

BERRIEN COUNTY PUBLIC TRANSPORTATION (BCPT dba BerrienBus)

REQUEST FOR PROPOSAL (RFP)

Request for Proposal Issued: February 17, 2023

Deadline for Questions: March 3, 2023

BCPT Response to Questions: March 10, 2023

Due Date for Proposals: March 27, 2023

Proposal Opening: March 29, 2023

Requested by:

Berrien County Community Development Department

Berrien County Administration Center

701 Main Street

St. Joseph, MI 49085

ON-BOARD DIGITAL BUS CAMERA SYSTEM

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Berrien County Public Transportation Request for Proposals for Transit Digital Security Camera System

I. INTRODUCTION

BCPT is soliciting competitive proposals from qualified firms to equip their demand response vehicles with a comprehensive digital security camera system. All proposals must be received at the Berrien County Purchasing Department no later than **3:00 p.m. EST on Monday, March 27, 2023.**

This project will be funded primarily through grants from the Federal Transit Administration (FTA) and Michigan Department of Transportation (MDOT). As such, any contract entered into is subject to the provisions of applicable laws governing those grants. The successful proposer and all subcontractors shall be required to comply with all applicable federal, state, and local laws and regulations. Federally required contract clauses are Materials and Supplies Less than \$150,000 and included in [Appendix A](#). The clauses must be signed and included with your submission.

A contract awarded under this RFP will be a firm fixed price contract with the Berrien County Board of Commissioners.

II. BACKGROUND

BCPT operates a small bus system that has served Berrien County since 1983. The administrative office is located at 701 Main Street, St. Joseph, MI 49085. The bus operations facility is at 4676 E. Shawnee Road, Berrien Springs, MI 49103.

BerrienBus serves approximately 80-90 passengers daily. Currently, BCPT has a fleet of eighteen (18) demand-response vehicles. Operating hours are Monday – Friday from 6:00 am until 5:00 pm. BerrienBus is closed on Saturday, Sunday and the major holidays of New Year's Day, Memorial Day, 4th of July, Labor Day, Thanksgiving, and Christmas.

In recent years, Berrien County has endeavored to update the technology used in their operation. A dispatching/reporting software program was deployed in October 2008. The bus security camera system sought under the current request for proposals (RFP) is intended to contribute to our effort to improve operations through the use of technology, as well as to enhance the safety and security of our service for both customers and staff.

At no time shall BerrienBus operations be interrupted by work covered under this contract without advance approval from the Transportation Supervisor or designee. It is BCPT's intent to have all work under this contract completed during normal operating days and hours or weekends with minimal disruption to bus service and other aspects of the BerrienBus operation.

III. EXISTING FLEET

BCPT's fleet consists of eighteen (18) vehicles comprised of cutaway and medium duty buses. All vehicles are listed in the table below. It is the County's intention to replace four of the with Ford Transit vans during 2023. Each bus shall be equipped, as described in Section IV., [Technical Specifications/Scope of Work](#).

Bus #	Year	Make	FTA Service Classification
51	2011	Dodge	Small Light Duty Van
50	2011	Eldorado	Medium Duty
53	2013	Champion	Light-duty Cutaway
54	2014	Eldorado	Medium Duty
55	2014	Eldorado	Medium Duty
56	2014	Eldorado	Medium Duty
57	2015	Eldorado	Medium Duty
58	2015	Eldorado	Medium Duty
59	2018	Eldorado	Medium Duty
60	2018	Eldorado	Medium Duty
61	2018	Eldorado	Medium Duty
62	2018	Eldorado	Medium Duty
63	2018	Eldorado	Medium Duty
64	2019	Eldorado	Light-duty Cutaway
65	2019	Eldorado	Light-duty Cutaway
66	2019	Eldorado	Light-duty Cutaway
67	2019	Eldorado	Light-duty Cutaway
68	2019	Eldorado	Light-duty Cutaway

