

**SOUTHEAST AREA TRANSIT DISTRICT  
REQUEST FOR PROPOSAL**

**AUDITING SERVICES**

**January 20, 2023**

## **REQUEST FOR PROPOSAL**

**RFP # 2023-01**

### **AUDITING SERVICES**

Notice is hereby given that **Southeast Area Transit District (SEAT)** is requesting proposals from qualified firms of certified public accountants to audit its financial statements for fiscal years 2023, 2024, 2025, with an option for fiscal years 2026, 2027 and 2028, to be at the sole discretion of **SEAT**.

These audits are to be performed in accordance with generally accepted auditing standards, the standards set forth for Federal Financial Single Audits required by the General Accounting Offices Government Auditing Standards (GAGAS), and conform to the Title 2, Subtitle A, Chapter II, Part 200, Subpart F governing Audit Services. In addition, the State Single Audit must comply with the provisions of Section 4-230 through 4-236 of the Connecticut General Statutes.

Services shall be based on all provisions, conditions, instructions, and specifications as outlined in the proposal. Forms, instructions, and specifications are available from the Finance Department of **SEAT**, 21 Route 12, Preston, CT 06365 or by calling Thailisa Clark, Finance Manager, at (860) 886-2631. Proposal clarifications, questions and/or proposal suggestions will be received until 10:00 a.m. on Friday, February 3, 2023, and proposals are due no later than 11:00 a.m. on Friday, February 17, 2023. Any proposal received thereafter shall not be considered and will be returned to the Proposer. It is the responsibility of the Proposer to assure that its proposal arrives at the designated location and person by the specified time stated above.

Issuance of the Request for Proposal does not commit **SEAT** to award any contract. **SEAT** reserves the right to waive any irregularities and formalities, to reject any and all proposals submitted, to re-advertise, and to make contract awards in the best interest of **SEAT**.

#### **An Affirmative Action—Equal Opportunity Employer**

**Michael Carrol**  
**General Manager**  
**Southeast Area Transit District**

## **SECTION I**

### **BACKGROUND**

Southeast Area Transit District was formed under Chapter 103(a) of the Connecticut General Statutes in December of 1975 by the voluntary action of the legislative bodies of nine towns in Southeastern Connecticut. These towns include East Lyme, Griswold, Groton, Lisbon, Montville, New London, Norwich, Stonington, and Waterford. The transit system became operational in May 1980, and it currently provides service throughout this nine-town region. Southeast Area Transit District is the employer of approximately 75 employees.

**SEAT's** fiscal year begins on July 1 and ends on June 30. **SEAT** has an annual operating budget of approximately \$8.5 million. **SEAT** prepares its budgets on a basis consistent with generally accepted accounting principles. **SEAT** is currently using SAGE Software's Sage 100 accounting package. Accounting data will be made available using the Sage 100 accounting system reports.

This RFP is not to be construed as a commitment of any kind; nor does it commit **SEAT** to pay for costs incurred in the submission of a proposal or for any costs incurred prior to the execution of a formal contract.

## **SECTION II**

### **GENERAL TERMS AND CONDITIONS**

**INVESTIGATION OF CONDITIONS:** Proposers are directed to read the specifications and terms of this proposal carefully, as no additional compensation will be granted for failure to inform him/her and or miscalculations.

**SEAT RIGHTS:** SEAT reserves the right to procure any item/service by any other means if determined to be in its best interest.

No proposal will be accepted from nor will any contract be awarded to any person or firm that is in arrears to SEAT upon any debt or contract or that is a defaulter as surety or otherwise upon any obligation to SEAT or that has failed to perform faithfully in any previous contract with SEAT.

SEAT reserves the right to waive any informalities or variations in any proposals that it deems to be immaterial, or to reject any or all, or any part of any proposals if such action is deemed to be in the best interest of SEAT and/or the Department of Transportation of the State of Connecticut.

**DUTY TO INFORM.** If a Proposer becomes aware of any discrepancy, ambiguity, error or omission in this solicitation package, the Proposer shall report it to SEAT's General Manager. SEAT will determine the necessity for clarification and may issue an addendum as a result. If any time during the performance of this contract, the contractor becomes aware of actual or potential problems, fault or defect in the project or any non-conformance with any contract document, Federal, State, or local law, rule or regulation, the contractor shall give immediate written notice thereof to SEAT's General Manager.

**DISQUALIFICATION OF PROPOSERS:** Proposers may be disqualified, and Proposals may be rejected for any of, but not limited to, the following causes:

- Failure to use the RFP Proposal Form furnished by SEAT:
- Lack of signature by an authorized representative on the RFP Proposal Forms:
- Failure to properly complete the RFP Proposal Forms and certifications:
- Evidence of collusion among Proposers:

- Unfairly represents or conceals any material fact in the proposal:
- Conform to the law or specifications of this proposal or
- Unauthorized alteration of the RFP Proposal Forms.

**RIGHTS AND REMEDIES:** The duties and obligations imposed by this contract and the rights and remedies available hereunder shall be in addition to and not in limitation of any duties, obligations, rights, and remedies otherwise imposed or available by law.

Failure of **SEAT** to act shall in no way constitute a waiver of any right afforded to in under this agreement, nor shall any such action or failure to act constitute an approval of or an acquiescence in any breach of this agreement, except as may be specifically agreed in writing by **SEAT**.

**LAW AND VENUE:** Venue in New London County Connecticut is the exclusive venue for any legal actions arising out of the contract or relationship.

**CONTRACT INCORPORATION AND REQUIRED CERTIFICATIONS.** Proposer should be aware that the contents of the successful proposal as well as the entire content of the RFP and attachments will become a part of the subsequent contractual documents. Additionally, the Proposer should be aware of the contents of the certifications contained herein, that it will be required to execute as required by FTA, State of Connecticut, and **SEAT** guidelines. Failure of Proposer to accept these obligations will result in the rejection of its proposal or cancellation of any award. The model clauses set forth in this RFP are adopted and expressly made part of this RFP, contract, and agreement; and in construing such clauses, all references to the Recipient or government shall be referenced to **SEAT** and/or State of Connecticut, and all references to the Proposer/Offeror shall refer to the party awarded the contract with **SEAT**.

**INDEMNITY AND INSURANCE:** Proposer agrees to, and will, indemnify and hold **SEAT**, State of Connecticut, and its board members, officers, agents, employees, representatives and attorneys, and each of them (hereinafter, collectively, "indemnities") harmless from any liability in any amount for damages or claims for damages resulting or alleged to have resulted from personal injury (including, but not limited to death, emotional or mental distress and loss of consortium) and/or for property damage, which may arise or be alleged to have arisen in any way from Proposer's performance under this contract. Proposer further agrees to, and will, defend indemnities, or any of them, from any claims, actions, or suits for any damages, injuries, or losses whatsoever, caused or alleged to have been caused by reason of Proposer's responsibilities as contemplated by the Contract. Proposer's obligations and duties as established in this Section will be in force and apply to Proposer's acts, omissions, or failures to act of any kind, whether negligent, the result of Proposer's willful or intentional misconduct, or otherwise, and shall further apply and be in force even if it is contended the acts, omissions or failures to act of parties other than the Proposer (including indemnities) caused or contributed to the losses, injuries or damages claimed.

For the purpose of the preceding paragraph, the term "losses" means all amounts paid to settle or satisfy any judgments or awards resulting from any claims arising from an occurrence, plus all amounts paid on account of attorney's fees, court costs and any other costs and expenses relating to the investigation, defense, satisfaction and/or settlement of such claims.

The Proposer shall further assume all liability for loss by reason of neglect or violations of Federal, State or Local laws, ordinances, or regulations, and shall do and perform all work necessary to conform to such laws, ordinances, and regulations.

**INTERPRETATION OF LANGUAGE:** After contract award and during the course of the contract period should any question arise as to the interpretation of any language of this RFP or of any other contract document, the question shall be submitted to **SEAT's** General Manager or his/her designee, who shall interpret the language. His/her interpretation shall be conclusive.

**WAIVER:** The waiver of any provision, term, or condition herein by **SEAT** on any occasion shall not constitute a general waiver and shall not release the selected Proposer from the obligation of otherwise performing or observing such provision, term, or condition.

**SUBJECT TO FINANCIAL ASSISTANCE:** The items/services described in these specifications are to be purchased with funding from the State of Connecticut Department of Transportation and the Federal Department of Transportation. The award of this contract is subject to a financial assistance provided to **SEAT** by the Connecticut Department of Transportation and the Federal Transit Administration. In the event that funding from these sources is eliminated or decreased, **SEAT** reserves the right to terminate this RFP and/or any related purchase order or contract, or modify it or them, accordingly. The successful Proposer will be required to comply with all terms and conditions prescribed for third party contracts by the Federal Transit Administration and the State of Connecticut Department of Transportation.

## **SECTION III**

### **SPECIFIC TERMS AND CONDITIONS**

**COMMUNICATIONS:** In connection with this RFP/contract communications shall be in writing only and shall be addressed to Thailisa Clark, Finance Manager. Proposals will be submitted to the attention of Thailisa Clark, Finance Manager. The address for U.S. mail and hand delivery is **Southeast Area Transit District**, 21 Route 12, Preston, CT 06365. The telephone number is 860-886-2631 ext. 100 and the fax number is 860-886-6097. It is the responsibility of the Proposer to assure that SEAT has received correspondence. Any questions or comments directed to other **SEAT** employees, officials or agents may result in an Offeror's proposal being disqualified.

