

**RESOLUTION APPROVING THE CONTRACT WITH SUNSET TRANSPORTATION PARTNERS, INC. FOR THE OPERATION OF THE ASHTABULA COUNTY TRANSPORTATION SYSTEM (ACTS) FOR 2024**

WHEREAS, Patrick Arcaro, Director of Ashtabula County Job and Family Services, has presented and recommended a contract with Sunset Transportation Partners, Inc. to be approved by the Board, to-wit:

**Scope of Contract:** To provide transportation services to the general public of Ashtabula County, including limited services to points out of the county for the operation of the Ashtabula County Transportation System (ACTS).

**Provider:** Sunset Transportation Partners, Inc., 4690 Lake Road East, Geneva, Ohio 44041

**Cost:** **\$1,428,975.00 (21,900 hours x \$65.25 per vehicle hour)**

**Contract Period:** January 1, 2024 thru December 31, 2024; and

WHEREAS, this Board of Commissioners concurs with this recommendation and approves the contract; now

THEREFORE, BE IT RESOLVED, By the Board of Commissioners of Ashtabula County, Ohio that the Contract with Sunset Transportation Partners, Inc. is approved in accordance with the copy of said Contract now on file in this office.

**ASHTABULA COUNTY COMMISSIONERS  
CERTIFICATION PAGE**

Resolution No. 2023-619

December 19, 2023

**RESOLUTION APPROVING THE CONTRACT WITH SUNSET TRANSPORTATION PARTNERS, INC. FOR THE OPERATION OF THE ASHTABULA COUNTY TRANSPORTATION SYSTEM (ACTS) FOR 2024**

Upon the motion of Kathryn L. Whittington, seconded by J.P. Ducro IV.

**VOTE:**

Casey R. Kozlowski  
Kathryn L. Whittington  
J.P. Ducro IV

Aye  
Aye  
Aye

**CERTIFICATE OF CLERK**

IT IS HEREBY CERTIFIED that the foregoing is a true and correct transcript of a resolution acted upon and duly passed by the Board of County Commissioners of Ashtabula County, Ohio, on the date noted above.



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Lisa Hawkins, Clerk of the Board  
Board of County Commissioners  
Ashtabula County, Ohio

2024 CONTRACT

ASHTABULA COUNTY TRANSPORTATION SYSTEM

This Contract executed this 19th Day of December 2023 by and between the Board of Ashtabula County Commissioners (hereinafter referred to as the Grantee) and Sunset Transportation Partners, Inc. (Hereinafter referred to as the Service Provider), witness to:

WHEREAS, the Grantee has made application by and between the State of Ohio, acting by and through the Ohio Department of Transportation (ODOT) for operating assistance under the 49 U.S.C. Section 5311, and the Ohio Public Transportation Grant Program, and has entered into a contract with the Ohio Department of Transportation (ODOT) for such operating assistance and the Grantee has appointed Ashtabula County Job & Family Services (ACJFS) as the Program Administrator (herein after referred to as Administrator).

WHEREAS the goals of the 49 U.S.C. Section 5311 are to enhance the access of people in non-urbanized areas for purposes such as health care, shopping, education, recreation, public services, and employment by encouraging the maintenance, development, improvement, and use of passenger transportation systems, and

WHEREAS, the Grantee has agreed by resolution to subcontract with the Service Provider to carry out the provisions of the Project in accordance with 49 U.S.C. Section 5311, including the Federal Transit Administration(FTA)Master Agreement which is incorporated by reference as if fully set forth herein and is available at <http://www.fta.dot.gov/documents/19-master.pdf>.

NOW, THEREFORE, in consideration of the mutual covenants, promises, representation, and warranties set forth herein and together with the Request for Proposal (RFP) and the Service Provider's Proposal submitted September 14, 2023, the parties agree as follows:

**SECTION 1. PURPOSE OF CONTRACT.** The purpose of this Contract is to provide for the direct operation and management of transportation services to the general public in Ashtabula County, including limited service to points out of the county as described in the proposal, incorporated herewith by reference, (hereinafter referred to as the Project) submitted by the Service Provider and to state the terms, conditions, and mutual understandings of the parties as to the manner in which the Project will be undertaken and completed; further; this agreement incorporates the entire proposal received from Service Provider on September 14, 2023 as a result of the Request for Proposal (RFP) released by Ashtabula County on August 9, 2023; and to include all Federal, State and local rules and regulations as outlined in the RFP and attached to this agreement.

**SECTION 2. TYPE OF CONTRACT.** This contract will be a fixed rate contract and compensation there under will be in accordance with Section 10. COMPENSATION.

**SECTION 3. PROJECT IMPLEMENTATION.** The Service Provider agrees to undertake and complete the Project either directly or indirectly under the supervision of the Grantee in accordance with the terms and conditions of this Contract.

**SECTION 4. PROJECT DURATION.** The Service Provider will commence and carry on the project beginning 1/1/2024 and ending 12/31/2024 as authorized by ODOT and FTA and in accordance with the standards and guidelines established by the Grantee.

**SECTION 5. PROJECT HOURS.** The Ashtabula County Transportation System (ACTS) operates Monday through Saturday, between the hours of 7:00 a.m. and 5:00 p.m. and could be subject to change. Project hours will be defined as the time the vehicle is in use or reserved for use by the ACTS. Any other use will result in penalties to the Service Provider. Compensation for extended hours is outlined in Section 12.

**SECTION 6. BEFORE AND AFTER BUSINESS HOURS COVERAGE.** The Service Provider will assign sufficient staff to cover incoming telephone calls when the system is in operation. This person must be able to effectively receive calls, schedule rides, route trips, and take cancellations.

The service provider will be responsible for receiving calls from the public between 7:00 am and 5:00 pm which is during ACTS' regular operating hours and during such times as additional service is added. Operating hours are subject to change by the Administrator.

**SECTION 7. LEVEL OF FUNDING.** The amount of Grant Funds is contingent on local, state, and federal funding. If federal, state, and local sources of funding are not available in the requested levels, and alternative sources of funding are not obtained, the contract will be terminated, and the Grantee held harmless.

**SECTION 8. ELIGIBLE PROJECT EXPENDITURES.** Project expenditures eligible for reimbursement under this Contract are only for those expenditures which are eligible for 49 U.S.C. Section 5311 reimbursement and are further identified in the Service Provider's Project budget submitted September 14, 2023. The Service Provider affirms that no changes will be made to the budget item without the consent of the Administrator. Such changes may result in an overpayment which the Service Provider will be required to repay.

**SECTION 9. START-UP COSTS.** The Service Provider will be advised that start-up costs incurred because of proposing on this Project are allowable expenses only if incorporated into the Base Unit Rate and identified within the budget.

**SECTION 10. COMPENSATION.** Payment will be made monthly upon presentation of a statement (invoice) by the Service Provider to the Administrator. All statements will be accompanied by an accounting of riders, trip denials, fare-box totals, the number of miles, and hours each vehicle was used during the period for which payment is requested and submitted to the Administrator for signature and submission to ODOT.

**SECTION 11. BASE UNIT RATE.** The base unit rate for 2024 will be \$65.25 per vehicle hour for 21,900 hours for the period of January 1, 2024 through December 31, 2024.

This rate includes the tax for fuel. The Service Provider, who has been compensated through the unit rate, will therefore submit fuel invoices to the Administrator by the 7<sup>th</sup> of the month following the month of service. The amount of the rebate will be credited to ACTS. The fuel tax rebate program is described in SECTION 15.

**SECTION 12. EXTENDED UNIT RATE.** This rate was established with the proposal and will be used when the base hours have been exceeded, and funds become available. The extended hourly rate for the period January 1, 2024 through December 31, 2024 will be \$52.25.

The Service Provider and the ACTS Administrator will meet every October to determine the total amount of hours that have been expended from January 1 to the meeting date. The purpose of this meeting will be to determine if the Service Provider will exceed the yearly service hour cap. If the cap will be exceeded, the ACTS Administrator and the Service Provider will mutually agree upon the total projected coverage for the remainder of the year that will be operated at the extended hour rate. If a total extended hour amount cannot be mutually agreed upon, the Service Provider shall not be required to provide services without compensation. The cost of any Base Hours exceeded without the consent of the Administrator, will be the responsibility of the Service Provider.

**SECTION 13. ADJUSTMENTS TO REIMBURSEMENT.** Monthly invoices from the Service Provider will be paid at the Base Unit rate for the first 21,900 vehicle hours. Vehicle hours more than 21,900 will be paid at the Extended Hourly Rate provided funding is available. If funding for extended hours is not available, hours more than 21,900 will be the responsibility of the Provider.

**SECTION 14. FUEL TIME.** All vehicles may be fueled at any time there are not any passengers on the vehicle. All fuel receipts for the project must be kept separately for each vehicle.

**SECTION 15. FUEL TAX REBATE.** ACTS participates in the Fuel Tax Rebate Program. The Service Provider is reimbursed for the taxes paid through the unit rate. The rebates for this program remain with the Grantee. Forms and procedures have been developed for the Ohio Tax Rebate Program and are part of the reporting requirement.

