

REQUEST FOR PROPOSAL FOR NON-PROFESSIONAL SERVICES 1191-24
Audits and Line Inspections Services for Blacksburg Transit

I. RFP Schedule and Instructions to Offerors

1. Proposal Receipt
2. Proposal Opening
3. Evaluation
4. Memorandum of Understanding
5. Release of Information
6. Addenda
7. Funding
8. Equals
9. Acceptance of Proposals
10. Award/Protest of Award
11. Contractual Claims
12. Timeliness
13. Tax Exempt Status
14. Contractual Documents

II. General Terms and Conditions

1. Qualifications
2. Laws and Regulations
3. Audit
4. Subcontracts
5. Subcontractor Payment Requirement
6. Multiple Awards
7. Quantities
8. Delivery
9. Payment
10. Pricing Errors
11. Addenda
12. Cooperative Procurement
13. Ethics in Public Contracting
14. Drug Free Workplace
15. Anti-Discrimination
16. Debarment Status
17. Nonvisual Access to Technology
18. Technology Improvements
19. Insurance
20. License Requirement
21. State Corporation Commission Licensing
22. Termination by Owner for Convenience
23. Ownership of Material/Intellectual Property
24. Proprietary Information or Trade Secrets
25. Indemnification
26. Anti-Trust
27. Default
28. Valid Contract
29. Assignment
30. Changes, Additions, Deletions
31. Applicable Laws and Courts
32. Immigration Reform Act of 1986

III. Federal Transit Administration Terms and Conditions

IV. Scope of Services

Sample Contract

TOWN OF BLACKSBURG, VIRGINIA
Request for Proposal for Non-Professional Services

Issue Date: October 10, 2024	RFP Number: 1191-24 RFP Title: Audits and Line Inspections Services for Blacksburg Transit
Proposal Receipt Date, Time and Location: November 20, 2024 1:00pm Town of Blacksburg Purchasing Agent Purchasing Administration Office First Floor Blacksburg Municipal Building 300 South Main Street Blacksburg, VA 24060 <i>Proposals must be received by the Town of Blacksburg Purchasing Agent at the Purchasing Administration Office, First Floor, Blacksburg Municipal Building, 300 South Main Street, Blacksburg, Virginia 24060, by the above date and time. By using a commercial delivery service to deliver a proposal, offeror assumes the responsibility for any failure by the delivery service to deliver the proposal on time or to the correct office.</i>	
Last Date for Written Questions: October 28, 2024 5:00pm Email questions to: Angie Frazier Purchasing Manager afrazier@blacksburg.gov Date Addenda Will Be Posted on Town's Website: November 1, 2024	

I. INSTRUCTIONS TO OFFERORS

- Proposal Receipt:** Proposals must be received by the Town of Blacksburg, Purchasing Agent, Purchasing Administration Office, First Floor, Blacksburg Municipal Building, 300 South Main Street, Blacksburg, VA, 24060 by the above proposal receipt date and time in a sealed envelope. The envelope shall clearly show the proposal number and due date and time. Proposals received after the above time and/or date will be returned to the offeror unopened. Submit six copies of your proposal as well as a flash drive copy. Proposals shall be limited to 20 numbered pages. If single-sided, this would be 20 sheets of paper. If double-sided, this would be 10 sheets of paper. It is strongly encouraged that proposals be printed front and back on recycled paper, and stapled in the upper left-hand corner. Three-ring notebooks, spiral binders, plastic covers and other non-recyclable materials contributing to the Town and County waste stream are not encouraged.
- Proposal Opening:** As this is a Request for Proposal, all responses shall be opened in private with no information being released until after the negotiation process. A selection committee may be established to review and evaluate all responses.