**CONTRACT AWARD:** A decision regarding contract award will be on or before February 24, 2023.

**CONTRACT TERM:** The contract will commence for fiscal year 2023. The initial contract term will be for a period of three years terminating after fiscal year 2025. An additional one three-year option renewal may be made at the sole discretion of **SEAT** for the Auditing Services. The contract shall cover all functions described in this document for the three-year period and any subsequent renewal period that may be offered.

**PROPOSAL DUE DATE:** Proposals are due on Friday, February 17, 2023, at 11:00 a.m. The address for U.S. mail and hand delivery is **SEAT**, 21 Route 21, Preston, CT 06365.

**MONTHLY INVOICING:** All invoices must be addressed to the Assistant General Manager and sent directly to **SEAT**, 21 Route 12, Preston, CT. 06365. Monthly invoices must be submitted for all work performed during the monthly billing period. It must be itemized by each individual transaction and will contain sufficient back-up documentation to support all costs. Invoices must include the Purchase Order number. The Proposer shall state the price based on payment terms of net thirty (30) days after acceptance thereof. **SEAT** is exempt from the payment of state sales tax and such taxes must not be included in proposed prices. Tax exempt certificates will be provided upon contract award.

**INTEREST:** **SEAT** will not pay interest on unpaid or disputed invoices, whether due or overdue.

**ASSIGNMENT:** The selected Proposer shall not assign, transfer, convey or otherwise dispose of, in whole or part, the contract, purchase order or any award relating to this RFP without the prior written approval of **SEAT**, which approval **SEAT** may withhold in its sole and absolute discretion.

In case any work, materials or equipment which are mentioned, specified or indicated or otherwise provided for in the contract or in the specifications forming a part of the contract shall be required to be omitted from, in or about the work, the Proposer shall, if ordered by the Finance Manager, upon ten (10) days prior written notice, omit the performance of such work

and the furnishings of such materials or equipment and there shall be deducted from the amount to be paid to the Proposer the amount which the Finance Manager and the Proposer shall determine and mutually agree to be the reasonable value of such work, materials and equipment, and such determination and agreement shall be final and conclusive upon the Proposer.

It is understood, however, that the amount of work, materials or equipment required by the contract shall not, in accordance with the above provisions referring to additions or omissions, be so increased or diminished as to substantially later the general character or extent of the contract.

**CONTRACT CHANGES:** SEAT may, at any time, by a written order, and without notice to the sureties, make changes, within the general scope of this contract. If any such change causes an increase or decrease in the cost of, or the time required for, the performance of any part of the work under this contract, whether changed or not changed by any such order, a mutually acceptable equitable adjustment shall be made in the contract price and the contract shall be modified in writing accordingly. Any claim by SEAT for adjustment under this clause must be asserted within ten (10) calendar days from the date of receipt by the Proposer of the notification of change.

**PROPOSAL QUESTIONS/CLARIFICATIONS AND/OR SUGGESTIONS:** Proposers are encouraged to make suggestions and recommendations regarding the specifications and content of this proposal. All suggestions will be reviewed by SEAT and will be addressed in writing via an addendum. Additionally, questions and or requests for clarifications regarding the content of this proposal are to be submitted in writing and will be addressed in the same addendum format. If a Proposer feels a conflict exists between what is considered a good practice and these specifications, he/she shall state in writing all objections prior to submitting a proposal. All interested Proposers who requested a proposal will receive all issued addenda.

All items meeting the requirements of this section must be submitted in writing to the attention of Thailisa L. Clark and must be received by 10:00 a.m. on February 3, 2023.

**PROCUREMENT PROCESS:** In addition to the responsiveness to specifications, there are other factors that may also be considered in the procurement of such services in order to determine what is in the best interest of SEAT and is the most efficient and economical use of public funds.

**ADDENDA:** SEAT reserves the right to revise or amend the specifications up to the time set for submitting the proposals. Such revisions and addenda, if any, shall be announced by addenda to this solicitation. Copies of such addenda shall be furnished to all prospective Proposers. If the revisions and addenda require changes in quantities or specifications, or both, the date set for submitting proposals must be postponed by such number of days as in the opinion of SEAT shall enable Proposers to revise their proposals.

Proposers must acknowledge receipt of addenda on the form included with the addenda. Failure to acknowledge receipt of all addenda may cause the proposal to be considered non-responsive to the solicitation.



**PROPOSAL WITHDRAWAL/AWARD:** Each and every Proposer who submits a proposal specifically waives any right to withdraw it except as hereinafter provided. Proposers will be given permission to withdraw any proposal after it has been deposited with SEAT, provided any Proposer makes his request in writing, one (1) hour before time that proposals are due. No Proposer may withdraw his proposal within sixty (60) calendar days after the proposal opening. SEAT reserves the right to make an award within sixty (60) calendar days from the date Proposals are due, during which time, proposals shall not be withdrawn.

**OPENING OF PROPOSALS:** Proposals will not be officially opened. All proposals and evaluations will be kept strictly confidential throughout the evaluation, negotiation, and selection process. Only the members of the Evaluating Committee and other procuring officials, employees and agents having a legitimate interest will be provided access to the proposals and evaluation results during this period.

**ACCEPTANCE/CONTRACT:** Each proposal is to be submitted with the understanding that the acceptance in writing by SEAT of the offer described herein shall constitute a contract between the Proposer and SEAT, which shall bind the Proposer on its part to furnish at the prices proposed and in accordance with the terms and conditions of this RFP. The contract shall be considered as made in Connecticut, and the construction and enforcement of it shall be in accordance with the laws of the State of Connecticut.

**AWARD:** The contract will be awarded to the highest scored responsive and responsible Proposer whose proposal, conforming to this Request for Proposal, is most advantageous to SEAT, price and all other factors being considered.

**SEAT RESERVES THE RIGHT TO INTERVIEW, REVIEW MATERIAL AND/OR VISIT QUALIFIED RESPONDENT FACILITIES. SEAT RESERVES THE RIGHT TO NEGOTIATE ANY PART OF THIS PROPOSAL INCLUDING ON A COST ELEMENT BASIS AND/OR REQUEST A BEST AND FINAL PROPOSAL. ADDITIONALLY, SEAT RESERVES THE RIGHT TO AWARD ON THE BASIS OF INITIAL PROPOSALS SUBMITTED WITHOUT ANY NEGOTIATIONS OR DISCUSSIONS. PROPOSALS SHOULD BE SUBMITTED INITIALLY ON THE MOST FAVORABLE TERMS POSSIBLE, FROM A PRICE AND TECHNICAL STANDPOINT. SEAT ADDITIONALLY RESERVES THE RIGHT TO DISCARD ALL PROPOSALS AND REISSUE SAID RFP. SEAT RESERVES THE RIGHT TO WAIVE ANY INFORMALITIES OR VARIATION IN ANY PROPOSAL THAT IT DEEMS TO BE INMATERIAL OR TO REJECT ANY OR ALL, OR ANY PART OF ANY PROPOSAL IF SUCH ACTION IS DEEMED TO BE IN THE BEST INTEREST OF SEAT AND/OR THE DEPARTMENT OF TRANSPORTATION OF THE STATE OF CONNECTICUT.**

**SINGLE PROPOSAL IF RECEIVED:** If only a single proposal is received, SEAT may require that the Proposer provide a cost analysis or a price comparison between the proposed price and that of similar equipment, materials, supplies, and/or services to assure that the proposed price is fair and reasonable. If requested, the Proposer shall provide the cost analysis or price comparison within seven (7) calendar days of the date requested. SEAT reserves the right to reject or accept the proposal on the basis of the cost analysis or price comparison.

## **PROTEST PROCEDURES FOR PROCUREMENTS WITH FEDERAL FINANCIAL INTEREST**

Any protest by an interested party regarding a procurement shall be made in accordance with the following. Alleged violations of certain federal requirements provide a separate complaint procedure. See for example, Buy America Requirements and Participation by Disadvantaged Business Enterprise in Department of Transportation Programs.

**A.** Protests will only be accepted by **SEAT** from prospective bidders or Offeror's whose direct economic interest would be affected by the award of a contract or refusal to award a contract. Protests shall be submitted to the General Manager at **SEAT**, 21 Route 12, Preston, CT 06365. Outer packaging or envelope must be clearly marked "PROTEST AND BID/PROPOSAL NUMBER." **SEAT** will consider all such protests, whether submitted before or after the award of a contract meeting the criteria identified below. **SEAT** does not intend to allow the filing of protests to unnecessarily delay the procurement process. All protests must be in writing and conform to the following requirements:

1. Be concise and legally arranged.
2. Provide name, address, and telephone numbers of protester.
3. Identification of the solicitation or contract number.
4. Provide a clear and detailed statement of the legal and factual grounds of the protest including copies of all relevant documents.
5. Provide a statement as to what relief is requested.

**B. Protest before award** must be submitted within seven calendar days prior to bid opening or proposal due date, which will include protests addressing the adequacy of the procurement including the pre-award procedure, instruction to Offeror's, general terms and conditions, specifications, and scope of work. If the written protest is not received by the time specified, the bid or evaluation process shall continue. Thereafter, all issues and appeal are deemed waived by all interested parties.

**SEAT** will determine if the bid/proposal opening should be postponed. If the opening is postponed, **SEAT** will immediately contact Offeror's who have been furnished a copy of the proposal/bid that a protest has been filed and that opening is postponed until a final decision is issued. An appropriate addendum will be issued regarding a rescheduling of the opening.