**SECTION 16. FARE BOX RECEIPTS.**

DEMAND RESPONSE DIVISION: Fare box cash receipts collected by the Service Provider will be retained by the Service Provider for service rendered through the Demand/Response Division and deducted from the monthly invoice. Service Provider must provide original bank deposit receipts to verify actual deposit amounts. Donations and any other receipts can also be deducted from the monthly invoice however they must be recorded and identified properly as such. Times and method will be determined by the Administrator in conjunction with the Service Provider.

SERVICE ROUTE DIVISION: Locked fare boxes from the Service Route Division will be retained by the Service Provider and deducted from the monthly invoice. Service Provider must provide original bank deposit receipts to verify actual deposit amounts.

**SECTION 17. PROVIDER INVOICING.** The Service Provider will submit properly documented invoices as set forth in 49 U.S.C. Section 5311 by the 7<sup>th</sup> of the following month of service, and in a format approved by the Administrator. Every effort must be made to continue the established format for invoicing. After reviewing and verifying the invoices, the Administrator will process said invoices and send them to the Ashtabula County Auditor's Office for payment. Neither the Grantee nor its Agent will be penalized for delays that are beyond its control. Adjustments to the account that are made by the Administrator based upon the Administrator's quarterly monitoring will be collected by the payment of the fourth quarter.

**SECTION 18. ACCOUNTING RECORDS.** The Service Provider will establish and maintain, in accordance with requirements established by ACTS, ODOT, and FTA separate accounts for the Project, to be known as the "ACTS Project Account, unless other arrangements are made and mutually agreed upon between the Administrator and the Service Provider.

All costs charged to the Project, including any approved services contributed by the Service Provider or others, will be supported by properly executed payroll, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of the charges in accordance with the rules and regulations of ACTS, ODOT, and FTA. A Maintenance Account will be maintained, and reports will be generated for Capital Reimbursement.

All accounting records will be retained for three (3) years following the final audit which incorporates the entire Project.

**SECTION 19. FINANCIAL STATEMENTS.** A semiannual financial statement will be given to the Administrator by August 31, 2024 for the period January 1, 2024 through June 30, 2024, and by March 31, 2025 for the period January 1, 2024 through December 31, 2024. The financial review must segregate and itemize in detail all activity for the project account from the Service Provider's other records. In addition, the Service Provider will submit to the Administrator at such times as it may require such financial statements, records and other fiscal documents as may be deemed necessary by the Grantee, ODOT, or FTA.

**SECTION 20. AUDIT.**

The service provider agrees that Grantee, ODOT and FTA will be permitted to inspect all work, materials, payrolls and other data and records regarding the project, and to audit the books, records, and accounts about the project. The service provider further agrees to allow Grantee to participate in the management of the Project, including, but not limited to, the hiring and appointment of project personnel. Any overpayment to the service provider as may be determined by an audit must be refunded to the Grantee, ODOT, and the FTA.

**SECTION 21. PROJECT MONITORING AND EVALUATION DATA.** The Service Provider will provide all operating data for monitoring and evaluation of the Project as outlined in Section 24. In addition, the Service Provider will provide any cost and revenue data requested by the Grantee, ODOT, or the FTA.

Additional monitoring will focus on:

- Unmet trip needs/trip denials as defined by ODOT (defined as rides rescheduled further than one hour prior to or after requested time)-submitted monthly on forms provided by the Administrator.
- Increase the number of trips per hour-monitored monthly
- Report any changes in staff -submitted monthly on forms provided by the Administrator
- Timeliness of submitting report data
- General Manager is on site no less than 40 hours per week

**SECTION 22. CHANGES IN PROJECT SCOPE OR BUDGET.** Any change to the Projects' scope of service or budget as described in the Grantee's Project filed with, and approved by, ODOT and FTA must receive prior approval from the Grantee, ODOT, and FTA before changes can become effective, and failure to obtain prior approval of such changes may result in ineligibility of certain costs for reimbursement. The Service Provider must submit a request for changes to the Projects' scope of service or budget as described in the proposal application that was submitted September 14, 2023.

The Service Provider agrees that all positions and costs are necessary for the safe and effective operation of ACTS and as such will be filled throughout the life of the agreement. If the Service Provider finds another way to provide the same level of service with less staff and chooses to eliminate a position or takes more than six (6) weeks to fill a vacant position, a credit in the amount equal to the number of hours the position was vacant for that month multiplied by the hourly rate for that position will be deducted from the monthly invoice until the position is filled. The Administrator will be notified immediately in writing if a position is eliminated, or a position becomes vacant.

The Administrator will monitor and evaluate all Project costs and financial statements to ensure the actual costs are comparable to the estimated costs submitted with the Project budget.

As stated during the proposal process, the differences between the salary costs estimate and actual salary costs and the difference between the insurance costs estimate and actual insurance costs will be refunded to the Grantee before the final Project invoice is submitted to ODOT. Please refer to Section 64.

**SECTION 23. ACCESS TO RECORDS.** The Grantee, ACTS Administrator, ODOT, FTA or their designee(s) will have access at any time, during operating hours, to the books, records, and accounts of the Service Provider. The Service Provider agrees to preserve and make available, for a period of three (3) years after the final audit, all financial, operations, administrative and maintenance records pertaining to the Project.

## **SECTION 24. INVOICING & RECORDS**

- The service provider will be required to supply data that will be incorporated into the various reports required by the funding source of this project and will also serve to substantiate the monthly invoice. Various data must be provided monthly in a Microsoft Excel spreadsheet approved by the Administrator. This includes unmet trip needs/trip denials, as defined by ODOT (defined as rides rescheduled further than one hour prior to or after requested time), cancellations and no shows.

Data must be submitted to Administrator by the established deadlines listed below. A fine of \$10.00 per day may be charged for delinquent data.

**INVOICING** Monthly invoices for purchased transportation due by the 7<sup>th</sup> of the month following the month of service along with the following supporting documentation:

- Purchase of Transportation Invoice with a breakdown of deviated service route hours and demand response hours.
- Detailed log of Revenue Hours and Service Hours by date range indicating the number of hours operated.
- Mileage records—separate reports indicating for both Route A and Route B City Routes, Vehicle Number and miles traveled.
- Dial-A-Ride—report of service miles and revenue miles.
- Report of drivers' logs of monthly fixed route passenger count upon request
- Monthly vehicle odometer readings
- Service Route Deviation Report
- Provider Deposit Report
- Daily Roster in a Microsoft Excel spreadsheet that includes the total number of DAR passengers for the month, the payment code to reflect the type of trip, and the amount of each fare.
- Ticket and Pass Sales Log
- Fuel tax receipts due by the 7<sup>th</sup> of the month following the month of service.
- Drug and Alcohol Data due 1<sup>st</sup>, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup> quarters by 10<sup>th</sup> of the month following the end of the quarter.
- Written summary of accidents and road calls (breakdowns) due by the 7<sup>th</sup> of the month following the month of service.
- Detailed listing of maintenance expenses paid online item 504.99 of the Capital Maintenance report due by the 7<sup>th</sup> of the month following the month of service.
- Written notice of deadlines for miscellaneous report data will be sent 15 days prior to the date required.
- Various other reports as needed requested by the Administrator or ODOT.

**RECORDS** The service provider will be responsible for meeting all requirements as specified in the contract including, but not limited to, employee standards and training, vehicle safety, on-time performance, reporting, billing, insurance coverage, Americans with Disabilities Act (ADA), blood-borne pathogens, securing wheelchairs, defensive driving, first aide, CPR, passenger assistance, and drug and alcohol testing compliance. The service provider must comply with all Ashtabula County Transportations System's policies and procedures, including the Federal Transit Authority (FTA), the Ohio Department of Transportation (ODOT), the Ohio Division on DD and Ohio Medicaid Transportation.

The service provider must have a safety policy, customer service policy, personnel policy, drug & alcohol policy, and substance abuse policy, fitness for duty policy, and driver's handbook. The Service Provider will have a System Security and Emergency Preparedness Plan (SSEPP) in place and be willing to coordinate this plan with Ashtabula County's Emergency Management Agency.

The service provider also uses a Serious Priority Event Notification System in the event of a major incident/accident. The ACTS Administrator will be added to the list of contacts to notify.

Ashtabula County maintains a "Person's with Special Needs" (PSN) Registry. In the event of a major disaster, this agency, along with the local Health Department, Emergency Medical Services, public schools, and the American Red Cross will strive to provide special medical sheltering and/ or transportation to a shelter.

If a major disaster does occur, this would be subject to negotiation with the service provider after the award of a contract and would have no impact on the normal transportation performance measures. However, should the county's vehicles be used by the Emergency Management Agency for an emergency, the service provider's revenue hours may or may not be affected.

