedy does not preclude use of the others. Notices shall be provided in writing and hand-delivered or mailed to the parties at the addresses set forth in the first paragraph of this Agreement.

12. **Termination For Convenience:** Notwithstanding any other provision of this Agreement to the contrary, either party may terminate this Agreement by giving the other party at least ninety (90) days' prior written notice of its election to terminate. Such termination will be effective on the date stated in the notice.

13. **Modification and Assignability:** This document contains the entire agreement between the parties and no statements, promises or inducements made by either party or agents of either party, which are not contained in this written Agreement, may be considered valid or binding. This Agreement may not be enlarged, modified or altered except by written agreement signed by both parties hereto. The Contractor may not subcontract or assign Contractor's rights, including the right to compensation or duties arising hereunder, without the prior written consent of MUTD. Any subcontractor or assignee will be bound by all of the terms and conditions of this Agreement.

14. **Wage and Hours Law Compliance:**

- a. Contractor shall comply with all applicable provisions of the Davis Bacon and Related Acts, the Fair Labor Standards Act, the Montana Prevailing Wage Law and all other legislation affecting its employees and the rules and regulations issued thereunder insofar as applicable to its employees and shall at all times save MUTD free, clear and harmless from all actions, claims and expenses arising out of said Act and rules and regulations that are or may be promulgated in connection herewith.
- b. Contractor shall submit a weekly statement with respect to the wages paid each employee during the preceding week, accompanied by a signed statement indicating the payrolls are correct and complete and that each laborer or mechanic has not been paid less than the proper prevailing wage rate, which for the purposes of this Contract is the greater of the rates prescribed by the Davis Bacon act and the Montana Prevailing Wage Law. Department of Labor form WH-347 may be used for this purpose.

15. **Ownership and Publication of Materials:** All reports, information, data, and other materials prepared by the Contractor pursuant to this Agreement are the property of MUTD. MUTD has the exclusive and unrestricted authority to release, publish or otherwise use, in whole or part, information relating thereto. Any re-use without written verification or adaptation by the Contractor for the specific purpose intended will be at MUTD's sole risk and without liability or legal exposure to the Contractor. No material produced in whole or in part under this Agreement may be copyrighted or patented in the United States or in any other country without the prior written approval of MUTD.

All information concerning MUTD and said projects, which is not otherwise a matter of public record or required by law to be made public, is confidential, and the Contractor will not, in whole or in part, now or at any time disclose that information without the express written consent of MUTD.

16. **Confidential Materials and Public Disclosure:**

- a. This Contract and all records provided to MUTD by Contractor hereunder may be public records subject to disclosure under the Montana Open Records Law and/or other laws requiring disclosure or discovery of records. In the event MUTD receives a request for such disclosure, MUTD will provide Contractor with five (5) days' written notice prior to release of responsive records. The parties acknowledge that MUTD is not liable for any release of records pursuant to public disclosure or discovery laws.
- b. Contractor shall mark certain record(s) as "Confidential" or "Proprietary" as appropriate given the potential sensitive subject of Contractor's work under this Contract. If Contractor fails to so mark record(s), then upon request, may release said record(s) without the need to satisfy the requirements of subsection A above.

17. **Severability:** Any provision of this Agreement that is found to be prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be deemed to be modified to the extent necessary to render such provision valid and enforceable; if such provision may not be so saved, it shall be severed and the remainder of the Agreement shall remain in full force and effect. Modification or severance of a provision in any jurisdiction shall not serve to modify, invalidate or render unenforceable such provision in any other jurisdiction.

18. **Intellectual Property:** MUTD represents and warrants that it owns and/or has the right to use any Intellectual Property furnished or made accessible to Contractor by MUTD. Further, Contractor represents and warrants that it owns and/or has the rights to any domains or web pages to which Contractor transmits Work Product or otherwise has Work Product posted or to which it gives Contractor access to.

As used herein, "Intellectual Property" includes any material subject to patent, trademark, copyright or trade secret protection, including any text, graphic, photo, design or other work of authorship and any right arising or derived from the same including any entitlement to secure or enforce patent, trademark, copyright or trade secret protection.

19. **Content and Understanding:** This Contract contains the complete and integrated understanding and agreement between the parties and supersedes any previous understanding, agreement or negotiation whether oral or written.

20. **Indemnification:** MUTD agrees to indemnify, defend and hold Contractor harmless against any Claims brought against Contractor to the extent those Claims arise out of MUTD's breach of this Agreement.

