



## REQUEST FOR QUALIFICATIONS

The City of Gatlinburg, Tennessee, an Equal Opportunity, Affirmative Action Employer, seeks to retain the services of a professional consultant engineering firm to provide civil engineering services related to land site development of a Mass Transit operations center. This project has been approved for funding by the Tennessee Department of Transportation under the IMPROVE Transit Investment Grant Program. The project shall be accomplished in accordance with TDOT multimodal guidelines as well as FTA regulations. The professional engineering consultant must be on TDOT's pre-approved list or have a completed pre-qualification form filed with TDOT by the deadline for the letters of interest. The pre-qualified firm must have unlimited status.

This is a phased project with the first phase being Sub-grade site development of City of Gatlinburg owned property in preparation of a second phase project which will consist of construction of trolley storage and office structures. Only Phase I services will be procured in this solicitation. No construction activities are included in this solicitation.

Phase I of this project will contain two rounds of evaluation resulting in a firm fixed price contract. The evaluation factors for the two rounds can be found in Exhibit A in this document. Certain Federal Transportation Authority "FTA" Clauses are contained in Exhibit B. Certain Tennessee State Clauses are contained in Exhibit C. Applicable certifications are found in Exhibit D. All of these clauses and certifications must be read and agreed to. Interested bidders must supply an active DUNS number and SAMS number to participate in this project. The Bid forms and specifications may be obtained from Delea Patterson, AP/Purchasing, Gatlinburg City Hall, 1230 Parkway East, P.O. Box 5, Gatlinburg, Tennessee 37738, Telephone Number (865) 436-1409, email [deleap@gatlinburgtn.gov](mailto:deleap@gatlinburgtn.gov).

The City of Gatlinburg's Public Procurement Process can be found on the Gatlinburg website at [www.gatlinburgtn.gov](http://www.gatlinburgtn.gov). Specifications will also be available on City of Gatlinburg website in the "Out for Bid" section. Interested bidders will find the City of Gatlinburg's Award Protest Procedure also on the website in the "Vendors" section. Preliminary bid results will be available on this website shortly after bid opening.

Firms may request consideration by submitting a letter of interest along with qualifications to **Larry Henderson, Director of Public Works P.O. Box 5, Gatlinburg, TN 37738**. All letters of interest and qualifications must be received by this Office on or before **4:00 p.m. Eastern time on Thursday April 14, 2022**. The letter of interest and qualifications shall indicate the scope of services to be completed by any sub-consultants.

## **GENERAL PROVISIONS**

The prices quoted are that for which the materials or services will be delivered F.O.B. Gatlinburg, Tennessee.

Any additions, deletions, or variations from the following specifications must be noted.

The City of Gatlinburg reserves the right to reject any or all proposals and to accept the proposal deemed most favorable to the interests of the City. Prices quoted shall not include Federal or State taxes, if any are applicable. The selected offeror shall furnish tax exemption forms, if required, with their invoices.

Inspection of the materials or equipment will be made by an agent of the City of Gatlinburg, and if found defective or fails in any way to meet the terms of this agreement, it will be rejected. Rejected materials or equipment will be replaced at the expense of the selected offeror.

All technical specifications must accompany proposal.

The Contractor shall only submit an invoice for work that has been completed. No payments will be rendered by GMTS for work in advance of delivery of goods and/or services. The City of Gatlinburg also reserves the right to reject any and/or all proposals.

The selected offeror agrees to indemnify the City of Gatlinburg from any and all liability, loss or damage the City may suffer as a result of claims, demands, costs, or judgments against it arising from any and all work under this agreement.

The selected offeror agrees to notify the City, in writing, within thirty (30) days, by registered mail, at the City's address as stated in this agreement, of any claim against the selected offeror on the obligations indemnified against.

It is the policy of the City of Gatlinburg not to discriminate on the basis of race, color, national origin, age, sex, or disability in its hiring and employment practices, or in admission to, access to, or operation of its programs, services and activities. With regard to all aspects of this contract, contractor certifies and warrants it will comply with this policy.

No member, officer, or employee of the public body, commission, or locality during their tenure or for two (2) years thereafter will have any interests, direct or indirect, in the Contract or the proceeds thereof.