**DRUG & ALCOHOL RECORDS** The Service Provider will maintain all Drug and Alcohol Testing results, procedures, and methods, as specified by the Drug and Alcohol regulations 49 CFR Part 655, as amended, 49 CFR Part 40, as amended, and 49 CFR Part 29, as amended.

The period for employee record retention will be five years for a positive test and up to three years after the final project audit, for a negative test. Equipment calibration documentation will be retained for three years beyond the positive test obtained on that equipment. Records related to the collection process, include:

- Collection of logbooks (if used); documents relating to random selection process; EBT equipment calibration documentation; documentation of BAT training; documents generated about decisions to administer reasonable suspicion and post-accident tests; and documents verifying existence of a medical explanation of an employee's inability to provide adequate breath for testing.
- Records related to test results, to the refusal of any covered employee to submit to a required alcohol test and to an employee dispute over the result of an alcohol test.
- Records related to other violations of the Drug and Alcohol rules.
- Records related to evaluations and return to duty.
- Records related to education and training.
- It is reasonable to conclude that the employer will retain all records that document the need to conduct a reasonable test.
- If the contract with Service Provider is terminated or not renewed all Drug and Alcohol reports must be returned to the Administrator. Actual records of such tests will belong to the Service Provider.

**SECTION 25. REQUIRED INSURANCE COVERAGE.**

- A. The Service Provider will purchase and maintain throughout the Project a comprehensive policy of insurance upon every type of vehicle (s) including all spare vehicles, leased vehicles and vehicles supplied and owned by the Grantee used in the operation of the Project. Said policy will include liability insurance on all vehicles with a minimum of \$5,000,000 Combined Single Limit for both Bodily Injury and Property Damage per accident. Said policy will include vehicle physical damage coverage (Comprehensive/Theft and Collision) only on vehicles owned and titled to the Service Provider. Said policy will protect the Service Provider, Grantee, US Department of Transportation (US DOT), ODOT, and the FTA from claims for damages to property and bodily injury, including death, which may arise from or about operation of the Project Equipment by the Service Provider or by anyone directly or indirectly associated with the Service Provider. Any deductibles on said policies will be paid by the Service Provider. Said insurance company must be authorized to do business in the State of Ohio

VEHICLE TOTAL LOSS – The Grantee shall provide vehicle physical damage coverage (Comprehensive and Collision) on the vehicles owned and titled to the Grantee to include such perils as fire; lightning; explosion; theft; windstorm; hail; earthquake; flood; mischief; vandalism; and overturn or collision with another object. The most the Grantee will pay for any one loss is the actual cash value of the damaged or stolen property as of the date of the loss.

- B. The Service Provider will name the Ashtabula Board of County Commissioners, Ashtabula County Job & Family Services (ACJFS) and Ashtabula City et al as additionally insured.
- C. The Service Provider will provide for notification by its insurance company to the Administrator of any change in coverage within twenty-four (24) hours and will include prior notice of proposed changes by the insurance company or the Service Provider.
- D. Each insurance policy will contain the following clause:

"It is agreed that these policies will not be canceled, nor the coverage reduced until thirty (30) days after the Grantee, ACDJFS, and others additionally named have been notified in writing of such changes, reductions, or cancellations."

- E. If the Project Equipment is to be in an area identified by the Secretary of the United States Department of Housing and Urban Development as an area having special flood hazards, and in which the sale of flood insurance has been made available under the National Flood Insurance Act of 1968, 42 U.S.C. SS 4011 et. Seq., the Service Provider will purchase flood insurance upon the Project equipment in an amount not less than eighty percent of its Fair Market Value.

**SECTION 26. FACILITY LOCATION.** Service Provider will operate its vehicles, appropriate maintenance, scheduling, routing, and dispatching services, from the Operations Center located at 425 West 24th Street, Ashtabula, Ohio. The vehicles and Operations Center are available to the Service Provider at minimal or no cost.

The Operations Center remains the property of Ashtabula City. At no time, will the Service Provider use this facility for any purpose other than maintenance of vehicles and offices for the operation of ACTS. The Service Provider will not operate any private business from this facility without the prior written consent of the Grantee and the Administrator.

Penalties will be assessed if these requirements are not adhered to. They can range from monetary fines up to and including termination of the contract.

If, at any time during 2024, the City of Ashtabula facility lease becomes unavailable, the Service Provider will be given the opportunity to recalculate the budget and reimbursement to include the cost of renting/leasing a facility and the associated necessary utilities.

**SECTION 27. PROJECT EQUIPMENT.** In addition to the vehicles, the Grantee will provide telephone service and limited Internet access, and some office equipment. Additional Internet lines will be at Provider's expense. The Grantee owned vehicles will be leased to the Service Provider for \$1.00 per vehicle, per year as listed in SCHEDULE I, as amended. All equipment remains the property of the Grantee and will only be used on the Project, except for the equipment outlined in Schedule III.

**SECTION 28. USE OF GRANTEE EQUIPMENT AND FACILITIES.** Vehicles, office equipment, or facilities owned by the Service Provider or by the Grantee and made available for the Project, will be used by the Service Provider only for the implementation of the Project during project hours and will be maintained at a high level of safety, cleanliness, and mechanical soundness. The Service Provider will permit the Grantee to inspect all vehicles, equipment, and facilities for the Project. Specific use and maintenance of vehicles, equipment, and facilities will be covered by a separate lease agreement which will include a listing of the items to be supplied to the Service Provider, as well as insurance and maintenance and repair of vehicles to be supplied or done by the Service Provider. This separate lease agreement signed by the Grantee and the Service Provider will be considered as part of this document.

**SECTION 29. VEHICLES.** The Service Provider must supply all fuel, lubricants, and related operating materials necessary to the operations and maintenance of the vehicles. Those vehicles used on this project will be identified and available during project hours. For the life of the contract, the vehicles supplied by the Service Provider, will be considered available for up to 100% of the month. The vehicles supplied by the Grantee will only be used on this project. Lease and insurance charges to ACTS represent 100% usage of all vehicles. The Equipment Lease Agreement Page 1, item 4

a – d addresses all Service Provider vehicle requirements.

- A. No vehicle supplied by the Service Provider will be older than six (6) years or have more than 150,000 miles, whichever comes first, or any age and 200,000 miles. If the vehicle is in exceptional shape, these requirements may be waived at the discretion of the Grantee or his designate.
- B. The Service Provider will, either through direct ownership, or contract with another agency, furnish six (6) vehicles with a minimum capacity of 14 passengers plus the driver as part of the standard vehicle fleet, but will have available additional vehicles to be part of a vehicle pool. Use of those vehicles will be compensated at the regular vehicle hourly rate.
- C. The Grantee will provide nine (9) vehicles. These must be available during all hours of operation.
- D. **SPARE VEHICLES:** The Service Provider must furnish sufficient spare vehicles to cover the hours of operation including lift equipped vehicles. The spare for the Light Transit Vehicles should have sufficient seating to handle the usual number of passengers. If two vehicles are required to meet demand, then the Service Provider will deploy the second vehicle without getting additional compensation, e.g., if two passenger vans are needed to replace one LTV, only one vehicle hour can be charged. Furthermore, only one vehicle charge will be accepted by the Administrator should the vehicle be out of service due to routine maintenance. This vehicle must meet ADA requirements. There will also be jump seats installed at the wheelchair position.

E. All vehicles will have the following. (Note, this list is the minimum number of items required, more items may be included per the Service Provider's policy but will not be counted in the proposal evaluation):

1. First Aid Kit
2. Blankets
3. Fire extinguishers (with up-to-date annual inspection tag)
4. Flashlight and batteries
5. Functioning two-way radios or other two-way communication equipment. The Service Provider is responsible for all maintenance and repairs of the equipment.
6. Written Emergency Procedures posted in a conspicuous area. They will include:
  - a. Exits - evacuation routes
  - b. Guidelines to follow if the driver is unable to operate the vehicle.
7. All vehicles will have "No Smoking" signs posted in clear view. Smoking is not permitted by anyone at any time in any vehicle either leased to the Service Provider by the Grantee or supplied by the Service Provider.
8. Flares or reflectors, and a set of safety triangles
9. Automatic Step or Step stools, wide base only (where appropriate for the vehicle)
10. Passenger assist stanchions (grab bars) where appropriate for the vehicle
11. Blood-Borne Pathogen Procedures Kits.
12. Seat belt cutters

F. In addition, the lift equipped vehicles will conform to the current ADA of 1990 and Section 504 of the Rehabilitation Act of 1973, regulations as amended:

1. Wheelchair occupant restraint system/all tie downs must be of the same make and model
2. Wheelchair restraint system/all tie down straps must be of same make and model.
3. Jump seats for each wheelchair position
4. Accessibility symbol

G. Magnetic Signs will be furnished by the Grantee and are to be displayed on all vehicles supplied by the Service Provider.

