



**ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201**

AGREEMENT NO. 22-DES-RFPLW-465

THIS AGREEMENT is made, on April 6, 2022, between First Transit, Inc., 600 Vine Street, Suite 1400, Cincinnati, Ohio 45202 ("Contractor") a Delaware corporation authorized to do business in the Commonwealth of Virginia, and the County Board of Arlington County, Virginia ("County"). The County and the Contractor, for the consideration hereinafter specified, agree as follows:

1. CONTRACT DOCUMENTS

The "Contract Documents" consist of:

- This Agreement
 - Exhibit A – Scope of Work
 - Exhibit B – Contract Pricing
 - Exhibit C – Intent to Perform as a DBE Subcontractor for a Contract Award
 - Exhibit D – Evidence of Good Faith Efforts Form
 - Exhibit E – Summary of Subcontractors/Subconsultants/Suppliers
 - Exhibit F – FTA Certifications
 - Exhibit G – Living Wage Forms
 - Exhibit H – Living Wage Quarterly Compliance Reports
 - Exhibit I – County Nondisclosure and Data Security Agreement (Contractor and Individual)
 - Exhibit J – Contractor COVID-19 Vaccination Certification
 - Exhibit K – Contractor COVID-19 Vaccination Quarterly Compliance Certification
- Request for Proposal No. 22-DES-RFPLW-465 is incorporated by reference

Where the terms and provisions of this Agreement vary from the terms and provisions of the other Contract Documents, the terms and provisions of this Agreement will prevail over the other Contract Documents, and the remaining Contract Documents will be complementary to each other. If there are any conflicts, the most stringent terms or provisions will prevail.

The Contract Documents set forth the entire agreement between the County and the Contractor. The County and the Contractor agree that no representative or agent of either party has made any representation or promise with respect to the parties' agreement that is not contained in the Contract Documents. The Contract Documents may be referred to below as the "Contract" or the "Agreement".

2. SCOPE OF WORK

The Contractor agrees to perform the services described in the Contract Documents (the "Work"). As detailed in the "Scope of Work" (Exhibit A), the primary purpose of the Work is to provide Transit Project Management Staffing Services. It will be the Contractor's responsibility, at its sole cost, to provide the specific services set forth in the Contract Documents and sufficient services to fulfill the purposes of the Work. Nothing in the Contract Documents limits the Contractor's responsibility to manage the details and execution of the Work.

3. PROJECT OFFICER

The performance of the Contractor is subject to the review and approval of the County Project Officer, who will be appointed by the Director of the Arlington County department or agency requesting the Work under this Contract.

4. CONTRACT TERM

Time is of the essence. The Work will commence on May 1, 2022 and must be completed no later than June 30, 2023 ("Initial Contract Term"), subject to any modifications provided in the Contract Documents. Upon satisfactory performance by the Contractor the County may, through issuance of a bilateral Notice of Renewal, authorize continuation of the Agreement under the same contract prices, subject to contract price adjustments as provided in Section 6 of this Agreement, for not more than four (4) additional 12-month periods, from July 1, 2023, to June 30, 2027 (each a "Subsequent Contract Term"). The Initial Contract Term and any Subsequent Contract Term(s) are together the "Contract Term".

5. CONTRACT AMOUNT

The County will pay the Contractor in accordance with the terms of the Payment section below and of Exhibit B for the Contractor's completion of the Work as required by the Contract Documents. The Contractor will complete the Work per the hourly rates specified in Exhibit B ("Contract Amount").

The County will not compensate the Contractor for any goods or services beyond those included in Exhibit A unless those additional goods or services are covered by a fully executed amendment to this Contract. Additional services will be billed at the rates set forth in Exhibit B unless otherwise agreed by the parties in writing.

6. CONTRACT PRICE ADJUSTMENTS

The hourly rate(s) will remain firm until June 30, 2023 ("Price Adjustment Date"). To request a price adjustment, the Contractor or the County must submit a written request to the other party not less than 90 days before the Price Adjustment Date. Adjustments to the hourly rate(s) will not exceed the percentage of change in the U.S. Department of Labor Consumer Price Index, All Items, Unadjusted, Urban Areas ("CPI-U") for the 12 months of statistics available at the time of the Contract's renewal.

Any hourly rate(s) that result from this provision will become effective the day after the Price Adjustment Date and will be binding for 12 months. The new Price Adjustment Date will be 12 months after the price adjustment.

If the Contractor and the County have not agreed on a requested adjustment by 30 days before the Price Adjustment Date, the County may not renew the Contract, whether or not the County has previously elected to renew the Contract's term.

7. PAYMENT

The Contractor must submit invoices for the actual hours worked, as well as preapproved hours related to personal, sick, vacation or inclement weather days, up to a maximum of forty (40) hours per week for each position, unless otherwise approved by the County, to the County’s Project Officer, who will either approve the invoice or require corrections. Reimbursable expenses must be included with each invoice, to include receipts or other back-up documentation substantiating the costs. The County will pay the Contractor within forty-five (45) days after receipt of an invoice for completed work that is reasonable and allocable to the Contract and that has been performed to the satisfaction of the Project Officer. The number of the County Purchase Order pursuant to which goods or services have been delivered or performed must appear on all invoices.

8. REIMBURSABLE EXPENSES

Only reasonable project-related expenses identified in Exhibit B will be reimbursed. The Contractor will charge allowed reimbursable expenses on a unit-price basis and must provide verified invoices. The total amount paid for project-related expenses will not exceed the amount shown in Exhibit B.

9. REIMBURSABLE TRAVEL-RELATED EXPENSES

The County will reimburse the Contractor for pre-approved travel-related expenses, documented with receipts for the Contractor’s staff as follows:

a. Local Travel for Project Site Visits or Meetings Within the Washington Metropolitan, DC, Baltimore, MD and Richmond, VA Regions

- I. Leased or Rental Automobile Actual costs
- ii. Public Transit Actual costs
- iii. Mileage Current IRS mileage rate

b. Out of Town Travel Expenses for County Business

The County anticipates out of town travel may be required, on occasion, and will be approved on a case-by- case basis by the Project Officer. All out of town travel expenses shall be in accordance with the following:

Meals: The County will reimburse at the U.S. General Services Administration’s (“GSA”) per diem rates for the destination, current for the date of travel, with the first and last days of travel counted at 75% of the per diem rate.

Lodging: The County will reimburse for actual lodging costs at a reasonably priced commercial facility in the immediate area of where the Work is performed, up to the GSA’s daily rates for the destination, current for the date of travel. Receipts for lodging must be itemized. Only room and tax charges will be reimbursed; no reimbursement will be made for additional expenses, including but not limited to, room service, laundry, telephone and in-room movies. If the Contractor or its employee shares a room with another person who is not connected with the performance of the Work, including a spouse, the County will reimburse for only the cost of a single room.

The applicable GSA per diem rates can be obtained at <http://www.gsa.gov/portal/content/104877>.

Transportation:

General

Reservations must be made in advance whenever possible to take advantage of all available discounts.

Ground Transportation

Use of public transportation is encouraged. The County will reimburse for the business use of personal or company vehicles, if allowed, at the GSA's mileage rates current at the time of travel. The Contractor's request for reimbursement may not include any personal use of the vehicle.

The County may approve reimbursement for rental of vehicles or use of taxicabs if the Contractor can demonstrate that to be the most economical option. Any reimbursement will cover only those rental charges, insurance and/or fuel fees allocable to work on the Contract and will not cover the purchase of liability insurance and/or collision/comprehensive insurance if the Contractor's or the employee's existing insurance coverage provides such protection.

Air Travel

The County will reimburse for air travel at the lowest available fare, typically economy. Tickets must be purchased at least seven days in advance, unless otherwise approved by the County.

Time limit: The County will not honor requests for travel reimbursement that are submitted more than 60 days after completion of the travel.

Non-reimbursable Expenses: The County will never reimburse for the following expenses:

1. Alcoholic beverages
2. Personal phone calls
3. Entertainment (e.g. pay TV, movies, night clubs, health clubs, theaters, bowling)
4. Personal expenses (e.g. laundry, valet, haircuts)
5. Personal travel insurance (e.g. life, medical, or property insurance) for airfare or rental cars
6. Auto repairs, maintenance and insurance costs for personal vehicles
7. Normal commuting costs
8. Fines for parking or traffic violations

10. PAYMENT OF SUBCONTRACTORS

The Contractor is obligated to take one of the two following actions within seven days after receipt of payment by the County for work performed by any subcontractor under this Contract:

- a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Contract; or
- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to the subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Contract, except for amounts withheld as allowed in subsection b., above. Unless otherwise provided under the terms of this Contract, interest will accrue at the rate of 1% per month.

The Contractor must include in each of its subcontracts, if any are permitted, a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to this section may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

11. NO WAIVER OF RIGHTS

The County's approval or acceptance of or payment for any goods or services under this Contract will not waive any rights or causes of action arising out of the Contract.

12. NON-APPROPRIATION

All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.

13. ESTIMATED QUANTITIES/NON-EXCLUSIVITY OF CONTRACTOR

This Contract does not obligate the County to purchase a specific quantity of items or services during the Contract Term. Any quantities that are included in the Contract Documents are the present expectations of the County for the period of the Contract; and the County is under no obligation to buy that or any amount as a result of having provided this estimate or of having had any normal or otherwise measurable requirement in the past. The County may require more goods and/or services than the estimated annual quantities, and any such additional quantities will not give rise to any claim for compensation other than at the unit prices and/or rates in the Contract.

The County does not guarantee that the Contractor will be the exclusive provider of the goods or services covered by this Contract. The items or services covered by this Contract may be or become available under other County contract(s), and the County may determine that it is in its best interest to procure the items or services through those contract(s).

14. COUNTY PURCHASE ORDER REQUIREMENT

County purchases are authorized only if the County issues a Purchase Order in advance of the transaction, indicating that the ordering County agency has sufficient funds available to pay for the purchase. If the Contractor provides goods or services without a signed County Purchase Order, it does so at its own risk and expense. The County will not be liable for payment for any purchases made by its employees that are not authorized by the County Purchasing Agent.

15. BACKGROUND CHECK

The Contractor will be responsible for completing a criminal background check for all employees or subcontractors whom the Contractor assigns to work on this Contract. Upon request from the County, the Contractor should provide the background check to the Project Officer. Any findings may result in the immediate removal of the individual from the contract.

16. REPLACEMENT OF PERSONNEL AND SUBCONTRACTORS

The County has the right reasonably to reject staff or subcontractors whom the Contractor assigns to the project. The Contractor must then provide replacement staff or subcontractors satisfactory to the County

in a timely manner and at no additional cost to the County. The day-to-day supervision and control of the Contractor's and its subcontractors' employees is the sole responsibility of the Contractor.

The Contractor may not replace key personnel or subcontractors identified in its proposal, including the approved Transit Provider Coordination Manager, without the County's written approval. The Contractor must submit any request to remove or replace key personnel or subcontractors to the County Project Officer at least 15 calendar days in advance of the proposed action. The request must contain a detailed justification to permit evaluation of the impact on the program, including identification of the proposed replacement and his or her qualifications.

If the approved Transit Provider Coordination Manager must be absent for an extended period, the Contractor must provide an interim Transit Provider Coordination Manager, subject to the County's written approval.

If the approved Transit Provider Coordination Manager resigns or is terminated by the Contractor, the Contractor will replace the Project Manager with an individual with similar qualifications and experience, subject to the County's written approval.

17. EMPLOYMENT DISCRIMINATION BY CONTRACTOR PROHIBITED

During the performance of its work pursuant to this Contract:

- A. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, gender identity, national origin, age, disability or on any other basis prohibited by state law. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- B. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation will be deemed sufficient for meeting the requirements of this section.
- C. The Contractor will state in all solicitations or advertisements for employees that it places or causes to be placed that such Contractor is an Equal Opportunity Employer.
- D. The Contractor will comply with the provisions of the Americans with Disabilities Act of 1990 ("ADA"), which prohibits discrimination against individuals with disabilities in employment and mandates that disabled individuals be provided access to publicly and privately provided services and activities.
- E. The Contractor must include the provisions of the foregoing paragraphs in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

18. EMPLOYMENT OF UNAUTHORIZED ALIENS PROHIBITED

In accordance with §2.2-4311.1 of the Code of Virginia, as amended, the Contractor must not during the performance of this Contract knowingly employ an unauthorized alien, as that term is defined in the federal Immigration Reform and Control Act of 1986.

19. DRUG-FREE WORKPLACE TO BE MAINTAINED BY CONTRACTOR

During the performance of this Contract, the Contractor must: (i) provide a drug-free workplace for its employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violating such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of more than \$10,000.00 relating to this Contract so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "workplace" means the site(s) for the performance of the work required by this Contract.

20. SEXUAL HARASSMENT POLICY

If the Contractor employs more than five employees, the Contractor shall (i) provide annual training on the Contractor's sexual harassment policy to all supervisors and employees providing services in the Commonwealth, except such supervisors or employees that are required to complete sexual harassment training provided by the Department of Human Resource Management, and (ii) post the Contractor's sexual harassment policy in (a) a conspicuous public place in each building located in the Commonwealth that the Contractor owns or leases for business purposes and (b) the Contractor's employee handbook.

21. SAFETY

The Contractor must ensure that it and its employees and subcontractors comply with all applicable local, state and federal policies, regulations and standards relating to safety and health, including the standards of the Virginia Occupational Safety and Health program of the Department of Labor and Industry for General Industry and for the Construction Industry and the applicable Federal Environmental Protection Agency and Virginia Department of Environmental Quality standards.