**C. Protests after opening:** Offerors who have a potential of becoming eligible for award for may submit a protest against the making of an award. Protests received will only be considered if it concerns an issue, procedure, or other matters that could not have been protested by an Offeror prior to the opening. Offerors may submit a protest after the receipt date of Bids/Proposals to protest against making an award. Protests must be received by **SEAT** within five (5) days after notification of the apparent successful Offeror. The submittal must conform to section A above. After **SEAT** responds, in detail, to each substantive issue raised in the protest no further appeals will be considered by **SEAT**. However, **SEAT** reserves the right to proceed in contract award if it is determined that:

1. The items to be procured are urgently requested; or
2. Delivery or performance will be unduly delayed by failure to make the award promptly; or;
3. Failure to make a prompt award otherwise causes undue harm to **SEAT**, the State of Connecticut, or the Federal Government.

**D. Protest against an award** must be filed with **SEAT** within four (4) business days immediately following the award. This protest shall conform to requirements of (A) above. Thereafter, such issues are deemed waived by all interested parties. If it appears that the award may be invalidated and a delay in receiving the supplies or service is not prejudicial to **SEAT** interest, **SEAT** shall by a mutual agreement with the contractor, suspend performance on a no-cost basis.

**SEAT** will evaluate any protest and a decision will be made by the General Manager or his/her designee. **SEAT** will respond, in detailed writing, to each substantive issue raised in the protest. **SEAT's** determination will be final. Following an adverse decision by **SEAT**, the protester may file a protest with the FTA only if **SEAT** fails to have or follow its protest procedures, or **SEAT** fails to review a complaint or protest as review of protests by FTA are limited these items only.

An appeal to FTA must be received by the FTA regional office, with a copy to **SEAT**, within five (5) calendar days of the date the protester knew or should have known of the violation. It must include the **SEAT** project solicitation number, a statement of the grounds for protest and all supporting documentation. This should detail the alleged failure to follow protest procedures or the alleged failure to have procedures. Violation of Federal law or regulation will be overseen by the complaint process stated within that law or regulation. Violations of State or local law or regulations will be under the jurisdiction of State or local authorities.

Failure to comply with the above protest procedures will render a protest untimely and/or inadequate and shall result in its rejection.

**\*\*SEAT** reserves the right to modify its protest procedures for the procurements such as fuel bid as award notification must be on the date of the bid opening as pricing is tied to market pricing on the day of the opening.

**CONTRACT TERMINATION:** In the event that this contract is terminated, for any valid reason **SEAT** reserves the right to award this contract to the second highest-ranking Proposer based on the original evaluations and/or procure such items in any manner it determines to be in its best interest and the selected Proposer shall be liable to **SEAT** for any excess costs for such similar materials or services.

**CONTRACTOR EVALUATION/DEMAND TO CURE:** Contractor performance will be evaluated by the **SEAT's** Project Manager or his designee until completion or termination of the Contract. The quality of contractor performance in a number of areas will be rated, at a minimum, as satisfactory, needs improvement, unsatisfactory, or not applicable. When evaluations are rated less than satisfactory, contractors will be notified. These notifications shall identify deficient areas in contract performance and afford the Contractor the opportunity to correct/cure or present its position concerning items that were reported to be deficient. Contractors that are determined to be not responsible will not be eligible

**for Contract award and are subject to the termination clauses for default contained in this document.**

Failure to cure deficiencies in performance relative to any of the standards or requirements set forth in this document will result in a “demand to cure” notification to the Contractor from **SEAT**. The third documented notification of a “demand to cure” within any 12-month period may be grounds to cancel this contract for cause.

**EXTENSION OF TIME:** **SEAT** may determine, in its sole and absolute discretion that a reasonable extension of time for completion of delivery of services contemplated hereunder may be made under the following conditions:

When the Vendor is delayed due to cause beyond his or her control including, but not limited to strikes, fire, flood, earthquake, storm, acts of God, explosion, war, insurrection, riots, acts of any government (including judicial action), and/or any other cause similar to the foregoing. A delay shall be construed as being beyond the selected Proposer’s control only if the delay was not reasonably expected to occur in connection with or during the selected Proposer’s performance, and it was substantial and in fact delayed the total progress of the work, and it could not adequately have been guarded against by contractual or legal means. When the selected Proposer is delayed in progress regarding one area of fulfilling the agreement, but can proceed with performance in another area, he or she must so proceed.

Where the selected Proposer and **SEAT** have executed a change order which provides for an extension of time of completion, no extension of time will be granted unless a written request for extension is served on **SEAT** within ten (10) business days from commencement of the delay. Requests for extensions of time shall specify the nature of the cause of the delay, and such other proofs as are reasonably related to the cause of the delay. The selected Proposer shall provide **SEAT** with all information reasonably required by it to make a decision on the request. In the case of such extension, the time of delivery completion shall be extended by a period of time equal to 1-1/2 days for every one-day of delay.

**SILENCE OF SPECIFICATIONS:** The apparent silence of these specifications as to any detail, or the apparent omission from it of a detailed description concerning any point, shall be regarded as meaning that only the best acceptable commercial practice is to prevail and that only services of the highest standard are to be used. All interpretations of these specifications shall be made on the basis of this statement.

## SECTION IV

### **SCOPE OF SERVICES**

**SEAT** is soliciting the services of qualified firms of certified public accountants to audit its financial statements for the fiscal years ending June 30, 2023, 2024 and 2025 with an option for fiscal years 2026, 2027 and 2028. These audits are to be performed in accordance with the provisions contained in this request for proposal.

The purpose of the proposal is to determine the qualifications, competence and capacity of the firms seeking to undertake an independent audit of **SEAT** in conformity with the requirements of this request for proposals. As such, the substance of proposal will carry more weight than their form or manner of presentation. The proposal should demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an audit approach that will meet the request for proposal requirements.

The proposal should be prepared simply and economically, providing a straightforward, concise description of the Proposers capabilities to satisfy the requirements of the request for proposals.

The auditor's main contact with **SEAT** will be the Finance Manager, Thailisa Clark who will coordinate the assistance to be provided by **SEAT** to the auditor.

Local availability of office space is limited and must be scheduled based on the specific on-site activities the auditor needs to participate in.

**Scope of Work to be performed:** The primary purpose of the audit is to express an opinion on the general-purpose financial statements taken as a whole and that the audit is subject to the inherent risk that errors or irregularities may occur and not be detected. **SEAT** desires the auditor to express an independent opinion on the fair presentation of its general-purpose financial statements in conformity with generally accepted accounting principles. To achieve this this RFP will include the following work, broken into three parts, as follows:

**Part I: Preparation of Financial Statements:** SEAT is requesting preparation of financial statements from the June 30 end of the current fiscal year. The financial statements will include the summarization of the general operating fund of SEAT(MB-DO), a separate fund for the Paratransit ADA services (DR-PT) fund, a separate fund for Micro Transit Services (DR-DO), and the consolidated total for all funds. These statements will reflect the organization of data to Federal Transit Administration (NTD) Uniform System of Accounts ([uniform-system-accounts-usoa-effective-fy18\\_0.pdf \(dot.gov\)](#) (object codes)), and include all special notes required to meet accounting standards and will be consistent with and include all reports presented in prior year audits.

SEAT will provide all data and reports required by the auditor to achieve the completion of the financial statements. The proposer will provide a listing of required reports necessary to complete the Financial Statements and will provide a review of the data provided to ensure that any discoveries requiring adjustment are recommended to SEAT for correction.

Upon completion and acceptance of the financial statements, SEAT will provide the proposer a 'Management Discussion and Analysis' providing review of key information required to meet FTA standards and to be included in the audit.

**Part II: Preparation of the Audit:** To meet the requirements of this request for proposal, the audit shall be performed in accordance with generally accepted auditing standards as set forth by the American Institute of Certified Public Accountants, the standards for financial audits set forth in the U.S. Comptroller General's Government Auditing Standards, the provisions of the Single Audit Act of 1984, P.L. 98-502 and the Amendments of 1996, P.L. 104-156 and in compliance with 2021 update 2 CFR Part 200, Subpart F, and in conjunction and conformity with sections 4-230 to 4-236 of the Connecticut's General Statutes (the State Single Audit Act).

**Part III: Accounting Support Services (optional request):** SEAT may request accounting services to clarify and possibly to correct, internal accounting procedures based on Title 2 Subtitle A, Chapter II, Part 200, Subpart E, Cost Principles. This work would be independent of Audit Services, and separately priced and reimbursed. A request for an hourly quote for services provided (if applicable), is requested.

Upon final SEAT approval of Financial Statements prepared by the proposer under Part I above, the proposer will complete the audit to the above standards and will include preparation of the separate document called the State Single Audit. The proposer will request specific documents to review, and SEAT will provide those on a reasonable response basis. The requested list will be provided by e-mail(s), will be completed by SEAT, and supplied to the proposer in the form of PDF documents submitted by e-mail.

Specific requests for on-site action may be required by the auditor. A separate list of specific on-site activity requests must be submitted by e-mail and SEAT will collaborate with the proposer to schedule and prepare for those activities. This could include participation in the year-end inventory, or other activities the proposer would like to witness. The proposer will also be expected to participate in a Board of Directors Meeting to present the audit and discuss the findings, if any.

Specific reports to be included in the audit are as follows:

- All reports and schedules generated by prior auditors, which are included in the Audited Financial Statements and Single Audit compliance report.
- A report on the fair presentation of the financial statements in conformity with generally accepted accounting principles.
- A report on the internal control structure based on the auditor's understanding of the control structure and assessment of control risk along with compliance with applicable laws and regulations.
- Reports on the supplementary schedules of federal and state financial assistance pertaining to reporting for the National Transit Database.

- Reports on the internal control structure used in administering federal and state financial assistance.