3. **Evaluation:** Once proposals have been evaluated, selection of offeror(s) shall be made on the basis of the factors as stated in this Request for Proposal. Interviews and negotiations may then be conducted. If a contract can be satisfactorily negotiated at a fair and reasonable price, then an award shall be made. If one offeror is deemed to be clearly more qualified and suited to the Town's needs prior to the interview process, then a contract will be negotiated with that offeror.
4. **Memorandum of Understanding:** During contract negotiation, a more defined scope of services or refined specifications may be developed. These shall be known as a memorandum of understanding (MOU) and shall contain any agreed upon negotiation points. The MOU shall then become part of the contract documents.
5. **Release of Information:** No information regarding the identity of the offerors or the contents of the proposals shall be released until after the negotiation process. If your proposal contains information of a proprietary nature, the information must be noted and an explanation submitted on separate cover.
6. **Addenda:** If any offeror has questions about the Request for Proposal, the offeror shall notify, in writing, the Purchasing Administration Office by the date stated in this proposal package. The Town will answer questions in writing and post such as addenda on the Town's website. Email questions to afrazier@blacksburg.gov.
7. **Funding:** Should funding not be available for subsequent years and this purchase is of a term contract nature, then any contract entered by the Town shall be declared null and void.
8. **Equals:** Any reference to the name of a certain brand, make or manufacturer is used only to convey general style, type, character, and quality of the article desired. It is not intended to restrict offerors to the specific brand name; however, it will be the offeror's responsibility to prove their product as equal.
9. **Acceptance of Proposals:** Proposals submitted shall be binding for ninety (90) calendar days following the proposal opening date, unless extended by mutual consent of all parties.
10. **Award/Protest of Award:** Any offeror desiring to protest the award or decision to award this contract shall submit such protest in writing to the Purchasing Agent within ten days after public notice of award or the announcement of the decision to award, whichever occurs first. Public notice of the award or decision to award shall be posted on the bulletin board in the Purchasing Administration Office.
11. **Contractual Claims:** All claims which may arise under this contract shall be resolved through the procedure set forth in Blacksburg Town Code section 16-506 Contractual Disputes.
12. **Timeliness:** Delivery time is of the essence. Offeror must comply with time frames as specified in this Request for Proposal unless different time frames are negotiated prior to award. Failure to meet delivery schedules and completion time frames may be grounds for disqualification.
13. **Tax Exempt Status:** The Town of Blacksburg is exempt from State Sales Tax and Federal Excise Tax. Tax Exemption Certificate shall be furnished upon request. The Town's Federal Tax ID Number is 54-6001146.
14. **Contractual Documents:** The contract entered into by the parties shall consist of the Request for Proposal, Addenda, the Instructions to Offerors, the General Terms and Conditions, Special Terms and Conditions, the Scope of Services, the proposal submitted by the offeror, the Memorandum of Understanding, the Town of Blacksburg's Contract and/or Purchase Order, and any change orders issued, all of which may be referred to as the contract documents.

Angie Frazier, CPPO, VCO
Purchasing Manager

THE UNDERSIGNED ACKNOWLEDGES THAT BY THE SIGNATURE OF THE FORM, OFFEROR AGREES TO COMPLY WITH ALL INSTRUCTIONS TO OFFERORS, TERMS AND CONDITIONS OF THE REQUEST FOR PROPOSAL AND IS DULY AUTHORIZED TO SIGN FOR OFFEROR COMPANY. ANY DEVIATIONS TO THE SCOPE OF SERVICES, INSTRUCTIONS TO OFFERORS, TERMS AND CONDITIONS MUST BE STATED IN WRITING WITH YOUR PROPOSAL.

COMPANY _____

AUTHORIZED SIGNATURE _____

TITLE _____ DATE _____

EMAIL ADDRESS _____

ADDRESS _____

TELEPHONE _____ FAX _____

STATE CORPORATION COMMISSION LICENSE #: _____

Is your company registered as a DBE vendor in Virginia? _____

Is your company registered as a SWaM vendor in Virginia? _____

I hereby acknowledge receipt of the following addenda (if any):

Number _____ dated _____

Number _____ dated _____

The following employees in our organization are duly authorized to sign binding agreements for and on behalf of the Owner, Partner, or Corporation including, but not limited to, Requests for Proposal, Pay Request, Change Orders, Required Certifications, etc:

Type or Print Name	Signature
_____	_____
_____	_____
_____	_____

Company Name: _____

Signed By: _____
(Owner, Partner, or Principal of the Corporation)

(Typed Name)

(Title)

II. GENERAL TERMS AND CONDITIONS

1. **Qualifications:** The offeror shall provide the names, addresses, email addresses and telephone numbers of firms or government agencies for whom a similar type of service has been performed.

The Town of Blacksburg will consider, in determining the qualifications of an offeror, his record in performance of any contracts for the services into which he may have entered with the Town or with other public bodies or corporations. The Town of Blacksburg expressly reserves the right to reject the proposal of such offeror, if such record discloses that said offeror, in the opinion of the Town, has not properly performed such contracts or has habitually and without just cause neglected the payment of bills, or has otherwise disregarded his obligations to subcontractors, suppliers or employees.

The Town of Blacksburg will make an investigation as to the ability of the offeror to perform the service. The Town of Blacksburg reserves the right to reject any proposal, if the evidence submitted by, or investigation of offeror, fails to satisfy the Town that such offeror is properly qualified by experience and financial status to carry out the obligations of the contract and to complete the service contemplated therein. Conditional proposals will not be accepted.

The Town reserves the right to inspect offeror's facility, prior to award, to satisfy questions regarding the offeror's capabilities.

2. **Laws and Regulations:** The offeror shall give all notices and comply with all laws, ordinances, regulations, and lawful orders of any public authority bearing on the performance of the work.

The contract and all other contracts and subcontracts are subject to the provisions of Articles 3 and 5, Chapter 4, Title 40.1, Code of Virginia (1950), as amended, relating to labor unions and the "right to work", and all contractors and subcontractors, whether residents or nonresidents of the Commonwealth, who perform any work related to this project shall comply with all of the said provisions.