Progress will be inspected at least quarterly to ensure timeliness as the project progresses.

**Larry Henderson, Director of Public Works  
1230 Parkway East  
P.O. Box 5  
Gatlinburg, TN 37738**

**RE: Submission of Qualifications for Civil Engineering Services – Land Site Development**

We have accurately described our qualifications in the attached proposal and listed our and all subcontractor’s Disadvantaged Business Enterprise status.

**I have read and agreed to all of the applicable FTA Clauses contained in Exhibit B.**

YES \_\_\_ NO \_\_\_

**I have read and agreed to all of the applicable TN State Clauses contained in Exhibit C.**

YES \_\_\_ NO \_\_\_

**I have read and agreed to all of the applicable certifications contained in Exhibit D.**

YES \_\_\_ NO \_\_\_

**Vendor SAM (System for Award Mgmt) Number:** \_\_\_\_\_  
(Formerly referred to as CCR Number)

**DUNS (Data Universal Numbering System) Number:** \_\_\_\_\_

Signed: \_\_\_\_\_

\_\_\_\_\_  
Name (Print)

\_\_\_\_\_  
Date

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

\_\_\_\_\_  
Telephone Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Fax Number

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

**EACH OFFEROR SHALL SUBMIT THIS STATEMENT OF COMPLIANCE WITH  
THEIR PROPOSAL.**

**For Title VI and IX compliance, we ask for voluntary disclosure of the following information:**

**Gender: Male** \_\_\_\_\_

**Female** \_\_\_\_\_

**Race: Caucasian** \_\_\_\_\_

**African American** \_\_\_\_\_

**Other (please specify):** \_\_\_\_\_

**Minority Status of Business Ownership  
Proposers List Information**

Please identify your business below, and then complete the minority status and income information about your business, by checking ✓ on the applicable line. Information provided will be confidential and will be used only by the City of Gatlinburg to maintain vendor's records as required per 49 CFR Part 26.11.

Name of Business: \_\_\_\_\_

City/State of Business Location: \_\_\_\_\_

Type of Business: \_\_\_\_\_

Age of Business (years), Since Establishment: \_\_\_\_\_

1. Business owned (51% or more) by a minority?     Yes     No  
(Minorities include: Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the Small Business Administration.)

2. Is business certified by the TNUCP as a Disadvantaged Business Enterprise, and on the current TNUCP Certified DBE Directory?     Yes     No

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**Annual Gross Income of Business**

- \_\_\_\_\_ Less than \$500,000
- \_\_\_\_\_ \$500,000 - \$1 million
- \_\_\_\_\_ \$1 million - \$2 million
- \_\_\_\_\_ \$2 million - \$5 million
- \_\_\_\_\_ \$5 million - \$10 million
- \_\_\_\_\_ \$10 million – \$15 million

# EXHIBIT A

## Round I:

For Round I evaluations, firms shall submit proposal submissions with firm contact information including name, address, and e-mail of primary contact. The proposal submissions shall include:

- Approach to carrying out the project
- Amount of work under contract with TDOT
- Specialized expertise with TDOT multimodal programs, and FTA regulations.
- Staff capabilities of prime consultant
- Previous experience similar to this type of project
- Approach to completing this task.

## Round I Evaluation Factors:

- Previous experience in the required disciplines with TDOT multimodal projects, FTA regulations and CEI. (20%)
- Evaluations on prior projects with TDOT and other clients. (20%)
- Planned approach for the project. (20%)
- Previous experience specific to this type of project. (15%)
- Qualifications and availability of staff. (15%)
- Ability to meet schedules without compromising sound engineering practice. (10%)

From proposal submissions, The City of Gatlinburg evaluation committee will review the proposals and select the highest ranked offeror based upon the evaluation factors for Round II.

## Round II:

Round II will begin with price negotiations with the highest ranked offeror. If an agreed upon price cannot be reached during these negotiations, the City of Gatlinburg will then move on to price negotiations with the next highest ranking offeror.

The selected offeror should be prepared to provide an itemization of the total project cost. The itemization must include the identification of DBE providers. If used, and the portion of the project cost amount that are projected for DBEs.