**Part III: Preparation of Federal Transit Administration Federal Single Audit (A-133 Audit of FTA Grant Expense):** SEAT will be required to provide an audit where the fiscal year expense under FTA issued grants exceeds \$750,000. In FY 2023 SEAT and future years may exceed the \$750,000 of expenditures which will trigger the A-133 audit. SEAT is requesting the proposer to provide a specific proposal for completion of the A-133 audit. This audit is required to meet all the accounting and regulatory standards defined in Part II above. The audit will cover the expenses and revenues associated with specific grants under SEATs Administrative and Financial Management.

**Part IV: On-Site or Telecon review of Financial Reports including the Trial Balance, Income and Expense Report, and Balance Sheet.** This would include a general review of accounts with the intent of identifying and providing corrective solutions to discovered (if any) compliance issues associated with Government and FTA accounting standards. Special accounting issues could be discussed as part of this review.

#### **Schedule for Annual Audit**

##### **FY 2023**

|  |             |
|--|-------------|
| Entrance conference to commence year-end audit work      | June 15     |
| Preliminary Field work begins                            | TBD         |
| Completion of Draft Financial Statements                 | Sep 30      |
| Completion of Final Financial Statements and Audit Draft | Oct 31      |
| Draft comments returned to auditors by                   | November 18 |
| Final audit reports submitted to SEAT                    | December 16 |

##### **All Other Fiscal Years**

Schedules for all other years will be adjusted to match the above schedule.

The final report as a PDF and twenty-five signed copies should be delivered to **SEAT**, 21 Route 12, Preston, CT 06365. A PDF copy of the General Audit and the State Single Audit must be transmitted to SEAT no later than 12/30/2023.

#### **Schedule for FTA A-133 Audit**

##### **FY 2023**

|                                    |              |
|------------------------------------|--------------|
| Initial Review and Discussion:     | Jan 16, 2024 |
| Completion of Draft                | Feb 13, 2024 |
| Acceptance and Completion of Audit | Feb 27, 2024 |

Schedules for all other years will depend on whether an audit is required.

The proposer will be required to submit the forms SF-FAC and A-133 Single Audit electronically to the FTA using the (Federal Audit Clearing House).

**Extension of Time Requests:**

Where an extension of time may be required to complete reporting, it will be the responsibility of the Auditor to promptly notify **SEAT** in writing. It is **SEAT**'s responsibility to secure all necessary approvals in a timely manner. The Auditor shall promptly notify **SEAT**'s General Manager of any suspicion of fraud, defalcation, or misapplication of funds. Such notice shall be in addition to any notice to grantors required by the single audit legislation.



## SECTION V

### PROPOSAL SUBMISSION, EVALUATION CRITERIA & EVALUATION

#### SUBMISSION

1. The original and 4 copies of the proposal must be submitted and received on or before February 17, 2023, no later than 11:00 a.m. The address for U.S. mail is **Southeast Area Transit District**, 21 Route 12, Preston, CT 06365. The address for hand delivery is the same. The telephone number is (860) 886-2631. Proposals will be submitted to the attention of Thailisa Clark, Finance Manager. Proposal outer packaging must be clearly marked with “**RFP #2023-001**” and “**AUDITING SERVICES**” in capital letters.
2. One-page cover letter indicating your interest in being considered and why you should be selected
3. Detailed response to all proposal requirements including but not limited to all items contained in the technical scope of work specification section of this RFP. Please discuss any other information, which you feel is pertinent and will assist us in making a selection. Also provide a copy of your firm’s brochure if available.
4. Required proposal forms as provided in this RFP, including all required information and pricing detail. The Proposer must print or type his name and company on each proposal and continuation sheet.
5. **SEAT** has established procedures to protect the integrity of the Proposal process. Failure to properly mark your Proposals appropriately may result in your Proposal being disqualified for noncompliance. It is solely and strictly the respondents’ responsibility to ensure that proposals are delivered prior to the closing date and time. **SEAT** assumes no responsibility for any disclosure of Proposal terms for a Proposal that is submitted which does not meet these sealed Proposal marking requirements including delays caused by United States mail delivery or any other occurrence.

## EVALUATION CRITERIA

### RESPONSIBILITY CRITERIA

#### 1. **Responsibility Questionnaire and Required Proposal Submittals:** **25%**

The following represent the principal selection criteria, which will be considered during the evaluation process of the proposals.

The Responsibility questionnaire and its contents will be reviewed under this section for determining Proposer responsibility. In order to qualify as a responsible Proposer, in addition to other requirements herein provided, a Proposer must be prepared to prove to the satisfaction of **SEAT** that it has the integrity, skill, and the time specified. All Proposers shall complete and submit the Responsibility Questionnaire contained in the required form submittal section of this RFP. Items including but not limited to references, project personnel, etc., will be checked and verified.

- **Location and License to Practice:** An affirmative statement should be included indicating that the firm is licensed to practice in Connecticut. Resident staff must be able to offer the full range of auditing services required by this request for proposals.
- **Independence:** The firm should provide an affirmative statement that it is independent of **SEAT** and the State of Connecticut as defined by generally accepted accounting standards and the U.S. Comptroller General's Government Auditing Standards. The firm should also list and describe the firm's professional relationships involving **SEAT** and the State of Connecticut for the past five years, together with a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed audit. In addition, the firm shall give **SEAT** written notice of any professional relationships entered into during the period of this agreement.
- **Firm Qualifications and Experience:** The proposal should state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed, the number and nature of the staff to be so employed on a full or part-time basis and the firm's average turnover of staff for the prior three years. In addition, the firm shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the last three years with state regulatory bodies or professional organizations. The firm's experience with the Single Audit Act, the National Transit Database and other federal and state related reports.
- **Partner, Supervisory and Staff Qualifications and Experience:** The firm should identify and submit resumes of the principal supervisory and management staff, including engagement partners, managers, other supervisors, and specialists, who would be assigned to the engagement and indicate whether each such person is licensed to practice in Connecticut. The firm should indicate how the quality of staff over the term of the

agreement would be assured. The Proposer should identify the extent to which its staff reflects SEAT's commitment of Affirmative Action. Engagement partners, managers, other supervisory staff, and specialists may be changed if those personnel leave the firm, are promoted, or assigned to another office. These personnel may also be changed for other reasons with the express written permission of SEAT. However, in either case, SEAT retains the right to approve or reject replacements. Consultants and firm specialists mentioned in response to this request for proposals can only be changed with the express prior written permission of SEAT, which retains the right to approve or reject replacements. Other audit personnel may be changed at the discretion of the Proposer provided that replacements have substantially the same or better qualifications. Supervisory members of the audit team, including the 'in-charge' field auditor, should be Certified Public Accountants and have a minimum of two years of Single Audit experience in the State of Connecticut. The quality of the firm's professional personnel to be assigned to the engagement and the quality of the firm's management support personnel to be available for technical consultation.

- **Similar Engagements with Other Government Entities:** For the Firms office that will be assigned responsibility for the audit, list the most significant engagements (maximum of 5) performed in the last five years that are similar to the engagement described in this request for proposals. These engagements should be ranked on the basis of total staff hours. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact. Each Proposer shall submit one copy of at least two Comprehensive Annual Financial Reports that include Single Audit compliance statements in which their opinion is contained.
- The firm adheres to the instructions in this request for proposals on preparing and submitting the proposal.

## **TECHNICAL CRITERIA**

**25%**

### **2. Scope of Services**

Section IV pertaining to the Scope of Services Specifications of this document will be evaluated in this category.

- The proposal should set forth a work plan, including an explanation of the audit methodology to be followed, to perform the nature of services required in this request for proposal. In developing the work plan, reference should be made to such sources of information as SEAT's budget and related materials, organizational charts, manuals and programs, and financial and other management information systems.
- The firm submits a copy of its most recent external federal or state desk review or field review of its audits and the firm has a record of quality audit work.
- The firm has submitted one copy of at least two Comprehensive Annual Financial Reports in which their opinion is contained that also include a Single Audit report and compliance statement.

## **PRICING CRITERIA**

### **3. Price:**

**30%**

Did the Proposer adequately complete and submit the required pricing forms? Is the price fair and reasonable based on the price estimate prepared prior to this solicitation and consistent with the budgetary figure set for this project?

- The annual cost for individual fiscal years 2023, 2024 and 2025 and payment schedule. The total cost for the three years combined.
- The total annual cost for the individual option years, 2026, 2027 and 2028 and payment schedule
- The total cost for the three options years combined.
- Option pricing will be evaluated at the time of the initial evaluation. All options will be considered as a component of the overall pricing evaluation.

#### **DISADVANTAGED BUSINESS ENTERPRISE GOAL**

**20%**

4. A goal of 7% has been set for this procurement. Offers should describe if they
- Meet the goal; and
  - If meeting the goal, the process by which they will do so, including identification of any subcontractors.
  - If they are unable to meet the goal, they must describe, in detail, their good faith efforts to do so.

#### **Oral Presentations**

During the evaluation process, the Evaluation Committee may, at its discretion, request any one or all of the respondents to make oral presentations. Such presentations will provide firms with an opportunity to answer any questions the Evaluation Committee may have on the firm's proposal. Not all respondents may be asked to make such oral presentations.

#### **EVALUATION**

**SEAT** has an established evaluation process for the review of the proposals. Proposals will be analyzed for responsiveness, compliance with technical specifications, capabilities, quality, price, instructions, and all other aspects of this RFP.