H. Vehicles are to be located throughout the county as scheduled.

I. Local presence for operations will be maintained during the life of the contract.

**SECTION 30. INSPECTION OF VEHICLES FACILITIES AND EQUIPMENT.** The lease agreements governing the use of the vehicles, facilities and equipment are incorporated into the contract and are binding upon the Service Provider. The Service Provider will permit the Grantee, ODOT, and FTA or their agents to inspect all vehicles, facilities and equipment purchased by the Grantee, or used in the execution of the grant. This will include those items obtained through the Project Grants and the vehicles, facilities and equipment supplied by the Service Provider in order that transportation services may be provided. All relevant Project data and records will be made available. The Service Provider further agrees that the Grantee will be permitted to inspect all work, materials, payrolls and other data and records regarding the Project. Copies of Maintenance audits completed by the Service Provider and forwarded to the Administrator will be kept and made available to the Grantee, Administrator or ODOT staff at all times.

**SECTION 31. MAINTENANCE.** The Service Provider must guarantee that all vehicles used will be maintained in a reliable and safe condition throughout the life of the contract and further understands that the cost of repairs is the responsibility of the Service Provider as set forth in the separate Equipment Lease Agreement between Grantee and Service Provider.

- A. The Administrator or its agent has the right to inspect the vehicle at any time and to require the Service Provider to affect any repairs or corrections deemed necessary within a period worked out between them. Financial sanctions for failure to make such repairs may be applied by the Administrator.
- B. The Grantee, through the Administrator, reserves the right to take unsafe vehicles out of operation until measures have been taken to correct the condition deemed to be unsafe. The Service Provider has the right to appeal the Administrator's decision within three (3) days of the action.
- C. The Service Provider must conduct routine safety inspections. Records of safety inspections for the past six months will always be available.
- D. The Service Provider must complete an annual safety inspection through the Ohio State Highway Patrol Safety Inspection Unit and a certified mechanic. The Service Provider must provide documentation to the Administrator within 10 days after completion.
- E. The Service Provider must report its vehicle maintenance schedule to the Administrator.
- F. All vehicles must be cleaned inside and out daily or more often, as appropriate.

**SECTION 32. TWO-WAY COMMUNICATION.** The Service Provider must provide the means to have two-way communication between the vehicles and the dispatcher. The range must cover Ashtabula County. Maintenance and repairs of the communication system will be the responsibility of the Service Provider.

**SECTION 33. PROJECT MANAGEMENT.** The Service Provider additionally agrees to allow the Grantee to participate in the management of the Project, including, but not limited to the placement of computers for recording vehicle maintenance and scheduling of service, and the training of appropriate personnel for the use of any equipment.

**SECTION 34. ON-TIME SERVICE.**

Demand Response Division:

The Service Provider must arrive within the range time. Range time is defined as 15 minutes either side of the scheduled time. The on-time performance standard for a system with a 30-minute window is a minimum of 95%. The Service Provider will provide the Administrator an on-time report upon request.

Any questions regarding a pickup must be verified with the dispatcher while the driver is at the pickup site.

The consequence of errors on the part of the Service Provider resulting in passengers being missed will be that the Administrator will not pay for the vehicle time it takes to pick up and deliver the passenger. The Service Provider will provide the Administrator a missed passenger report upon request.

Service Route with Point Deviation:

The vehicle is not to leave a designated stop before the time listed on the route map. All problems must be reported to the dispatcher and the General Manager. Incident reports are to be filed with the Administrator within 24 hours of the incident.

**SECTION 35. INCLEMENT WEATHER PLAN.** The Service Provider is responsible for having a plan to provide service during inclement weather. The Administrator will be involved and must be notified if cancellation or limited service is recommended by the Service Provider due to the weather.

**SECTION 36. DELAYS.** The Service Provider will not be charged, nor will damages be imposed because of failure in providing the services indicated in this contract due to unforeseeable causes beyond the control and without the fault or negligence of Service Provider or his employees. Such causes of excusable delay may include acts of public enemy, fires, floods, snowstorms, epidemic, quarantine, restrictions, strikes, freight embargoes, and public road closures, but, in every case the delay is excusable only for so long as, and to the extent, that the excusable delay continues. Service Provider will be entitled to no compensation for any service the performance of which is excused pursuant to this paragraph.

**SECTION 37. AMERICANS WITH DISABILITIES ACT.** The Service Provider must provide transportation services in accordance with the ADA Title 49 CFR parts 27, 37, and 38 as amended. Therefore, unless transportation services are to be canceled because of weather for all passengers, transportation of the Elderly and Disabled will not be delayed. Transportation will be provided if the route is accessible.

**SECTION 38. OPERATIONS MANUAL.** The Service Provider will maintain an updated Operations Manual to insure uniform standards in driver and passenger rights and responsibilities. The Operations Manual will be available at any time for the Administrator to review.

**SECTION 39. INCIDENTS.** The Service Provider will be required to furnish a written report to the Administrator regarding incidents, breakdowns, and unusual occurrences on the vehicles or while doing business within 24 hours of the event.

- A. An incident is defined as:
  1. Vehicle breaks down when passengers are on the vehicle.
  2. An event which affects schedules.
  3. Accidents/collisions loaded or not loaded.
  4. Reports against the Service Provider, staff, or passenger.
  5. Any unusual occurrence relating to ACTS (ex: passenger behavior problems, unusual situations).

- B. In case of an incident involving an accident/collision or an injury, the Administrator will be notified as soon as possible. Accident procedures are detailed in the Policy Manual.

**SECTION 40. ROUTING AND SCHEDULING.** Scheduling of service, calling, and confirming pick up times, will be done by the Service Provider. Local and toll-free telephone lines used exclusively for arranging transportation service will be provided by the Administrator. Routing and scheduling will be done from 8:00 a.m. to 4:30 p.m., Monday through Friday, & 9:30 am to 4:30 pm on Saturdays and whenever service is provided. The routing and scheduling software used by the Service Provider must be approved by the Grantee, The Administrator, and ODOT.

The Service Provider will be responsible for paying for internal company long distance business phone calls. These charges will be identified on the phone bill and invoiced back to the Service Provider by the Administrator. The Service Provider will receive the invoice and a copy of all such related charges by the 15<sup>th</sup> day of the following month.

**SECTION 41. PERSONNEL.** A sufficient number of staff will be hired by the Service Provider to fill a variety of positions.

*Service Provider will provide verification upon request of compliance regarding background investigations, including both Bureau of Criminal Identification and Investigation (BCII) and Federal Bureau of Investigation (FBI) of all personnel. All background investigations must comply with Ohio Administrative Code 3701-60.*

No safety-sensitive employee will be considered Grandfathered in for purposes of Drug and Alcohol Policy requirements. This holds true for every proposal cycle unless that individual was tested within one month of the start of the new proposal year. Nothing in this paragraph will be construed to mean that ACTS forgives past negative tests and lets the employee begin anew with the new proposal year. The Service Provider must offer Hepatitis B vaccinations at no charge to personnel. Staff must sign off that the offer was made.

The Service Provider will include a roster of personnel along with written verification of these elements as applicable (copies to be sent to Administrator) and as new employees are hired. An updated roster of personnel must be submitted to Administrator as changes occur within ten days.

#### **SECTION 42. PROFESSIONAL DRIVERS.**

The service provider will be required to employ a sufficient number of qualified drivers to operate the vehicles and provide the services described in this RFP. The Provider must also comply with federal labor work rules. Drivers must wear uniform shirts that identify them as ACTS transit drivers. All drivers will be neatly and cleanly dressed and will maintain a courteous and cooperative attitude when in contact with the public. All drivers must be at least 21 years old and properly licensed in the State of Ohio to provide public transportation services. In addition, drivers who will be operating vehicles seating more than fifteen (15) passengers (including the driver) or weighing more than 26,001 pounds must possess a valid Commercial Driver's License (CDL) and meet all CDL requirements. A written record from the Ohio Bureau of Motor Vehicles must be submitted for each driver and a BCII and FBI background check. Drivers who do not meet the following minimum criteria may not participate in the project:

- No more than two (2) moving violations (personal or professional) in the past three (3) years.
- If the driver's license has been suspended, he/she must have two (2) full subsequent years with no moving violations, and
- Drivers must successfully pass a drug and alcohol test.
- All drivers shall have no more than one (1) at-fault accident (personal or professional) with citation issued in the last (3) years.
- All drivers shall have no convictions for driving under the influence of alcohol or drugs or driving while impaired in the past seven (7) years.

- All drivers shall have no convictions for reckless driving within the past four (4) years.
- All drivers shall have no convictions for leaving the scene of an accident in the past four (4) years.
- All drivers shall refrain from eating, drinking or the use of tobacco products of any kind while driving.
- All drivers shall comply with all applicable laws and policies regarding the use of personal cellular, texting, or mobile phones or other personal telecommunications devices while driving.
- All drivers shall have the capability to speak, read, write, and understand English.
- All drivers shall have a good knowledge of the entire service area to answer customer questions and efficiently and effectively provide scheduled service.

All drivers must always maintain a valid driver's license and US DOT medical exam in the State of Ohio for the type of vehicle they drive in the transit service.