Evaluation proceedings will be conducted within the established guidelines regarding equal employment opportunity and nondiscriminatory action based upon the grounds of race, color, sex, creed, or national origin. Interested certified Disadvantaged Business Enterprise (DBE) firms as well as other minority-owned and women-owned firms are encouraged to respond to all advertisements by the City of Gatlinburg. For information on DBE certification, please contact Mr. David Neese at (615) 741-3681 or [David.Neese@tn.gov](mailto:David.Neese@tn.gov). Details and instructions for DBE certification can be found at the following website: <http://www.tn.gov/tdot/topic/small-business>.

## **EXHIBIT - B**

**Federally Required and Model Contract Clauses  
Appendix F (Governing Documents)  
Section 5311/5310/5307/5309/5316/5317  
Subrecipient Agreement/Vendor Agreement/Proposal Package**

**A.1 - Federally Required and Other Model Contract Clauses**

1. Fly America Requirements
2. Buy America Requirements
3. Cargo Preference Requirements
4. Energy Conservation Requirements
5. Clean Water Requirements
6. Lobbying
7. Access to Records and Reports
8. Record Retention
9. Notice to Third Party Participants
10. Contract Work Hours and Safety Standards Act
11. No Government Obligation to Third Parties
12. Notification to FTA
13. Program Fraud and False or Fraudulent Statements and Related Acts
14. Federal Changes
15. Termination
16. Government-wide Debarment and Suspension (Non-procurement)
17. Civil Rights Requirements
18. Equal Employment Opportunity
19. Disadvantaged Business Enterprises (DBE) & Prompt Payment
20. Prompt Payment
21. Incorporation of Federal Transit Administration (FTA) Terms
22. Americans with Disabilities Act (ADA) Access
23. Breaches and Dispute Resolution
24. Safe Operation of Motor Vehicles
25. Recovered Materials Preference
26. Simplified Acquisition Threshold

**VENDOR MUST BE IN COMPLIANCE WITH ALL ABOVE CLAUSES AND SIGN WHERE APPLICABLE.**

## **1. FLY AMERICA REQUIREMENTS**

49 U.S.C. § 40118, 41 CFR Part 301-10

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

## **2. BUY AMERICA REQUIREMENTS**

49 U.S.C. § 5323j; 49 C.F.R. Part 661

For Contracts of \$150,000 or more, the Contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 65 percent domestic content for years 2018-2019, and a 70 percent domestic content for year 2020.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

The [bidder or offeror] must submit to [Recipient] the appropriate Buy America certification below with its [bid or offer]. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

In accordance with 49 C.F.R. § 661.6, for the procurement of steel, iron or manufactured products, use the certifications below.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date:

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Signature:

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Company:

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Name:

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Title:

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### **3. CARGO PREFERENCE REQUIREMENTS**

46 U.S.C. 1241, 46 CFR Part 381

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

### **4. ENERGY CONSERVATION REQUIREMENTS**

42 U.S.C. 6321 et seq. 49 CFR Part 18

#### **Applicability to Contracts**

The Energy Conservation requirements are applicable to all contracts.

#### **Flow Down**

The Energy Conservation requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

#### **Model Clause/Language**

No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA

**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.

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

42 U.S.C. §§ 7401–7671q; 33 U.S.C. §§ 1251–1387; 2 C.F.R. Part 200, Appendix II (G)

**1. Regulatory Compliance.** For contracts that exceed \$150,000, 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. §§ 7401–7671q); and the Federal Water Pollution Control Act, as amended, (33 U.S.C. §§ 1251–1387).

**2. Violating Facility Prohibition.** The Contractor agrees it will not use any violating facilities, or use any facilities placed on, or likely to be placed on, the U.S. EPA “List of Violating Facilities.”

**3. Duty to Report Use of Certain Facilities.** The Contractor agrees that it will report violations of use of facilities prohibited in Section 2 of this clause to:

- (a) The higher tier contractor that is a party to the underlying contract;
- (b) The federally funded grant recipient or subrecipient with which it has entered into a contractual agreement, or with which a higher tier contractor is a party to the underlying contract;
- (c) TDOT Multimodal;
- (d) The Regional Office of the FTA; and
- (e) The Regional Office of the Environmental Protection Agency (EPA).

**4. Clause Flow-Down.** The Contractor agrees to include all sections of this clause in each subcontract entered into at any tier that flows down from the underlying contract. It is further agreed that this clause shall not be modified, except to identify the subcontractor subject to its provisions.