Proposals that do not comply with these instructions and do not include the required information, forms and certifications may be rejected as insufficient or not be considered. **SEAT** reserves the right to request a Proposer to provide any missing information and to make corrections. All non-responsive respondents will be notified in writing.

Proposers are advised that detailed evaluation forms and procedures will follow the same proposal format and organization as specified in Section V of this document. Therefore, Proposer's shall pay close attention to this format and instruction. Submittal of a proposal will signify that the Proposer has accepted the whole of the Contract documents, except such conditions, exceptions, reservations, or understandings explicitly, fully, and separately stated in the Proposer's proposal submittal. Any such conditions, exceptions, reservations, or understandings, which do not result in the rejection of the proposal, are subject to evaluation under the proposal evaluation criteria.

**SEAT** will appoint an evaluation committee who will be responsible for the review and evaluation of proposals submitted in response to this RFP. Additionally, **SEAT** has established a resource support team that will assist the Committee in the evaluation process. The Team may be called on for a variety of different research and analysis purposes including but not limited to reference checking, price analysis etc. The Committee will initially meet to discuss the overall proposals and to determine how the Team will most efficiently be utilized in the evaluation process. The Committee will direct the Team in what specific areas of analysis and/or research if any that will be required. All reports provided by the Team will be made to all Committee members in writing. On receipt of all required information the Committee may meet to jointly discuss the proposals and any areas of concerns. The committee then will independently evaluate proposals. The Committee reserves the right to call upon the Team at any time during the evaluation process for its expertise. The Committee may convene at any time to discuss any questions or concerns they may encounter. The Committee may rely on this resource material in the evaluation of the proposals.

Upon completion of reviews, individual scores will be gathered, and a total composite score will be established, and proposals will be ranked in order of total score.

If determined necessary, the Committee may invite top ranked Proposer's for an interview. If interviews are conducted the Committee will be provided the opportunity to revise their original review to accurately reflect any additional information that may have been obtained through the interview process. Each committee member will separately and independently document this. Once again individual scores will be gathered, and a total composite score will be established, and proposals will be ranked in order of total score.

The Proposer with the highest ranked proposal (number 1), and whose price proposal is acceptable, may be contacted regarding any potential areas to be negotiated. If negotiations are determined not necessary, a contract will be awarded to that company.

If negotiations are conducted and not successful with the number 1 ranked Proposer then negotiations may be conducted with the next highest-ranking Proposer and so on down the line until negotiations are successful in producing a proposal that is found to be the most advantageous to **SEAT**, cost and other factors considered.

**SEAT** reserves the right to contact Proposer(s) regarding an interview, areas of concern, areas to be negotiated and/or request a best and final proposal. **SEAT** additionally reserves the right to award on the basis of initial proposals submitted without any negotiations or discussions if such action is deemed to be in the best interest of **SEAT** and/or the Department of Transportation of the State of Connecticut. In any event, **SEAT** reserves the right to accept other than the lowest cost proposal. All unsuccessful Proposers will be contacted notifying them of their status.

**The criteria are presented to allow SEAT the ability to analyze proposals received on an equal basis and to afford all Proposers the opportunity to know the basis upon which their proposals will be evaluated.**

**SECTION VI**  
**REQUIRED PROPOSAL FORMS**

## PROPOSAL PRICE SHEET

### CONTRACT PERIOD 1 Fiscal Year 2023 through Fiscal Year 2025

#### Part I: Completion of Financial Statements:

Annual Cost for Fiscal Year 2023 \_\_\_\_\_

Annual Cost for Fiscal Year 2024 \_\_\_\_\_

Annual Cost for Fiscal Year 2025 \_\_\_\_\_

Total combined cost for three years \_\_\_\_\_

#### Part II: Completion of Audit including State Single Audit:

Annual Cost for Fiscal Year 2023 \_\_\_\_\_

Annual Cost for Fiscal Year 2024 \_\_\_\_\_

Annual Cost for Fiscal Year 2025 \_\_\_\_\_

Total combined cost for three years \_\_\_\_\_

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

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

PRINT NAME: \_\_\_\_\_

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

## **PROPOSAL PRICE SHEET**

### **OPTIONAL CONTRACT PERIOD 2 Fiscal Year 2026 through Fiscal Year 2028**

#### **Part I: Completion of Financial Statements:**

**Annual Cost for Fiscal Year 2026** \_\_\_\_\_

**Annual Cost for Fiscal Year 2027** \_\_\_\_\_

**Annual Cost for Fiscal Year 2028** \_\_\_\_\_

**Total combined cost for three years** \_\_\_\_\_

#### **Part II: Completion of Audit including State Single Audit:**

**Annual Cost for Fiscal Year 2026** \_\_\_\_\_

**Annual Cost for Fiscal Year 2027** \_\_\_\_\_

**Annual Cost for Fiscal Year 2028** \_\_\_\_\_

**Total combined cost for three years** \_\_\_\_\_

**COMPANY NAME:** \_\_\_\_\_

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

**PRINT NAME:** \_\_\_\_\_

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



**PROPOSAL PRICE SHEET**

**OPTIONAL CONTRACT A-133 FTA Grant Audit  
Fiscal Year 2023**

**Part III: Completion of the A-133 FTA Grant Audit (if mandated):**

**Annual Cost for Fiscal Year 2023** \_\_\_\_\_

**Annual Cost for Fiscal Year 2024** \_\_\_\_\_

**Annual Cost for Fiscal Year 2025** \_\_\_\_\_

**Total combined cost for three years** \_\_\_\_\_

**Part II: Completion of Audit including State Single Audit:**

**Annual Cost for Fiscal Year 2026** \_\_\_\_\_

**Annual Cost for Fiscal Year 2027** \_\_\_\_\_

**Annual Cost for Fiscal Year 2028** \_\_\_\_\_

**Total combined cost for three years** \_\_\_\_\_

**COMPANY NAME:** \_\_\_\_\_

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

**PRINT NAME:** \_\_\_\_\_

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

## **PROPOSAL PRICE SHEET**

### **OPTIONAL Accounting Services Request Fiscal Year 2023**

#### **Part IV: Accounting Services Request:**

**Rate per hour for:**      **FY 2023:** \_\_\_\_\_

**Rate per hour for:**      **FY 2024:** \_\_\_\_\_

**Rate per hour for:**      **FY 2025:** \_\_\_\_\_

**Rate per hour for:**      **FY 2026:** \_\_\_\_\_

**Rate per hour for:**      **FY 2027:** \_\_\_\_\_

**Rate per hour for:**      **FY 2028:** \_\_\_\_\_

**COMPANY NAME:** \_\_\_\_\_

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

**PRINT NAME:** \_\_\_\_\_

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

**SOUTHEAST AREA TRANSIT DISTRICT PROPOSAL SUBMISSION PAGE  
AUDITING SERVICES**

**SUBMITTED BY** \_\_\_\_\_

TO: Southeast Area Transit District

The undersigned hereby declares that he/she has carefully read and examined the Advertisement and the Request and has decided to provide services and systems in conformance to the specifications and requirements of the RFP #2023-001 and any addendum thereto at the price stated (inclusive of option periods) in the attached proposal and or any final proposal offered.

I additionally certify that we are fully licensed, insured and have the proper equipment, systems, personnel to oversee the project as documented in this procurement document.

My Company also agrees and understands that in the event that **SEAT** is required to purchase such services from another vendor for any reason due to my company's failure to perform in accordance with the terms and conditions of this contract, my company will be charged the total cost of the other vendor(s) to perform the service, plus \$100.00 (per occurrence) to cover administrative fees and costs.

This proposal shall remain in effect for sixty (60) days after the deadline for submitting proposals.

Firm Name: \_\_\_\_\_

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

Authorized by: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

## **RESPONSIBILITY QUESTIONNAIRE**

### **PART I - INSTRUCTIONS**

1. Please state "not applicable" in questions clearly not applicable to Bidder/Proposer in connection with this solicitation. Do not omit any question. If any representation is not accurate and complete at the time Bidder/Proposer signs this Questionnaire, Bidder/Proposer must, as part of its Bid/Proposal, identify the provision and explain the reason in detail in the space provided below. If additional space is needed, add additional sheet(s) to this Questionnaire. If this space is left blank, Bidder/Proposer shall be deemed to have represented and warranted the accuracy and completeness of the representations on this Questionnaire:
2. All information must be legible.
3. The term "Proposer" includes the term "Bidder" and also refers to the firm awarded the Contract. The term "Proposal" includes the term "Bid".
4. If during the performance of this Contract, either of the following occurs, Bidder shall promptly give notice in writing of the situation to SEAT's General Manager, and therefore cooperate with SEAT's review and investigation of such information.
  - i) Proposer has reason to believe that any representation or answer to any question contained in this Questionnaire was not accurate or complete at the time this Questionnaire was signed; or
  - ii) events occur or circumstances change so that an answer to any question is no longer accurate or complete.
5. In SEAT's sole discretion, the following shall constitute grounds for SEAT to take remedial action up to and including immediate termination of the Contract for convenience without payment for profit and overhead for work not performed if:
  - i) Proposer fails to notify the General Manager as required by "4" above:
  - ii) Proposer fails to cooperate with SEAT's request for additional information as required by "4" above.
6. SEAT reserves the right to inquire further with respect to Proposer's responses; and Proposer consents to such further inquiry and agrees to furnish all relevant documents and information as requested by SEAT. Any response to this

document prior or subsequent to Proposer's Proposal which is or may be construed as unfavorable to Proposer will not necessarily automatically result in a negative finding on the question of Proposer's responsibility or a decision to terminate the Contract if it is awarded to Proposer.