The offeror shall furnish the Town copies of affidavits upon request giving the original dates, renewal dates and expiration dates of all labor contracts related to any phase of the work to be performed on the project site under this contract, if applicable.

The provisions of all regulations governing safety as adopted by the Safety Codes Commission of the Commonwealth of Virginia, issued by the Department of Labor and Industry under Title 40.1 of the Code of Virginia (1950), as amended, shall apply to all work under this contract.

3. **Audit:** The offeror hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the Town of Blacksburg, whichever is sooner. The Town, its authorized agents, and/or state auditors shall have full access to and the right to examine any of the said materials during said period.
4. **Subcontracts:** Upon request, the offeror shall provide the names and addresses of all major suppliers and subcontractors to the Town of Blacksburg.
5. **Subcontractor Payment Requirement:** For any contract with a nongovernmental, privately owned enterprise, for goods or services, the contract shall include:

A payment clause which obligates the offeror to take one of the two following actions within seven days after receipt of amount paid to the offeror by the Town for work performed by the subcontractor under that contract:

Pay the subcontractor for the proportionate share of the total payment received from the Town attributable to the work performed by the subcontractor under that contract, or:

Notify the Town and subcontractor, in writing, of his intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.

A payment clause that requires individual offerors to provide their social security numbers and proprietorships, partnerships, and corporations to provide their federal employer identification numbers.

An interest clause that obligates the offeror to pay interest to the subcontractor on all amounts owed by the offeror that remain unpaid after seven days following receipt by the offeror of payment from the Town for work performed by the subcontractor under that contract, except for amounts withheld as allowed above.

An interest rate clause stating, “unless otherwise provided under the terms of this contract, interest shall accrue at the rate of one percent per month.”

The offeror shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements with respect to each lower-tier subcontractor.

6. **Multiple Awards:** The Town reserves the right to award multiple contracts for all of the specified item(s) or service(s) described by the request for proposal to more than a single responsive and responsible offeror. Multiple contracts may also be awarded to the lowest responsive and responsible offeror for each required good, service, or equipment, described by the request for proposal.
7. **Quantities:** The Town does not guarantee any minimum or maximum quantities. Quantities as specified are approximate and are prepared for the solicitation. The exact quantities shall be stated at time of order placement.
8. **Delivery:** Consistent failure to meet delivery without valid reason shall constitute default. All deliveries shall be FOB destination, inside delivery unless otherwise stated.
9. **Payment:** The Town’s terms are Net 30 after receipt and acceptance of all material and/or services. In the contract, payment may be made per each completed and accepted phase of the service.
10. **Pricing Errors:** In case of an error in price extension, the firm fixed unit price shall govern.
11. **Addenda:** All addenda will be issued by the Town and posted on the Town’s website. All such addenda shall become part of the solicitation documents, must be addressed in the proposal and shall become a contract document. The Town accepts no liability for late or non-receipt of addenda.
12. **Cooperative Procurement:** The Town may participate in, sponsor, conduct or administer a cooperative procurement agreement on behalf of or in conjunction with one or more public bodies, or public agencies or institutions or localities of the several states of the United States or its territories, or the District of Columbia, for the purpose of combining requirements to increase efficiency or reduce administrative expenses in any acquisition of goods and services. Except for contracts for construction and architectural/engineering services, a public body may purchase from another public body’s contract even if it did not participate in the request for proposal (RFP) or invitation for bid (IFB), if the RFP or IFB specified that the procurement was conducted on behalf of other public bodies. Nothing herein shall prohibit the assessment or payment by direct or indirect means of any administrative fee that will allow for participation any such arrangement. Any public body, agency, locality or institution desiring to utilize the resulting contract shall be responsible for the administration of said public body’s, agency’s, locality’s or institution’s contract.
13. **Ethics In Public Contracting:** The provisions contained in Sections 2.2-4367 – 2.2-4377 of the Virginia Public Procurement Act as set forth in the Code of Virginia (1950), as amended, shall be applicable to all contracts solicited or entered into by the Town of Blacksburg. A copy of these provisions may be obtained from the Purchasing Office upon written request. By submitting their proposals, all offerors certify that their proposals are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction of any payment, loan, subscription, advance, deposit of money, services, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

14. **Drug Free Workplace:** During the performance of this contract, if the contract is over \$10,000 the offeror agrees to (i) provide a drug free workplace for the offeror's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the offeror's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the offeror that the offeror maintains a drug free workplace and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000 so that the provisions will be binding upon each subcontractor or vendor.
15. **Anti-Discrimination:** By submitting their proposal, offeror certifies to the Town that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and § 2.2-4311 of the Virginia Public Procurement Act (VPPA). If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every contract over \$10,000 the provisions in 1 and 2 below apply:

1. During the performance of this contract, the offeror agrees as follows:
 - a. The offeror will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the offeror. The offeror agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
 - b. The offeror, in all solicitations or advertisements for employees placed by or on behalf of the offeror, will state that such offeror is an equal opportunity employer.
 - c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
2. The offeror will include the provisions of the foregoing paragraphs a, b, and c in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

The Town does not discriminate against faith based organizations.