## **6. LOBBYING RESTRICTIONS**

31 U.S.C. § 1352; 2 C.F.R. § 200.450; 2 C.F.R. Part 200 Appendix II (I); 49 C.F.R. Part 20

**1. Regulatory Compliance.** The Contractor agrees to comply with the Byrd Anti-Lobbying Amendment in accordance with 31 U.S.C. § 1352, and associated regulations set forth in 49 C.F.R. Part 20; and 2 C.F.R. § 200.450.

**2. Prohibitions.** Pursuant to 49 C.F.R. § 20.100(a), the Contractor agrees no federally appropriated funds will be used 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.

**3. Certification Requirement.** In accordance with 49 C.F.R. § 20.100(b), the Contractor agrees to abide by Anti-Lobbying regulations by filing with the Agency a Lobbying Restriction Certification that contains the following language:

The undersigned 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 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 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.

(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 section 1352, title 31, U.S. Code. 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.

**4. Disclosure Requirement.** In accordance with 49 C.F.R. § 20.100(c), if any person has made or has agreed to make any payment using non federally appropriated funds (to include profits from any covered Federal action), which would otherwise be prohibited under 49 C.F.R. § 20.110(a) if paid for with appropriated funds, such person must file with the Agency the Disclosure Form contained in Appendix B to 49 C.F.R. Part 20. A Disclosure Form must also be filed following the occurrence of any event, and in the manner described, as set forth in 49 C.F.R. § 20.110(c).

**5. Penalties.** One who violates Anti-Lobbying regulations may be subject to a civil penalty of \$10,000 - \$100,000 for each violation, as imposed through Program Fraud and Civil Remedies procedures.

**6. Clause Flow Down.** The Contractor agrees to provide the Agency with a copy of a Lobbying Restriction Certification, and a Disclosure Form to Report Lobbying if applicable, for each prospective third-party contractor at any tier.

## **7. ACCESS TO RECORDS AND SITES OF PERFORMANCE**

49 U.S.C. § 5325(g)

**1. Access to Records.** The Contractor agrees to provide the sufficient access to the U.S. Secretary of Transportation, the Comptroller General, their representatives, TDOT Multimodal, and the Contracting Subrecipient, to inspect, review, and audit records and information related to performance of this contract, as may reasonably be required. Information covered by this Term includes data, books, documents, reports, statistics, subagreements, leases, third party contracts, arrangements, other third party agreements of any type, and supporting materials related to such records.

**2. Access to the Sites of Performance.** The Contractor agrees to permit access to the sites of performance under this contract to representatives of the U.S. Secretary of Transportation and the Comptroller General, TDOT Multimodal agents, and the Contracting Subrecipient, as may reasonably be required.

## **8. RECORD RETENTION**

49 U.S.C. § 5325; 2 C.F.R. § 200.333

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

**2. Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333 and TDOT Multimodal policy (which extends the period of FTA retention requirements). The Contractor shall maintain all books, records, accounts and reports required under this Contract until TDOT Multimodal confirms such materials may be disposed. At a minimum, books, records, accounts and reports must be maintained for a period of not less than five (5) years after the date of termination or expiration of this Contract, except:

- (a) In the event of litigation, claim, or audit arising from the performance of this Contract, in which case records shall be maintained until the final conclusion of all such litigation, appeals, claims, audits, or exceptions related thereto; and
- (b) Through an extension as requested by FTA or TDOT Multimodal in writing.

## **9. NOTICE TO THIRD PARTY PARTICIPANTS**

FTA 2017 Master Agreement § 3.i.6 & j

**1. Third Party Participant's Responsibilities.** Third Party Participants are responsible to assure the City of Gatlinburg's capability to comply with applicable federal requirements and guidance and specifying the responsibilities that the Third party Participant will fulfill on the City of Gatlinburg's behalf.

**2. Changes May Occur.** Federal requirements that apply to the City of Gatlinburg's, as Recipient of 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 City of Gatlinburg's Underlying Agreement including any information incorporated by reference and made part of that Underlying Agreement, and

**3. Applicability of Changes.** Applicable changes to those federal requirements will apply to each Third Party Agreement and parties thereto at any tier.