## II. IDENTITY OF PROPOSER

1. Proposer's Full Legal Name: \_\_\_\_\_

2. The Proposer represents that it operates as the following form of legal entity:  
(Check whichever applies and fill in any appropriate blanks.)

☐ an individual or sole proprietorship

☐ a general partnership

☐ a limited partnership

☐ a joint venture consisting of: \_\_\_\_\_  
and \_\_\_\_\_  
(List all joint venturers on a separate sheet if this space is inadequate.)

☐ a non-profit organization

☐ a corporation organized or incorporated under the laws of the following state  
or country: \_\_\_\_\_ on the following date: \_\_\_\_\_

3. Proposer's federal taxpayer identification number: \_\_\_\_\_

4. Proposer's legal address: \_\_\_\_\_  
\_\_\_\_\_

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Fax Number: (\_\_\_\_) \_\_\_\_\_

5. Proposer's local or authorized point of contact address:

Name: \_\_\_\_\_ Title: \_\_\_\_\_

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

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Fax Number: (\_\_\_\_) \_\_\_\_\_

6. a. If a Proposer is a corporation, has a Certificate of incorporation been previously filed with **SEAT**?

YES

NO

If answer is "NO," attach a certified copy.

b. How long has the Proposer been in business? \_\_\_\_\_

7. List below the names, business addresses, titles, and telephone numbers of the following people: if a corporation, identify the president, executive officers, and any other officers solely responsible for this Proposal; if a partnership, identify the partners solely responsible for this Proposal; or, if another form of business entity, identify the principals solely responsible for this Proposal.

| Name | Address | Title | Telephone Number |
|------|---------|-------|------------------|
|      |         |       |                  |
|      |         |       |                  |
|      |         |       |                  |
|      |         |       |                  |
|      |         |       |                  |
|      |         |       |                  |
|      |         |       |                  |

### **III. TECHNICAL**

1. List each contract which, during the last two years, the person/entity contracting with you: i) terminated for default; ii) sued to compel performance; iii) sued to recover damages, including, without limitation, upon alleged breach of contract, misfeasance, error or omission or other alleged failure on your part to perform as required by your contract; or iv) called upon a surety to perform the work.

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2. During the past three years, has the Proposer's firm ever been a party to a bankruptcy or reorganization proceeding?

YES      NO      If answer is "YES" explain below.

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- 3a. If any professional or other licenses, permits, or certifications are required to perform the work/services called for by this solicitation, list the license, permit, or certification that the Proposer or Proposer's employees or agents possess. If none, state "None".

| <u>License or Permit or Certification</u> | <u>Name of Holder</u> | <u>Issuing State or Entity</u> |
|---|-----------------------|--------------------------------|
|---|-----------------------|--------------------------------|

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- b. If any insurance is required (malpractice etc.) please list below. On contract award certificates of insurance naming **SEAT** and the State of CT Department of Transportation as an additional insured will be required. If none, state "None".

| <u>Type of Insurance</u> | <u>Name of Insuring Co.</u> | <u>Limit of coverage</u> |
|--------------------------|-----------------------------|--------------------------|
|--------------------------|-----------------------------|--------------------------|

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- c. Have any of the Proposer's officers, partners, owners, managers, or employees had any project related licenses, permits or certifications revoked or suspended in the past three years.

YES

NO

If answer is "YES", explain below.

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- 
4. List the names, titles and attach resumes of the related industry experience for all management personnel assigned to this project. At a minimum this will include the primary Auditors or partners assigned to this project that will have the primary responsibility for performing the majority of work under this contract. This should clearly reflect the record of skill and experience of your proposed project management team.

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#### IV. FINANCIAL

1. Provide a statement addressing the financial capability of the company. It is imperative that the company demonstrates that it has the financial capacity to carry out the overall performance of this project.



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2. What parts of this Contract, if any, does Proposer expect to subcontract?

| Portion of Work | Name and Address of Proposed Subcontractor |
|-----------------|--|
|                 |  |
|                 |  |

### 3. CERTIFICATION

I certify that the above statement and/or any and all attached financial statements for this Proposal accurately reflect the financial position of the company for the periods indicated on the financials.

\_\_\_\_\_  
Finance Director

\_\_\_\_\_  
Date

## PART V -VERIFICATION AND ACKNOWLEDGMENT

STATE OF \_\_\_\_\_

\_\_\_\_\_) ) ss.:  
COUNTY OF \_\_\_\_\_)

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came and appeared,

\_\_\_\_\_, by me known to be said person, who swore under oath as follows:

1. He/she is \_\_\_\_\_ of \_\_\_\_\_  
(Print title) (Print name of firm)

2. He/she is duly authorized to sign this Questionnaire on behalf of said firm and duly signed this document pursuant to said authorization.

3. The answers to the questions set forth in this Questionnaire are true, accurate and complete.

4. He/she acknowledged and understands that the Questionnaire includes provisions which are deemed included in the Contract if awarded to the firm.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
(Notary Public)

**Name of Authorized Individual**\_\_\_\_\_

**Name of Company**\_\_\_\_\_

**This form is a mandatory proposal submittal, failure to submit this executed certification and/or failure to submit a Standard Form-LLL (Disclosure Form to Report Lobbying, if applicable) with your offer could render your proposal non-responsive. It should be noted that Standard Form-LLL is not attached hereto but is available on request.**

**LOBBYING**

**31 U.S.C. 1352**

**49 CFR Part 19**

**49 CFR Part 20**

**Applicability to Contracts**

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

**Flow Down**

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

**Mandatory Clause/Language**

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d) - Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A. Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995. - Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

**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.

**Name of Authorized Individual**\_\_\_\_\_

**Name of Company**\_\_\_\_\_

#### APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

***(To be submitted with each bid or offer exceeding \$100,000) A copy of this certification is also contained in the Required Submittal Section of this document.***

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(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 an agency, a Member of Congress, an 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 for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this 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 [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients 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. [Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, \_\_\_\_\_, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, *apply* to this certification and disclosure, if any.

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

### ***Offer and Acceptance Form***

Proposers shall complete this form and include it with its proposal submittal.

#### **OFFER**

By execution below Proposer hereby offers to furnish equipment and services as specified in SEAT's Request for RFP No. 05-04 including all provisions contained therein and any resulting addenda issued.

**Proposers:** \_\_\_\_\_  
Company Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City, State, Zip

\_\_\_\_\_  
Signature of Authorized Signer

\_\_\_\_\_  
Title

\_\_\_\_\_  
Phone

**NOTICE OF AWARD**

By execution below, Procuring Agency accepts Offer as indicated above.

General Manager

---

Signature

Date of Award:

---

**SECTION VII**  
**STATE OF CONNECTICUT**  
**REQUIRED FORMS & CLAUSES**

**DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION**

- (1) Policy – It is the policy of the Department of Transportation that disadvantaged business enterprises as defined in 49 C.F.R. part 26 shall have the maximum opportunity to participate in the performance or contracts financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 C.F.R. Part 26 apply to this agreement.
- (2) DBE Obligation – The supplier or contractor agrees to ensure that disadvantaged business enterprises as defined in 49 C.F.R. part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take necessary and reasonable steps in accordance with 49 C.F.R. Part 26 to ensure that disadvantaged business enterprises have the maximum opportunity to compete and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, creed, color, national origin, age or sex in the award and performance of DOT-assisted contracts.

**DBE Certification**

The contractor hereby agrees to subcontract a minimum of 7% of the contract to disadvantaged business enterprises.

Firm Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Note: This form is to be submitted with the proposal. Please attach the names and addresses of any and all DBE eligible subcontractors who will perform work on this project, and the approximate dollar amounts to be paid to them. If there is no participation then this must be indicated on the form, the form executed and returned with this proposal.

**(Failure to complete this form and to submit it with your bid may render this bid non-responsive).**



## ELIGIBLE CONTRACTORS CERTIFICATE

\_\_\_\_\_ (name of the third-party contractor) hereby  
certifies that it IS / **IS NOT** (circle one) included on the List of Parties Excluded from Federal  
Procurement and Non-Procurement Programs.

Firm Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**(Failure to complete this form and to submit it with your bid may render this bid non-responsive).**

**AFFIDAVIT OF NON-COLLUSION/CONFLICT OF INTEREST**

I hereby swear (or affirm) under penalty for perjury:

1. That I am Offeror (if the Offeror is an individual), a partner in the offer (if the Offeror is a partnership), or an officer or employee of the Offeror corporation having the authority to sign on behalf (if the Offeror is a corporation).
2. That the attached offer has been arrived at by the Offeror independently, and has been submitted without collusion, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in this procurement document, designed to limit independent bidding or competition.
3. That the contents of the offer have not been communicated by the offer or its employees or agents to any person not an employee or agent of the offer or it is surety, or any bond furnished with the offer, and will not be communicated to any such person prior to the official awarding of this procurement; and
4. The Contractor shall not offer or provide gifts, gratuities, favors, entertainment, or any other gratuities of monetary value to any official, employee or agent of **SEAT** during the period of this contract or for one year thereafter.
5. Personal/Organizational conflict arises when (1) an employee, officer, agent or board member, (2) any member of his/her immediate family, (3) his/her partner, or (4) an organization that employs, or intends to employ any of the listed, participate in selection, award or administration of federally funded contracts and have financial or other interest in a firm competing for or selected for award. To the best of my knowledge and belief no affiliation exists relevant to possible organizational or personal conflicts of interest.
6. That I have fully informed myself regarding the accuracy of the statement made in the affidavit.

Firm Name: \_\_\_\_\_

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

Authorized by: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My commission expires \_\_\_\_\_, 20\_\_\_\_.