IV. TECHNICAL SPECIFICATIONS/SCOPE OF WORK

A. Requirements for Each Video Surveillance System

DVR

- Each BCPT bus will be equipped with a six channel (minimum) mobile rated high definition digital video recorder (DVR) that can be configured for a one to six camera system.
- The on-board DVR system shall include a lockable/removable 2 terabyte removable hard disk drive caddy, including all necessary ports to accommodate all cameras and microphones; must also support wireless 4G Cellular modem and Wi/Fi. (System must include Wi/Fi modem). Equivalent options for hard drive is acceptable such as SD cards or solid-state DVR provided recording space is equivalent.
- Each DVR will support a minimum playback rate of 20 frames per second per camera, and at least 25 days or up to 250 hours recording time (including audio).
- DVR shall be capable of withstanding vibration consistent with public transit use as well as an operating temperature range of -22° to 122° Fahrenheit.
- The information recorded by the DVR shall be easily downloaded to a standard PC utilizing Microsoft Windows operating system.
- Programmable recording start/end times or after bus has been idle or power is terminated, up to at least 15 minutes.
- System must back up to a secondary media in the event of hard drive failure.

- System will be powered by 12 VDC vehicle power supply and will require to be internally and continuously protected from power surges and spikes.
- Continuous recording with “event button” or similar feature that allows driver to time-stamp events for easily searchable viewing at a later time, as well as non-driver indicated incidents (hard braking, impacts, bumps).
- GPS capability to track vehicle location by time/date stamp and auto-updating for daylight savings time.
- The DVR shall be able to retrieve video by alarm, calendar based date, time and camera search functions.
- An accelerometer shall document hard breaking and other erratic driving events. A panic button or event marker shall also be installed within reach and view of the driver.
- The DVR shall be capable of a display resolution of 1080p.
- The DVR shall be constructed with a rugged outer housing that protects against shock, moisture and dust.
- Sensors shall record bus signals including turn, hazard lights and lift operations as a minimum.
- A GPS receiver shall continuously monitor bus location, heading, speed as well as configurable and automatic time and date synchronization.

CAMERAS

- At a minimum the cameras installed shall provide the following coverage:
 - Exterior of the passenger side of the bus including a clear view of the lift when it is deployed.
 - A clear view looking out of the windshield of the bus.
 - A clear view of the driver’s area.
 - A clear inside view of the entrance door and the lift door.
 - A clear view of the passengers in the bus from an angle where passengers can be identified.
- Interior and exterior cameras shall be full color, high definition, wide angle (minimum 120°), infrared, and shall supply an image that is clear and stable, free from vibration. Images shall be used to positively identify a passenger riding in a vehicle. The interior cameras shall also have a high sensitivity microphone.
- All cameras shall be AHD wide angle lens with 1080p resolution without distortion. They shall have audio recording capabilities and the capability to record in low light.

B. Software and Video Playback Requirements

- Captured video/audio shall not require a specialized PC or other proprietary PC equipment to access, download, view, save recorded events. If docking stations are required a minimum of two shall be provided.
- Microsoft®Windows compliant viewing software shall be included.
- Software shall be capable of installation on a minimum of two PC workstations.
- Software updates and support shall be provided free-of-charge for use on Microsoft Windows PC.
- Software must allow for downloaded files to be saved or distributed for use by others without additional software and/or licenses.
- Software shall be able to view and search video from the hard drive by event, time lapse, or date/time and display a GPS map, graph speed and save the videos searches.
- Video manipulation with ability to clip segments and capture still images, and ability to transfer such images and video to industry standard, USB flash memory storage devices, or DVD formats.

C. Installation Requirements.

- Proposers must coordinate schedules with operations managers so as to avoid major downtime in vehicles removed from revenue service.
- The power source wires must be sized appropriately to meet specified requirements for unit start up and normal operation and should prevent unacceptable voltage drops.
- All wiring must be concealed and protected in a vandal resistant manner.
- To avoid interference, wiring and interconnecting cables shall be properly shielded where appropriate.
- Protective plastic or rubber grommets must be installed in every hole that provides passage for conduit or wiring to avoid chaffing or cutting of the conduit or wiring.
- Proposer shall provide installation, documentation, maintenance and user training for selected staff.
- Proposer shall submit wiring and cabling diagrams for installed surveillance systems upon installation.
- Proposer shall provide at a minimum a three (3) year standard warranty on all equipment and shall maintain this equipment during the warranty period.
- Proposer shall provide a list of recommended spare and replacement parts, including unit costs.