**4. Failure to Comply.** Contractor's failure to comply shall constitute a material breach of this contract

## **10. CONTRACT WORK HOURS AND SAFETY STANDARDS**

40 U.S.C. §§ 3701-3708; 29 C.F.R. Part 5; 2 C.F.R. Part 200 - Appendix II(D)

**1. Employee Wage and Hour Protections.** For contracts that exceed \$100,000, the Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act)," 29 C.F.R. part 5.

**2. Payroll Records.** The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of five (5) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

**3. Reporting of Violations.** All suspected or reported violations of Employee Protections under this Clause must be reported to the next higher Tier Contractor or Subrecipient, TDOT Multimodal, and to the Federal Transit Authority (FTA).

**4. Clause Flow Down.** The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

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

### **No Obligation by the Federal Government.**

(1) The Purchaser 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 Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

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

### **12. 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.

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

31 U.S.C. 3801 et seq., 49 CFR Part 31 18 U.S.C. 1001, 49 U.S.C. 5307

#### **Program Fraud and False or Fraudulent Statements or Related Acts.**

(1) 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.

(2) 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. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) 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.

### **14. FEDERAL CHANGES**

49 CFR Part 18 Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

### **15. TERMINATION FOR CAUSE OR CONVENIENCE**

2 C.F.R. § 200.339; 2 C.F.R. Part 200, Appendix II (B)

**1. Termination for Convenience.** 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 the AGENCY, the Contractor will account for the same, and dispose of it in the manner the AGENCY directs.

**2. Termination for Default [Breach or Cause].** 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.

**3. Opportunity to Cure.** 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 [ten (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.

4. **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 term, covenant, or condition of this Contract.

## **16. DEBARMENT AND SUSPENSION**

E.O. 12549 & 12689; 2 C.F.R. Parts 1200 & 180; 2 C.F.R. § 200.213 & Appendix II (I)

**1. Regulatory Compliance.** The Contactor agrees to comply with, and facilitate compliance with, U.S. DOT “Nonprocurement Suspension and Debarment” regulations pursuant to 2 C.F.R. part 1200, which adopts and supplements the 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.

**2. Eligibility Verification.** The Contractor agrees to 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 ay federally assisted Award.



**3. Material Representation of Fact.** 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.

**4. Clause Flow-Down.** The [Bidder/Bid Proposer/Contractor] agrees to include a provision requiring compliance with each Section of this Term in its lower tier covered transactions.

#### **17. CIVIL RIGHTS AND EQUAL OPPORTUNITY**

20 U.S.C. § 1681 et seq.; 29 U.S.C. §§ 621-634, 794; 42 U.S.C. §§ 2000e et seq., 4151 et seq., 6101 et seq., 12101 et seq.; 49 U.S.C. §§ 5323, 5332; E.O. 11246; 29 C.F.R. Parts 1625 & 1630; 41 C.F.R. Chapter 60; 45 C.F.R. Part 90; 49 C.F.R. Parts 21 & 25; FTA 2016 Master Agreement, §§ 12, 16; p.35-40

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 Agreement, 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. Title VI Civil Right Protections in FTA Funded Activities.** In accordance with Federal transit law at 49 U.S.C. § 5332 and 42 U.S.C. § 2000d et seq., the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, national origin. In addition, the Contractor agrees to comply with 49 C.F.R. Part 21 and other applicable Federal implementing regulations and requirements FTA may issue. Pursuant to 49 C.F.R. Part 21, as may be applicable, this agreement includes, but is not limited to assuring:

No person who is, or seeks to be, an employee of the project sponsor or lessees, concessionaires, contractors, licensees, or any organization furnishing public transportation service as a part of, or in conjunction with, the project shall be treated less favorably than any other employee or applicant with regard to hiring, dismissal, advancement, wages, or any other conditions and benefits of employment, on the basis of race, color, or national origin.