**Name of Authorized Individual**\_\_\_\_\_

**Name of Company**\_\_\_\_\_

If the Proposer is unable to complete this form and needs to disclose and attach to this form a detailed statement fully disclosing any exceptions and why it believes, considering the interest(s) identified that performance of the proposed contract can be accomplished in an impartial and objective manner. **SEAT** reserves the right to request more information, disqualify the Offeror, to contract with the Offeror if it is in **SEAT**'s best interest and include appropriate provision to mitigate or avoid such conflict in the contract awarded. Refusal to provide the disclosure or representation or any additional information required, may result in disqualification of the Offeror for award. If nondisclosure or misrepresentation is discovered after award, the resulting contract may be terminated. If after award the Contractor discovers a conflict of interest with respect to the contract awarded as a result of this solicitation, which could not reasonably have been know prior to award, an immediate and full disclosure shall be made in writing to the Contracting Officer. The disclosure shall include a full description of the conflict, a description of the action the contractor has taken, or proposes to take, to avoid or mitigate such conflict. The Contracting Officer may, however, terminate the contract for convenience if he or she deems that termination is in the best interest of **SEAT**.

**(Failure to complete this form and to submit it with your offer may render this offer non-responsive)**

**REQUIRED BY THE STATE OF CONNECTICUT  
APPENDIX-CR (F.D. 061077)**

During the performance of this Agreement, the Second Party, for itself, its assignees and successors in interest agrees as follows:

- (1) Compliance with Regulations: The Second Party shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the United States Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
- (2) Nondiscrimination: The Second Party, about the work performed by it during the Agreement, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Second Party shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Subcontractors, Including Procurements of Materials and Equipment: In all Solicitations either by competitive bidding or negotiation made by the Second Party for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Second Party of the Second Party's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: The Second Party shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Connecticut Department of Transportation or the appropriate Federal Agency directly involved therewith, to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a Second Party is in the exclusive possession of another who fails or

refuses to furnish this information, the Second Party shall so certify to the Connecticut Department of Transportation, or the appropriate Federal Agency directly involved therewith, if appropriate, and shall set forth what efforts it has made to obtain the information.

(5) Sanctions for Noncompliance: In the event of the Second Party's noncompliance with the Nondiscrimination provisions of this Agreement, the Connecticut Department of Transportation shall impose such sanctions as it or the appropriate Federal Agency directly involved therewith, may determine to be appropriate, including, but not limited to:

(a) Withholding of payments to the Second Party under the Agreement until the Second Party complies, and/or

(b) Cancellation, termination, or suspension of the Agreement, in whole or in part.

(6) Incorporation of Provision: The Second Party shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The Second Party shall take such action with respect to any subcontract or procurement as the Connecticut Department of Transportation or the appropriate Federal Agency directly involved therewith, may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a Second Party becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Second Party may request the Connecticut Department of Transportation to enter into such litigation to protect the interests of the State of Connecticut, and, in addition, the Second Party may request the United States to enter into such litigation to protect the interests of the United States.

Managers and supervisors are being advised of their responsibilities to ensure the successful implementation of this policy. This Policy has my whole-hearted support and will be held responsible for compliance to its objectives.

Company Name \_\_\_\_\_

(If applicable, include d/b/a)

Address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

Area code/Fax Number \_\_\_\_\_

Contact Person \_\_\_\_\_

## **STATE OF CONNECTICUT REQUIRED AFFIDAVIT OF SUSPENSION AND DEBARMENT**

The State of Connecticut Department of Transportation requires that this certification be included in each subcontract Agreement to which it is a party, and further, to require said certification to be included in any lower tier subcontracts and purchase orders:

The Proposer certifies by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

Additionally, the Proposer agree to ensure that the following certification be included in each subcontract Agreement to which it is a party in any lower tier subcontract and purchase order.

If the Proposer or any lower tier participant is unable to certify any of the statements in this certification, such prospective participant shall attach an explanation to its proposal.

I have fully informed myself regarding the accuracy of the statement made in this affidavit.

Firm Name: \_\_\_\_\_

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

Authorized by: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**CONNECTICUT DEPARTMENT OF TRANSPORTATION  
AFFIRMATIVE ACTION REQUIREMENT**

**For Subcontractors of the Department of Transportation**

**Company Name**  
**(if applicable include d/b/a)** \_\_\_\_\_

**Address** \_\_\_\_\_

**City/State/Zip** \_\_\_\_\_

**Area Code/Phone Number** \_\_\_\_\_

**Area Code/Fax Number** \_\_\_\_\_

**Contact Person** \_\_\_\_\_

**AFFIRMATIVE ACTION POLICY STATEMENT**

It is the policy and practice of this firm to assure that no person will be discriminated against or be denied the benefits of any activity, program or employment process receiving public funds, in whole or in part, in the areas of employment, recruitment advertising, hiring, upgrading, promoting, transferring, demoting, layoffs, terminations, rehiring, employment and/or rates of pay and other compensations.

This firm is an Affirmative Action/Equal Opportunity Employer and is strongly committed to all policies which will afford equal opportunity employment to all qualified persons without regard to an individual's race, color, religious creed, age, sex, marital status, national origin or ancestry, sexual orientation, the request or requirement for genetic background information, present or past history of mental disorder, mental retardation, learning disability or physical disability, including but not limited to, blindness, prior conviction of a crime unless provisions of Conn. Gen Statutes 46a-60(b), 45a-80(b), or 46a-81(b) are controlling or there is a bona fide occupational qualification excluding individuals in any of the protected groups. Such action shall include employment, upgrading, demotion, or transfer, recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training. This policy and practice apply to all persons, particularly those that are members of the protected classes identified as being Black, Hispanic, Asian, Native American, Women and persons with disabilities.

This firm will implement, monitor, enforce and achieve full compliance with this Affirmative Action Policy Statement in conjunction with the applicable federal and state laws, regulations, and executive orders, and the E.E.O. contract provisions listed below:

1. Civil Rights Act of 1964 as amended
2. Presidential Executive Order 11246 as amended
3. Title 23 U.S.C. 140
4. Title 49 C.F.R. Part 26
5. Governor's Executive Orders #3 and #17
6. Connecticut Fair Employment Practices Act
7. Americans with Disabilities Act of 1990
8. Public Act No. 91-58
9. Civil Rights Act of 1991
10. Specific Equal Employment Opportunity Responsibilities
11. Required Contract Provisions Federal Aid Construction Contracts
12. A (76) Affirmative Action Requirements
13. Training Special Provision
14. Minority Business Enterprises as Subcontractors
15. Standard Federal Equal Employment Opportunity Construction Contract Specification
16. Nondiscrimination Act

In implementing this policy and ensuring that equal opportunity is being provided to protected class members, each time a hiring opportunity occurs this firm will contact and request referrals from minority and female organizations, referral sources, and media sources. All advertising will emphasize that the firm is "An Affirmative Action/Equal Opportunity Employer".

In order to substantiate this firm's efforts and affirmative actions to provide equal opportunity, the firm will maintain and submit as requested documentation such as referral request correspondence, copies of advertisements utilized and follow-up documentation to substantiate that efforts were made in good faith. This firm will maintain internal EEO/affirmative action audit procedures and reporting, and record keeping systems.

It is understood by me, my Equal Employment Opportunity Officer and my supervisory and managerial personnel that failure to effectively implement, monitor and enforce this firm's affirmative action policy statement and the failure to adequately document the affirmative actions taken and efforts made to recruit and hire minority and female applicants, in each instance of hire will result in this firm being required to recommit itself to a modified and more stringent affirmative action policy statement, prior to receiving approval. It is recognized that an approved affirmative action policy statement is a prerequisite for performing services for the contracting agency.

Managers and supervisors are being advised of their responsibilities to ensure the success of the program. The ultimate responsibility for the Affirmative Action Policy Statement rests with the Chief Executive Officer. However, the day-to-day duties will be coordinated by \_\_\_\_\_ who has been designated as the Equal Employment Opportunity Officer of this firm.



This Affirmative Action Policy Statement has my whole-hearted support. In addition, each manager and supervisor as well as all employees are to aid in the development and implementation of the program and will be held responsible for compliance to its objectives.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief Executive Officer

## **STATE OF CONNECTICUT REQUIRED CONTRACT CLAUSE**

**THIS CONTRACT IS SUBJECT TO THE PROVISIONS OF EXECUTIVE ORDER NO. THREE OF GOVERNOR THOMAS J. MESKILL PROMULGATED JUNE 16, 1971, THE PROVISIONS OF PROMULGATED FEBRUARY 15, 1973, AND SECTION 16 OF P.A. 91-58 NONDISCRIMINATION REGARDING SEXUAL ORIENTATION, AND THE PROVISION OF EXECUTIVE ORDER NO. SIXTEEN OF GOVERNOR JOHN G. ROWLAND PROMULGATED AUGUST 4, 1999, REGARDING VIOLENCE IN THE WORKPLACE PREVENTION POLICY.**

### **CONNECTICUT REQUIRED CONTRACT/AGREEMENT** **PROVISIONS DATED MARCH 6, 1998** **“SPECIFIC EQUAL EMPLOYMENT OPPORTUNITY RESPONSIBILITIES”**

#### **1. General**

- A. Equal employment Opportunity Requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246, Executive Order 11375, the Railroad Revitalization and Regulatory Reform Act of 1976 and other U.S. Department of Transportation nondiscrimination legislation are set forth in this Required Contract/Agreement Provision. The requirements set forth in these special provisions shall constitute the specific affirmative action requirements for project activities under this contract (or agreement) and supplement the equal employment opportunity requirements set forth in other related contract provisions.
- B. “Company” refers to any entity doing business with the Connecticut Department of Transportation and includes but is not limited to the following:

Contractors  
Subcontractors

Vendors (where applicable)  
Suppliers of Materials (where applicable)

Consultants  
Subconsultants

Municipalities (where applicable)  
Utilities (where applicable)

- C. The Company will work with the Connecticut Department of Transportation and the federal government in conducting equal employment opportunity obligations and in their review of his/her activities under the contract or agreement.
- D. The Company and all their subcontractors or subconsultants holding subcontracts or sub agreements of \$10,000 or more on federally assisted projects and \$5,000 or more on state funded projects, will comply with the following minimum specific requirement activities of equal employment opportunity. The Company will physically include these requirements in every subcontract or sub agreement meeting the monetary criteria above with such modification or language as is necessary to make them binding on the subcontractor or subconsultant.
- E These Required Contract Provisions apply to all state funded and/or federally assisted projects. Activities and programs in all facets of the Connecticut Department of Transportation operations resulting in contracts or agreements.