V. QUESTIONS AND CLARIFICATIONS

This RFP represents, in writing to all proposers, the most comprehensive and definitive statement that BCPT is able to make at this time as to the requirements, terms, and conditions for this proposal process and performance of contract service. Any information, verbal or written, which is not contained in the RFP, or in subsequent written addenda to the RFP, will not be considered in evaluating proposals.

All questions relating to clarifications of or modifications to the RFP must be in writing via mail or e-mail. No telephone solicitations will be accepted. In the event that clarifications or modifications are necessary to the RFP, a written addendum shall be prepared and sent to all parties known to have received a copy of the RFP and posted on www.MyWayThere.org. In addition, any further instructions to proposers, whether as a result of questions raised by proposers or initiated by BCPT itself, shall be sent to all parties known to have received a copy of the RFP in written addendum form and will also be posted on www.MyWayThere.org.

All correspondence, communication, and/or contact in regard to any aspect of this solicitation shall be in writing with the BCPT Coordinator, Dennis Schuh (dschuh@berriencounty.org), or his designated representative. Proposers and their representatives shall not make any contact or communicate with any other employees or officials of BCPT in regard to this solicitation. Proposers are reminded that any changes to the RFP will be by written addenda only and nothing stated verbally shall change or qualify in any way any of the provisions in the RFP and shall not be binding on BCPT. At any time during this procurement up to **3:00 pm local time on Friday, March 10, 2023** proposers may request, in writing, a clarification or interpretation of any aspect, or a change to any requirement of the RFP or any addenda to the RFP.

VI. SUBMISSION OF PROPOSALS

Proposals must be received at the address given below by **3:00 pm local time, Monday, March 27, 2023** and shall be enclosed in a package or envelope marked "Bus Camera Proposal" in addition to the name of the proposer.

Submit proposals to:

Berrien County Administration Center
 Berrien County Purchasing Department / BID # 2023-18
 Attn: Jake Litaker
 701 Main Street
 St. Joseph, MI 49085

Proposers shall provide an original hardcopy and one (1) copy on a USB flash drive. The cost to prepare, develop and submit proposals and offers shall be at the full expense of the proposer.

VII. PROPOSAL FORMAT

Proposals shall be typed and submitted on 8 ½" x 11" size white paper, using a simple method of fastening. Proposals should not include any elaborate or promotional material, except as identified below. Proposals shall not exceed 30 pages in length, excluding any appendices. To provide for comparability between proposals, all proposals must be submitted in the following format:

- A. Letter of Transmittal
- B. Executive Summary
- C. Proposer Qualifications
- D. Proposed Equipment
- E. Implementation Plan
- F. Documentation and Service Support
- G. References
- H. Other
- I. Price Proposal
- J. Brochures and Promotional Material (optional)

VIII. PROPOSAL CONTENT

To ensure that BCPT receives comparable and comprehensive proposals and offers, proposers are directed to address the following topics in the format mandated in [Section VII, Proposal Format](#). Proposers not addressing these topics or not using the prescribed format may be judged as non-responsive.

Proposals and offers should be substantive but brief and concise. Proposers wishing to take exception to specific requirements shall do so in accordance with the requirements of [Section V](#) of the RFP (Questions and Clarifications).

A. Letter of Transmittal

At a minimum the letter of transmittal shall contain the following:

- The identification of the offering proposer, including the name, address, telephone number, and e-mail address of the prime contact person during the RFP process;
- A statement expressing interest in performing the requested services;
- A statement that the scope of work has been read and is understood;
- An acknowledgement of receipt of RFP addenda, if any;
- The proposed working relationship among the offering proposer (prime/subcontractor), if applicable;
- A statement to the effect that the proposal pricing will remain valid for a period of not less than 120 days from the date of submission;
- A statement to the effect that the camera system is a complete system without the need for add-ons; and
- The signature of a person authorized to bind the offering proposer to the terms of the proposal.

B. Executive Summary

At a minimum, the Executive Summary shall contain a statement of the proposer's understanding of the project and an overview of the proposer's proposal.