**2. Title VII Civil Right Protections: Race, Color, Religion, National Origin, or 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 Discrimination.** 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. Americans with Disabilities.** In accordance with Federal transit laws under 49 U.S.C. §§ 5332 & 5323(h)(3), the Contractor agrees it will not discriminate against individuals on the basis of disability. This prohibition on discrimination extends to:

Transportation Vehicles. The Contractor agrees to comply with regulations set forth by the U.S. Department of Transportation (DOT) and the Joint Architectural and Transportation Barriers Compliance Board (U.S. ATBCB), pursuant to regulations covering "Transportation Services for Individuals with Disabilities (ADA)" and "ADA Accessibility Specifications for Transportation Vehicles, 36 C.F.R. parts 1192 & 1194, and 49 C.F.R. parts 37 & 38.

**5. Clause Flow-Down.** The Contractor agrees to include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that such clauses shall not be modified, except to identify the subcontractor subject to its provisions.

**6. Information and Reports.** The Contractor shall provide all information and reports required under the above cited regulations, including as set forth in 49 U.S.C. § 5325; 2 C.F.R. § 200.333; and 49 C.F.R. § 49.633.

**7. Sanctions for Noncompliance.** In the event the Contractor fails to comply with the provisions of this Clause, payments under the Contract may be withheld until the Contractor becomes compliant, or the Contract may be cancelled, terminated, or suspended, in whole or in part.

## **18. 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.

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

49 CFR Part 26

### **Disadvantaged Business Enterprises**

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is **2%**. A separate contract goal **has not** been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as **{insert agency name}** deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (*see* 49 CFR 26.13(b)).

The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the City of Gatlinburg. In addition, the 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.

e. The contractor must promptly notify the City of Gatlinburg 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 City of Gatlinburg.

## **20. PROMPT PAYMENT**

49 C.F.R. § 26.29; Tenn. Code Ann § 66-34-103

**1. Payment for Performance.** In accordance with 49 C.F.R. § 26.29, the Contractor agrees to pay its subcontractor(s) performing work related to the Contract for satisfactory performance of that work no later than thirty (30) days after the Contractor's receipt of payment for that work from the Agency.

**2. Return of Retainage.** The Contractor agrees to return any retainage payments withheld from subcontractor(s) within thirty (30) days after each subcontractor's work related to this contract is satisfactorily completed.

**3. Clause Flow Down.** The Contractor agrees to insert the substance of this clause in all subcontracts issued pursuant to this Contract, and to ensure inclusion of its terms at each tier's contract.

**4. Enforcement.** In the event the terms of this clause are violated, the Agency may impose penalty interest pursuant to Tenn. Code Ann. §§ 12-4-707 and 66-34-103-04, withhold additional payment, or terminate the Contract.

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

FTA Circular 4220.1E

**Incorporation of Federal Transit Administration (FTA) Terms** - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

## **22. ADA ACCESS**

42 U.S.C. §§ 12101, et seq.; 29 U.S.C. §794; and 49 U.S.C. §5301(d)

**1. Regulatory Compliance.** The Contractor agrees to comply with all applicable requirements of the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. §§12101, et seq.; section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. §794; and 49 U.S.C. § 5301(d). The Contractor must comply with 49 C.F.R. part 27, and with the U.S. Equal Employment Opportunity Commission's, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act", 29 C.F.R. part 1630, pertaining to employment of persons with disabilities. These regulations provide that no handicapped individual, solely by reason of his or

her handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity included in or resulting from this Agreement. In addition, the Contractor must comply with other related implementing requirements the Federal Transit Authority (FTA) may issue.

**2. Clause Flow-Down.** The Contractor agrees to include this clause in each subcontract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that such clauses shall not be modified, except to identify the subcontractor subject to its provisions.

**3. Sanctions for Noncompliance.** In the event the Contractor fails to comply with the provisions of this Clause, payments under the Contract may be withheld until the Contractor becomes compliant, or the Contract may be cancelled, terminated, or suspended, in whole or in part.