16. **Debarment Status:** By submitting a proposal or by the acceptance of a Town of Blacksburg Purchase Order, all firms certify that they are not currently debarred from doing business with or in the Commonwealth of Virginia, nor are they an agent of any person or entity that is currently debarred from doing business with or in the Commonwealth of Virginia.
17. **Nonvisual Access To Technology:** All information technology which, pursuant to this agreement, is purchased or upgraded by or for the use of any state agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following nonvisual access standards from the date of purchase or upgrade until the expiration of this agreement:
- (i) effective, interactive control and use of the technology shall be readily achievable by nonvisual means;
 - (ii) the technology equipped for nonvisual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the technology interacts;

- (iii) nonvisual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
- (iv) the technology for nonvisual access shall have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing nonvisual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (a) the technology is not available with nonvisual access because the essential elements of the technology are visual and (b) nonvisual equivalence is not available.

18. **Technology Improvements:** The Town acknowledges the offeror's right to enhance, but not to degrade, the attributes of any service provided at any time under this agreement. The offeror will provide the Town with written notification of any known hardware, firmware, and software changes as well as any changes to procedures to be followed by the Town at least 30 days in advance of the offeror's scheduled implementation of such changes, if such changes are of a type that may affect the features, functionality or method of operation or delivery of any service offered under this agreement. Upon the Town's request, the offeror shall promptly provide all documentation needed to evaluate the impact of such changes. There shall be no charge for the implementation of such changes, nor shall the cost of the service be affected.
19. **Insurance:** If applicable to this service, whenever any work or services are provided, either in or on Town property, the offeror shall provide the Purchasing Agent with a Commonwealth of Virginia Certificate of Insurance prior to the commencement of any work under the contract and agrees to maintain such insurance until the completion of the contract. The minimum limits of liability shall be: Workers' Compensation – Standard Virginia Workers' Compensation Policy, Broad Form Comprehensive General Liability - \$1,000,000 Combined Single Limit. This coverage shall include as appropriate as determined by Town, Premises/Operations Liability, Products and Completed Operations Coverage, Independent Contractor's Liability, Owner's and Contractor's Protective Liability and Personal Injury Liability; Automotive Liability - \$1,000,000 Combined Single Limit. These are minimum requirements only and may be increased if stated in the proposal package. Offeror shall notify Town at least 30 days prior to cancellation or non-renewal of this insurance.
20. **License Requirement:** All firms having a business location or office in the Town of Blacksburg are required to be licensed in accordance with the Town's Business, Professional and Occupational Licensing (BPOL) Tax Ordinance. Out of town firms performing work in excess of \$25,000 must also obtain a license before work begins. Questions concerning the BPOL tax should be directed to the Finance Department.
21. **State Corporation Commission Licensing:** Corporations conducting business within the Commonwealth of Virginia must be incorporated in the Commonwealth of Virginia or present certification as issued by the Virginia State Corporation Commission.
22. **Termination By Owner For Convenience:** Owner may terminate this contract, in whole or in part, at any time without cause upon giving offeror written notice of such termination. Upon such termination, the offeror shall immediately cease work. Upon such termination, the offeror shall take such steps as owner may require to assign to the owner the offeror's interest in all subcontracts and purchase orders designated by owner. After all such steps have been taken to owner's satisfaction, the offeror shall receive as full compensation for termination and assignment the following:
 - a. All amounts then otherwise due under the terms of this contract.
 - b. Amounts due for work performed in accordance with the contract subsequent to the latest approved certificate for payment through the date of termination.
 - c. Reasonable compensation for the actual cost of demobilization (if any) incurred by the offeror as a direct result of such termination. The offeror shall not be entitled to any compensation or damages for lost profits or for any other type of contractual compensation or damages other than those provided by the preceding sentence. Upon payment of the foregoing, owner shall have no further obligations to offeror of any nature.

23. **Ownership Of Material/Intellectual Property:** Ownership of all information, materials and documentation originated and prepared for the Town of Blacksburg in conjunction with this proposal shall belong exclusively to the Town. The offeror agrees to assign to the Town all worldwide right, title and interest in and to all works, including literary works, pictorial, graphic and sculptural works, architectural works, works of visual art and any other work that may be the subject matter of copyright protection; advertising and marketing concepts; models; drawings; for the Town pursuant to this contract.

24. **Proprietary Information Or Trade Secrets:** Virginia Code §2.2-4342, part of the Virginia Public Procurement Act (“VPPA”), governs public inspection of all records submitted by the offeror. An offeror seeking to protect any proprietary information or trade secrets must (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is needed.

Note: Simply stating that certain elements are “proprietary”, or “trade secrets”, or “not publicly available” is not sufficient. Also, the classification of an entire proposal as consisting of proprietary information or trade secrets is not permitted.