C. Proposer Qualifications

This section of the proposer's proposal shall focus on the qualifications of the proposer identifying it as the prime contractor and must at a minimum address the following:

- The number of years the proposer has provided camera installation and service;
- The proposer's corporate headquarters and branch offices;
- The addresses of the proposer's repair facilities;
- The number of fully operational systems that the proposer has installed for transit agencies;
- The type and level of customer service, including available hours and telephone numbers; and
- The type and level of technical support provided, including available hours and telephone numbers.

D. Proposed Equipment

If any licenses or permits are necessary for purchase or installation, the proposer shall be responsible for obtaining such licenses on behalf of BCPT. BCPT will assist the proposer in applying for any licenses.

Appropriate product information that fully describes the features and capabilities of the proposed products is to be provided as part of the proposer's proposal. At a minimum, the equipment shall meet the technical specifications described in this RFP. The proposer's proposal shall describe how the proposed products will meet or exceed the technical specifications described in this RFP if they are different than the products listed.

E. Implementation Plan

In this section, proposers are to provide a list of major project tasks, a brief description of each task, and schedule showing the number of days from contract execution by which each task will be completed.

The project implementation plan must address following issues:

- The delivery, inspection, installation, testing, and acceptance of all equipment. The proposer is fully responsible for the safety, security, and proper storage of all equipment prior to installation.
- The responsibilities of the parties involved in the project, including BCPT.
- How many proposer staff will be on-site and for how many days during each phase of the implementation plan.
- The major variables that may affect completion of major tasks or key objectives.
- Methods planned to ensure no disruption of BerrienBus operations.

F. Documentation and Service Support

It is BCPT's intent that the successful proposer shall provide BCPT with all necessary documentation that fully describes the functions, features, warranties and service support related to the camera equipment and software. Such documentation shall enable BCPT to effectively and efficiently use and maintain the equipment.

All documentation shall be written in English. Proposals shall describe such documentation and service/support provided by the proposer.

G. References

In this section of their proposal, proposers are to provide at least three (3) references of organizations that are using systems comparable to what is being proposed for BCPT. Such organizations shall be available for a site visit by BCPT staff and/or for telephone contact. At a minimum, the listed references shall describe the type of business, the implementation date, and the name of the business contact, as well as his/her telephone number, e-mail, and title. BCPT may contact the referenced sites for a detailed or general opinion of the proposer's performance and satisfaction level with proposer's product and performance.

H. Other

In this section of their proposal, proposers are to identify and describe any other options that BCPT should consider. Costs for these items must be included in the Price Proposal section of the proposal. Although this RFP is for a bus camera system, if there are other technology options that integrate with your bus camera system, please outline them here for our future reference.

I. Price Proposal

In this section of their proposal, proposers are to provide a project price proposal.

Itemized Costs: A complete list of itemized costs related to the project/solution is required. Itemized costs should include the sum of the initial purchase of equipment, installation, training and any other miscellaneous fees.

Ongoing Costs: Following installation the subsequent three years of monthly/yearly fees that can be expected to maintain the system as proposed.

Information requested in this section is required in order to evaluate the reasonableness and quality of the proposal and will be used for evaluation purposes within the transit agency only.

A price analysis or cost analysis may be required from the selected vendor prior to MDOT approval of the award. This information will be required upon submitting the selected vendor's proposal to MDOT for award approval.

The proposer also agrees that:

- All costs required to design, provide, install, and maintain a complete camera system in accordance with this RFP are included in their price proposal; and
- The design will be a fully functional system without needs for additional add-ons.

J. Brochures and Promotional Material

In this optional section of their proposal, proposers may provide BCPT with a minimal amount of brochures or promotional materials related to the proposed camera system.

IX. ADDENDUM

Any change in the conditions or terms of this RFP will be accomplished by an addendum in writing sent via postal or e-mail to all prospective proposers known to have received this RFP and will be posted on www.MyWayThere.org. All such addenda shall become a part of the contract.

X. RIGHTS OF REJECTION

BCPT reserves the right to accept or reject any and all proposals for sound, documentable business reasons, and to waive any informalities and irregularities in proposals received as part of this RFP, or to negotiate with any source whatsoever in any manner necessary to serve the best interest of BCPT and to award to other than the lowest price proposal. The contract will be awarded to the responsible Proposer whose proposal, conforming to this solicitation will be most advantageous to BCPT. The selection of the Proposer will be made by Berrien County Board of Commissioners consistent with oversight guidance of BCPT and the Michigan Department of Transportation, and be based on price and criteria outlined in Section XIII.

XI. RESPONSIBLE AND RESPONSIVE PROPOSERS

BCPT'S Transportation Coordinator shall determine if each proposer is responsible. BCPT shall award contracts only to responsible proposers who possess the potential to perform successfully under the terms and conditions of the RFP. Consideration shall be given to such matters as proposer integrity, record of past performance, and accessibility to financial and technical resources. The proposer shall affirmatively demonstrate its responsibility and, when necessary, the responsibility of any proposed subcontractors. If information obtained by BCPT clearly indicates that the proposer is not responsible and BCPT has doubts about the productive capacity or financial strength of a proposer which cannot be resolved affirmatively, a determination that the proposer is not responsible shall be rendered. The responsiveness of each proposal shall be determined by its conformance to the scope of work and requirements of this RFP.

XII. BASIS OF EVALUATION AND CONTRACT AWARD

Proposals shall be evaluated by a Review Committee consisting of the Community Development Department Director, BCPT Transportation Coordinator and the BCPT Supervisor. The Review Committee may be assisted by other technical personnel as deemed appropriate. Representatives from the firms in a competitive range may be invited to interview in person or by video with the Review Committee/and or BCPT and demonstrate their product before final selection is made. Original evaluation scores may be modified based on the interviews. BCPT assumes no liability for any costs incurred by any individuals or firms responding to this RFP or participating in any interviews. The evaluation criteria are listed below in order of importance. The criteria are as follows:

BCPT reserves the right to accept or reject any and all proposals for sound, documentable business reasons, and to waive any minor informalities and irregularities in proposals received as part of this RFP, to award to other than the lowest price proposal, and to the proposal offering the Best Value to the CCTA. The contract will be awarded to the responsible and responsive proposer with the highest scored proposal.

The evaluation criteria are listed below in order of importance. The criteria are as follows:

EVALUATION FACTORS	Maximum Points	Quality Level	Score
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- | | | | |
|----|--|----|-----------------|
| 1. | <u>Capability and Qualifications</u> | 40 | X _____ = _____ |
| | <p>The ability of a prospective proposer will be evaluated under the terms of the RFP relative to having staff with the qualifications needed to successfully complete the project. The proposer's project staff that work on the project must be the same staff that are identified in the proposal.</p> <p>Qualifications of the personnel assigned to the project will be measured by experience with particular reference to experience on projects similar to that described in the scope of work. Evaluation will be based on samples of work and explanations of similar services offered to clients that yielded results and demonstrate measurable impacts.</p> | | |
| 2. | <u>Implementation Plan</u> | 30 | X _____ = _____ |
| | <p>This refers to the technical soundness of the proposer's stated approach to the project, the comprehensiveness of proposed approach, and the techniques to be used. The proposal should describe the approach, techniques and equipment to be used to achieve the scope of work. Features and capabilities of the proposed products to meet technical specifications described in this RFP should be explained.</p> | | |
| 3. | <u>Price</u> | 20 | X _____ = _____ |
| | <p>Purchase price will be evaluated using a formula. The formula is : lowest price/price being evaluated x points available = points awarded.</p> | | |
| 4. | <u>Ongoing Annual Costs</u> | 10 | X _____ = _____ |
| | <p>A determination will be made from the proposal as to whether the agency is able to afford and maintain any ongoing costs including annual software license fees and other service fees that are required in order to maintain and support the complete system as proposed, as well as any monthly or yearly fee schedule that is required of the agency. Evaluation will be based on the sum of the first three years of fees. Prices for ongoing annual costs will be evaluated using a formula. The formula is: lowest price/price being evaluated x points available = points awarded.</p> | | |

Documentation of the above qualification must be submitted with the proposal as outlined in Part III of this RFP.

TOTAL POINTS

Quality Levels

Excellent	1.0	Meets all requirements; reflects significant enhancements or strengths as compared to minimum levels of acceptability; no offsetting weakness.
Very Good	0.8	Meets all requirements; reflects some enhancements or strengths; few if any offsetting weakness.
Good	0.6	Meets all requirements; strengths and weakness, if any, tend to offset one another equally.
Fair	0.4	May contain significant weakness only partially offset by less pronounced strengths; should meet all minimum requirements but some areas of doubt may exist.
Poor	0.2	Serious doubt exists about ability to meet minimum needs but may be sufficient; significant weakness without offsetting strengths.
Deficient	0.0	Will not meet minimum needs.