The service provider must obtain and provide to Grantee a recent certified abstract of all applicants' records of convictions for violations of motor vehicle laws provided by the Registrar of Motor Vehicles pursuant to Section 4509.05 of the Ohio Revised Code or its equivalent, if the applicant is a resident of another state. The maximum number of points a driver may have on his or her abstract is five (5).

The service provider must conduct and provide to the Grantee a criminal records background check through the Bureau of Criminal Identification and Investigation (BCII) and the Federal Bureau of Investigation (FBI) for all applicants or employees. Third party companies that do criminal background checks are not permitted.

Before hiring an applicant for employment, a service provider must obtain a valid copy of a signed statement from a licensed physician acting within the scope of the physician's practice declaring that the applicant does not have a medical condition or physical condition, including vision impairment that cannot be corrected, that could interfere with safe driving, passenger assistance, and emergency treatment activity or could jeopardize the health and welfare of a client or the general public.

Before a driver is permitted on the road driving, they will observe with another driver or trainer, eight (8) hours and be familiarized with safety procedures including evacuation of the vehicles. Drivers will be trained on the proper use of wheelchair lifts and wheelchair securements before being put out on the road alone.

All drivers must receive the following training and review the following policies before transporting any passengers and must have a sign off sheet verifying such:

- Personnel Policies
- Operations Manual
- Customer Service Policy
- Safety Policy
- Substance Abuse Policy

All drivers must receive or have received the following training prior to operating a vehicle:

- Sensitivity training (including Passenger Assistance Techniques Training),
- Defensive Driving (including behind the wheel practice),
- System Security & Emergency Preparedness Plan Training (SSEPP),
- Limited English Proficiency Procedures,
- Blood-borne Pathogens,
- Securing Wheelchair Training
- First Aid Training
- CPR

Trainers for the required training must have a certificate of completion from a state or nationally recognized organization. All drivers should participate in regular staff meetings or safety meetings throughout the year to maintain their skills and to learn additional information. Other types of training are encouraged including Defensive Driving.

Prior to operating a vehicle, drivers must receive the following training: One (1) hour of Drug & Alcohol training. Drivers will receive annual refresher courses as set by ODOT or Grantee.

Drivers will be required to maintain vehicle logs for each day of service. Logs will include scheduled and actual pick-up times, beginning and ending mileage, driver hours, no shows, and other pertinent information.

#### **SECTION 43. ABILITY TO OPERATE A VEHICLE.**

Drivers will be evaluated by the provider or his designate prior to and after the operation of a vehicle to determine his/her ability to operate the vehicle. This will occur for each shift or after breaks of four hours. Drivers found to be unable to work will not be permitted to drive. The service provider must have a policy/procedure in place ensuring compliance with the requirements of the ACTS project, and the ability to request a physician statement at any time verifying the driver is physically capable of performing his/her job.

A driver will not be permitted to drive until the reason has been eliminated. Where drugs or alcohol is suspected, the Alcohol and Drug testing procedures will be followed.

Reasons for not allowing the driver to operate the vehicle will include but not be limited to the following:

1. Physical or mental illness that would prohibit the ability to operate a vehicle safely.  
A fitness for duty physical may be required at any time conditions warrant it.
2. Intoxication,
3. Dizziness,
4. chest pains,
5. under the influence of drugs of any kind,
6. an attitude which is nonprofessional, and/or
7. out of uniform

**SECTION 44. WORK SHIFT.** Drivers will not be permitted to operate a vehicle more than nine (9) hours including "light" times, i.e., times when no passenger is in the vehicle and the driver is operating a revenue vehicle.

**SECTION 45. UNIFORMS.** A uniform is required of the drivers and will be the responsibility of the Service Provider. If there is a lag time between ordering the uniform and the driver working, the driver must wear black pants and a white shirt, a black jacket, and dark shoes. If this is not followed, the Service Provider will be fined.

1. White Dress Shirt
2. Black Pants or uniform shorts
3. Dark Shoes or Boots (tennis shoes are not permitted)
4. Photo ID's badge showing MV Transportation logo
5. Red Jackets and red sweaters
6. Black Hats with ACTS logo (sweatshirts with hoods are not permitted)

**SECTION 46. RESERVATIONISTS (SCHEDULER/ROUTER)** The scheduling/routing software used by the service provider must be approved by the Grantee, The Administrator, and ODOT. The Administrator will monitor and work closely with the service provider's staff regarding use and design of the software. All training on the scheduling software continues to be the responsibility of the Service Provider. These employees will act in conjunction with ACJFS staff in providing the best routing information for the passenger. This staff will have

pleasant phone manners, be enthusiastic and committed to the public transportation concept. Excessive complaints on a dispatcher or driver, will be grounds for removal from the ACTS project. They will be familiar with the service area (i.e., street names, shopping centers, churches, factories, etc.) Finally, they will be able to handle stress and handle complaints. They must be trained on the other transportation options available in the area and may eventually become involved with the Ashtabula County Transportation Coordination Plan.

**SECTION 47. DISPATCHER.** The dispatcher will communicate routes and schedules with the specific drivers. The dispatcher may share the responsibilities of the scheduler/router as well as other duties related to the record keeping involved with driver trip logs, gasoline receipts and other duties assigned by the Service Provider.

**SECTION 48. OTHER STAFF.** Other staff identified by the Service Provider as crucial to this operation are as follows and said positions are incorporated into this agreement: Project Director/District Manager, General Manager, Operations Safety Training Manager, Maintenance Manager/Director of Maintenance, B Level Mechanic, Office Manager/Dispatcher, and Vehicle Service/Utility Worker. Other staff that the Service Provider sees as essential to the overall operations may be assigned at the Service Provider's discretion.

**SECTION 49. STAFF AVAILABILITY.** All staff listed in Exhibit I will be hired, trained, and in place on or prior to January 1, 2024. If any position (s) are not filled on or prior to January 1, 2024, a credit will be taken on the monthly invoice in the amount equal to the number of hours the position was not filled x the hourly rate for that position (s) until the position (s) is filled. (See Section 22)

**SECTION 50. TRAINING REQUIREMENTS.** All staff will receive training that is appropriate for their position. Evidence of specific program training is required either prior to hire or assignment or per the following schedule. All training will be updated or renewed annually. The Service Provider will offer training that it deems necessary and determine the timetables.

1. CPR: within 30 days of a new hire or assignment.
2. Passenger Assistance: within 30 days of a new hire or assignment; only drivers who are fully trained in passenger assistance techniques, will be allowed to operate a lift on the lift equipped vehicles.
3. First Aid: within 30 days of new hire or assignment.
4. Defensive Driving: within 30 days of a new hire or assignment.
5. Drug and Alcohol Awareness - prior to hire.
6. Federal Drug and Alcohol rules and regulations.
7. Stress management.
8. Sensitivity training (Mental Health, Aging, Americans with Disabilities, Customer Service): within 6 months of employment of a new hire.
9. Offer Hepatitis B vaccination at no charge to personnel
10. Sexual Harassment Training
11. Other training as appropriate

**SECTION 51. LABOR PROTECTION.** The provisions of the Department of Labor Warranty signed by the Grantee are incorporated herewith into this contract and further described in the following Labor Provisions:

- A. Overtime Requirements: No Service Provider will require or permit any laborer or mechanic to work more than eight hours in any calendar day or more than forty hours in any work week unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his or her rate of pay for all hours worked more than eight hours in any calendar day or more than forty hours in such work week.

- B. **Violation; Liability for Unpaid Wages; Liquidated Damages:** In the event of any violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5, the Service Provider responsible therefore will be liable for the unpaid wages. In addition, the Service Provider will be liable to the United States for liquidated damages. Such liquidated damages will be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5 in the sum of \$10.00 for each calendar day on which such individual was required or permitted to work in excess of eight hours or in excess of the standard work week of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5.
- C. **Withholding for unpaid wages and Liquidated Damages:** US DOT or ODOT will upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Service Provider under this Contract or any other federal contract with the same Service Provider, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the Service Provider, such sums as may be determined to be necessary to satisfy any liabilities of such Service Provider for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b) (2) of 29 CFR Section 5.5.
- D. **Non-construction Grants:** The Service Provider will maintain payrolls and basic payroll records during the work and will preserve them for a period of three years from the completion of this Contract for all laborers and mechanics, including guards and watchmen, working on the Project. Such records will contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Service Provider will insert in any subcontract a clause providing the records to be maintained under this paragraph will be made available by the subcontractor for inspection, copying, or transcription by authorized representatives of US DOT and the Department of Labor. The Service Provider will permit such representatives to interview employees during working hours.
- E. **Subcontracts:** The Service Provider will insert in any subcontracts the clauses set forth in subparagraphs (1) through (5) of this section and a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Service Provider will be responsible for compliance by any lower tier subcontractor with the clauses set forth in subparagraphs (1) through (5) of this section. The Service Provider agrees to comply with all the provisions of the "Special Section 13 (c) Warranty for application to the Small Urban and Rural Program" and further agrees that such provisions will be incorporated into any further agreements issued under this Contract.
- F. **Work Shift:** Drivers will not be permitted to be in the vehicles more than nine (9) hours. No driver will be in "on-call status" more than 10 hours out of a 24-hour period.