Offeror must submit any proprietary or trade secret information separately. The Town reserves the right to submit such information to the Town Attorney for confirmation of the offeror’s claim that any portion of the proposal is in fact trade secret or proprietary information. References may be made within the body of the proposal to proprietary information; however, all information contained within the body of the proposal not labeled proprietary or otherwise not meeting all three of the requirements of §2.2-4342 shall be public information in accordance with the VPPA.

The Town may reject a proposal for material non-compliance with the requirements of this section; that includes, but is not limited to, failing to follow the process for invoking protections as set forth above or submitting a proposal marked as confidential and/or proprietary in its entirety.

25. **Indemnification:** Offeror shall assume the entire responsibility and liability for any and all damages to persons or property caused by or resulting from or arising out of any act or omission on the part of offeror, its subcontractors, agents or employees under or in connection with this contract or the performance or failure to perform any work required by this contract. Offeror shall save harmless and indemnify the Town, its agents, volunteers, servants, employees and officers from and against any and all claims, losses or expenses, including but not limited to attorney’s fees, which either or both of them may suffer, pay or incur as the result of claims or suits due to, arising out of or in connection with any and all such damage, real or alleged. Offeror shall, upon written demand by the Town, assume and defend at offeror’s sole expense any and all such suits or defense of claims. The Town cannot legally agree to any clause indemnifying the offeror from any damages arising out of the contract or holding the offeror harmless. The submission of a proposal means that the offeror agrees to not request such language in the resulting contract.

26. **Anti-Trust:** By entering into a contract the offeror conveys, sells, assigns, and transfers to the Town of Blacksburg all rights, title and interest in and to all causes of the action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Town of Blacksburg under the contract.

27. **Default:** In case of failure to deliver goods or services in accordance with the contract terms and conditions, the Town of Blacksburg, after due written notice, may procure them from other sources and hold the offeror responsible for any resulting additional purchase and administrative costs. This remedy shall be in addition to any other remedies which the Town of Blacksburg may have.

28. **Valid Contract:** In order for any contract document entered into with the Town of Blacksburg to be valid, it must be executed by an authorized person, on behalf of the Town of Blacksburg, as defined in Chapter 2, Article III, Section 2-300(d) of the Code of the Town of Blacksburg, Virginia.

29. **Assignment:** Neither party shall assign the contract without the prior written consent of the other party. The contract shall bind the successors and assigns of the parties. Any Town contract shall be deemed made in Montgomery County, Virginia.

30. **Changes, Additions, Deletions:** No changes, additions, deletions or substitutions of specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges, or price will be permitted without the prior written approval from the Purchasing Office of the Town of Blacksburg.
31. **Applicable Laws And Courts:** Any Town contract shall be governed in all respects by the laws of the Commonwealth of Virginia, and any litigation with respect thereto shall be brought in the courts of Montgomery County. The offeror shall be responsible for compliance with all the laws of the Commonwealth of Virginia, all ordinances and regulations of the Town of Blacksburg and such other standards, codes, and regulations having application to the goods or services provided.
32. **Immigration Reform And Control Act Of 1986:** By signing this contract, the consultant certifies that it does not and will not during the performance of this contract violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens. The offeror does not, and shall not during the performance of the contract for goods and services in the Commonwealth, knowingly employ an unauthorized alien as defined in the Federal Immigration Reform and Control Act of 1986.

III. FEDERAL TRANSIT ADMINISTRATION TERMS AND CONDITIONS

ACCESS TO RECORDS AND REPORTS

1. **Record Retention.** The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records. (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
2. **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.
3. **Access to Records.** The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.
4. **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.

CHANGES TO FEDERAL REQUIREMENTS

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.

CIVIL RIGHTS LAWS AND REGULATIONS

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

The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Act of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil Rights Act," 49 C.F. R. Part 21 and any implementing requirement FTA may issue.

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."

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, 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.

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.

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.

NOTICE TO FTA AND U.S. DOT INSPECTOR GENERAL OF INFORMATION RELATED TO FRAUD, WASTE, ABUSE, OR OTHER LEGAL MATTERS

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 subagreements at every tier, for any agreement that is a "covered transaction" according to 2 C.F.R. §§ 180.220 and 1200.220.

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

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

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

PATENT RIGHTS AND RIGHTS IN DATA

Intellectual Property Rights

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

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

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

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

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

a. Any subject data developed under the Contract, whether or not a copyright has been obtained; and

b. Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.

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

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

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

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

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

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

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

under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

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

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

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

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.

SAFE OPERATION OF MOTOR VEHICLES

Seat Belt Use

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

Distracted Driving

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

SPECIAL NOTIFICATION REQUIREMENTS FOR STATES

Applies to States –

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

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

b. Documents - The State agrees to provide the information required under this provision in the following documents:

- (1) applications for federal assistance,
- (2) requests for proposals or solicitations,
- (3) forms,
- (4) notifications,
- (5) press releases,
- (6) other publications.

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 of 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.