22. COVID-19 VACCINATION POLICY FOR CONTRACTORS

Due to the COVID-19 pandemic, the County has taken various steps to protect the welfare, health, safety and comfort of the workforce and public at large. As part of these steps, the County has implemented various requirements with respect to health and safety including policies with respect to social distancing, the use of face-coverings and vaccine mandates. All County Contractors, entering County owned, controlled, or leased facilities or facilities operated by a contractor if the services provided at that location are exclusive to Arlington County Government or contractors with public facing responsibilities must adopt these policies for implementation with their employees and subcontractors working on County contracts.

Contractors are required to obtain and maintain the COVID-19 vaccine status of employees or subcontractors, require any unvaccinated or not fully vaccinated employees to follow a weekly testing protocol established by the Contractor to submit to weekly testing, and provide any accommodations as required by law. Contractor should submit the certification of compliance to the Purchasing Agent at the time of contract execution and within five working days of the end of each quarter (see Exhibits I and J). In addition, all Contractor and subcontractor employees subject to the requirements of this section must also comply with the County COVID-19 masking and social distancing protocols, as signed at each County location.

It is recognized that the COVID-19 pandemic is an ongoing health crisis. As such, requirements with respect to health and safety, including vaccines and face-coverings may change over time. Contractors are expected to adhere to the County requirements as they evolve in response to the crisis.

For questions, the Contractor may email contractorvaccineinfo@arlingtonva.us.

23. TERMINATION

The County may terminate this Contract at any time as follows: (1) for cause, if, as determined by the County, the Contractor is in breach or default or has failed to perform the Work satisfactorily; or (2) for the convenience of the County.

Upon receipt of a notice of termination, the Contractor must not place any further orders or subcontracts for materials, services or facilities; must terminate all vendors and subcontracts, except as are necessary for the completion of any portion of the Work that the County did not terminate; and must immediately deliver all documents related to the terminated Work to the County.

Any purchases that the Contractor makes after the notice of termination will be the sole responsibility of the Contractor, unless the County has approved the purchases in writing as necessary for completion of any portion of the Work that the County did not terminate.

If any court of competent jurisdiction finds a termination for cause by the County to be improper, then the termination will be deemed a termination for convenience.

A. TERMINATION FOR CAUSE, INCLUDING BREACH AND DEFAULT; CURE

1. Termination for Unsatisfactory Performance. If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date. The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the

Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

B. TERMINATION FOR THE CONVENIENCE OF THE COUNTY

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days' notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

24. INDEMNIFICATION

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

25. INTELLECTUAL PROPERTY INDEMNIFICATION

The Contractor warrants and guarantees that in providing services under this Contract neither the Contractor nor any subcontractor is infringing on the intellectual property rights (including, but not limited to, copyright, patent, mask and trademark) of third parties.

If the Contractor or any of its employees or subcontractors uses any design, device, work or material that is covered by patent or copyright, it is understood that the Contract Amount includes all royalties, licensing fees, and any other costs arising from such use in connection with the Work under this Contract.

The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless, and indemnify the County Indemnitees, as defined above, from and against any and all claims, losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability or exposure for infringement of or on account of any trademark, copyright, patented or unpatented invention, process or article manufactured or used in the performance of this Contract. This duty to save,

defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.

26. COPYRIGHT

By this Contract, the Contractor irrevocably transfers, assigns, sets over and conveys to the County all rights, title and interest, including the sole exclusive and complete copyright interest, in any and all copyrightable works created pursuant to this Contract. The Contractor will execute any documents that the County requests to formalize such transfer or assignment.

The rights granted to the County by this section are irrevocable and may not be rescinded or modified, including in connection with or as a result of the termination of or a dispute concerning this Contract.

The Contractor may not use subcontractors or third parties to develop or provide input into any copyrightable materials produced pursuant to this Contract without the County's advance written approval and unless the Contractor includes this Copyright provision in any contract or agreement with such subcontractors or third parties related to this Contract.

27. OWNERSHIP OF WORK PRODUCT

This Contract does not confer on the Contractor any ownership rights or rights to use or disclose the County's data or inputs.

All work product, in any form, that results from this Contract is the property of the County and must be provided or returned to the County upon completion, termination, or cancellation of this Contract. The Contractor will not use or allow others to use the work product for any purpose other than performance of this Contract without the written consent of the County.

The work product is confidential, and the Contractor may neither release the work product nor share its contents. The Contractor will refer all inquiries regarding the status of any work product to the Project Officer or to his or her designee. At the County's request, the Contractor will deliver all work product, including hard copies of electronic files, to the Project Officer and will destroy all electronic files.

The Contractor must include the provisions of this section as part of any contract or agreement related to this Contract into which it enters with subcontractors or other third parties.

The provisions of this section will survive any termination or cancellation of this Contract.

28. DATA SECURITY AND PROTECTION

The Contractor will hold County Information, as defined below, in the strictest confidence and will comply with all applicable County security and network resources policies, as well as all local, state and federal laws and regulatory requirements concerning data privacy and security. The Contractor must develop, implement, maintain, continually monitor and use appropriate administrative, technical and physical security measures to control access to and to preserve the confidentiality, privacy, integrity and availability of all electronically maintained or transmitted information received from or created or maintained on behalf of the County. For purposes of this provision, and as more fully described in this Contract and in the County's Non-Disclosure and Data Security Agreement (NDA), "County Information"

includes, but is not limited to, electronic information; documents; data; images; financial records; personally identifiable information; personal health information (PHI); personnel, educational, voting, registration, tax and assessment records; information related to public safety; County networked resources; and County databases, software and security measures that are created, maintained, transmitted or accessed to perform the Work under this Contract.

- (a) **County's Non-Disclosure and Data Security Agreement.** The Contractor and its Designees (Contractor Designees shall include, but shall not be limited to, all Contractor-controlled agents or subcontractors working on-site at County facilities or otherwise performing any work under this Contract) must sign the NDA (Exhibit I) before performing any work or obtaining or permitting access to County networked resources, application systems or databases. The Contractor will make copies of the signed NDAs available to the County Project Officer upon request.
- (b) **Use of Data.** The Contractor will ensure against any unauthorized use, distribution or disclosure of or access to County Information and County networked resources by itself or its Designees. Use of County Information other than as specifically outlined in the Contract Documents is strictly prohibited. The Contractor will be solely responsible for any unauthorized use, reuse, distribution, transmission, manipulation, copying, modification, access to or disclosure of County Information and for any non-compliance with this provision by itself or by its Designees.
- (c) **Data Protection.** The Contractor will protect the County's Information according to standards established by federal law and Commonwealth of Virginia statutes including but not limited to the Government Data Collection and Dissemination Practices Act, Chapter 38 of Title 2.2 of the Code of Virginia (§ 2.2-3800 and 2.2-3803), Administration of systems including personal information; Internet privacy policy; exceptions, Code of Virginia, § 2.2-3803, and the Virginia Freedom of Information Act § 2.2-3700, et seq., and will adhere to industry best practices including the National Institute of Standards and Technology (NIST) SP 800-53 Security and Privacy Controls for Information Systems and Organizations and the Payment Card Industry Data Security Standard (PCI DSS), as applicable, and no less rigorously than it protects its own data and proprietary or confidential information. The Contractor must provide to the County a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s). If requested by the County, the Contractor must also provide annually the results of an internal Information Security Risk Assessment provided by an outside firm.
- (d) **Security Requirements.** The Contractor must maintain the most up-to-date anti-virus programs, industry-accepted firewalls and other protections on its systems and networking equipment. The Contractor certifies that all systems and networking equipment that support, interact with or store County Information meet the above standards and industry best practices for physical, network and system security requirements. Devices (laptops, mobile phones, printers, copiers, fax machines, or similar) that store County Data utilize encryption. The County's Chief Information Security Officer or designee must approve any deviation from these standards. The downloading of County information onto devices, other portable storage media or services such as personal e-mail, Dropbox etc. is prohibited without the written authorization of the County's Chief Information Security Officer or designee.

- (e) **Conclusion of Contract**. Within 30 days after the termination, cancellation, expiration or other conclusion of the Contract, the Contractor must, at no cost to the County, return all County Information to the County in a format defined by the County Project Officer. The County may request that the Information be destroyed. The Contractor is responsible for ensuring the return and/or destruction of all Information that is in the possession of its subcontractors or agents. The Contractor must certify completion of this task in writing to the County Project Officer.
- (f) **Notification of Security Incidents**. The Contractor must notify the County Chief Information Officer and County Project Officer within 24 hours of the discovery of any intended or unintended access to or use or disclosure of County Information.
- (g) **Subcontractors**. If subcontractors are permitted under this Contract, the requirements of this entire section must be incorporated into any agreement between the Contractor and the subcontractor. If the subcontractor will have access to County Information, each subcontractor must provide to the Contractor a copy of its data security policy and procedures for securing County Information and a copy of its disaster recovery plan(s).

29. ETHICS IN PUBLIC CONTRACTING

This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

30. COUNTY EMPLOYEES

No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.

31. FORCE MAJEURE

Neither party will be held responsible for failure to perform the duties and responsibilities imposed by this Contract if such failure is due to a fire, riot, rebellion, natural disaster, war, act of terrorism or act of God that is beyond the control of the party and that makes performance impossible or illegal, unless otherwise specified in the Contract, provided that the affected party gives notice to the other party as soon as practicable after the force majeure event, including reasonable detail and the expected duration of the event's effect on the party.

32. AUTHORITY TO TRANSACT BUSINESS

The Contractor must, pursuant to Code of Virginia § 2.2-4311.2, be and remain authorized to transact business in the Commonwealth of Virginia during the entire term of this Contract. Otherwise, the Contract is voidable at the sole option of and with no expense to the County.

33. RELATION TO COUNTY

The Contractor is an independent contractor, and neither the Contractor nor its employees or subcontractors will be considered employees, servants or agents of the County. The County will not be responsible for any negligence or other wrongdoing by the Contractor or its employees, servants or agents. The County will not withhold payments to the Contractor for any federal or state unemployment taxes, federal or state income taxes or Social Security tax or for any other benefits. The County will not provide to the Contractor any insurance coverage or other benefits, including workers' compensation.

34. ANTITRUST

The Contractor conveys, sells, assigns and transfers to the County all rights, title and interest in and to all causes of action under state or federal antitrust laws that the Contractor may have relating to this Contract.

35. REPORT STANDARDS

The Contractor must submit all written reports required by this Contract for advance review in a format approved by the Project Officer. Reports must be accurate and grammatically correct and should not contain spelling errors. The Contractor will bear the cost of correcting grammatical or spelling errors and inaccurate report data and of other revisions that are required to bring the report(s) into compliance with this section.

36. AUDIT

The Contractor must retain all books, records and other documents related to this Contract for at least five years, or such period of time required by the County's funding partner(s), if any, whichever is greater, after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, or such period of time required by the County's funding partner(s), if any, whichever is greater, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.

The Purchasing Agent may require the Contractor to demonstrate that it has the necessary facilities, ability, and financial resources to comply with the Contract and furnish the service, material or goods specified herein in a satisfactory manner at any time during the term of this Contract.

37. ASSIGNMENT

The Contractor may not assign, transfer, convey or otherwise dispose of any award or any of its rights, obligations or interests under this Contract without the prior written consent of the County.

38. AMENDMENTS

This Contract may not be modified except by written amendment executed by persons duly authorized to bind the Contractor and the County.

39. ARLINGTON COUNTY PURCHASING RESOLUTION AND COUNTY POLICIES

Nothing in this Contract waives any provision of the Arlington County Purchasing Resolution, which is incorporated herein by reference, or any applicable County policy.

40. DISPUTE RESOLUTION

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

41. APPLICABLE LAW, FORUM, VENUE AND JURISDICTION

This Contract is governed in all respects by the laws of the Commonwealth of Virginia; and the jurisdiction, forum and venue for any litigation concerning the Contract or the Work is in the Circuit Court for Arlington County, Virginia, and in no other court.

42. ARBITRATION

No claim arising under or related to this Contract may be subject to arbitration.

43. NONEXCLUSIVITY OF REMEDIES

All remedies available to the County under this Contract are cumulative, and no remedy will be exclusive of any other at law or in equity.

44. NO WAIVER

The failure to exercise a right provided for in this Contract will not be a subsequent waiver of the same right or of any other right.

45. SEVERABILITY

The sections, paragraphs, clauses, sentences, and phrases of this Contract are severable; and if any section, paragraph, clause, sentence or phrase of this Contract is declared invalid by a court of competent jurisdiction, the rest of the Contract will remain in effect.

46. ATTORNEY'S FEES

In the event that the County prevails in any legal action or proceeding brought by the County to enforce any provision of this Contract, the Contractor will pay the County's reasonable attorney's fees and expenses.

47. SURVIVAL OF TERMS

In addition to any statement that a specific term or paragraph survives the expiration or termination of this Contract, the following sections also survive: INDEMNIFICATION; INTELLECTUAL PROPERTY INDEMNIFICATION; RELATION TO COUNTY; OWNERSHIP OF WORK PRODUCT; AUDIT; COPYRIGHT; DISPUTE RESOLUTION; APPLICABLE LAW AND JURISDICTION; ATTORNEY'S FEES, AND DATA SECURITY AND PROTECTION.

48. HEADINGS

The section headings in this Contract are inserted only for convenience and do not affect the substance of the Contract or limit the sections' scope.

49. AMBIGUITIES

The parties and their counsel have participated fully in the drafting of this Agreement; and any rule that ambiguities are to be resolved against the drafting party does not apply. The language in this Agreement is to be interpreted as to its plain meaning and not strictly for or against any party.

50. NOTICES

Unless otherwise provided in writing, all legal notices and other communications required by this Contract are deemed to have been given when either (a) delivered in person; (b) delivered by an agent, such as a delivery service; or (c) deposited in the United States mail, postage prepaid, certified or registered and addressed as follows:

TO THE CONTRACTOR:

Cristin Tolen, Region Vice President
First Transit, Inc.
600 Vine St., Suite 1400
Cincinnati, OH 45202
Phone: (410) 370-8174
Email: Cristin.Tolen@FirstGroup.com

TO THE COUNTY:

Lynn Rivers, Project Officer
DES – Transit Planning and Operations
2100 Clarendon Boulevard, Suite 900
Arlington, Virginia 22201
Phone: (703) 228-7929
Email: lrivers@arlingtonva.us

AND

Dr. Sharon T. Lewis, LL.M, MPS, VCO, CPPB
Purchasing Agent
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500
Arlington, Virginia 22201
Phone: (703) 228-3294
Email: slewis1@arlingtonva.us

TO COUNTY MANAGER'S OFFICE (FOR PROJECT CLAIMS):

Mark Schwartz, County Manager
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 318
Arlington, Virginia 22201

51. ARLINGTON COUNTY BUSINESS LICENSES

The Contractor must comply with the provisions of Chapter 11 (“Licenses”) of the Arlington County Code, if applicable. For information on the provisions of that Chapter and its applicability to this Contract, the Contractor must contact the Arlington County Business License Division, Office of the Commissioner of the Revenue, 2100 Clarendon Blvd., Suite 200, Arlington, Virginia, 22201, telephone number (703) 228-3060.

52. NON-DISCRIMINATION NOTICE

Arlington County does not discriminate against faith-based organizations.

53. ADA COMPLIANCE

The Contractor is solely responsible for its compliance with the ADA and must defend and hold the County harmless from any expense or liability arising from the Contractor’s non-compliance. The Contractor also must respond promptly to and cooperate fully with all inquiries from the U.S. Department of Labor.

The Contractor’s responsibilities related to ADA compliance include, but are not limited to, the following:

- a. Access to Programs, Services and Facilities: The Contractor must ensure that its programs, services and facilities are accessible to persons with disabilities. If a particular facility or program is not accessible, the Contractor must provide equivalent services in an accessible alternate location or manner.
- b. Effective Communication: Upon request, the Contractor, must provide appropriate communication aids and services so that qualified persons with disabilities can participate equally in the Contractor’s programs, services and activities. Communication aids and services can include, but are not limited to, qualified sign language interpreters, Braille documents and other means of facilitating communications with people who have speech, hearing or vision impairments.
- c. Modifications to Policies and Procedures: The Contractor must modify its policies and procedures as necessary to ensure that people with disabilities have an equal opportunity to enjoy the Contractor’s programs, services and activities. For example, individuals’ service animals must be allowed in the Contractor’s offices or facilities, even if pets are generally prohibited.
- d. No Extra Charges: The Contractor may not charge a person with a disability or any group of individuals with disabilities to cover the cost of providing aids or services or of reasonable modifications to policies and procedures.

54. SERVICE CONTRACT WAGE REQUIREMENTS

a. LIVING WAGE

The County has determined that the provisions of Section 4-103 of the Arlington County Purchasing Resolution (regarding “Service Contract Wage” or “Living Wage”) apply to this Contract. All employees of the Contractor and any subcontractors working on County-owned, County controlled property, facilities owned, or leased, and operated by a Contractor if services provided at that location are exclusive to Arlington County, or contracts for home-based client services must be paid no less than the hourly Living Wage rate that is published on the County’s web site.

b. COMPLAINTS BY AGGRIEVED EMPLOYEES

If the Contractor fails to pay the Living Wage rate, an aggrieved employee or subcontractor may file a complaint with the County Purchasing Agent within six months of the underpayment. If the Purchasing Agent determines that the Contractor has failed to comply with the Living Wage rate provisions of the Purchasing Resolution, the Contractor will be liable to the employee for the unpaid wages, plus interest at the judgment rate from the date originally due, and less any deductions required or permitted by Virginia law. The Contractor must not discharge, reduce the compensation of or otherwise retaliate against any employee who files a complaint with the County Purchasing Agent or takes any other action to enforce the requirements of this section.

c. ADDITIONAL COMPLIANCE REQUIREMENTS

At all times during the term of the Contract, the Contractor must:

1. Post the current Living Wage rate, in English and Spanish, in a prominent place at its offices and at each location where its employees perform services under this Contract Go (see sample notice in Exhibit G);
2. Within five days of an employee's request, provide a written statement of the applicable Living Wage rate, using the same form provided in Exhibit H;
3. Include the provisions of this section in all subcontracts for work performed under the Contract; and
4. Submit to the Purchasing Agent, within five working days of the end of each quarter, certified copies of quarterly payroll reports for each employee, including subcontractor employees, working under the Contract during the quarter and a completed Arlington County Contractor Living Wage Quarterly Compliance Report (Exhibit H).

d. CONTRACTOR RECORD KEEPING

The Contractor must preserve for five years after the expiration or termination of this Contract records of wages and benefits provided to each employee who worked under the Contract and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request at the Contractor's expense.

e. VIOLATIONS

Violation of this section, as determined by the Purchasing Agent, will be a ground for termination of this Contract and suspension or debarment of the Contractor from consideration for future County contracts.

f. QUESTIONS

For questions regarding Living Wage, please email livingwage@arlingtonva.us.

55. INSURANCE REQUIREMENTS

Before beginning work under the Contract or any extension, the Contractor must provide to the County Purchasing Agent a Certificate of Insurance indicating that the Contractor has in force at a minimum the coverage below. The Contractor must maintain this coverage until the completion of the Contract or as otherwise stated in the Contract Documents. All required insurance coverage must be acquired from

insurers that are authorized to do business in the Commonwealth of Virginia, with a rating of “A-“ or better and a financial size of “Class VII” or better in the latest edition of the A.M. Best Co. Guides.

- a. Workers Compensation - Virginia statutory workers compensation (W/C) coverage, including Virginia benefits and employer’s liability with limits of \$500,000/500,000/500,000. The County will not accept W/C coverage issued by the Injured Worker's Insurance Fund, Towson, MD.
- b. Commercial General Liability - \$1,000,000 per occurrence, with \$2,000,000 annual aggregate covering all premises and operations and including personal injury, completed operations, contractual liability, independent contractors, and products liability. The general aggregate limit must apply to this Contract. Evidence of contractual liability coverage must be typed on the certificate.
- c. Business Automobile Liability - \$1,000,000 combined single-limit (owned, non-owned and hired).
- d. Miscellaneous Errors and Omissions - \$1,000,000 per occurrence/claim.
- e. Employee Dishonesty Bond - \$1,000,000 annual aggregate.
- f. Additional Insured – The County and its officers, elected and appointed officials, employees and agents must be listed as additional insureds on all policies except workers compensation and automotive and professional liability; and the additional insured endorsement must be typed on the certificate.
- g. Cancellation - If there is a material change or reduction in or cancellation of any of the above coverages during the Contract Term, the Contractor must notify the Purchasing Agent immediately and must, with no lapse in coverage, obtain replacement coverage that is consistent with the terms of this Contract. Not having the required insurance throughout the Contract Term is grounds for termination of the Contract.
- h. Claims-Made Coverage - Any “claims made” policy must remain in force, or the Contractor must obtain an extended reporting endorsement, until the applicable statute of limitations for any claims has expired.
- i. Contract Identification - All insurance certificates must state this Contract's number and title.

The Contractor must disclose to the County the amount of any deductible or self-insurance component of any of the required policies. With the County’s approval, the Contractor may satisfy its obligations under this section by self-insurance for all or any part of the insurance required, provided that the Contractor can demonstrate sufficient financial capacity. In order to do so, the Contractor must provide the County with its most recent actuarial report and a copy of its self-insurance resolution.

The County may request additional information to determine if the Contractor has the financial capacity to meet its obligations under a deductible and may require a lower deductible; that funds equal to the

deductible be placed in escrow; a certificate of self-insurance; collateral; or another mechanism to guarantee the amount of the deductible and ensure protection for the County.

The County's acceptance or approval of any insurance will not relieve the Contractor from any liability or obligation imposed by the Contract Documents.

The Contractor is responsible for the Work and for all materials, tools, equipment, appliances and property used in connection with the Work. The Contractor assumes all risks for direct and indirect damage or injury to the property used or persons employed in connection with the Work and for of all damage or injury to any person or property, wherever located, resulting from any action, omission, commission or operation under the Contract or in connection in any way whatsoever with the Work. The Contractor's insurance shall be the primary non-contributory insurance for any work performed under this Contract.

The Contractor is as fully responsible to the County for the acts and omissions of its subcontractors and of persons employed by them as it is for acts and omissions of persons whom the Contractor employs directly.

56. DISADVANTAGED BUSINESS ENTERPRISE PROVISIONS

A. DEFINITIONS AND INTERPRETATIONS

The County will utilize the following definitions to identify Disadvantaged Business Enterprise (DBE) Program eligibility standards. The following definitions and any other definitions related to the DBE program have the same meaning as defined in 49 CFR Part 26.

- (1) "Disadvantaged Business Enterprise" or "DBE" means a for profit small business concern:
(1) which is at least 51 percent owned by one or more socially or economically disadvantaged individuals, or in the case of a corporation in which 51 percent of the stock is owned by one or more such individuals; and (2) whose management and daily business operation are controlled by one or more of the socially and economically disadvantaged individuals who own it.
- (2) "Small Business Concern" means, with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, a small business as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in section 26.65(b).
- (3) "Socially and Economically Disadvantaged Individual" means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and includes any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (a) "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;
 - (b) "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese cultures or origin, regardless of race;

- (c) "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - (d) "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands, Republic of Palau, the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - (e) "Subcontinent Asian Americans," which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka;
 - (f) Non-minority American Women;
 - (g) "Tribally-owned concern" means any concern at least 51 percent owned by an Indian tribe;
 - (h) "Any individual groups whose members are designated as socially and economically disadvantaged by the Small Business Administration (SBA) at such times as the SBA designation becomes effective; and
 - (i) Any individual who the County finds to be socially and economically disadvantaged on a case-by-case basis.
- (3) "USDOT" means the U.S. Department of Transportation including the Federal Transit Administration (FTA).
- (5) "Good Faith Efforts" means efforts to achieve a DBE goal or other requirement that, by their scope, intensity and appropriateness to the objective, can reasonably be expected to fulfill the DBE program requirement.

B. SMALL BUSINESS ENTERPRISE

The County's Division of Transportation has a Small Business Enterprise (SBE) Program as part of its DBE Program. The County provides race-neutral efforts to facilitate participation of small businesses in its procurement process for federally assisted projects through the FTA. Although there is no SBE goal for this procurement, SBE firms are encouraged to participate, and Offerors are encouraged to seek SBE firms as subconsultants/subcontractors.

C. BANKS AND FINANCIAL INSTITUTIONS

The Contractor is encouraged to utilize the services of disadvantaged, minority and woman-owned banks and financial institutions. The identity of such banks is available at: <https://www.occ.treas.gov/topics/consumers-and-communities/minority-outreach/minority-depository-institutions-list.pdf>.

D. CERTIFICATION AND DIRECTORY OF DBES

(1) All prospective DBEs must be certified through a Unified Certification Program (UCP). The County recognizes certification by the Virginia Department of Small Business and Supplier

Diversity (DSBSD) and the Metropolitan Washington Airports Authority (MWAA).

- (2) Each DBE firm will be verified as a certified DBE through one of the UCP Directories listed above and they each maintain online DBE directories of all firms certified. These online directories and appropriate forms to apply for DBE certification are available at the following website addresses:
DSBSD's website: <https://www.sbsd.virginia.gov/certification-division/dbe/>
MWAA's website: <https://www.mwaa.com/topics/local-disadvantaged-business-enterprise>.
- (3) The eligibility of a DBE certified joint venture will be determined on a project-by-project basis by the County.
- (4) Offerors are reminded that only certified DBEs may participate in County contracts in such capacities. If Offerors propose using a DBE not currently certified, it is strongly urged that a UCP be contacted well in advance of the date set for receipt of offers in order to enable review of the proposed DBE's eligibility.

E. DBE Modifications or Substitutions

This Provision applies to all modifications and substitutions under this Contract. The Contractor will be required to comply with this Provision to the extent needed to achieve the DBE goals agreed to at the time of contract award.

- (1) If a prime contractor wishes to terminate or substitute a DBE subcontractor listed as fulfilling its contract goal, and then performs the work of the terminated DBE subcontractor with its own forces, an affiliate, a non-DBE subcontractor or with another DBE subcontractor, it must submit written documentation prior to the termination or substitution of the DBE subcontractor to the Contracting Officer. This will include any changes to items of work, material, services, or DBE firms that differ from those identified on the Intent to Perform as a DBE Subcontractor form(s) (**Exhibit C**) on file with the Contracting Officer. The Offeror/Contractor must provide any and all documentation and information as may be requested with respect to the requested change.
- (2) The Offeror's/Contractor's documentation shall include the specific reasons for the proposed change. Specific reasons that are acceptable include but are not limited to: the DBE was not able to perform; the DBE was unable to produce acceptable work; and/or the DBE has submitted an unreasonable escalation in price. In the case of a DBE subcontractor being substituted by another DBE subcontractor, the Contractor should include the name, address, certification number and principal office of the proposed DBE firm. After providing an opportunity to the County's DBE Specialist to make a recommendation, the Contracting Officer will approve or disapprove the change.
- (3) If the change involves a subcontractor substitution, the Offeror/Contractor must make good faith effort to replace one DBE with another DBE. The substitute DBE firm must be certified by a UCP in order for the Offeror/Contractor to receive credit toward fulfilling its DBE participation goal for the contract. In the event that the Offeror/Contractor is unable to contract with another DBE firm, good faith effort documentation must be provided to the Contracting Officer describing the unsuccessful attempts to locate a substitute DBE.

In all situations, the Contractor may not terminate or substitute a DBE subcontractor without the prior written consent of the Contracting Officer.

- (4) The Offeror/Contractor must submit a new Intent to Perform as a DBE Subcontractor form for the substitute DBE firm(s) with the request for change, to verify that the new DBE firm(s) is certified by a UCP. The Contracting Officer shall notify the Offeror/Contractor in writing of his decision as expeditiously as possible. If the contract has been awarded and the Contracting Officer approves the proposed substitution in writing, the Contractor shall provide a copy of the executed subcontract agreement with the proposed DBE firm to the Contracting Officer within ten (10) business days of its receipt of the substitution approval.
- (5) If the change involves a modification, the Contractor must submit, if applicable, the Intent to Perform as a DBE Subcontractor form specified for contract modifications for any DBE subcontractor affected by this change. This form may be obtained from the Contracting Officer.
- (6) If the Contractor does not comply with this Provision, the County may elect to apply contract remedies as defined in 49 CFR Part 26, or other contract remedies, as appropriate. Additionally, the Contracting Officer may order that the profits from the terminated portion of the DBE subcontract be forfeited by the Contractor.

F. DEMONSTRATION OF GOOD FAITH EFFORT

- (1) If an Offeror does not meet the DBE goal, it shall nevertheless be eligible for award of the contract if it can demonstrate to the Contracting Officer that it has made a good faith effort to meet the DBE goal. The Offeror shall submit to the County the Evidence of Good Faith Efforts Form (Exhibit D) which documents the steps it has taken to solicit participation from DBE firms. This form should be submitted when the initial response to the County's solicitation is due. All contractors, including DBE prime contractors, are required to submit good faith efforts documentation, if necessary. In evaluating an Offeror's good faith effort submission, the County will only consider those documented efforts that occurred prior to the good faith efforts determination.
- (2) In the event that a firm submitted by an Offeror in accordance with the requirements of the Submission of DBE Utilization Forms and Related Documentation provision cannot be certified, the Offeror will be notified and given an opportunity to substitute that firm with a certified DBE firm. The Offeror will have ten (10) calendar days from the date of notification to accomplish the substitution. In the event the Offeror is unable to contract with another substitute DBE firm, the good faith efforts that the Offeror made in attempting to contract with a substitute DBE firm must be documented to the Contracting Officer at the end of the same ten (10) calendar day period.
- (3) The County will look not only at the different kinds of efforts that the Offeror has made, but also the quantity and intensity of those efforts. Efforts that are merely pro forma are not good faith efforts to meet the goal (even if they are sincerely motivated) if, given all relevant circumstances, the Offeror's efforts could not reasonably be expected to produce a level of DBE participation sufficient to meet the goal.

- (4) Offerors are reminded that the issue of whether or not the Offeror has met or exceeded the established goal and/or demonstrated good faith efforts is considered a matter of the Offeror's responsibility. The County will only award contracts to Offerors determined to be responsible. The Contracting Officer, after affording the County's DBE personnel an opportunity to make a recommendation, shall be responsible for determining the sufficiency of an Offeror's good faith effort to meet contract goals.
- (5) An Offeror that the Contracting Officer determines is not responsible may request administrative review and reconsideration under the County's Procurement Regulations. As part of any reconsideration, if requested, the Offeror may elect to meet in person with the County's Purchasing Agent to discuss credit toward meeting the DBE goal or whether the Offeror made adequate good faith efforts.

G. OFFEROR'S DBE OBLIGATION

The Offeror's DBE Obligation is outlined in Section VIII – Federal Transit Administration Clauses provision 28 entitled Disadvantaged Business Enterprise (DBE). The County has established an overall goal of **23.3 percent** race-neutral DBE participation on FTA-assisted contracts.

H. PAYMENT DOCUMENTATION

Concurrently with the submission of each invoice or request for a progress payment under this contract, the Contractor shall provide a breakdown of the amounts paid to DBEs identified by the Contractor to participate in this contract. The breakdown shall be provided on the attached Monthly DBE Subcontractor Progress Report form. As provided elsewhere in this Contract, the County may withhold all or part of any payment otherwise due the Contractor if the Contractor fails to submit the Monthly DBE Subcontractor Progress Report form and/or make prompt payments to its subcontractors, suppliers, materialmen or laborers.

I. SANCTIONS FOR NONCOMPLIANCE WITH THE COUNTY'S DBE PROGRAM PROVISIONS

Failure of the Contractor to carry out the County's DBE program provisions shall constitute a breach of contract and may result in termination of the Contractor for default or such remedy as the County may deem appropriate. The County reserves the right to apply legal and contract remedies available under Federal, state and local law, including but not limited to, responsibility determinations in future contracts, suspension and debarment procedures as outlined in 49 CFR Part 29, and forfeiture of profits as provided for elsewhere. The County will bring to the attention of the U.S. Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that USDOT can take steps provided in 49 CFR Section 26.107.

J. SUBMISSION OF DBE UTILIZATION FORMS AND RELATED DOCUMENTATION

- (1) Each Offeror should submit to the County a Summary of Subcontractor/Subconsultant/Suppliers form (Exhibit E) subcontractor when the initial response to the County's solicitation is due. If an Offeror does not meet the County's DBE participation goal, the Evidence of Good Faith Efforts form should also be submitted when the initial response to the county's solicitation is due. The submission of this information is considered an issue of responsibility, and the County will not award a contract to any Offeror who has not supplied this documentation.

- (2) The Intent to Perform As A DBE Subcontractor form for each proposed subcontractor shall constitute a representation by the Offeror to the County that it believes such firm is ready, willing, and able to perform the work indicated. It shall also represent a commitment by the Offeror that if it is awarded the contract, it will enter into a subcontract with such subcontractor for the work described at the approximate price set forth in the Intent to Perform As A DBE Subcontractor form.
- (3) If the DBE Subcontractor participation changes after the forms have been submitted, but prior to award of the contract, the Offeror will be required to immediately notify the Contracting Officer of the changed amount and the reason(s) for the change. The modification and substitutions of DBE firms that occur shall be governed by DBE Modification or Substitutions provision of this Exhibit.
- (4) Except as authorized by the Contracting Officer, the successful Offeror shall enter into formal agreements with the subcontracting firms shown in the submitted Intent to Perform As A DBE Subcontractor form(s) within ten (10) business days after receipt of a contract executed by the County. The successful Offeror (Contractor) shall provide the Contracting Officer a copy of each agreement within three (3) business days of execution.
- (5) If an Offeror is a DBE and lists itself on the Intent to Perform As A DBE Subcontractor form, it is required to perform the work indicated with its own work force.

57. DRPT CONTRACT PROVISIONS

- a. The Contractor, their agents and employees shall comply with all covenants and provisions of the Virginia Department of Rail and Public Transportation (DRPT) Master Agreement for the Use of Commonwealth Transportation Funds with the County Board of Arlington County VA dated July 1, 2020 and shall be made expressly a part of any subcontracts executed by the Contractor and shall be binding on all subcontractors, vendors, their agents and employees.
- b. The Contractor shall name the Northern Virginia Transportation Commission (NVTC) and its Bond Trustee, the Commonwealth of Virginia, the Commonwealth Transportation Board (CTB), DRPT, the Virginia Department of Transportation (VDOT) and their officers, employees and agents as additional insureds on any insurance policy issued for the Work to be performed, and present satisfactory evidence of insurance coverage before commencing with any Work, so that they are protected from and against any losses actually suffered or incurred, except for losses to the extent caused the negligence or willful misconduct of such entity or person, from third party claims that are directly related to or arise out of: (a) any failure by the Contractor to comply with, to observe or to perform in any material respect any of the covenants, obligations, agreements, terms or conditions in this Project, or any breach by the Contractor of its representations or warranties in this Project; (b) any actual or willful misconduct or negligence of Contractor its employees or agents in direct connection with the Work; (c) any actual or alleged patent or copyright infringement or other actual or alleged improper appropriation or use of trade secrets, patents, proprietary information, know-how, trademarked or service-marked materials, equipment devices or processes, copyright rights or inventions by the Contractor in direct connection with the Work; (d) inverse condemnation, trespass, nuisance or similar taking of harm to real property committed or caused by the Contractor, its employees or agents in direct connection with the work; or (e) any assumed liabilities.

- c. The Contractor shall indemnify, defend and hold harmless, NVTC and its Bond Trustee, the Commonwealth of Virginia, the CTB, VDOT, DRPT and their officers, agents, and employees of these entities from and against any all damages, claims, suits, judgments, expenses, actions and costs of every name and description, arising out of or resulting from any act or omission by the Contractor, its subcontractors, agent or employees in the performance of the Work.
- d. The obligations of this Section shall survive the termination or completion of the Contract.

58. FEDERAL TRANSIT ADMINISTRATION (FTA) CONTRACT CLAUSES

Contract Subject to Federal Financial Assistance/Application of Provisions and Clauses

This project is funded in whole or in part by grants from the Federal Transit Administration (FTA) of the United States Department of Transportation. The award The Contractor/Proposer is required to comply with all terms and conditions prescribed for third-party contracts by the U.S. Department of Transportation, Federal Transit Administration (FTA).

Contractor/Proposer is responsible for ensuring its compliance with all applicable FTA requirements. Additionally, Contractor/Proposer is responsible for ensuring that subcontractors, at as many tiers of the Project as required, perform in accordance with the terms, conditions and specifications of the contract, including all applicable FTA requirements.

Upon request of the County or FTA, Contractor/Proposer shall provide evidence of the steps it has taken to ensure its compliance with the FTA requirements, as well as evidence of the steps it has taken to ensure subcontractor performance, and/or submit evidence of subcontractor's compliance at all tiers.

The following provisions and required contract clauses will be incorporated by reference in the Contract. Some provisions and clauses require the contractor/proposer to execute and submit certain required certifications with the contract, which are included herein. Failure to execute and submit required certifications with the contract documents may render a contract null and void.

Clauses may not be listed in consecutive numerical order as only those provisions and required clauses that apply to this contract/project have been referenced.

1. FLY AMERICA REQUIREMENTS

49 U.S.C. § 40118

41 CFR Part 301-10

Applicability to Contracts

Applicable to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation.

Flow Down Requirements

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Fly America- 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.

6. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

Applicability to Contracts

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.

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.

7. CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

Applicability to Contracts

Applicable to all contracts and subcontracts exceeding \$150,000.

Flow Down

The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Clean Water - (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. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

10. LOBBYING

31 U.S.C. 1352

49 CFR Part 19

49 CFR Part 20

Applicability to Contracts

Applicable to all contracts exceeding \$100,000.

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.

- 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.

- 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.

The certificate entitled *Certification Regarding Lobbying (Exhibit F)* must be completed and returned with your proposal.

11. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

Applicability to Contracts

Applicable to all contracts as listed below.

Flow Down

FTA does not require the inclusion of these requirements in subcontracts.

Access to Records - The following access to records requirements apply to this Contract:

1. Where the County is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the County, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the County which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the County, the Secretary of the US Department of Transportation and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
3. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
4. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the County, the FTA Administrator, the US Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).
5. FTA does not require the inclusion of these requirements in subcontracts.

12. FEDERAL CHANGES
49 CFR Part 18

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

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 The County 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.

14. CLEAN AIR
42 U.S.C. 7401 et seq
40 CFR 15.61
49 CFR Part 18

Applicability to Contracts

Applicable to all contracts exceeding \$150,000.

Flow Down

The Clean Air requirements flow down to all subcontracts which exceed \$100,000.

Clean Air - (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. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts

Applicable to all contracts.

(1) The County 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 County, 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.

20. 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**

Applicability to Contracts

Applicable to all contracts.

Flow Down

These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

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.

21. TERMINATION

**49 U.S.C. Part 18
FTA Circular 4220.1F**

Applicability to Contracts

Applicable to all contracts exceeding \$10,000.

Termination for Cause, Including Breach and Default; Cure

1. **Termination for Unsatisfactory Performance.** If the County determines that the Contractor has failed to perform satisfactorily, then the County will give the Contractor written notice of such failure(s) and the opportunity to cure them within 15 days or any other period specified by the County ("Cure Period"). If the Contractor fails to cure within the Cure Period, the County may terminate the Contract for failure to provide satisfactory performance by providing written notice with a termination date.

The Contractor must submit any request for termination costs, with all supporting documentation, to the County Project Officer within 30 days after the expiration of the Cure Period. The County may accept or reject the request for termination costs, in whole or in part, and may notify the Contractor of its decision within a reasonable time.

In the event of termination by the County for failure to perform satisfactorily, the Contractor must continue to provide its services as previously scheduled through the termination date, and the County must continue to pay all fees and charges incurred through the termination date.

2. Termination for Breach or Default. If the County terminates the Contract for default or breach of any Contract provision or condition, then the termination will be immediate after notice of termination to the Contractor (unless the County provides for an opportunity to cure), and the Contractor will not be permitted to seek termination costs.

Upon any termination pursuant to this section, the Contractor will be liable to the County for costs that the County must expend to complete the Work, including costs resulting from any related delays and from unsatisfactory or non-compliant work performed by the Contractor or its subcontractors. The County will deduct such costs from any amount due to the Contractor; or if the County does not owe the Contractor, the Contractor must promptly pay the costs within 15 days of a demand by the County. This section does not limit the County's recovery of any other damages to which it is entitled by law.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt the notice of the termination.

Termination for the Convenience of the County

The County may terminate this Contract in whole or in part whenever the Purchasing Agent determines that termination is in the County's best interest. The County will give the Contractor at least 15 days notice in writing. The notice must specify the extent to which the Contract is terminated and the effective termination date. The Contractor will be entitled to termination costs, plus any other reasonable amounts that the parties might negotiate; but no amount will be allowed for anticipatory profits.

Except as otherwise directed by the County, the Contractor must stop work on the date of receipt of the notice of the termination.

22. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

Applicability to Contracts

The provisions of Part 29 apply to all contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b).

The certificate entitled *Certification Regarding Debarment, Suspension and Other Responsibility Matters* (Exhibit F) must be completed and returned with your bid/proposal.

24. CIVIL RIGHTS REQUIREMENTS
29 U.S.C. § 623, 42 U.S.C. § 2000
42 U.S.C. § 6102, 42 U.S.C. § 12112
42 U.S.C. § 12132, 49 U.S.C. § 5332
29 CFR Part 1630, 41 CFR Parts 60 et seq.

Applicability to Contracts

Applicable to all contracts.

Flow Down

The Civil Rights requirements flow down to all third-party contractors and their contracts at every tier.

Civil Rights - The following requirements apply to the underlying contract:

- (1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and 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, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

- (2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:
 - (a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, 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. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. 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, creed, national origin, sex, or age. 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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

 - (b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § § 623 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.

 - (c) **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal

Employment Opportunity Commission, "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. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

- (3) The Contractor also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

25. BREACHES AND DISPUTE RESOLUTION

49 CFR Part 18

FTA Circular 4220.1F

Applicability to Contracts

Applicable to all contracts exceeding \$100,000.

Flow Down

The Breaches and Dispute Resolutions requirements flow down to all tiers.

Dispute Resolution

All disputes arising under this Agreement or concerning its interpretation, whether involving law or fact and including but not limited to claims for additional work, compensation or time, and all claims for alleged breach of contract must be submitted in writing to the Project Officer as soon as the basis for the claim arises. In accordance with the Arlington County Purchasing Resolution, claims denied by the Project Officer may be submitted to the County Manager in writing no later than 60 days after the final payment. The time limit for a final written decision by the County Manager is 30 days. Procedures concerning contractual claims, disputes, administrative appeals and protests are contained in the Arlington County Purchasing Resolution. The Contractor must continue to work as scheduled pending a decision of the Project Officer, County Manager, County Board or a court of law.

Arbitration

No claim arising under or related to this Contract may be subject to arbitration.

28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

Applicability to Contracts

Applicable to all DOT-assisted contracting activities.

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 County's overall goal for DBE participation is 23.3%. 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 The County deems appropriate. Each subcontract the

contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

- c. The contractor 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 seven (7) days after the contractor's receipt of payment for that work from the County. 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.
- e. The contractor must promptly notify the County, 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 County.

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS
FTA Circular 4220.1F

Applicability to Contracts

Applicable to all contracts.

Flow Down

The incorporation of FTA terms has unlimited flow down.

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

33. ACCESS FOR INDIVIDUALS WITH DISABILITIES

Applicability to Contracts

Applicable to all contracts.

The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Contractor also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 *et seq.*, which

requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 *et seq.*, which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Contractor agrees to comply with applicable implementing Federal regulations and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing.

WITNESS these signatures:

THE COUNTY BOARD OF ARLINGTON
COUNTY, VIRGINIA

CONTRACTOR

AUTHORIZED DocuSigned by:
SIGNATURE: Dr. Sharon T. Lewis
89B86B1AD301462...
NAME: Dr. Sharon T. Lewis

AUTHORIZED DocuSigned by:
SIGNATURE: Brad Thomas
E2455710A9394E8...
NAME: Brad Thomas

TITLE: Purchasing Agent

TITLE: President

DATE: 4/12/2022

DATE: 4/12/2022

EXHIBIT A
SCOPE OF SERVICES

The Contractor shall provide Transit project management staffing services to support the necessary management, technical and operating services for assisting in the operation of the County's local fixed-route transit system (Arlington Transit (ART)), paratransit system (Specialized Transit for Arlington Residents (STAR)), and regional transit services provided by the Washington Metropolitan Area Transit Authority (WMATA) and as specified by the County. The Contractor shall assist and cooperate with the County in meeting the objectives of providing quality transit management services. The Contractor shall perform close liaison activities, coordination and cooperation with the County on matters related to operations, monitoring, and compliance, reporting and service performance measurements.

The Contractor shall perform Program and Project Management services under the day-to-day guidance of the County, and in general conformance with a schedule and staffing budget plan developed by the Contractor and approved by the County. It is anticipated that some Contractor's personnel might function at the overall program level while others would be assigned to specific tasks or projects. The Contractor must be able to scale its workforce to accommodate the estimated needs set forth on an annual basis. Upon request from the County for the need of temporary project specific personnel, the Contractor shall respond in writing within twenty-four (24) hours of receiving the request from the County Project Officer or designee utilizing the Contractor's expansive network of transit professionals to provide interim solutions. The response must include at a minimum a proposed plan and/or solution on how the Contractor will address this need. This scope of work identifies the current needs of the County; however, the Contractor shall be expected to scale supporting staff up or down depending on the County's future needs and economic conditions.

The specific Scope of Work (SOW) and rates for each contract year shall be negotiated by the County and Contractor for each contract year. Contract amounts for renewal years will be based on funding availability, labor rates from the previous year and an Annual Work Plan for that year.

STAFFING REQUIREMENTS

The County will require support from six (6) full-time personnel for the initial Year. Full time is defined as forty (40) hours per week. Staffing requirements for each Option Year will be negotiated per the Annual Work Plan as set forth herein. The following personnel are required to report to work at the County's Office located at 2100 Clarendon Blvd., Suite 900, Arlington, Virginia 22201. The minimum personnel required are as follows:

1. Transit Provider Coordination Manager

Transit Provider Coordination Manager (TPCM) shall coordinate the planning and policy activities of Metrorail and Metro Bus services for Arlington County as well as act as the liaison between WMATA and Arlington County Transit Bureau and Division of Transportation. This position shall also act as liaison regarding transit planning and policy between the Arlington County Transit Bureau and Division of Transportation and the Northern Virginia Transportation Commission (NVTC) and committees overseeing transit services on I-66 and I-395. The liaison duties shall include advising the Director of Transportation and the Transit Bureau Chief as well as Arlington County Board members.

This is a senior staff position that is responsible for assisting with transit service planning for Metrorail and Metro Bus services, including coordination with other regional and local transit providers, particularly Arlington County Transit; with the development of the County's annual work plan and

program within the WMATA annual budget; and with the project development of capital projects for improvements to WMATA facilities.

This position will also provide technical staff assistance to Arlington County's representative to the WMATA Board, the NVTC, and other regional agencies as may be necessary. In this capacity this person will attend board meetings and technical advisory committees to assist County representatives or to represent the County's interests. This staff position will also require working with the public and community stakeholders, attendance at community meetings, and preparation or materials or presentations for community meetings.

Additionally, the TPCM is responsible for leading and managing the Contractor embedded staff team and shall oversee and direct their performance to ensure delivery of projects assigned to them. The TPCM will provide guidance and technical support to the Contractor team to ensure projects are efficiently and successfully implemented and completed according to established timelines and budget requirements. This includes overall project monitoring, control and direction and implementing corrective actions as needed.

The individual fulfilling this position shall have knowledge of project compliance with federal regulations for federally funded projects as well as state regulations for state-funded projects. Additionally, they shall be responsible for:

- Managing the Contractor budget and schedule.
- Providing staffing with the requisite technical skills and expertise to perform the Work.
- Coordinating staff committed to the Program and their availability for the required time and durations.
- Providing oversight and address any performance issues with assigned team members.
- Providing project management services for specific projects as assigned.
- Maintaining files and project documentation according to County direction and in accordance with federal and state requirements.
- Providing monthly progress reports and look a-heads.

This position shall provide other duties within general scope of this contract, as assigned by the County Project Officer.

Required Qualifications and Skills:

- A Bachelor's degree in transportation or community planning, or a related degree, and at least ten (10) years' experiences in transit service planning or operations, including management, policy and budget experience.
- Five (5) years of experience in project and contract management.
- Extensive knowledge of fixed-route bus management and operations, including route design.
- Excellent interpersonal skills and professional judgment, including ability to work in a politically sensitive, regional governing board context with highly complex and technical issues.
- Exceptional communications skills, oral and written.
- Ability to read, analyze, and utilize data, including an ability to develop spreadsheets, tables, charts, etc. of data or analyses.
- Working knowledge of Microsoft Office Suite, including Outlook, SharePoint, Word, Excel and PowerPoint.
- Ability to draft reports, memoranda, presentations or other materials.

- Demonstrated presentation skills.
- Must be able to attend evening and Saturday meetings.

2. Bus Stop and Street Operations Coordinator

Bus Stop and Street Operations Coordinator shall oversee ART and MetroBus use of transit corridors and bus bays at transit and Metrorail stations to facilitate smooth flow and excellent customer service. This position shall also be responsible for operations coordination with all other public and private transit operators, including private shuttle, which operate in the County and request use of County curb space and bus stops.

Specific responsibilities and tasks shall include, but not limited to:

- Overseeing joint ART, WMATA MetroBus, and other regional transit providers use of bus stops and bus bays at transit and Metrorail stations to facilitate smooth operations.
- Coordinating bus access, layover and egress with WMATA, the ART operations contractor and County Traffic, Engineering and Operations (TE&O) Bureau.
- Planning the location of new stops and consolidation of existing stops.
- Reviewing Maintenance of Traffic (MOT) plans affecting any bus stop and bus route and determine temporary bus detour and bus stop location.
- Identifying needed bus stop improvements.
- Monitoring bus stops affected by County, schools, or developer construction activities.
- Coordinating bus stop closures and detours and the implementation of temporary bus stop locations with WMATA and the ART operations contractor as well as Arlington County Commuter Services personnel.
- Managing and coordinating the installation of signs, blades, decals, and schedule information at bus stops with WMATA and the ART operations contractor as well as Arlington County Commuter Services personnel and update the bus stop inventory accordingly.
- Reporting bus stop defects or infrastructure issues to Bus Stop Capital Program Manager.
- Assisting the Bus Stop Capital Program Manager in updating the bus stop inventory
- Coordinating snow removal at bus stops as identified.
- Working with the Bus Stop Capital Manager regarding assessment of proposed bus stops for safe ease of access and egress.
- Working with the Transit Bureau Operations Team and the Traffic Engineering & Operations Bureau in assessing new and revised routes for safe operations.
- Working with the County's Traffic, Engineering & Operations (TE&O) Bureau and other staff as needed regarding operations and stops for all public and private transportation operators, including government shuttles and hotel shuttles, within Arlington County.
- Overseeing, in cooperation with the Transit Facilities and Asset Manager (if position is funded) and Bus Stop Capital Program Manager, the maintenance and cleaning of the 1,115 bus stops in the county as well as the transit stations – replace downed bus stop poles, install signs, post detour notices, ensure clean shelters and benches, trash removal, snow and ice removal.
- Assisting in monitoring bus bays at the Shirlington Transit Station and Metrorail stations and stations along the Crystal City Potomac Yard Transitway – monitor lighting, stanchions, replace downed bus stop poles, pavement conditions, update signs, post detour notices, and monitor state of good repair.
- Maintaining files and project documentation according to County direction and in accordance with federal and state requirements.
- Reviewing and approving/rejecting permits for special events that affect transit services and facilities.

- Coordinating with TE&O staff regarding traffic operational issues and conflicts with parking, signage, street infrastructure, and street construction.
- Supporting the County Emergency Support Function #1-Transportation emergency management team, the operations center, and the County Emergency Management Office during incidents and emergencies.
- Reviewing, reconciling, and recommending action on project related invoices.
- Providing monthly progress reports and look-aheads.

Required Qualifications and Skills:

- A Bachelor's degree in transportation planning, community planning or a related field and at least three (3) years' experience in transit service planning or operations.
- Demonstrate strong transit operations and supervisory experience in a team environment.
- Demonstrated knowledge of fixed-route bus operations, including route design.
- Experience operating a transit bus is preferred but not required.
- Knowledge of the Americans with Disabilities Act (ADA) requirements in relation to pedestrian access and bus stop design.
- Possession of a Commercial Driver's License (CDL) with Passenger and Air Brake Endorsement preferred but not required.
- Ability to draft reports, memoranda, presentations or other materials.
- Working knowledge of Microsoft Office Suite, including Outlook, SharePoint, Word, Excel and PowerPoint.
- Working knowledge and experience in developing and maintaining databases; experience with Microsoft Access is preferred.
- Working knowledge and experience with GIS and other tools.
- Demonstrated concise and clear writing skills and basic familiarity with spreadsheets.
- Must be able to attend evening and Saturday meetings.

3. Project Manager (3 positions)

The Project Manager (PM) shall serve as the County's representative to manage the planning, design and implementation/construction of County transit projects. The PM will act as a project liaison between various County departments to ensure that all project activities are in support of the overall project goals. The PM shall develop project objectives by defining deliverables, reviewing project proposals and plans, determine project responsibilities by identifying project phase and elements and provide technical support.

Specific project responsibilities and tasks shall include but are not limited to:

- Directing, coordinating, and exercising functional authority for planning, organization, control, integration, and completion of transit projects within area of assigned responsibility.
- Assisting with project development and environmental clearance when applicable.
- Coordinating operations during construction phase of projects.
- Oversee activities during construction phase of projects.
- Coordinating project implementation and provide stakeholders and County staff with regular progress reports.
- Developing project work plan and schedule.
- Developing scopes of work for consultants and contracted services and assisting in procuring contracts.
- Developing specifications and independent cost estimates.
- Controlling expenditures within limitations of project budget.

- Reviewing, reconciling and recommending action on project related invoices.
- Maintaining files and project documentation according to County direction and in accordance with federal and state requirements.
- Providing monthly progress reports and look a-heads.

Required Qualifications and Skills:

- Minimum of five (5) years of experience in project management, project controls or contract administration of transit and other transportation projects and conducting similar services as described in this RFP.
- Bachelor of Science in Engineering, Construction Management, Planning or related field; Project Management Professional Certification; Licensed PE in the Commonwealth of VA or other comparable experience.
- Demonstrated knowledge of project compliance with federal regulations for federally- funded projects; Prior experience working with projects funded by federal dollars is preferred but not required.
- Ability to prepare cost estimates and reports.
- Ability to maintain records and prepare complex written and oral reports.
- Ability to develop and adhere to operating budgets.
- Ability to read professional design plans and construction drawings and preference for ability to develop design plans and construction drawings
- Ability to establish and maintain effective working relationships with contractors, consultants, employees and the general public.
- Working knowledge of Microsoft Office Suite, including Outlook, SharePoint, Word, Excel and PowerPoint.
- Working knowledge and experience in developing and maintaining spreadsheets and databases.
- Working knowledge and experience with project management software tools.
- Working knowledge and experience with scheduling software.
- Must be able to attend evening and Saturday meetings.

4. Transit Technology Operations Specialist

Transit Technology Operations Program Specialist shall manage the operations, maintenance and use of transit technology for the County’s transit bus operations, STAR call center, management information, security, and customer information, and transit facilities in accordance with the Transit Intelligent Transportation Systems (ITS) Master Plan and Transit Bureau procedures. This position shall also assist the County’s Transit Services Manager and Transit Capital Program Manager with the planning, development, implementation of technology.

Specific project responsibilities and tasks shall include, but not limited to:

- Assisting with ITS development and deployment along major travel corridors and at transit facilities. This function will include coordinating with WMATA and ART, and system interface with the County’s traffic control technology center.
- Coordinating ITS technology development and deployment with WMATA, Metropolitan Washington Council of Government, Virginia Department of Transportation (VDOT), DRPT and other regional partners, including representation of ART at regional coordination committees.
- Managing the operations of the Transit Bureau’s technology hardware and software – such as managing use, repairs/upgrades, state of good repair, and replacement according to standard procedures. Coordinating implementation of County Transit Signal Priority infrastructure and

- operations procedures with County staff and regional and local jurisdictions.
- Advising and assisting ART with development, deployment and operations of ITS technology and real-time passenger information systems, including on bus technology and management information system.
- Advising and assisting ART with the development of information and communications technology hardware and software, and the interface with other technology divisions within the County's Division of Transportation (DOT), and other County agencies or program, including emergency management.
- Monitoring the status and administering the deployment and maintenance of real time information displays at transit stations, transit facilities, major bus stops and activity centers such as County community centers and office building. Managing this portion of the Program will require coordination with the County's Bus Stop and Street Operations Coordinator, Arlington Transit contractor and WMATA.
- Assisting with the testing and installation of new technology including a bus video system, off vehicle fare collection system, any changes to or new technology for the region's transit are payment system and business intelligence system.
- Managing the tagging and documentation of technology assets, in coordination with the Transit Facilities and Equipment Manager if position is funded.
- Compiling and organizing data generated from the technology for use by County management and operations staff.
- Coordinating with WMATA and other transit operators in the region; participating in technology work groups.
- Coordinating with Arlington's Department of Technology Services (DTS) and Department of Environmental Services (DES) Technology Manager and developing DTS business plans as needed.
- Coordinating with TE&O Bureau and other internal stakeholders.
- Developing standard operating procedures for transit technology.
- Assisting in developing scopes of work, RFPs and ITBs in coordination with Transit Capital, Procurement and Contract staff.
- Assisting in managing contractors including technology contract period, licensing, warranty and support.
- Reviewing, reconciling, and recommending action on project related invoices.
- Maintaining files and project documentation according to County direction and in accordance with federal and state requirements.
- Providing monthly progress reports and lookaheads.

Required Qualifications and Skills:

- A Bachelor's degree in electrical engineering, computer science, information technology or a related field and at least 3 years' experience in design, deployment or operations of ITS, including some experience with transit ITS operations or an Associate degree in a related field and five (5) years' experience with ITS technology and transit operations.
- Substantial knowledge of design, deployment and operations of information and communications technology utilized in ITS programs.
- Basic knowledge of fixed route bus and/or rail operations.
- Basic knowledge of traffic signal systems.
- Ability to read and understand technical specifications and designs for ITS technology, and related systems, e.g., signal systems.
- Experience with basic project management, including design and construction contracts.

- Working knowledge of Microsoft Office Suite, including Outlook, SharePoint, Word, Excel and PowerPoint.
- Ability to read, analyze, and utilize data, including an ability to develop spreadsheets, tables, charts, etc. of data or analyses.
- Ability to draft reports, memoranda, presentations, or other materials.
- Excellent interpersonal and customer service skills and the ability to work in a team- oriented environment.

OPTIONAL SERVICES

If funding is available, the County may expand service levels to meet the County’s needs and demands. Exercising Optional Services shall be at the sole discretion of Arlington County. Detailed below are the following optional positions that may be filled. Additional quantities of the positions detailed above may be added. The Optional Services position(s) shall be authorized through Contract Amendment only, and such services shall commence only upon receipt of a Notice to Proceed.

1. Project Coordinator

The Project Coordinator shall be responsible for monitoring the implementation of the County’s Transit Operations Program. This position reviews transportation operations, asset and project data and monthly progress reports in a project monitoring database for reasonableness, and makes corrections as needed; communicates potential problems to upper management when federal, state, regional, and local funding is in jeopardy; research, recommends, and provides assistance with problem resolution.

Specific project responsibilities and tasks shall include but are not limited to:

- Monitoring and reporting progress status on the schedule and budgets of all transit operations program projects.
- Monitoring and reporting on the financial status of all transit operations program projects.
- Coordinating the preparation and submission of all reports and forms required to state, regional and federal agencies.
- Monitoring the status of all reports and forms required by the County for transit projects with federal, state and regional funding.
- Examining reports and plans prepared by others to ensure factual accuracy, completeness, and soundness of reasoning.
- Maintaining files and project documentation according to County direction and in accordance with federal and state requirements.
- Providing monthly reports and look-aheads.

Required Qualifications and Skills:

- A Bachelor’s degree in Business Administration, Engineering, Construction Management or a related field or at least three (3) years’ experience in transit service planning or operations project management.
- Organizes and presents verbal and written research/analytical reports.
- Excellent interpersonal skills, communication (verbal and written) and presentation skills.
- Prepares letters, memos, and reports (i.e., project initiation, project overviews, status, etc.) using clearly organized thoughts, proper sentence construction, punctuation, and grammar at a level appropriate to the audience.
- Working knowledge of Microsoft Office Suite, including Outlook, SharePoint, Word, Excel, and PowerPoint.

2. **On-Call Staff Support**

In addition, the Contractor may be required to provide and have available additional qualified support service personnel (part-time or full-time) to complete a range of as-needed tasks as described in the Scope of Work, including but not limited to, research, planning study, financial support, and technical review and recommendations.

GENERAL STAFFING CONDITIONS

Contractor Responsibility/Standard of Conduct

- Contractor personnel are employees of the Contractor and under its administrative control and supervision. Contractor personnel are not employees of the County.
- The Contractor shall select, supervise, and exercise control and direction over its employees under this Contract. The County will not exercise any supervision over the Contractor's employee, but may, in coordination with the Transit Provider Coordination Manager, provide sufficient direction to Contractor personnel to ensure that the purpose of the Contract is met, and the County's interests are protected.
- The Contractor is accountable to the County for the actions of its personnel. The Contractor's employees, when on-site at the County facilities under this Contract, shall only engage in duties related to its work for the County.
- The Contractor employees assigned this Contract must maintain satisfactory standards of employee competency, conduct, appearance and integrity and the Contractor shall be responsible for taking such disciplinary action with respect to its employees as may be necessary. Contractor employees are expected to adhere to standards of conduct that reflect credit on the County.
- The County, shall in its sole discretion, direct the Contractor to remove any Contractor employee from the County facilities for any reason, including security reasons. Removal does not relieve the Contractor of the responsibility to continue providing the services required under this contract.
- The County reserves the right to permanently exclude any individual from performance under this Contract whose performance does not meet the County's standards. Such standards include but are not limited to, nonperformance, falsifying reports or statements, loss, destruction or irresponsible use of County equipment, character/actions incompatible with a professional public interaction or other criteria indicated in this Scope of Services. Permanent removal of personnel does not relieve the Contractor of the responsibility to continue providing the services required under this Contract or create an entitlement to an equitable adjustment.
- The Contractor shall provide operations management at a level and capability sufficient to oversee its functions and employees. The Contractor's Transit Provider Coordination Manager shall be designated to serve as the on-site contract manager. The Transit Provider Coordination Manager shall be responsible for coordinating all personnel matters regarding the contractor's staff, such as personnel leave and any performance matters, with the County's Project Officer.
- All Contractor personnel assigned to the contract must have all authorizations, permits, licenses, and certifications as may be required under federal, state, or local law to perform the services specified in this RFP at the time it submits a response to the RFP.

Contract Personnel Assignment

- The County reserves the right to assign work to the positions covered by this contract on an as-needed basis. If work for a position is assigned for a portion of a year, the cost will be calculated based on the actual time the service is provided.
- The County has the right to approve and reject staff or sub-Contractors assigned to this Contract. The County reserves the right to require the Contractor to reassign any individual on the Contractor's

project team if the County is unsatisfied with that individual's performance or if that individual fails to demonstrate the required qualifications of expertise. The County will participate in the selection process and reserves the right to review and approve replacement team members.

- Should an individual need to be replaced, the Contractor shall provide to the County Project Officer statement(s) of qualifications and resume(s) of proposed replacement(s). If the proposed replacement individual is rejected by the County Project Officer, the Contractor will be given a chance to propose another individual. If the second replacement is also rejected by the Project Officer, the County reserves the right to terminate the assignment to the Contractor and obtain qualified and acceptable replacement from other sources. Permanent replacement shall be complete within thirty (30) days.
- If an individual is temporarily unavailable for work due to extended medical leave, jury duty or other reasons, the Contractor shall, upon the County's request, fill a position with an interim replacement individual immediately upon request from the Project Officer.
- The County will not pay any charges or fees assessed by the Contractor if an employee assigned under this contract subsequently becomes an employee of Arlington County as a result of being hired by the County after application for a position through the open competitive personnel selection procedures of the County.

County Responsibility

- The County will provide office space and office equipment needed by Contractor's on-site staff to perform their work under this Contract. All office equipment, including but not limited to computers, telephones, cell phones, and furniture, and shall remain, the property of the County and may only be used for performing County business under this Contract. All equipment and materials shall be returned by Contractor to the County promptly at County's request together with any copies thereof, and promptly upon expiration or termination of this Contract for any reason.
- The County will provide to the Contractor's employees means of access to the assigned office space as needed for performance of their work. The County also will provide the Contractor's employees with photo ID card, identifying them as contract employees.
- The County will provide to the Contractor's employees instructions and training in County policies and procedures, handling confidential information, speaking on behalf of the County, handling Freedom of Information Act requests, as applicable to their work under this Agreement. The Contractor shall assure that its employees comply with the County policies and procedures and follow the instructions related to their work.

Performance of Contractor Personnel

The County will assess the performance of Contractor personnel on an on-going basis and communicate the results to the Contractor. Performance concerns will not be discussed with the Contractor personnel directly other than with the Transit Provider Coordination Manager. The County supervisor of contracted staff will participate in annual performance reviews in conjunction with the Transit Provider Coordination Manager. Should a problem arise regarding performance of the overall level of services, the Contractor shall have 24 business hours in which to correct the problem. The County will perform inspection and acceptance of all deliverables.

Telework & Alternate Work Schedules

The County may approve telework and/or alternative work schedules for the personnel under this Contract on a case-by-case basis if such schedules will not provide a hardship to the County and such schedules are supported by the Contractor for its contractor personnel. The Transit Provider Coordination

Manager shall submit requests for telework and alternate work schedules on behalf of Contractor personnel to the Project Officer for written approval. Project Officer approved telework and/or alternate work schedule may be revoked by the County at any time.

Work Hours

All Contractor personnel assigned to this Contract will be compensated for actual hours worked, up to a maximum of forty (40) hours per week (Monday through Friday) unless otherwise approved by the Project Officer. Some positions may require work outside of normal business hours. When that is the case, the total hours worked that week will be adjusted as soon as practical to ensure that the forty (40) hours per week limit is not exceeded. The adjusted schedule is subject to approval by the Project Officer.

Additional Hours

Occasionally, Contractor personnel assigned under this Contract may be required to work additional hours beyond the 40 hours per week per position. All Contractor personnel must obtain pre-approval from the Project Officer, in writing, prior to working any additional hours. All additional hours will be paid at the hourly rate(s) in the Price Schedule.

County Holidays/County Non-Workdays/Vacation/Sick and Other Leave

Contract personnel shall not be compensated for personal, sick, vacation or inclement weather days without prior written approval of the Project Officer. All vacation or extended leave by Contractor personnel requires approval by the Project Officer one week in advance.

[County Holidays](#) (as noted in the attached website link), non-County Contractor holidays and other non-workdays are not billable unless work is requested by the County and performed on these days.

Training

Contractor personnel are expected to be fully trained for their respective position at the time they are assigned to the County under this Contract. The County occasionally offers training to its employees that may be attended by the Contractor personnel as appropriate and if approved by the Project Officer. Registration fees for specific training courses, not offered by the County, and/or transportation industry related conferences, relating to specific job duties being performed by the Contractor personnel, may be attended and may be included as a 100% reimbursable expense item, only if approved by the Project Officer prior to registration.

Status Reports

The Contractor shall provide status reports to the County on a monthly basis. The status reports shall include hours worked by the Contractor's staff, tasks completed during that time period by the project team, tasks delayed, reasons for delay, tasks in-progress and monthly look ahead for each staff member. In addition, the status report shall include any issues that arose during the reporting period and the steps taken to resolve those issues. The report shall be delivered to the County Project Officer within five (5) business days after the end of each month.

Annual Work Plans

The County and Contractor will negotiate Annual Work Plans. The procedure for developing the annual work plan shall comply with the following:

- The initial base period Work Plan will be negotiated prior to award of the contract.
- One-hundred twenty (120) calendar days prior to the expiration of the initial base period contract or

the expiration of any option year extension, the County and the Contractor shall review, revise or modify the Annual Work Plan.

- The Work Plan shall identify the specific services and/or deliverables required.
- The Contractor and County will negotiate the personnel's time commitments to projects and assignments, schedule requirements and budget (including estimated reimbursable expenses) for the Annual Work Plan.
- The County will issue a Purchase Order for each option year to correspond to the Annual Work Plan to include the agreed upon services and budget.

**EXHIBIT B
CONTRACT PRICING**

**ATTACHMENT A
COST PROPOSAL**

Hourly rates shall be fully loaded fixed hourly rates to include all labor, markup, benefits, overhead and profit. Cost proposals for preparing the negotiated annual work plans shall be based on the fully loaded hourly rates below.

NAME OF OFFEROR OR CONTRACTOR		SOLICITATION OR CONTRACT NUMBER		PAGE	
FIRST TRANSIT, INC.		RFP No. 22-DES-RFPLW-465		Section III	
SCOPE OF WORK					
The Contractor shall provide qualified staff to perform the duties of the positions associated with the transit capital and operations program within the Arlington County Transit Bureau, Division of Transportation, as described in the SOW.					
HOURLY RATES					
ITEM NO.	Labor rates	QTY	UNIT	UNIT PRICE	AMOUNT
1.0	Transit Provider Coordination Manager	2,080	HR	\$126.97	\$264,098.06
2.0	Bus Stop and Street Operations Manager	2,080	HR	\$94.94	\$197,473.98
3.0	Project Manager	2,080	HR	\$119.23	\$248,005.27
4.0	Project Manager	2,080	HR	\$132.74	\$276,098.61
5.0	Project Manager	2,080	HR	\$110.66	\$230,174.93
6.0	Transit Technology Operations Program Manager	2,080	HR	\$86.14	\$179,178.33
GRAND TOTAL					\$1,395,029.19

**For Informational Purposes:
Optional/Additional Personnel and Hourly Rates:**

1. Project Coordination \$ 88.00 _____/Hour

2. On-Call Staff Support (list all that may be applicable):

Staff Support Position _____ \$ _____/Hour

Staff Support Position _____ \$ _____/Hour

Staff Support Position _____ \$ _____/Hour

Staff Support Position _____ \$ _____/Hour

EXHIBIT C
INTENT TO PERFORM AS A DBE SUBCONTRACTOR FOR A CONTRACT AWARD
All DBE subcontracting firms to be used on this solicitation must fill out this form.

DBE firms participating in Arlington County's contracting opportunities must have "current" certification status with a Unified Certification Program (UCP) prior to award of this contract. If the County determines that the firm is not an eligible DBE firm for Arlington County contracts and subcontracts, the prime contractor will be notified of the ineligibility of the listed firm. The submission of this form is considered an issue of responsibility and the County will not award a contract to any Offeror who has not supplied this documentation.

1. Arlington County Solicitation #: 22-DES-RFPLW-465
2. Name of **DBE** Subcontracting Firm N/A.
3. Has the **DBE** subcontractor been certified as a DBE by a UCP agency? N/A
4. The **DBE** subcontractor is prepared to perform the following described work and/or supply the material listed in connection with the above project (where applicable specify "supply" or "install" or both):
N/A
and at the following price \$ N/A.

BY: N/A | DATE: 01 / 14 / 2022
(Signature of **DBE** subcontracting Owner, President or Authorized Agent)

N/A PHONE: N/A
(Print or Type - Name of Signature of Owner, President or Authorized Agent of **DBE** subcontracting firm)

DECLARATION OF PRIME CONTRACTOR

I HEREBY DECLARE AND AFFIRM that I am the President
First Transit, Inc. (Title of Declarant)
and a duly authorized representative of
(Name of Prime Contractor)

to make this declaration and that I have personally reviewed the material and facts set forth in this Intent to Perform As A DBE subcontractor form. To the best of my knowledge, information and belief, the facts and representations contained in this form are true, the owner or authorized agent of the subcontracting firm signed this form in the place indicated, and no material facts have been omitted.

Except as authorized by the Contracting Officer, the undersigned will enter into a formal agreement with the listed DBE subcontracting firm for work as indicated by this form within ten (10) business days after receipt of the contract executed by Arlington County. The undersigned will provide the Contracting Officer a copy of that agreement within three (3) business days of execution.

The Prime Contractor designated the following person as their DBE Liaison Officer:

Sally Stewart-McKinnie (513) 684-8758
(Name-Please Print) (Phone)

Pursuant to 49 CFR Section 26.107, any person [entity] who makes a false or fraudulent statement in connection with participation of a DBE in any USDOT-assisted program or otherwise violates applicable Federal statutes and may be referred to the U.S. Department of Transportation, and possibly the U.S. Department of Justice, for prosecution.

Name of Declarant: Bradley A. Thomas
Signature:  Date: 01/14/2022

**EXHIBIT D
EVIDENCE OF GOOD FAITH EFFORTS FORM
(SUBMIT THIS FORM ONLY IF DBE GOAL CANNOT BE FULFILLED)**

If an Offeror does not meet the County’s DBE participation goal, it shall be eligible for award of the contract if it can demonstrate that it has made a good faith effort to meet the DBE goal. If necessary, the Offeror shall submit this form to document the good faith efforts attempt made in soliciting participation from DBE firms. In order to show that good faith efforts were made, the Offeror must demonstrate the methods it used to seek DBE participation, in accordance with the Regulations Regarding the Determination of Good Faith Efforts Participation.

Arlington County Solicitation #: 22-DES-RFPLW-465 Current Date: 01 / 14 / 2022

Project Name: PROVISION OF TRANSIT PROJECT MANAGEMENT STAFFING SERVICES

Offeror (Firm): First Transit, Inc. Telephone: (513) 241-2200

Contact Person: Cristin Tolen E-Mail: (410) 370-8174

Address: 8800 Corridor Road City/State/Zip: Annapolis Junction, MD 20701

To determine whether an Offeror has demonstrated good faith efforts to reach the DBE participation goal on the above referenced project, the County will consider, at a minimum, evidence of Good Faith Efforts as described in the table below.

YES (Y)	NO (N)	EVIDENCE OF GOOD FAITH EFFORTS
X		PRE-BID MEETING(S): The Offeror attended pre-bid or pre-proposal meetings scheduled by the County to discuss, among other matters, DBE participation opportunities and acknowledged receipt of DBE certified vendor lists.
	X	ADVERTISEMENT: The Offeror advertised in general circulation, trade association, and/or minority/women-focus media concerning subcontracting opportunities.
	X	WRITTEN NOTICE(S): The Offeror provided written notice to a reasonable number of DBEs that their interest in the contract was being solicited in sufficient time to allow DBEs to participate
	X	FOLLOW-UP: The Offeror followed up initial solicitations of interest by contacting DBEs to determine with certainty whether the DBEs were interested.
	X	SMALL CONTRACTS: The Offeror selected portions of the work to be performed by DBEs in order to increase the likelihood of meeting the DBE goals (including, where appropriate, breaking down the contract into economically feasible subcontracts to facilitate DBE
	X	INFORMATION: The Offeror provided interested DBEs with adequate information about the plans, specifications, scope of work and requirements of the contract.
	X	GOOD FAITH NEGOTIATIONS: The Offeror negotiated in good faith with interested DBEs regarding price, using good business judgment and not rejecting reasonable quotes from interested DBE firms.
	X	ASSISTANCE EFFORTS: The Offeror made efforts to assist interested DBEs in obtaining bonding, lines of credit, insurance, etc., as required by the County or the Offeror.
	X	ASSISTANCE IN OBTAINING SUPPLIES: The Offeror made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

X	<p>WRITTEN NOTICE(S): The Offeror obtained written documentation from a bona fide surety company indicating that bonding was denied and for what reason(s), prior to the DBE being rejected as a potential subcontractor for failing to obtain Offeror-required bonding. Documentation furnished by a surety company will be subject to verification by the County.</p>
X	<p>COMMUNITY RESOURCES: The Offeror effectively used the services of available minority and women community organizations, contractor groups; local, State, and Federal business assistance offices; and other organizations that provide assistance in the identification of DBEs.</p>
	<p>OTHER – PLEASE EXPLAIN: First Transit, Inc. does not intend to engage ANY subcontractors for the duration of this contract</p>

I certify that the information contained in this Evidence of Good Faith Efforts Form is true and correct to the best of my knowledge. I further understand that any willful falsification, fraudulent statement or misrepresentation will result in appropriate sanctions which may involve debarment and /or prosecution under applicable State and Federal laws.

Print Name/Title of Person Completing this Form:

Bradley A. Thomas, President

Signature: _____

Date: 01/13/2022

APPENDIX 1 - MONTHLY DBE AND NON-DBE SUBCONTRACTOR PROGRESS REPORT (FOR REFERENCE ONLY)



MONTHLY DBE AND NON-DBE SUBCONTRACTOR PROGRESS REPORT

REPORT FOR MONTH ENDING _____, 20__ / PROGRESS PAYMENT # _____

INSTRUCTIONS: After the award of a contract, this Report must be filed by the 20th of each month to report sub-contractor participation during the preceding month.

- 1) Prime Contractor: _____ 2) Project Name: _____
 3) Contract Number: _____ 4) Contract Amount (as Amended) \$: _____
 5) Total Amount Received to Date: \$ _____ 6) Total Amount Owed: \$ _____ 7) Amount of This Invoice: \$ _____
 8) Total Value of DBE Contracts: \$ _____ 9) Committed DBE %: _____ % 10) Actual DBE Participation % to Date: _____ %

11) Name of Subcontractor	12) DBE (Y/N)	13) Work Status This Reporting Period	14) Description of Work	15) Amount & Date of Last Payment Made to Subcontractor	16) Amount of Subcontract Award	17) Amount Paid to Date	18) % Paid to Date	19) Amount Invoiced this Reporting Period
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						
		<input type="checkbox"/> Active <input type="checkbox"/> Inactive <input type="checkbox"/> Complete						

I certify the information furnished above is correct to the best of my knowledge and represents a current status of the prime contractor's subcontracting activity for the period covered by this report. Further, those subcontractors due payment pursuant to the terms of their subcontracts will be paid within seven (7) days after prime contractor receipt of payment from Arlington County.

Name: _____ Signature: _____ Title: _____ Date: _____

MONTHLY DBE AND NON-DBE SUBCONTRACTOR PROGRESS REPORT INSTRUCTIONS FOR CONTRACTORS HOW TO FILL OUT PROGRESS REPORT FORM

The DBE Subcontractor Progress Report form is to be filled out by the Contractor and submitted with each invoice. The instructions below correspond to each item on the reverse side of the form. Please follow the instructions.

1. **Prime Contractor**
Fill in your company's name.
2. **Project Name**
Fill in the name of the project.
3. **Contract Number**
Fill in the contract number assigned to your project by Arlington County.
4. **Contract Amount (as Amended)**
Fill in dollar amount of original contract plus/minus the dollar amount agreed upon at a later date as a result of contract modifications, if applicable.
5. **Total Amount Received to Date**
Fill in the dollar amount you have received from Arlington County to date.
6. **Total Amount Owed**
Fill in the dollar amount of the contract minus amount paid to you by Arlington County.
7. **Amount of This Invoice**
Fill in the dollar amount of the invoice being submitted to Arlington County this reporting period.
8. **Total Value of DBE Contracts**
State the total committed dollar value to all DBE subcontractors for the duration of the contract.
9. **Committed DBE Percentage**
Fill in the percentage of DBE participation you committed to obtain in the contract.
10. **Actual DBE Participation % to Date**
Dollar amount paid to all DBE firms divided by dollar amount received by Contractor from Arlington County.
11. **Name of Subcontractor**
Name all subcontractors including DBE and Non-DBE Firms (use additional sheets as necessary).
12. **DBE (Y/N)**
State whether the subcontractor is a DBE firm or not.
13. **Work Status This Reporting Period**
Check the box stating whether the subcontractor is actively working on the project, is currently inactive on the project or if they've completed their work on the project.
14. **Description of Work**
State the work performed by the subcontractor.
15. **Amount and Date of Last Payment Made to Subcontractor**
State the amount and date of last payment made to each subcontractor. Submit evidence of payment (i.e. cancelled check, check register, etc.).
16. **Amount of Subcontract Award**
State the committed dollar value to the subcontractor for the duration of the contract.
17. **Amount Paid to Date**
Add all amounts paid to each subcontractor to date.
18. **Percent Paid to Date**
Dollar amount paid to the subcontractor divided by the amount committed to them.
19. **Amount Invoiced this Reporting Period**
Fill in how much of the invoice from this reporting period will be paid to each subcontractor.

EXHIBIT E

SUMMARY OF SUBCONTRACTORS/SUBCONSULTANTS/SUPPLIERS

Offerors shall provide information on all of their prospective subcontractor(s)/subconsultant(s)/ suppliers who submit proposals in support of this solicitation. Use additional sheets as necessary.

Project Name: PROVISION OF TRANSIT PROJECT MANAGEMENT STAFFING SERVICES

Name of Prime Contractor: First Transit, Inc.

NAMES AND ADDRESSES OF SUBCONTRACTOR(S)/SUBCONSULTANT(S)	TYPE OF WORK TO BE PERFORMED	ETHNICITY & GENDER OF OWNER (PLEASE CIRCLE)	PREVIOUS YEAR'S ANNUAL GROSS RECEIPTS	\$ AMOUNT ON CONTRACT
NAME: ADDRESS: PHONE: N/A FAX: N/A E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY A UNIFIED CERTIFICATION PROGRAM? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	N/A
NAME: ADDRESS: PHONE: N/A FAX: N/A E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY A UNIFIED CERTIFICATION PROGRAM? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	N/A
NAME: ADDRESS: PHONE: N/A FAX: N/A E-MAIL: CONTACT PERSON:	TYPE OF WORK: AGE OF FIRM: IS THE FIRM A CERTIFIED DBE BY THE UNIFIED CERTIFICATION PROGRAM? YES <input type="checkbox"/> NO <input type="checkbox"/>	Ethnicity: <input type="checkbox"/> Black American <input type="checkbox"/> Hispanic American <input type="checkbox"/> Native American <input type="checkbox"/> Subcont. Asian American <input type="checkbox"/> Asian Pacific American <input type="checkbox"/> Non-Minority Woman <input type="checkbox"/> Other	<input type="checkbox"/> less than \$500K <input type="checkbox"/> \$500K - \$2 mil. <input type="checkbox"/> \$2 mil. - \$5 mil. <input type="checkbox"/> more than \$5 mil.	N/A

Print Name and Title of Person Completing this Form: Bradley A. Thomas, President


Signature:  Date: 01/14/2022

EXHIBIT F
REQUIRED FTA CERTIFICATIONS

CERTIFICATION REGARDING LOBBYING PURSUANT TO 49 CFR PART 20
(To be submitted with each bid or offer exceeding \$100,000)

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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, First Transit, Inc., 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

Bradley A. Thomas

Name of Contractor's Authorized Official

President

Title of Contractor's Authorized Official

01/14/2022

Date

EXHIBIT F (continued)

CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

(To be submitted with each bid or offer exceeding \$25,000)

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

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 Arlington County. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to Arlington County, 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 49 CFR 29, Subpart C 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.

The prospective participant certifies to the best of its knowledge and belief that it and the principals:

- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
- (b) Have not within a three year period preceding this proposal been convicted of or had a civil judgment rendered against them or commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction: violation of Federal or State antitrust statute or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
- (c) Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
- (d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

I understand that a false statement on this certification may be grounds for rejection of this proposal or termination of the award. In addition, under 18 USC Sec. 1001, a false statement may result in a fine of up to \$10,000 or imprisonment for up to 5 years, or both.



Signature of Authorized Representative

Bradley A. Thomas

Typed Name of Authorized Representative

President

Title of Authorized Representative

01/14/2022

Date

I am unable to certify to the above statements. My explanation is attached.

EXHIBIT G

LIVING WAGE FORMS

WAGE NOTICE

THE HOURLY RATE FOR EMPLOYEES OF THE CONTRACTOR AND ANY SUBCONTRACTORS WORKING ON COUNTY-OWNED, COUNTY-CONTROLLED PROPERTY, FACILITIES OWNED, OR LEASED, AND OPERATED BY A CONTRACTOR IF SERVICES PROVIDED AT THAT LOCATION ARE EXCLUSIVE TO ARLINGTON COUNTY, OR CONTRACTS FOR HOME-BASED CLIENT SERVICES MUST NOT BE LOWER THAN

\$17.00 PER HOUR

REFERENCE: ARLINGTON COUNTY PURCHASING RESOLUTION
SECTION 4-103

FOR INFORMATION CONTACT:

ARLINGTON COUNTY
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VA 22201
703-228-3410

AVISO de SALARIO

MINIMO

LA TARIFA HORARIA DE LOS EMPLEADOS DEL CONTRATISTA, Y DE CUALQUIER SUBCONTRATISTA QUE TRABAJE EN PROPIEDADES DEL CONDADO, EN INSTALACIONES PROPIAS/ALQUILADAS Y OPERADAS POR UN CONTRATISTA SI LOS SERVICIOS PRESTADOS EN ESE LUGAR SON EXCLUSIVOS DEL CONDADO DE ARLINGTON, O EN CONTRATOS DE SERVICIOS DOMICILIARIOS A CLIENTES, NO DEBE SER INFERIOR
A

\$17.00 POR HORA

REFERENCIA: SECCIÓN 4-103, DE LA RESOLUCIÓN DE LA OFICINA DEL AGENTE DE COMPRAS DEL CONDADO DE ARLINGTON.
(ARLINGTON COUNTY PURCHASING RESOLUTION SECTION 4-103)

PARA OBTENER MAS INFORMACIÓN, LLAME A:

LA OFICINA DEL AGENTE DE COMPRAS DEL CONDADO DE
ARLINGTON.
703-228-3410.

PARA INFORMACION EN PERSONA DIRIJASE A:

2100 CLARENDON BOULEVARD, OFICINA No 500
ARLINGTON, VA 22201

EXHIBIT I
NONDISCLOSURE AND DATA SECURITY AGREEMENT
(CONTRACTOR)

The undersigned, an authorized agent of the Contractor and on behalf of First Transit, Inc. ("Contractor"), hereby agrees that the Contractor will hold County-provided information, documents, data, images, records and the like confidential and secure and protect them against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers and property as well as information that the County shares with the Contractor for testing, support, conversion or other services provided under Arlington County Agreement No. 22-DES-RFPLW-465 (the "Project" or "Main Agreement") or that may be accessed through other County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "Information").

In addition to the DATA SECURITY obligations set in the County Agreement, the Contractor agrees that it will maintain the privacy and security of County Information, control and limit internal access and authorization for access to such Information and not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual, including, but not limited to, his/her ("his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings and his education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, address, phone number or anything that affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

Contractor also agrees that it will not directly or indirectly use or facilitate the use or dissemination of County information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly associated with its work under the Project. The Contractor acknowledges that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal laws, subjecting it or its employees to civil and/or criminal penalties.

Contractor agrees that it will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person, for any purpose, of any Information obtained directly, or indirectly, as a result of its work on the Project. The Contractor shall coordinate closely with the County Project Officer to ensure that its authorization to its employees or approved subcontractors is appropriate and tightly controlled and that such person/s also maintain the security and privacy of County Information and the integrity of County-networked resources.

Contractor agrees to take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. Any device or media on which County Information is stored, even temporarily, will have strict encryption, security, and access control. Any County Information that is accessible will not leave Contractor's work site or the County's physical facility, if the Contractor is working onsite, without written authorization of the County

Project Officer. If remote access or other media storage is authorized, the Contractor is responsible for the security of such storage device or paper files.

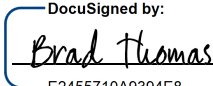
Contractor will ensure that any laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices, as approved by the County and connected to the County network, are secure and free of all computer viruses, and running the latest version of an industry-standard virus protection program. The Contractor will ensure that all user accounts and passwords used by its employees or subcontractors are robust, protected and not shared. The Contractor will not download any County Information except as agreed to by the parties and then only onto a County-approved device. The Contractor understands that downloading onto a personally owned device or service, such as personal e-mail, Dropbox, etc., is prohibited.

Contractor agrees that it will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County's or Contractor's security policies, or any other breach of Project protocols concerning data security or County Information. The Contractor will fully cooperate with the County to regain possession of any Information and to prevent its further disclosure, use or dissemination. The Contractor also agrees to promptly notify others of a suspected or actual breach if requested.

The Contractor agrees that all duties and obligations enumerated in this Agreement also extend to its employees, agents or subcontractors who are given access to County information. Breach of any of the above conditions by Contractor's employees, agents or subcontractors shall be treated as a breach by the Contractor. The Contractor agrees that it shall take all reasonable measures to ensure that its employees, agents and subcontractors are aware of and abide by the terms and conditions of this agreement and related data security provisions in the Main Agreement.

It is the intent of this *NonDisclosure and Data Security Agreement* to ensure that the Contractor has the highest level of administrative safeguards, information security, disaster recovery and other best practices in place to ensure confidentiality, protection, privacy and security of County information and County-networked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *NonDisclosure and Data Security Agreement* conflicts with the Main Agreement or with any applicable local, state, or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

At the conclusion of the Project, the Contractor agrees to return all County Information to the County Project Officer. These obligations remain in full force and effect throughout the Project and shall survive any termination of the Main Agreement.

Authorized Signature:  _____
E2455710A9394E8...
Printed Name and Title: Brad Thomas President _____

Date: 4/12/2022 _____

NONDISCLOSURE AND DATA SECURITY AGREEMENT
(INDIVIDUAL)

I, the undersigned, agree that I will hold County-provided information, documents, data, images, records and the like confidential and secure and protect it against loss, misuse, alteration, destruction or disclosure. This includes, but is not limited to, the information of the County, its employees, contractors, residents, clients, patients, taxpayers, and property as well as information that the County shares with my employer or prime contractor for testing, support, conversion or the provision of other services under Arlington County Agreement No. 22-DES-RFPLW-465 (the "Project" or "Main Agreement") or which may be accessed through County-owned or -controlled databases (all of the above collectively referred to as "County Information" or "Information").

I agree that I will maintain the privacy and security of County Information and will not divulge or allow or facilitate access to County Information for any purpose or by anyone unless expressly authorized to do so by the County Project Officer. This includes, but is not limited to, any County Information that in any manner describes, locates or indexes anything about an individual including, but not limited to, his/her ("his") Personal Health Information, treatment, disability, services eligibility, services provided, investigations, real or personal property holdings, education, financial transactions, medical history, ancestry, religion, political ideology, criminal or employment record, social security number, tax status or payments, date of birth, or that otherwise affords a basis for inferring personal characteristics, such as finger and voice prints, photographs, or things done by or to such individual, or the record of his presence, registration, or membership in an organization or activity, or admission to an institution.

I agree that I will not directly or indirectly use or facilitate the use or dissemination of information (whether intentionally or by inadvertence, negligence or omission and whether verbally, electronically, through paper transmission or otherwise) for any purpose other than that directly authorized and associated with my designated duties on the Project. I understand and agree that any unauthorized use, dissemination or disclosure of County Information is prohibited and may also constitute a violation of Virginia or federal law/s, subjecting me and/or my employer to civil and/or criminal penalties.

I also agree that I will not divulge or otherwise facilitate the disclosure, dissemination or access to or by any unauthorized person for any purpose of the Information obtained directly, or indirectly, as a result of my work on the Project. I agree to view, retrieve or access County Information only to the extent concomitant with my assigned duties on the Project and only in accordance with the County's and my employer's access and security policies or protocols.

I agree that I will take strict security measures to ensure that County Information is kept secure; is properly stored in accordance with industry best practices, and if stored is encrypted; and is otherwise protected from retrieval or access by unauthorized persons or for unauthorized purposes. I will also ensure that any device or media on which County Information is stored, even temporarily, will have strict encryption, security, and access control and that I will not remove, facilitate the removal of or cause any Information to be removed from my employer's worksite or the County's physical facility without written authorization of the County Project Officer. If so authorized, I understand that I am responsible for the security of the electronic equipment or paper files on which the Information is stored and agree to promptly return such Information upon request.

I will not use any devices, laptops, PDAs, netbooks, tablets, thumb drives or other media storage devices ("Device") during my work on the Project without pre-approval. I will ensure that any Device connected

to the County network is free of all computer viruses and running the latest version of an industry-standard virus protection program. I will also ensure that my user account and password, if any, is robust, protected and not shared. I will not download any County Information except as authorized by the County Project Officer and then only onto a County-approved Device. I understand that downloading onto a personally owned Device or service, such as personal e-mail, Dropbox etc., is prohibited.

I agree that I will notify the County Project Officer immediately upon discovery or becoming aware or suspicious of any unauthorized disclosure of County Information, security breach, hacking or other breach of this agreement, the County's or Contractor's security policies, or any other breach of Project protocols concerning data security or County Information. I will fully cooperate with the County to help regain possession of any County Information and to prevent its further disclosure, use or dissemination.

It is the intent of this *NonDisclosure and Data Security Agreement* to ensure that the highest level of administrative safeguards, information security, and other best practices are in place to ensure confidentiality, protection, privacy and security of County Information and County-networked resources and to ensure compliance with all applicable local, state and federal laws or regulatory requirements. Therefore, to the extent that this *Nondisclosure and Data Security Agreement* conflicts with the underlying Main Agreement or any local, state or federal law, regulation or provision, the more stringent requirement, law, regulation or provision controls.

Upon completion or termination of my work on the Project, I agree to return all County Information to the County Project Officer. I understand that this agreement remains in full force and effect throughout my work on the Project and shall survive my reassignment from the Project, termination of the above referenced Project or my departure from my current employer.

Signed: _____

Printed Name: _____

Date: _____

Witnessed:

Contractor's Project Manager: _____

Printed Name: _____

Date: _____

TO BE COMPLETED PRIOR TO BEGINNING WORK ON THE PROJECT

EXHIBIT K

CONTRACTOR COVID-19 VACCINATION QUARTERLY COMPLIANCE CERTIFICATION

By Email: Please complete the report below and return it to: contractorvaccineinfo@arlingtonva.us.

I hereby certify that all _____ (Contractor Name) employees and subcontractors working on Contract No. 22-DES-RFPLW-465 are fully vaccinated against COVID-19, being tested on a weekly basis, or are exempt pursuant to a valid reasonable accommodation under state or federal law.

Please do not include any of your employees' medical documentation, including vaccination records or test results.

Date: _____

Signature: _____

Printed Name and Title: _____

Company Name: _____

Company Address: _____