MUTD further agrees to indemnify, defend and hold Contractor harmless against any Claims brought against Contractor by any third party alleging (a) a violation of intellectual

property rights related to material MUTD provided, made available to, or directed Contractor to use, or (b) MUTD gave, transferred or otherwise allowed to use the Work Product, or (c) a violation of the ADA.

The foregoing indemnification obligations are conditioned upon: (a) complete control of the defense and settlement thereof by MUTD, provided that MUTD shall not settle Claims without the consent of Contractor, such consent not to be unreasonably withheld or delayed; and (b) reasonable cooperation by Contractor in the defense as MUTD may request. Contractor shall have the right to participate in the defense of Claims with counsel of its choice at its own expense.

Likewise, Contractor agrees to indemnify, defend and hold MUTD harmless against any Claims brought against MUTD to the extent those claims arise out of Contractor's breach of this agreement, alleged intellectual property rights violations, unauthorized transmission of Work Product, or ADA violation. The same terms as listed in the paragraph above apply. For purposes of this section, "Claims" means losses, actions, liabilities, damages, expenses, as well as reasonable attorneys' fees and costs.

21. **Waiver of Officers and Directors Liability:** Neither party shall have recourse or right of action against any shareholder, officer, director or member, in his or her individual capacity as such, past, present or future, of the other party or of any successor thereto, whether by virtue of any statute or rule of law or otherwise, all such liability being, by the acceptance hereof and as part of the consideration of the execution hereof, expressly waived and released.
22. **Authorized Representative:** In performing the services defined herein, Contractor shall report to: NAME, TITLE at PHONE NUMBER. Contractors' representative is NAME, TITLE at PHONE NUMBER.
23. **Governing Law:** This Agreement and any disputes hereunder shall be governed by the laws of the State of Montana. It is further agreed that all disputes and matters whatsoever arising under, in connection with or incident to this Contract, shall be litigated, if at all, in and before the Fourth Judicial District Court, Missoula County in the state of Montana or federal court located in the District of Montana, and any appropriate appellate court thereof, to the exclusion of the courts of any other state, territory, county, or other jurisdiction.

This Agreement may be modified only by written agreement signed by both parties. Section headings are for convenience of reference only and shall not be considered in construing this Agreement.

This Agreement contains the entire agreement between the parties regarding the subject matter hereto and supersedes all prior and contemporaneous agreements, whether oral or written, between the parties regarding such subject matter.

**IN WITNESS WHEREOF**, the parties hereto have executed this instrument the day and year first above written.

**MISSOULA URBAN TRANSPORTATION DISTRICT**

Draft Agreement

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Jordan Hess, General Manager

Date: Draft Agreement

**CONTRACTOR NAME**

Draft Agreement

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NAME: Draft Agreement

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TITLE: Draft Agreement

Date: Draft Agreement

## Submission Checklist

**Letter of Transmittal** – A brief introductory letter to introduce the proposal shall be addressed to the procurement officer identified in Section 1.2 of this RFP, and must, at a minimum, contain the following:

1. Identification of the Vendor, including name and mailing address.
2. Acknowledgement of receipt of all RFP addenda, if any.
3. Name, title, address, and telephone number of contact person during period of proposal evaluation.
4. A statement to the effect that the proposal shall remain valid for a period of not less than 90 days from the date of submittal.
5. Signature of a person authorized to commit the Vendor to the terms of the proposal.

**Technical Proposal** – The technical proposal shall fully address the following areas:

1. **Company Profile:** Background, qualifications, and relevant experience.
2. **Project Approach:** Methodology and work plan.
3. **Team Qualifications:** Key personnel and resumes.
4. **Timeline:** Proposed schedule.
5. **Cost Proposal:** Detailed pricing, including labor rates and expenses.
6. **References:** At least three similar projects. Examples of previous work.

**Fee Proposal**

1. **Lump Sum Price per Contract year** – Total dollar amount for the scope of work in this solicitation.
2. **Conditions Attached to Fee Proposal** – Describe any conditions, assumptions, or contingencies that apply to the fee proposal. This includes – but is not limited to – assumptions related to project duration, number of financings, number of meetings or work sessions, market conditions, or scope of services.

**Required forms and certifications**

Each of the forms in Exhibit A

1. Addendum Acknowledgement
2. Debarment and Suspension Certification
3. Certification and Restrictions on Lobbying
4. Federal Tax Liability and Recent Felony Convictions