OTHER RECOMMENDED CONTRACT REQUIREMENTS

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).

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.

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.

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.

**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: Signing below indicates the prospective lower tier participant is providing the signed certification.

(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: _____

Signature of Authorized Official: _____ Date ____/____/____

Name and Title of Contractor's Authorized Official: _____

Federal Certifications

CERTIFICATION AND RESTRICTIONS ON LOBBYING

I, _____ hereby certify
(Name and title of official)

On behalf of _____ 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: _____

Type or print name: _____

Signature of authorized representative: _____ Date _____ / _____ / _____

IV. SCOPE OF SERVICES

1 ABOUT BLACKSBURG TRANSIT

Blacksburg Transit is the regional transportation provider serving Blacksburg, Christiansburg, Virginia Tech and parts of Montgomery County. Annual ridership prior to COVID exceeded 4.6 million passenger trips per year. Current annual ridership is in excess of 3.7 million passenger trips per year. BT is still re-growing the organization after the impacts of COVID; it is anticipated BT will return to Pre-COVID ridership levels within the next 2-3 years.

BT's current fleet is comprised of 48 fixed-route buses (35-foot, 40-foot, and 60-foot), 17 Body-on-chassis (BOC) vehicles or vans and 17 support vehicles. Of the fixed-route vehicles, 10 are battery-electric and the other 38 are traditional diesel-powered vehicles. Currently, all fixed-route buses are New Flyers. It is anticipated that as fixed route diesel-powered vehicles reach the end of their useful lives, they will be replaced with electric buses (contingent on funding). Eighteen replacement vehicles have been ordered and go into production in FY 25 with the possibility of ordering more in the next three years.

The Body-on-chassis and van fleet are either diesel or gas-powered vehicles. At this time BT has no immediate plans to transition this fleet to battery-electric. These vehicles are predominantly light-duty Ford or Chevrolet Starcraft vehicles ranging in length from 14 to 19 passengers. There is the possibility of ordering eight to ten of these vehicles in the next three years.

2 SCOPE OF WORK

Blacksburg Transit is seeking qualified vendors on an as needed basis to provide the Pre-Award Audit, Line Inspections and Post-Delivery Audit to ensure all vehicles are built in compliance with 49 CFR Parts 663 and 661. The inspections will also verify the vehicles are built according to the specifications of the order and that all vehicles are free from defects. During the line inspection, the contractor is expected to be on site at the production facility during the production of all vehicles on the order. This contract will be issued for three years; at minimum, BT will order 18 heavy-duty battery-electric buses (35-ft, 40-ft and 60-ft) during the contract period. Depending on funding availability, additional heavy-duty buses and/or paratransit BOC's/vans may be ordered. The total number of vehicles possible to conduct inspection services under this contract would not exceed 50 vehicles (18 heavy duty buses already on order, up to 32 vehicles which would be a combination of heavy duty buses and light duty body on chassis).

The Pre-Award Audit will not be required for the initial 18 heavy-duty bus purchase, however the Line Inspection and Post-Delivery Audit will still be required. The Pre-Award Audit, Line Inspection and Post-Delivery Audit will be necessary for all other bus procurements.

Below is a schedule for replacement vehicles to show how many vehicles may be ordered in which year. **Table 1 is for planning purposes only and not final.** Any future vehicle procurements will depend on funding availability.

• *Table 1 - Replacement Vehicle Schedule*

	FY 25	FY 26	FY 27	FY 28
35'	2	4		
40'	12			1
60'	4	2	4	4
Subtotal Buses	18	6	4	5
BOC / VAN	9	2	2	1

2.1 PRODUCTION VENDOR

The order of 18 heavy-duty battery-electric buses is scheduled for production at New Flyer's St. Cloud Minnesota location. Future production locations of heavy duty buses and body on chassis vehicles may be at different locations. There are no current plans to transition the Paratransit ADA Accessible vehicles to battery-electric.

2.2 SPECIFIC REQUIREMENTS

During the contract term, BT will order vehicles off the Commonwealth of Virginia's statewide contracts for low floor transit buses, and Paratransit ADA Accessible BOC's.

2.2.1 Pre-Award Audit

The Pre-Award Audit shall review the documentation from the manufacturer and summarize the process used to verify the manufacturer's compliance with the Buy America requirements. The Pre-Award Audit shall include all elements as required by 49 CFR Part 663 and 661. At minimum, the Pre-Award Audit shall include the following elements:

- Review and verify the proposed domestic content compliance.
- Identify any components with domestic content percentages that are close to the minimum domestic content threshold that could ultimately reduce the vehicles domestic content percentage.
- Verify that labor costs for final assembly are not included in the domestic content by cost calculations.
- Verify the manufacturer has a process to verify supplier compliance with Buy America.
- Verify the manufacturers compliance with the Pre-Award Purchasers Requirement Certification (49 CFR Part 663.27), to also include:
 - Assessing the manufacturer's capacity and capability to produce the vehicles as specified.
 - Verifying the manufacturer's financial viability.
- Verify the manufacturer's ability to comply with US final assembly requirements as described in Appendix D to 49 CFR Part 661.11
- The following certifications must be included:
 - Pre-Award Buy America Certification or Pre-Award Buy America Certificate of Non-Compliance. To complete this certification a copy of the Manufacturer's self-certification of compliance or non-compliance is also required.
 - Pre-Award Purchaser's Requirements Certification
 - Pre-Award FMVSS Compliance Certification, or Pre-Award Certification of FMVSS Inapplicability.
 - Copy of the Manufacturer's Pre-Award FMVSS Certification.