### **23. BREACHES AND DISPUTE RESOLUTION**

2 C.F.R. Part 200, Appendix II (A)

FTA Circular 4220 1F VII

**Disputes** - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the City of Gatlinburg's City Manager. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the City of Gatlinburg Finance Director. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

**Performance During Dispute** - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

**Claims for Damages** - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

### **24. SAFE OPERATION OF MOTOR VEHICLES**

23 U.S.C. § 402; E.O. 13043, 13513; U.S. DOT Order No. 3902.10

**1. 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.

#### **2. 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 agreement.

**25. RECOVERED MATERIALS PREFERENCE**

42 U.S.C. § 6962; E.O. 12873; 40 C.F.R. Part 247; 2 C.F.R § 200.322

The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

**27. SIMPLIFIED ACQUISITION THRESHOLD**

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

# EXHIBIT C

## Tennessee State Contract Clauses

### **Conflicts of Interest.**

The Grantee warrants that no part of the total Grant Contract Amount shall be paid directly or indirectly to an employee or official of the State of Tennessee as wages, compensation, or gifts in exchange for acting as an officer, agent, employee, subcontractor, or consultant to the Grantee in connection with any work contemplated or performed relative to this Grant Contract

### **Lobbying.**

The Grantee certifies, to the best of its knowledge and belief, that:

- a. No federally 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.
- b. If any funds other than federally appropriated funds have been paid or will be paid to 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 this contract, grant, loan, or cooperative agreement, the Grantee shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in accordance with its instructions.
- c. The Grantee shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, 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 and is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352

### **Nondiscrimination.**

The Grantee hereby agrees, warrants, and assures that no person shall be excluded from participation in, be denied benefits of, or be otherwise subjected to discrimination in the performance of this Grant Contract or in the employment practices of the Grantee on the grounds of handicap or disability, age, race, color, religion, sex, national origin, or any other classification protected by federal, Tennessee state constitutional, or statutory law. The Grantee shall, upon request, show proof of nondiscrimination and shall post in conspicuous places, available to all employees and applicants, notices of nondiscrimination.



## **Public Accountability.**

If the Grantee is subject to Tenn. Code Ann. § 8-4-401 et seq., or if this Grant Contract involves the provision of services to citizens by the Grantee on behalf of the State, the Grantee agrees to establish a system through which recipients of services may present grievances about the operation of the service program. The Grantee shall also display in a prominent place, located near the passageway through which the public enters in order to receive Grant supported services, a sign at least eleven inches (11") in height and seventeen inches (17") in width stating:

NOTICE: THIS AGENCY IS A RECIPIENT OF TAXPAYER FUNDING. IF YOU OBSERVE AN AGENCY DIRECTOR OR EMPLOYEE ENGAGING IN ANY ACTIVITY WHICH YOU CONSIDER TO BE ILLEGAL, IMPROPER, OR WASTEFUL, PLEASE CALL THE STATE COMPTROLLER'S TOLL-FREE HOTLINE: 1-800-232-5454.

The sign shall be on the form prescribed by the Comptroller of the Treasury. The Grantor State Agency shall obtain copies of the sign from the Comptroller of the Treasury, and upon request from the Grantee, provide Grantee with any necessary signs.

## **Public Notice.**

All notices, informational pamphlets, press releases, research reports, signs, and similar public notices prepared and released by the Grantee in relation to this Grant Contract shall include the statement, "This project is funded under a grant contract with the State of Tennessee, Department of Transportation." All notices by the Grantee in relation to this Grant Contract shall be approved by the State.

## **Records.**

The Grantee and any approved subcontractor shall maintain documentation for all charges under this Grant Contract. The books, records, and documents of the Grantee and any approved subcontractor, insofar as they relate to work performed or money received under this Grant Contract, shall be maintained in accordance with applicable Tennessee law. In no case shall the records be maintained for a period of less than five (5) full years from the date of the final payment. The Grantee's records shall be subject to audit at any reasonable time and upon reasonable notice by the Grantor State Agency, the Comptroller of the Treasury, or their duly appointed representatives.

The records shall be maintained in accordance with Governmental Accounting Standards Board (GASB) Accounting Standards or the Financial Accounting Standards Board (FASB) Accounting Standards Codification, as applicable, and any related AICPA Industry Audit and Accounting guides.

In addition, documentation of grant applications, budgets, reports, awards, and expenditures will be maintained in accordance with U.S. Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Grant expenditures shall be made in accordance with local government purchasing policies and procedures and purchasing procedures for local governments authorized under state law.

The Grantee shall also comply with any recordkeeping and reporting requirements prescribed by the Tennessee Comptroller of the Treasury.

The Grantee shall establish a system of internal controls that utilize the COSO Internal Control - Integrated Framework model as the basic foundation for the internal control system. The Grantee shall incorporate any additional Comptroller of the Treasury directives into its internal control system.

Any other required records or reports which are not contemplated in the above standards shall follow the format designated by the head of the Grantor State Agency, the Central Procurement Office, or the Commissioner of Finance and Administration of the State of Tennessee.

### **Environmental Tobacco Smoke.**

Pursuant to the provisions of the federal "Pro-Children Act of 1994" and the "Children's Act for Clean Indoor Air of 1995," Tenn Code Ann. §§39-17-1601 through 1606, the Grantee shall prohibit smoking of tobacco products within any indoor premises in which services are provided to individuals under the age of eighteen (18) years. The Grantee shall post "no smoking" signs in appropriate, permanent sites within such premises. This prohibition shall be applicable during all hours, not just the hours in which children are present. Violators of the prohibition may be subject to civil penalties and fines. This prohibition shall apply to and be made part of any subcontract related to this Grant Contract."

## EXHIBIT D

### FEDERAL GOVERNMENT REQUIRED BIDDER/OFFEROR CERTIFICATIONS For FTA Grant Assisted Purchases

Name of Bidder: \_\_\_\_\_

#### CERTIFICATION TO RESTRICTIONS ON LOBBYING

I, \_\_\_\_\_, hereby  
(Name and Title of Official)

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

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

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

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

\_\_\_\_\_  
Signature of Authorized Representative

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

Date of Signature: \_\_\_\_\_

**CERTIFICATION TO FEDERAL GOVERNMENT REQUIRED CLAUSES (FTA)**

Affirmation of Bidder/Offeror's Authorized Representative

Name of Bidder/Offeror:  
\_\_\_\_\_

Name and Relationship of Authorized Representative: \_\_\_\_\_

BY SIGNING BELOW on behalf of the Bidder/Offeror, I declare that the bidder has duly authorized me to make this certification and bind the Bidder/Offeror's compliance. Thus, the Bidder/Offeror agrees to comply with all Federal statutes and regulations, and follow applicable Federal directives, and comply with the requirements of these clauses as indicated on the ensuing pages, Federal Government Required Clauses (FTA).

The Bidder/Offeror affirms the truthfulness of this certification it has made, and acknowledges that the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. 3801 *et seq.*, and implementing U.S. DOT regulations "Program Fraud Civil Remedies" 49 CFR Part 31 apply to any certification, assurance or submission made to FTA. The criminal provisions of 18 U.S.C. 1001 apply to any certification, assurance, or submission made in connection with a Federal public transportation program authorized in 49 U.S.C. Chapter 53 or any other statute.

In signing this document, I declare that the foregoing certification and any other statements made by me on behalf of the Bidder/Offeror are true and correct.

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

Name (Print): \_\_\_\_\_  
Authorized Representative of Applicant

**CERTIFICATION OF COMPLIANCE WITH FEDERAL BUY AMERICA  
REQUIREMENTS (Part 1)**

All vehicles included in this bid or offer must meet the requirements of 49 U.S.C. 5323(j) (49 CFR Part 661 – Buy America, and 49 CFR Part 663.13). Bidder/Offerors are required to submit certifications of compliance, as incorporated below, with Federal Buy America requirements with their bids or offers in order to be considered responsive.

49 CFR Part 661 requires that vehicles purchased with Federal Transit Administration (FTA) funds meet the following criteria:

- 1) All Iron, Steel and Manufactured products used in the manufacture of the vehicle must be produced in the United States (49 CFR 661.5); OR
- 2) The cost of components and subcomponents of the vehicle that are produced in the United States is more than sixty-five percent (65%) of the cost of all components and subcomponents of the vehicle and final assembly must take place in the United States (49 CFR 661.11).

**Certification of Compliance with 49 U.S.C. 5323(j)(1)**

The bidder/offeror certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1) and the regulations at 49 CFR Part 661.5.

\_\_\_\_\_  
Signature of Authorized Representative

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

Date of Signature: \_\_\_\_\_

-----OR-----

**Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)**

The bidder/offeror certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j) and 49 CFR 661.5 or 661.11, but may qualify for a waiver pursuant to the exceptions established under 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

\_\_\_\_\_  
Signature of Authorized Representative

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

Date of Signature: \_\_\_\_\_