## 2. Equal Employment Opportunity Policy

The Company will develop, accept, and adopt as its operating policy and Affirmative Action Plan utilizing as a guide the Connecticut department of Transportation Affirmative Action Plan Guideline.

## 3. Equal Employment Opportunity Officer

The Company will designate and make known to the State Department of Transportation contracting officers an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

## 4. Dissemination of Policy

- A. All members of the Company's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the Company's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:
  - (1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less than once every six (6) months thereafter, at which time the Company's equal employment opportunity policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable Company official.

- (2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable Company official covering all major aspects of the Company's equal employment opportunity obligations within thirty (30) days following their reporting for duty with the company.
  - (3) All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate Company official in the Company's procedures for locating and hiring protected class group employee.
- B. In order to make the Company's equal employment opportunity policy known to all employees, prospective employees, and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the Company will take the following actions:
  - (1) Notices and posters setting forth the Company's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
  - (2) The Company's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees, applicants for employment and potential employees.

## 5. Recruitment

- A. When advertising for employees, the Company will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.
- B. The Company will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, state employment agencies, schools, colleges, and minority group organizations. To meet this requirement, the Company will, through its EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the Company for employment consideration.

In the event the Company has a valid bargaining agreement providing for exclusive hiring of all referrals, the Company is expected to observe the provisions of that agreement to the extent that the system permits the Company's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements has the effect of discriminating against

minorities or women, or obligates the Company to do the same, such implementation violates Executive Order 11246, as amended.)

- C. The Company will encourage its present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in the areas accessible to all such employees. In addition, information, and procedures with regard to referring minority group applicants will be discussed with employees.

## 6. Personnel Actions

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoffs, and termination, shall be taken without regard to race, color, religion, sex, or national origin, etc. The following procedures shall be followed:

- A. The Company will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- B. The Company will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practice.
- C. The Company will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the Company will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective actions shall include all affected persons.
- D. The Company will promptly investigate all complaints of alleged discrimination made to the Company in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the Company will inform every complainant of all his avenues of appeal.
- E. The general contract provision entitled A (76) Affirmative Action Requirements is made part of this document by reference. In conjunction with this contract provision, only the job categories will change to be comparable with the job categories utilized by the Company proposing to do business with the Connecticut Department of Transportation. The goals and timetables will remain the same throughout the contract provision.

## 7. Training and Promotion

- A. The Company will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

- B. Consistent with the Company's work force requirements and as permissible under Federal and State regulations, the Company shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contact performance. Where feasible, 25 percent of apprentices of trainees in each occupation shall be in their first year of apprenticeship of training. In the event the Training Special Provision is provided under this contract, this subparagraph will be superseded.
- C. The Company will advise employees and applicants for employment of available training programs and entrance requirements for each.
- D. The Company will periodically review the training and promotion potential of minority group and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions

If the Company relies in whole or in part upon unions as a source of employees, it will use its best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the Company either directly or through an association acting as agent will include the procedures set forth below:

- A. The Company will use its best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.
- B. The Company will use its best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin, etc.
- C. The Company is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the Company, the Company shall so certify to the Connecticut Department of Transportation and shall set forth what efforts have been made to obtain such information.
- D. In the event the union is unable to provide the Company with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the Company will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, etc. making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that there shall be no excuse that the union with which the Company has a collective bargaining agreement providing for exclusive referral failed to refer minority employees). In the event the union referral

practice prevents the Company from meeting the obligations pursuant to Executive Order 11246, as amended, and these provisions, such Company shall immediately notify the Connecticut Department of Transportation.

9. Subcontracting

- A. The Company will use its best efforts to solicit bids from and to utilize minority group subcontractors, or subcontractors with meaningful minority group and female representation among their employees. Companies shall obtain a list of applicable Disadvantaged Business Enterprise firms from the Division of Contract Compliance.
- B. The Company will use its best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.
- C. The General Contract Provisions entitled “Minority Business Enterprises as Subcontractors” is made part of this document by reference and its requirements are applicable to all entities proposing to do business with the Connecticut Department of Transportation.

10. Records and Reports

For the duration of the project, the company will maintain records as are necessary to determine compliance with the Company’s equal employment opportunity obligations and Affirmative Action requirements. Additionally, the company will submit all requested reports in the manner required by the contracting agency.

- A. The number of minority and non-minority group members and women employed in each work classification on the project.
- B. The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to Companies which rely on whole or in part on unions as a source of their work force).
- C. The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minority and female employees, and
- D. The progress and efforts being made in securing the services of minority and female owned businesses.
  - (1) All such records must be retained for a period of three (3) years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the State Department of Transportation and the U.S. Department of Transportation including consultant firms.

- (2) If on-the-job training is being required by the “Training Special Provision,” the Company will be required to furnish a Monthly Training Report and Supplement Report (1409) for each trainee.

11. Affirmative Action Plan

- A. Contractors, subcontractors, vendors, suppliers, and all other companies with contracts, agreements, or purchase orders completely state funded will submit an Affirmative Action Plan if the contract value is \$5,000 or over.
- B. Contractors, subcontractors, vendors, suppliers, and all other Companies with federally assisted contracts, agreements, or purchase orders valued at \$10,000 or more will submit an Affirmative Action Plan.
- C. Companies with contracts, agreements, or purchase orders with total dollar value under that which is stipulated in A and B above shall be exempt from the required submission of an Affirmative Action Plan unless otherwise directed by the Division of Contract Compliance.

## **SECTION VIII**

### **FEDERAL CLAUSES**

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

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.

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

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

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

#### **RESTRICTIONS ON LOBBYING**

Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan,



or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

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

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

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

#### Certification and disclosure.

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

(1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or

(2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.

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

(1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or

(2) A Federal loan or a commitment providing for the United

States to insure or guarantee a loan exceeding \$150,000, Unless

such person previously filed a certification, and a disclosure form,

if required, under paragraph (a) of this section.

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

information reported includes:

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

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

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

(4) A contract or subcontract exceeding

\$100,000 at any tier under a Federal

cooperative agreement, Shall file a

certification, and a disclosure form, if

required, to the next tier above.

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

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

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

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

## **CIVIL RIGHTS LAWS AND REGULATIONS**

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

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

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

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

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

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

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

Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49

U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

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

**2. Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42

U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**3. Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C.

§ 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.

**4. Disabilities.** In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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

### **Clean Air Act**

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

### **Federal Water Pollution Control Act**

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

## **CONFORMANCE WITH ITS NATIONAL ARCHITECTURE**

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

## **DEBARMENT AND SUSPENSION**

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

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

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

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

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

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

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

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

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

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

## **ENERGY CONSERVATION**

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

## **EQUAL EMPLOYMENT OPPORTUNITY**

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in

response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

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

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

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

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

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

## **NOTICE TO THIRD PARTY PARTICIPANTS**

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

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



## **FLY AMERICA**

a) Definitions. As used in this clause—

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

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

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

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

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

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

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

## **FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS**

(1) The contractor certifies that it:

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

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

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

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

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

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

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

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

## **NOTIFICATION TO FTA**

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

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

(2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have

submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## **PATENT RIGHTS AND RIGHTS IN DATA**

### Intellectual Property Rights

This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant the Agency intellectual property access and licenses deemed necessary for the work performed under this Contract and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT.

The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Contract and shall, at a minimum, include the following restrictions:

Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution.

For purposes of this Contract, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

- a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
- b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.

2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall not be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.

6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

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

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

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government

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

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

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

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

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

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

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

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

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

ensure that communications service to users and customers is sustained.

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

d. See also § 200.471.

## **PROMPT PAYMENT**

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

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

## **SAFE OPERATION OF MOTOR VEHICLES**

### **Seat Belt Use**

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

### **Distracted Driving**

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

## **SPECIAL NOTIFICATION REQUIREMENTS FOR STATES**

Applies to States –

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

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

b. Documents - The State agrees to provide the information required under this provision

in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

## **SEVERABILITY**

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

## **TERMINATION**

### Termination for Convenience (General Provision)

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

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

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

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### Opportunity to Cure (General Provision)

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

If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties for said breach or default.

### Waiver of Remedies for any Breach

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

remedies for any succeeding breach of that or of any other covenant, term, or condition of this contract.

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

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

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

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to

the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

#### Termination for Default (Transportation Services)

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

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

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

#### Termination for Default (Construction)

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



terminated. This liability includes any increased costs incurred by the Agency in completing the work.

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

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

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

If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency

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

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

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

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

## **TRAFFICKING IN PERSONS**

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

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