The Pre-Award Audit for the initial 18 heavy-duty buses is not included in this solicitation.

2.2.2 On-Site Line Inspection

Provide in-person production line inspection and quality control services during the manufacture and production of 35-ft, 40-ft and 60-ft New Flyer Xcelsior Battery-Electric buses. Inspection services shall be in accordance with the Pre-Award and Post-Delivery Audits of Rolling Stock as specified in 49 CFR Part 663 and the Buy America requirements listed in 49 CFR Part 661.

The selected vendor is expected to be on site throughout the project to:

- Ensure compliance with 49 CFR Parts 661 and 663,
- Ensure each vehicle is built to the specifications of the order and free of defects.

Regular updates including status, milestones and progress reports must be provided for each vehicle. Preference is given to the use of an online portal to track milestones and progress, including photos.

The following items are expected to be reviewed and inspected, however this is a minimum standard and not an exhaustive list: welding of frame, grit blast, prime, seal, floorboards, air system, exterior panels, undercoat & core filling, roof panels, flooring, ramp, battery tray, underbody, exterior doors, ceiling panels, paint, windows, axels, wheel hoist, engine run out, seats, door installation and alignment, electrical test & engine start, paint & decals, water test, and alignment.

Pre-Delivery Inspection will be conducted as a final Quality Control to ensure the vehicle meets the specifications of the bid document and all components function as designed.

Post Delivery Audit: The Post-Delivery Audit shall review and summarize the process, used to verify: the manufacturer *complied* with the Buy America requirements in the production of the rolling stock; the rolling stock are produced to the specifications provided; and compliance with FMVSS. The Post-Delivery Audit must take place before the title is transferred from the vehicle manufacturer to BT. At minimum, the Post-Delivery Audit shall include the following elements:

- Confirmation the vehicle(s) components meet or exceed the required percentage of domestic content, by cost;
- Verify final assembly of the vehicle(s) took place in the US; and
- Verify final assembly activities were compliant with Buy America requirements.
- The following certifications must be included:
 - Post Delivery Buy America Certification
 - Post-Delivery Purchaser's Requirements Certification
 - Manufacturer's FMVSS Certification
 - Manufacturer's certificate of compliance (or non-compliance) with Buy America rolling stock requirements.

3 EVALUATION & AWARD

It is BT's intent to award one or more contracts to responsive and responsible proposers that can provide quality comprehensive pre-award audit, on-site line inspection and post-delivery audit services, at a fair and reasonable price, at one or more production locations. The award will be issued as task order for three years, with the option to renew for one additional year.

Proposals shall include information directly related to proposal evaluation criteria.

Proprietary Information Or Trade Secrets: Virginia Code §2.2-4342, part of the Virginia Public Procurement Act ("VPPA"), governs public inspection of all records submitted by the offeror. An offeror seeking to protect any proprietary information or trade secrets must (i) invoke the protections of this section prior to or upon submission of the data or other materials, (ii) identify the data or other materials to be protected, and (iii) state the reasons why protection is needed. Note: Simply stating that certain elements are "proprietary", or "trade secrets", or "not publicly available" is not sufficient. Also, the classification of an entire proposal as consisting of proprietary information or trade secrets is not permitted. Offeror must submit any proprietary or trade secret information separately. The Town reserves the right to submit such information to the Town Attorney for confirmation of the offeror's claim that any portion of the proposal is in fact trade secret or proprietary information. References may be made within the body of the proposal to proprietary information; however, all information contained within the body of the proposal not labeled proprietary or otherwise not meeting all three of the requirements of §2.2-4342 shall be public information in accordance with the VPPA. The Town may reject a proposal for material non-compliance with the requirements of this section; that includes, but is not limited to, failing to follow the process for invoking protections as set forth above or submitting a proposal marked as confidential and/or proprietary in its entirety.

3.1 EVALUATION CRITERIA

Proposals are limited to 20 numbered pages, not including any required forms, and will be evaluated on the following criteria.

- Cost (30 points)
- Detailed description of the firm's qualifications to provide the services listed in the Scope of Work. (20 points)
- Provide a sample timeline with respective milestones/deliverables for each phase (20 points)
- Provide a sample template of each report (15 points)
- Provide project details and contact information for three agencies you have provided similar services for on Battery-Electric Buses (15 points)

3.2 COST FORM

Part A: Identify which location(s) your firm is able to perform on-site line inspection services.