XIII. NOTICE TO PROCEED

The selected proposer will contract with the agency and must have a third party subcontract approved by MDOT. The awarded subcontract serves as the proposer's Notice to Proceed.

XIV. TERMS OF PAYMENT

The selected proposer will complete the project AND submit an invoice to Berrien County in order to guarantee payment. All invoices shall be **itemized**. No payment will be submitted to the State of Michigan for reimbursement until the County verifies that the project meets the bid specifications. Upon acceptance the County will submit a request to the State of Michigan which may take up to forty-five (45) days to be processed. No payment will be made by the County until the reimbursement check is received by the County.

XV. CONTRACTOR INSURANCE

The selected proposer will be required to demonstrate the insurances described in this section prior to commencing work.

A. Compensation Insurance

The selected proposer shall take out and maintain during the life of the contract Worker's Compensation Insurance for all employees employed at the site of the project and in case any work is sublet the contract shall require the sub-contractor similarly to provide Worker's Compensation Insurance for all of the latter's employees unless such employees who engage are covered by protection afforded by the contractor. In case any class of employees who engage in hazardous work under this contract at the site of the project is not

protected under worker's compensation statute, the selected proposer shall provide and shall cause each sub-contractor to provide adequate insurance coverage for the protection of its employees not otherwise protected.

B. Public Liability and Property Damage Insurance

The selected proposer shall take out and maintain during the life of this contract such Public Liability and Property Damage Insurance* as shall protect him/her and any sub-contractor performing work covered by this contract from claims for damages for personal injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract whether such operations be by him/herself or by any sub-contractor or by anyone directly or indirectly employed by either of them and the amount of such insurance shall be as follows:

- Public Liability Insurance in an amount not less than one million dollars (\$1,000,000.00) for each occurrence for injuries, including accidental death to any person.
- Property Damage Insurance in an amount of not less than one hundred thousand dollars (\$100,000.00) for each occurrence.

The selected proposer will be required to furnish BCPT with satisfactory proof of coverage of the insurance required with BCPT named as an additional insured on the policy.

*Construed as including Contractor's Contingent or Protective Insurance if necessary to protect the contractor from damage claims arising from the operations under this contract.

XVI. TAXES

BCPT is exempt from payment of Federal, State, and local taxes. As such, taxes shall not be included in proposal prices. BCPT will not be responsible for any taxes levied on the respondent as a result of the contract resulting from this RFP.

XVII. ASSIGNMENT OF CONTRACT

Any contract resulting from this RFP may not be assigned in whole or in part without the written consent of BCPT.

XVIII. APPLICABLE LAW AND VENUE

The work performed by the successful proposer in response to this RFP shall be in compliance with all applicable Federal, State and local laws and their respective rules and regulations. This compliance shall be at the successful proposer's expense.

Venue for any legal action arising out of this contract and between the parties hereto shall be exclusively in Berrien County, Michigan.

Any contract arising from this RFP shall be governed by and construed in accordance with the laws of the State of Michigan.

XIX. PROTESTS

All protests pertaining to the proposal award shall be addressed in writing to BCPT within five (5) days following the deadline for proposal submittals. BCPT will respond within ten (10) days of receiving the protest. BCPT is the final arbitrator on any dispute pertaining to proposals, proposal forms, and proposal awards. This “disputes” clause does not preclude consideration of questions of law in connection with decisions provided for above; provided that nothing in this Contract shall be construed as making final the decision of any administrative official, representative, or board on a question of law. Protests shall contain:

- a. The name and address of the protestor.
- b. Identification of the project
- c. A statement of the grounds for the protest and any supporting documentation. The grounds for protest shall be fully supported to the extent feasible. Additional materials in support of an initial protest may be permitted only at the sole discretion of BCPT.
- d. The relief desired of BCPT.

XX. DISPUTES:

The parties shall attempt to resolve any dispute arising out of or relating to this contract through negotiations between senior executives of the parties, who have authority to settle the same.

If the matter is not resolved by negotiation within 30 days of receipt of a written “invitation to negotiate”, the parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (ADR) procedure.

XXI EXAMINATION OF RECORDS

The vendor who is awarded a contract arising from the RFP agrees that the auditor of BCPT or an authorized representative from the State of Michigan shall have access to, and the right to examine, audit, excerpt, and transcribe any directly pertinent books, documents, papers, and records of the vendor relating to orders, invoices, or payments of this contract. All records relating to the awarded contract shall be retained for three (3) years after the date of final payment or completion of any required audit.

Compliance with this clause does not relieve a vendor from retaining any records required by other laws or regulations of federal, state, or local government units.

XXII. EXCUSABLE DELAY:

The vendor shall be excused from performance under any contract resulting from this RFP for any period that they are prevented from performing any services as a result of an act of God, war, civil disturbance, epidemic, court order, government act or omission, or other cause beyond their control.

XXIII. PROJECT SCHEDULE

The anticipated schedule for completion of this project follows. All proposers by virtue of submitting a proposal agree to meet the project schedule.

Issue Requests for Proposals	February 17, 2023
Questions/Requests for clarification due	March 3, 2023 3:00 pm local time
Proposals due	March 27, 2023, 3:00 pm local time
Tentative Contract award date	April 17, 2023

APPENDIX A

PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the Contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976 (Elliott-Larsen Civil Rights Act), the contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, treatment, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status. A breach of this covenant will be regarded as a material breach of this contract. Further, in accordance with Public Act 220, of 1976 (Persons with Disabilities Civil Rights Act), as amended by Public Act 478 of 1980, the contractor shall not discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment or a matter directly or indirectly related to employment because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants will be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all sub-contracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to ensure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or any disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment; treatment; upgrading; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor shall, 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, national origin, age, sex, height, weight, marital status, or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or its collective bargaining representative shall send to each labor union or representative of workers with which the contractor has a collective bargaining agreement or other contract or understanding a notice advising the labor union or workers' representative of the contractor's commitments under this Appendix.
6. The contractor shall comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission that may be in effect prior to the taking of bids for any individual state project.
7. The contractor shall furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission; said forms may also elicit information as to the practices, policies,

program, and employment statistics of each subcontractor as well as the contractor itself, and said contractor shall permit access to the contractor's books, records, and accounts by the Michigan Civil Rights Commission and/or its agent for the purposes of investigation to ascertain compliance under this contract and relevant rules, regulations, and orders of the Michigan Civil Rights Commission.

8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this contract, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which State Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor shall include or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every sub-contract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission; all sub-contracts and purchase orders will also state that said provisions will be binding upon each sub-contractor or supplier..

Revised June 2011

APPENDIX B: REQUIRED CONTRACT CLAUSES

**MATERIALS AND SUPPLIES
LESS THAN \$150,000****GOVERNMENT WIDE DEBARMENT AND SUSPENSION (NON PROCUREMENT)**

Applicability – all contracts more than \$25,000.

The Recipient agrees to the following:

1. It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, 2 U.S. OMB, "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA "System for Award Management," <http://https.www.sam.gov.proxy1.semalt.design> if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the "System for Award Management" at <http://https.www.sam.gov.proxy1.semalt.design> if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200.
2. If the Recipient suspends, debar, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel.

CONTRACTOR / COMPANY NAME

NAME, TITLE AND SIGNATURE OF CONTRACTOR'S AUTHORIZED OFFICIAL

TYPE OR PRINT NAME		TITLE	
SIGNATURE			DATE

FLY AMERICA REQUIREMENTS

Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

CARGO PREFERENCE

Applicability – all contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall:

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

ENERGY CONSERVATION

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000). Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

ACCESS TO RECORDS AND REPORTS

Applicability – as shown below. These requirements do not apply to micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)(1), which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a) (1), which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a sub grantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a) (1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract,

except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(l) (11). FTA does not require the inclusion of these requirements in subcontracts.

FEDERAL CHANGES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the purchaser and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material breach of the contract.

RECYCLED PRODUCTS

Applicability - all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds.

The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS OR RELATED ACTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

1. Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC 3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.
2. If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the

Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n) (1) on contractor, to the extent the US Government deems appropriate.

3. Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

TERMINATION

Applicability – all contracts more than \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$150,000.

- a. Termination for Convenience (General Provision) the recipient may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in the recipient's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient. If contractor is in possession of any of the recipient's property, contractor shall account for same, and dispose of it as the recipient directs.
- b. Termination for Default [Breach or Cause] (General Provision) If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, the recipient may terminate this contract for default. Termination shall be effected by serving a notice of termination to contractor setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the recipient that contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of contractor; the recipient, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.
- c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient 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 the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.
- d. Waiver of Remedies for any Breach In the event that the recipient elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by the recipient shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.
- e. Termination for Convenience (Professional or Transit Service Contracts) the recipient, by written notice, may terminate this contract, in whole or in part, when it is in the recipient's interest. If the contract is terminated, the recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- f. Termination for Default (Supplies and Service) If 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 recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- g. Termination for Default (Transportation Services) if 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 contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

- h. Termination for Default (Construction) If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, the recipient 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. Contractor and its sureties shall be liable for any damage to the recipient resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the recipient in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:
 - I. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
 - II. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for the recipient's convenience.
- i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall
 - I. Immediately discontinue all services affected (unless the notice directs otherwise), and
 - II. Deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.
- j. Termination for Convenience or Default (Cost-Type Contracts) the recipient may terminate this contract, or any portion of it, by serving a notice of termination on contractor. The notice shall state whether termination is for convenience of the recipient or for default of contractor. If termination is for default, the notice shall state the manner in which contractor has failed to perform the requirements of the contract. Contractor shall account for any property in its possession paid for from funds received from the recipient, or property supplied to contractor by the recipient. If

termination is for default, the recipient may fix the fee, if the contract provides for a fee, to be paid to contractor in proportion to the value, if any, of work performed up to the time of termination. Contractor shall promptly submit its termination claim to the recipient and the parties shall negotiate the termination settlement to be paid to contractor. If termination is for the recipient's convenience, contractor shall be paid its contract closeout 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 recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

CONTRACTS INVOLVING FEDERAL PRIVACY ACT REQUIREMENTS

Applicability – when a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000). The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

1. The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
2. The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

CIVIL RIGHTS REQUIREMENTS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The following requirements apply to the underlying contract: The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

- a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA's "Nondiscrimination" statute) FTA's "Nondiscrimination" statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, (g) Age, or (h) Gender identity and The FTA "Nondiscrimination" statute's prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, "Title VI Requirements and Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,
- b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d

- et seq., (b) U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964," 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients," to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, "Guidelines for the enforcement of Title VI, Civil Rights Act of 1964," 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,
- c. **Equal Employment Opportunity.** (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2) General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of "Employer". (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking "construction" as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order No. 11246, Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note,
 - d. **Disadvantaged Business Enterprise.** To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as "Disadvantaged Business Enterprises" (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a), (b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 implement a DBE program approved by FTA, and 3 establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient shall take all necessary and reasonable steps under 49 C.F.R. part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the Recipient of its failure to carry out its approved program, the Department

may impose sanctions as provided for under 49 C.F.R. part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, 31 U.S.C. § 3801 et seq., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

- e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. part 25, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, 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, which implements the Age Discrimination Act of 1975, and Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,
- g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of "employer," (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. part 37, (b) U.S. DOT regulations, "Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. part 27, (c) U.S. DOT regulations, "Transportation for Individuals with Disabilities: Passenger Vessels," 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. part 35, (f) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. part 36, (g) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities," 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. part 1194, and (j) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,
- h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42

U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

- i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons," 70 Fed. Reg. 74087, December 14, 2005,
- j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.
- k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

DISADVANTAGED BUSINESS ENTERPRISE

Applicability – contracts over \$10,000 awarded on the basis of a bid or proposal offering to use DBEs:

- a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, and Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.
- b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).
- c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.
- d. If no separate contract goal has been established, the successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.
- e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.
- f. The contractor must promptly notify the recipient 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 recipient.

PROMPT PAYMENT

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract

receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors 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 Recipient. This clause applies to both DBE and non-DBE subcontracts.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

Applicability – all contracts except micro-purchases (\$10,000 or less, except for construction contracts over \$2,000).

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.