**SECTION 52. CONSULTANT CONTRACTS.** Contracts for consultant services must be submitted by the Service Provider to the Grantee for review and prior approval by the Grantee, ODOT, and FTA. If the Service Provider wishes to subcontract a portion of the contract, the Service Provider will certify to the Grantee that the Service Provider has taken appropriate steps to ensure compliance with federal regulations regarding Equal Employment Opportunity, Disadvantaged Business Enterprises (DBE), and Title VI of the Civil Rights Act of 1964 (Title VI) as further detailed in Sections 53, 57, and 58 of this Contract. All subcontracts involving vehicles will comply with the insurance requirements as specified in Section 25. Proof of insurance will be submitted prior to the signing of the contract.

The Service Provider will not assign, transfer, convey or subcontract in whole or in part, sublet or otherwise dispose of the Contract without the expressed prior written consent of the Grantee and such written consent will not release the Service Provider from any obligation of this Contract.

**SECTION 53. EQUAL EMPLOYMENT OPPORTUNITY.** During the execution of this contract, the Service Provider will not discriminate against any employee or applicant for employment or use of the transportation service provided because of race, religion, color, sex, age, or national origin. The Service Provider will take affirmative action to ensure that applicants are employed and that employees are treated during their employment, without regard to their race, religion, color, sex, age, or national origin. Such action will include but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment, or advertising, layoff or termination, and selection for training including apprenticeship.

The Service Provider has signed and acknowledges Special Section 5333 (b) provisions, and have reviewed the "Special Section 5333(b) Warrant for Application to the Small Urban and Rural Program" and certified to the Ohio Department of Transportation that all its provisions will be posted and incorporated into any contract between the Applicant and Recipient which will expend funds received as a result of an application to the Ohio Department of Transportation under the Rural Transit Program. (See attached)

The Service Provider will document such affirmative action efforts by providing the Grantee with data relating to the sex, race, age, and classification of each employee of the Service Provider's organization.

The Service Provider will submit on or before January 18, 2024 an Affirmative Action Plan that addresses areas where the talents of the women and minorities are underutilized.

**SECTION 54. FEDERAL EMPLOYMENT REGULATIONS.** In addition to the Federal Equal Employment Opportunity Regulations, the Service Provider will comply with all other regulations regarding employment.

**SECTION 55. DRUG AND ALCOHOL TESTING:**

ODOT and FTA have initiated a Drug Free Transit Workplace Program and Drug and Alcohol testing which requires that the service provider affirm its intention to establish a Drug Free Work Site and institute a drug and alcohol testing program as part of its compliance order. It requires all safety sensitive personnel (supervisors, drivers, mechanics, dispatchers) to submit to drug and alcohol testing. The testing will be required for those staff relative to the following: pre-employment/assignment, post-accident, random, return to duty and follow-up even if a zero-tolerance policy is in force, and reasonable suspicion (for which a minimum of two individuals must be trained: both individuals do not need to be supervisors). Refresher training must be received every three years. Additionally, the Offeror must submit its plan and its policy for implementing the rules. The Service Provider must maintain all Drug and Alcohol Testing results, procedures, and methods, as specified by the Drug and Alcohol regulations 49 CFR Part 655, as amended, 49 CFR Part 40, as amended, and 49 CFR Part 29, as amended.

The Service Provider is responsible for keeping current on this information and make said changes. The Service Provider is also responsible for periodic monitoring of the Drug & Alcohol Collection Site to ensure FTA compliance on the collection procedures that are being utilized.

**SECTION 56. NONDISCRIMINATION BASED ON DISABILITY.**

As required by U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," at 49 CFR part 27, implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, the Service Provider and the Grantee assures that, as a condition to the approval or

extension of any Federal assistance awarded by FTA to construct any facility, obtain any rolling stock or other equipment, undertake studies, conduct research, or to participate in or obtain any benefit from any program administered by FTA, no otherwise qualified person with a disability shall be, solely by reason of that disability, excluded from participation in, denied the benefits of, or otherwise subjected to discrimination in any program or activity receiving or benefiting from Federal assistance administered by the FTA or any entity within U.S. DOT. The Service Provider and the Grantee assures that project implementation and operations so assisted will comply with all applicable requirements of U.S. DOT regulations implementing the Rehabilitation Act of 1973, as amended, and the Americans with Disabilities Act of 1990, as amended, at 49 CFR parts 27, 37, and 38, and any applicable regulations and directives issued by other Federal departments or agencies.

As required by U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," at 49 CFR 37.77(d), the Service Provider certifies that its demand responsive service offered to persons with disabilities, including persons who use wheelchairs, is equivalent to the level and quality of service offered to persons without disabilities. When the Service Provider's service is viewed in its entirety, its service for persons with disabilities is provided in the most integrated setting feasible and is equivalent with respect to: (1) response time, (2) fares, (3) geographic service area, (4) hours and days of service, (5) restrictions on trip purpose, (6) availability of information and reservation capability, and (7) constraints on capacity or service availability.

**SECTION 57. DISADVANTAGED BUSINESS ENTERPRISES.** It is the policy of US DOT that disadvantaged business enterprises as defined in 49 CFR Part 26, will have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or part with federal funds. Consequently, the DBE requirements of 49 CFR Part 26, applies to this Contract.

The Grantee and its Service Providers agree to ensure that disadvantaged business enterprises as defined in 49 CFR Part 26, have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds provided under this Contract. In this regard, all Grantees and Service Providers will take all necessary and reasonable steps in accordance with 49 CFR Part 26, to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The Service Provider will not discriminate based on race, creed, color, national origin, age, or sex in the award and performance of US DOT-assisted contracts. The Service Provider will carry out applicable requirements of 49 CFR Part 26, in the award and administration of DOT assisted contracts. Failure by the Service Provider 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 Grantee deems appropriate. The Service Provider will not exclude DBEs from participation in business opportunities by entering long-term, exclusive agreements with non-DBE for operation of major transportation-related activities or for the provision of goods and services for the Project.

The Service Provider agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 90 days from the receipt of each payment the Service Provider receives from Grantee. The Service Provider agrees further to return retainage payments to each subcontractor within 90 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Grantee. This clause applies to both DBE and non-DBE subcontractors.

**SECTION 58. CIVIL RIGHTS ACT OF 1964 (TITLE VI).** As required by 49 U.S.C. 5332, Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000d, and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation -- Effectuation of Title VI of the Civil Rights Act," 49 CFR part 21 at 21.7, the Service Provider assures that it will comply with all requirements of 49 CFR part 21; FTA Circular 4702.1, "Title VI Program Guidelines for Federal Transit Administration Recipients"; and other applicable

directives, so that no person in the United States, on the basis of race, color, national origin, creed, sex, or age will be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination in any program or activity (particularly in the level and quality of transportation services and transportation-related benefits) for which the Service Provider receives Federal assistance awarded by the U.S. DOT or FTA through the Grantee and Administrator.

The Service Provider agrees to include the ACTS Limited English Proficiency Plan (LEP) in its overall operation of the Ashtabula County Transportation System, and by training all MV Transportation employees on the implementation of this plan. The purpose of this LEP is to provide assurances and demonstrate that passengers of ACTS are being provided meaningful access to transportation services although the customers may be limited in their English Language Proficiency.

**SECTION 59. ENVIRONMENTAL VIOLATIONS.** The Service Provider agrees to comply with all applicable regulations, standards, orders, or requirements issued under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq.; the Clean Air Act, as amended, (42 U.S.C. 7401 et seq. and scattered sections of 29 U.S.C.), the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.; the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq.; and the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9601; and the Environmental Protection Agency Regulation (40 CFR Part 15) which prohibits the use under nonexempt federal contracts, grants, or loans, of facilities included on the EPA list for Violating Facilities.

**SECTION 60. ENERGY CONSERVATION.** The Service Provider must comply with the mandatory standards and policies relating to energy efficiencies which are contained in the State Energy Conservation Plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6321 et. Seq.).

**SECTION 61. CONTRACT CHANGES.** Any proposed change in this contract will be agreed upon by the Grantee and Service Provider and must not alter the Agreement between the Grantee and ODOT.

Changes in Laws: In the event any Federal, State, or local law, rule, regulation or ordinance becomes operative during the term of this Contract that has the effect of increasing Service Provider's operating costs include, but not limited to, laws, rules, regulations, or ordinances pertaining to environmental protection or climate change, such as carbon credits, or new taxes imposed based on energy consumption; changes in the Americans With Disabilities Act; or government mandated increases to employee wages and/or benefits, to include health care benefits (as an example impending National Health Care Bill), Grantee and Service Provider shall meet to discuss the impact of these unanticipated additional costs to determine if negotiation is necessary.

**SECTION 62. DISPUTE.** Any dispute arising under this Agreement not disposed of by agreement between the Grantee and the Service Provider will be referred to the state and federal courts in Ashtabula County, Ohio.

**SECTION 63. RESPONSIBILITY FOR CLAIMS AND LIABILITY.** The Service Provider will agree to protect, defend, indemnify and hold harmless the Grantee, its officers, employees and agents against any and all losses, penalties, damages, settlements, cost, charges, professional fees, and other expenses or liabilities of any kind and character arising out of or relating to any and all claims, liens, demand, obligations, actions, proceedings or causes of action of every kind and character in connection with or arising directly or indirectly out of this agreement and/or performance hereof.

The Service Provider will be responsible for and save harmless the Grantee for all damage to life and property due to activities of the Service Provider, its subcontractors, agents, or employees, during the execution of the Project.

The Service Provider further agrees to investigate, handle, respond to, and defend all such claims and to absorb all associated cost, even if such claims are groundless, false, or fraudulent.

The Service Provider is responsible for maintaining the Project facilities (excluding building maintenance), equipment, and vehicles and will abide by the standard federal and state assurances as agreed to by the Grantee in its contract with ODOT and incorporated herein by reference.

Vehicle total loss: The Grantee shall provide vehicle physical damage coverage (Comprehensive and Collision) to include such perils as fire; lightning; explosion; theft; windstorm; hail; earthquake; flood; mischief; vandalism; and overturn or collision with another object. The most the Grantee will pay for any one loss is the actual cash value of the damaged or stolen property as of the date of the loss.

#### **SECTION 64. RENEGOTIATION.**

The Grantee may renegotiate the unit rate if vehicles are added or removed from service or Grantee seeks changes in scope unless prohibited by another section of the contract or by law, or a change in funding (increase or decrease) that may require a need for an adjustment in the yearly operating hours. Service Provider may also seek to an equitable adjustment in the unit rate in the event of changes in law as set forth in Section 61 above. Notwithstanding anything to the contrary in this Agreement, in the event Service Provider and Grantee are not able to agree on an equitable adjustment in rates, either party may terminate this Agreement upon ninety (90) days' prior written notice to the other party.

The Grantee also reserves the option to renegotiate the unit price after thorough evaluation of the actual costs reflected on the financial statements provided by the Service Provider. Please refer to Section 22.

#### **SECTION 65. TERMINATION BY THE GRANTEE.**

The Grantee or its agent reserves the right to invoke fiscal sanctions up to and including pro-rated reduction of payment and termination of the contract for violations of the contract. In addition, the Grantee may, by 15 days' written notice to the Service Provider, terminate the Project and cancel this contract for any of the following reasons:

- A. FTA notifies the Grantee of the termination of this Project without cause.
- B. The Service Provider discontinues providing rural public transportation services as described in the Application approved by ODOT and FTA or in approved modifications.
- C. The Service Provider takes any action pertaining to this Contract without the approval of the Grantee and which under the procedures of this Contract would have required the approval of the Grantee.
- D. The commencement, prosecution, or timely completion of the Project by the Service Provider is for any reason, rendered improbable, impossible, or illegal.
- E. The Service Provider will be in default under any provision of this Contract.

**SECTION 66. TERMINATION BY THE SERVICE PROVIDER.** Service Provider may terminate this Contract due to non-payment for services performed for Grantee after 90 days without compensation if no other section of this Contract is in force. This Contract may be terminated at any time upon the agreement of all parties involved.

**SECTION 67. DEFAULT.** Neglect or failure of the Service Provider to comply with any of the terms, provisions, or conditions of this Contract or failure of any representation made to the Grantee, ODOT, or FTA about this Contract by the Service Provider to be true will be an event of default.

The Service Provider will not be deemed in default if it cannot carry out its covenants contained herein due to reasons as spelled out in Section 39. DELAYS, or any cause not reasonably in the control of the Service Provider.

The Service Provider will, however, remedy with all reasonable dispatch each cause preventing the Service Provider from carrying out its covenant contained therein.

In the event the Service Provider fails to carry out the covenant contained herein for reasons other than those above, the termination clause may be carried out by the Grantee.

No remedy herein confirmed upon or reserved by Grantee is intended to be exclusive of any other remedy, will be cumulative and will be in addition to every other remedy given under this agreement or now or hereafter existing at law or in equity.

No delay or omission to exercise any right or option will be construed to be a waiver thereof but any such right or option may be exercised from time to time and as often as deemed expedient by the Grantee.

**SECTION 68. SEVERABILITY.** In the event, any provision of the Contract is declared or determined to be unlawful, invalid, or unconstitutional, such declaration will not affect, in any manner, the legality of the remaining provisions of the Contract and each provision of the Contract will be and is deemed to be separate and severable from each other provision.


**SECTION 69. EXECUTION.** Effective date of this contract will be January 1, 2024

**ASHTABULA COUNTY TRANSPORTATION SYSTEM**

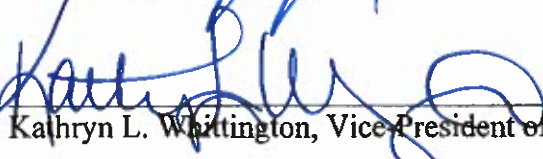
*Signatures*

**FOR GRANTEE:**

**ASHTABULA COUNTY COMMISSIONERS**

  
\_\_\_\_\_  
Casey R. Kozlowski, President of the Board

12-19-23  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
Kahlryn L. Whittington, Vice President of the Board

12-19-23  
\_\_\_\_\_  
Date

  
\_\_\_\_\_  
J.P. Duero IV, Commissioner

12-19-23  
\_\_\_\_\_  
Date

**FOR SERVICE PROVIDER:**

  
  
\_\_\_\_\_  
Sunset Transportation Partners, Inc.

12/05/23  
\_\_\_\_\_  
Date

David McGrath owner  
\_\_\_\_\_  
Printed Name and Title



**SCHEDULE II  
ACTS FARE BOXES**

ITEM	TYPE	DESCRIPTION	SERIAL NUMBER	PURCHASE DATE
			Cabinet	
Fare Box	Diamond	Model XV w/cabinet	7M189672	5/5/1994
Fare Box	Diamond	Model XV		5/28/1996
Fare Box	Diamond	Model XV		5/28/1996
Fare Box	Diamond	Model XV		5/29/1996

**SCHEDULE III  
MV Transportation, Inc. Property:  
Revised 2018**

ITEM	DESCRIPTION	PURCHASE DATE
15 Drive Cams	Camera & mounting brackets	2019
Trapeze ASP	Scheduling Software	Installed Mar-10

**SCHEDULE IV  
Ashtabula County Owned Equipment**

Description
-------------

One (1) Lanier (LD 320d) Copier/scanner/fax with cabinet

Seven OfficeSuite 18-Key Color Phones (6920)

Office Furniture:

Seven (7) desks

Large library table in meeting/lunchroom

One Troy-Built 5500W portable gasoline generator #030429

OHIO HOMELAND SECURITY (section 2909.33 of the Ohio Revised Code)

DECLARATION REGARDING MATERIAL ASSISTANCE/NONASSISTANCE TO A TERRORIST ORGANIZATION

This form serves as a declaration of the provision of material assistance to a terrorist organization or organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List (see the Ohio Homeland Security Division website for a reference copy of the Terrorist Exclusion List). Any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided. Failure to disclose the provision of material assistance to such an organization or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree.

For the purposes of this declaration, "material support or resources" means currency, payment, instruments, other financial securities, funds, transfer of funds, and financial services that are more than one hundred dollars, as well as communications, lodging, training, safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.

**Complete this section if you are an individual**

NAME \_\_\_\_\_  
HOME ADDRESS \_\_\_\_\_  
CITY STATE ZIP COUNTY \_\_\_\_\_  
HOME PHONE (\_\_\_\_\_) WORK PHONE (\_\_\_\_\_)

**Complete this section only if you are a company, business, or organization**

BUSINESS/ORGANIZATION NAME      Sunset Transportation Partners, Inc.  
BUSINESS ADDRESS                      4690 Lake Road East  
CITY STATE ZIP COUNTY                Geneva, Ohio 44041  
PHONE NUMBER                            (440) 855-5314

**DECLARATION**

In accordance with division (A)(2)(b) of section 2909.32 of the Ohio Revised Code

For each question, indicate either "yes," or "no" in the space provided. Responses must be truthful to the best of your knowledge.

- 1 Are you a member of an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- 2 Have you used any position of prominence you have with any country to persuade others to support an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- 3 Have you knowingly solicited funds or other things of value for an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- 4 Have you solicited any individual for membership in an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- 5 Have you committed an act that you know, or reasonably should have known, affords "material support or resources" to an organization on the U.S. Department of State Terrorist Exclusion List?  Yes  No
- 6 Have you hired or compensated a person you knew to be a member of an organization on the U.S. Department of State Terrorist Exclusion List, or a person you knew to be engaged in planning, assisting, or carrying out an act of terrorism?  Yes  No

In the event of a denial of a government contract or government funding due to a positive indication that material assistance has been provided to a terrorist organization, or an organization that supports terrorism as identified by the U.S. Department of State Terrorist Exclusion List, a review of the denial may be requested. The request must be sent to the Ohio Department of Public Safety's Division of Homeland Security. The request forms and instructions for filing can be found on the Ohio Homeland Security Division website.

I hereby certify that the answers I have made to all the questions on this declaration are true to the best of my knowledge. I understand that if this declaration is not completed in its entirety, it will not be processed, and I will be automatically disqualified. I understand that I am responsible for the correctness of this declaration.

I understand that failure to disclose the provision of material assistance to an organization certified on the U.S. Department of State Terrorist Exclusion List, or knowingly making false statements regarding material assistance to such an organization is a felony of the fifth degree. I understand that any answer of "yes" to any question, or the failure to answer "no" to any question on this declaration shall serve as a disclosure that material assistance to an organization identified on the U.S. Department of State Terrorist Exclusion List has been provided by myself or my organization.

If I am signing this on behalf of a company, business, or organization, I hereby acknowledge that I have the authority to make this certification on behalf of the company, business or organization referenced on page 1 of this declaration.

\_\_\_\_\_  
Signature

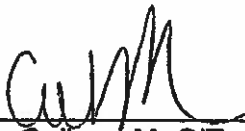
\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name & Title

**Signature Page**

Agreement Title: **ACTS/SUNSET CONTRACT**

Approved as to Legal Form Only:

By:  \_\_\_\_\_  
Colleen M. O'Toole,  
Ashtabula County Prosecutor


Contact: Lisa Hawkins, Clerk

Dated: 11-29-23, 2023

Attorney Signature Page

RE: Agreement between the Board of Ashtabula County Commissioners and Sunset Transportation Partners, Inc. to provide for the direct operation and management of transportation services to the general public in Ashtabula County. Contract renewal period commencing January 1, 2024 and ending December 31, 2024.

Approved as to Legal Form Only:

By:   
Colleen M. O'Toole, Esq.  
Ashtabula County Prosecutor  
202 Com 205

Dated: 11-29-23, 2023



**Ashtabula Third Party Operator**

**Operations & Management**

**\$ 1,500,000**

**Request for Proposal (RFP)**



Jessie Schmitzer  
jessie.schmitzer@dot.ohio.gov

Ohio DOT  
1980 West Broad St  
Columbus, Ohio 43223  
(614) 466-7170

<http://www.dot.state.oh.us/>



The following clauses are for inclusion into procurement documents, but can also be inserted into contractual agreements. However, additional clauses and certification may be required for contractual agreements.

## Federal Clauses

### ACCESS TO RECORDS AND REPORTS

- a. **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records.
- b. **Retention Period.** The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c. **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract in accordance with 2 CFR § 200.337.
- d. **Access to the Sites of Performance.** The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

### AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, 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 persons with disabilities, including any subsequent amendments to that Act, and 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 persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

### RESTRICTIONS ON LOBBYING

Conditions on use of funds.

- (a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.
- (c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.
- (d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.
- (e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

- (a) Each person shall file a certification, and a disclosure form, if required, with each submission that initiates agency consideration of such person for:
- (1) Award of a Federal contract, grant, or cooperative agreement exceeding \$100,000; or
  - (2) An award of a Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000.
- (b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of:
- (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or
  - (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000,

Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

- (c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes:
- (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or
  - (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or,

(3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

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

(1) A subcontract exceeding \$100,000 at any tier under a Federal contract;

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

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

(4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement,

Shall file a certification, and a disclosure form, if required, to the next tier above.

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

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

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

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

## CHARTER SERVICE

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that Recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, "Charter Service," 49 C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

## CIVIL RIGHTS LAWS AND REGULATIONS

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

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

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

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

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

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

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

### Civil Rights and Equal Opportunity

The Agency is an Equal Opportunity Employer. As such, the Agency agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the Agency agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications. Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

**1. Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee

or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

**2. Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

**3. Age.** In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

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

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

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

### Clean Air Act

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

### Federal Water Pollution Control Act

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

## CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

- a. Applicability: This requirement applies to all FTA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

### Compliance with the Contract Work Hours and Safety Standards Act.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

## CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

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

## DEBARMENT AND SUSPENSION

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

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

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

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

## DISADVANTAGED BUSINESS ENTERPRISE (DBE)

*(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)*

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

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

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

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

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

## **ENERGY CONSERVATION**

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

## **EQUAL EMPLOYMENT OPPORTUNITY**

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## **NOTICE TO THIRD PARTY PARTICIPANTS**

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

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

## **FLY AMERICA**

a) Definitions. As used in this clause—

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

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

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

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

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

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

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

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

(1) The contractor certifies that it:

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

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

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

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

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

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

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

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

## **NOTIFICATION TO FTA**

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

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

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

(3) The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct. This responsibility occurs whether the Project is subject to this Agreement or another agreement between the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient.

## **SOLID WASTES**

A Recipient that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

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

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

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(f) on the Contractor, to the extent the Federal Government deems appropriate.

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

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

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

1. Procure or obtain;
2. Extend or renew a contract to procure or obtain; or
3. Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
  - i. For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
  - ii. Telecommunications or video surveillance services provided by such entities or using such equipment.

- iii. Telecommunications or video surveillance equipment or services procured or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- b. In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.
- c. See Public Law 115-232, section 889 for additional information.
- d. See also § 200.471.

## PROMPT PAYMENT

*(Does not apply to projects fully funded by the Tribal Transportation Program (TTP).)*

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

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

## PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
3. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

## SAFE OPERATION OF MOTOR VEHICLES

### Seat Belt Use

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

### Distracted Driving

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

## SCHOOL BUS OPERATIONS

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

## SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States --

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

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

b. Documents - The State agrees to provide the information required under this provision in the following documents: (1) applications for federal assistance, (2) requests for proposals or solicitations, (3) forms, (4) notifications, (5) press releases, and (6) other publications.

## **SUBSTANCE ABUSE REQUIREMENTS**

The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency, or Agency, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with part 655 and to submit the Management Information System (MIS) reports to the Agency.

## **SIMPLIFIED ACQUISITION THRESHOLD**

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

## **SEVERABILITY**

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

## **TERMINATION**

### Termination for Convenience (General Provision)

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

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

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

### Opportunity to Cure (General Provision)

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

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

### Waiver of Remedies for any Breach

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

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

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

### Termination for Default (Supplies and Service)

If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

### Termination for Default (Transportation Services)

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

If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods.

Failure to agree on an amount will be resolved under the Dispute clause.

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

#### Termination for Default (Construction)

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

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

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

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

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

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

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

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

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

## **TRAFFICKING IN PERSONS**

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

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

## **VIOLATION AND BREACH OF CONTRACT**

### **Disputes:**

Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of the agency. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the agencies authorized representative. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the agencies authorized representative shall be binding upon the Contractor and the Contractor shall abide by the decision.

### **Performance during Dispute:**

Unless otherwise directed by the agencies authorized representative, contractor shall continue performance under this contract while matters in dispute are being resolved.

### **Claims for Damages:**

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

### **Remedies:**

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the agencies authorized representative and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located.

**Rights and Remedies:**

Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Agency or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, David McGrath, Owner hereby certify  
(Name and title of official)

On behalf of Sunset Transportation Partners, Inc. that:  
(Name of Bidder/Company Name)

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

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. 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.

Name of Bidder/Company Name: Sunset Transportation

Type or print name: David McGrath,

Signature of authorized representative: [Signature] Date 12, 05, 23

**GOVERNMENT-WIDE DEBARMENT AND SUSPENSION  
(NONPROCUREMENT)**

Recipients, contractors, and subcontractors that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person (found below); or (c) adding a clause or condition to the contract or subcontract.

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

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

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

a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:

1. Debarred,
2. Suspended,
3. Proposed for debarment,
4. Declared ineligible,
5. Voluntarily excluded, or
6. Disqualified,

b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:

1. Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
2. Violation of any Federal or State antitrust statute, or,
3. Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,

c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,

d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,

e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,

f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:

1. Equals or exceeds \$25,000.,
2. Is for audit services, or,
3. Requires the consent of a Federal official, and

g. It will require that each covered lower tier contractor and subcontractor:

1. Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
2. Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:
  - a. Debarred from participation in its federally funded Project,
  - b. Suspended from participation in its federally funded Project,
  - c. Proposed for debarment from participation in its federally funded Project,
  - d. Declared ineligible to participate in its federally funded Project,
  - e. Voluntarily excluded from participation in its federally funded Project, or
  - f. Disqualified from participation in its federally funded Project, and

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

**Certification**

Contractor: \_\_\_\_\_

Sunset Transportation

Signature of Authorized Official: \_\_\_\_\_

*[Handwritten Signature]*

Date 12, 05, 23

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

President