	Which Location(s) are you able to perform on-site Line Inspection Services? Yes or No
New Flyer: Anniston, AL	
New Flyer: Crookston, MN	
New Flyer: St. Cloud, MN	
Gillig: Livermore, CA	
Starcraft: Goshen, IN	

Part B: Complete the form in its entirety with per unit costs for each report type in each year.

		Year 1	Year 2	Year 3	Year 4
35'	Pre-Award Audit				
40'	Pre-Award Audit				
60'	Pre-Award Audit				
BOC / Van	Pre-Award Audit				
35'	On-site Line Inspection				
40'	On-site Line Inspection				
60'	On-site Line Inspection				
BOC / Van	On-site Line Inspection				
35'	Post-Delivery Audit				
40'	Post-Delivery Audit				
60'	Post-Delivery Audit				
BOC / Van	Post-Delivery Audit				

TOWN OF BLACKSBURG, VIRGINIA
SAMPLE CONTRACT BETWEEN OWNER AND CONTRACTOR

Number _____

This Contract, dated this (date) of (month), 20__ between the Town of Blacksburg, Virginia, a Municipal Corporation (“Owner”) and _____, a (state of incorporation) Corporation (“Contractor”), is binding among and between these parties.

RECITALS

1. The legal address for the Owner and for the Contractor and the addresses for delivery of notices and other project documents are as follows:

Owner: Town of Blacksburg, Virginia
Attn:
Address: 300 South Main Street
City, State, Zip: Blacksburg, Virginia 24060
Telephone: Fax:

Contractor:
Attn:
Address:
City, State, Zip:
Telephone: Fax:
SCC#:
E-mail:

2. The Project is identified as:

Project Code –
General Project Description:

THEREFORE, in consideration of the Recitals set forth above, and good and valuable consideration as set forth below, the parties agree as follows:

3. STATEMENT OF SERVICES:

4. CONTRACT DOCUMENTS: This contract shall consist of the following:

- this Contract between Owner and Contractor;
- the proposal submitted by the Contractor;
- the Owner’s Request for Proposal;
- the Owner’s Terms and Conditions

All of these documents are incorporated herein by reference.

5. **TIME FOR COMPLETION:** The service shall begin _____ and be completed _____.
6. **COMPENSATION TO BE PAID TO THE CONTRACTOR:** The Owner agrees to pay and the contractor agrees to accept as just and adequate compensation for the performance of the service in accordance with the contract documents, the sum of _____.
7. **PAYMENTS:** Payment shall be on a monthly basis, Net 30 days. Interest on payments due the contractor shall accrue at the rate of one percent per month. §2.2-4354 of the Code of Virginia.
8. **CONTRACTUAL CLAIMS:** Any contractual claims shall be submitted in accordance with the contractual dispute procedures set forth in Section 16-506 of the Code of the Town of Blacksburg, Virginia.
9. **NON-DISCRIMINATION AND DRUG FREE WORKPLACE:** Sections §2.2-4311 and 4312 of the Code of Virginia apply to this contract.
10. **APPLICABLE LAWS AND COURTS:** Any Town contract shall be governed in all respects by the laws of the Commonwealth of Virginia, and any litigation with respect thereto shall be brought in the court of appropriate jurisdiction in Montgomery County, Virginia. The contractor shall be responsible for compliance with all the laws of the Commonwealth of Virginia, all ordinances and regulations of the Town of Blacksburg and such other standards, codes, and regulations having application to the goods or services provided.
11. **NON-APPROPRIATION:** Should funding not be available for subsequent years and this purchase is of a term contract nature, then any contract entered by the Town shall be declared null and void at the end of the then current fiscal year.
12. **MODIFICATION OR AMENDMENT:** No amendment, change or modification of this contract shall be valid unless in writing signed by the parties hereto.
13. **ENTIRE UNDERSTANDING:** This document and any exhibit attached or documents incorporated by reference constitute the entire understanding and agreement of the parties, and any and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.

IN WITNESS WHEREOF, the parties hereto on the day and year written below have executed this agreement in two (2) counterparts, each of which shall, without proof or accountancy for the other counterparts, be deemed on original thereof.

For the CONTRACTOR:

For the OWNER:

By: _____
(signature in ink) (date)

By: _____
(signature in ink) (date)

(typed name)

(typed name)

(typed title)

(typed title)

STATE OF _____

COUNTY OF _____

Acknowledged before me this _____ day of _____, 20____, by _____, the
_____ of _____, a
_____ corporation, on behalf of the corporation.

Notary Public

Registration No. _____

My Commission Expires:

COMMONWEALTH OF VIRGINIA

COUNTY OF MONTGOMERY

Acknowledged before me this _____ day of _____, 20____, by _____,
the _____ of the Town of Blacksburg, Virginia, a Virginia municipal corporation, on behalf of
the corporation.

Notary Public

Registration No. _____

My Commission Expires:
