

Contract No. 17-2226JH

**CONSTRUCTION MANAGER / GENERAL
CONTRACTOR AGREEMENT**

Phase 1 Pre-Construction Services

Light Rail Red Signal Enforcement System



**UTAH TRANSIT AUTHORITY
669 WEST 200 SOUTH
SALT LAKE CITY, UTAH 84101**

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EXHIBITS

- A. Scope of Phase 1 Work
- B. Insurance Requirements
- C. Federal Clauses

CONSTRUCTION MANAGER / GENERAL CONTRACTOR AGREEMENT
Phase 1 Pre-Construction Services
(Light Rail Red Signal Enforcement System)

This Construction Manager / General Contractor Agreement – Phase 1 Pre-Construction Services (Light Rail Red Signal Enforcement System) (“**Agreement**”) is between the Utah Transit Authority, a public transit district organized under the laws of the State of Utah (“**UTA**”), and Rocky Mountain Systems Services, (“**Contractor**”).

RECITALS

- A. UTA is engaged in a project to design, furnish, install and test a Red Signal Enforcement System (RSES) on UTA’s Light Rail System “TRAX” (collectively, the “**Project**”).
- B. On July 7, 2017, UTA issued Request For Proposals No. 17-2226JH (the “**RFP**”), seeking interested parties to submit Proposals to perform the work required by the Project.
- C. UTA evaluated the proposals and determined that the Contractor’s proposal is most advantageous to UTA.
- D. UTA and Contractor desire to enter into this Agreement to define their respective roles and responsibilities with respect to the Project.

AGREEMENT

Therefore, the parties agree as follows:

1. Scope of Work; Standard of Care. (a) Contractor shall perform the Phase 1 Work. In the Contract Documents, “Phase 1 Work” means all the pre-construction services necessary to assist the parties in reaching agreement on the lump sum price and scope of work for Phase 2 of the Project (construction). The specific tasks that comprise the Phase 1 Work are more particularly set forth on Exhibit A.

(b) Contractor shall perform the Work in a professional manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated professionals.

2. Schedule. (a) Contractor shall commence the Phase 1 Work within seven (7) days of Contractor’s receipt of a Notice to Proceed (“**NTP**”) from UTA. UTA is not required to issue a NTP until all insurance is submitted and deemed acceptable by UTA.

(b) This Agreement will expire 180 days after UTA issues an NTP (that date, the “**Phase 1 Completion Date**”), unless (i) UTA and Contractor mutually agree to extend the term of the Agreement through a written Change Order in accordance with Section 10, or (ii) UTA and Contractor execute the Phase 2 Construction Services Amendment, as set forth in Section 8, below.

Contractor shall diligently prosecute the Phase 1 Work, and complete the Phase 1 Work prior to the Phase 1 Completion Date.

3. Price and Payment. (a) As full compensation for completing the Phase 1 Work in accordance with the Contract Documents, UTA shall pay to the Contractor the lump sum price of **\$294,834.00** (the “**Phase 1 Contract Price**”). The procedures for invoicing and payment are set forth in Section 9, below.

4. Contract Documents. (a) The Contract Documents consist of the following:

- (1) All written amendments and Change Orders to this Agreement executed in accordance with Section 10;
- (2) This Agreement, including its exhibits, and specifically including the Federal Clauses attached as Exhibit C;
- (3) The Contractor’s Proposal in response to the RFP;
- (4) The RFP.

(b) The parties intend that the Contract Documents include and provide for all aspects of the Phase 1 Work that are necessary for the proper initiation, performance, and completion of the Phase 1 Work by the Contractor, prior to the Phase 1 Completion Date set forth in Section 2, and for the Phase 1 Contract Price. The parties intend that the Contract Documents be interpreted in harmony so as to avoid conflict, with words and phrases interpreted in a manner consistent with construction and design industry standards.

(c) If any terms of the Contract Documents contradict any other terms, the terms contained in the more recent Contract Document will govern.

(d) Contractor acknowledges that, prior to the execution of this Agreement, it has carefully reviewed the Contract Documents for errors, omissions, conflicts or ambiguities (each, a “**Discrepancy**”), and is not aware of any Discrepancies as of the execution of this Agreement. If the Contractor becomes aware of a Discrepancy, the Contractor shall immediately notify UTA’s Project Manager of that Discrepancy in writing. UTA’s Project Manager shall promptly resolve the Discrepancy in writing. Contractor’s failure to promptly notify UTA of an apparent discrepancy will be deemed a waiver of Contractor’s right to seek an adjustment of the Contract Price and Substantial Completion Date due to the discrepancy.

(e) The Contract Documents form the entire contract between UTA and the Contractor and by incorporation in this Agreement are as fully binding on the parties as if repeated in this Agreement. No oral representations or other agreements have been made by the parties except as specifically stated in the Contract Documents.

5. Representatives of the Parties. (a) UTA designates Travis Baxter as its Project Manager, and Kyle Stockley as its Senior Representative. UTA’s Contract Administrator for this Agreement is Jolene Higgins. Questions or correspondence regarding the contractual aspects of this Agreement should be directed to Ms. Higgins, at the address set forth in Section 14. UTA’s Project

Manager, Senior Representative, and Contract Administrator are referred to collectively as the “**UTA Representatives.**”

(b) Contractor designates Walter Moskaly as its Project Manager and Daniel Meservey as its Senior Representative (collectively, the “**Contractor Representatives**”).

6. Key Personnel. (a) Contractor shall ensure that the following Key Personnel remain assigned to the Project until Final Completion:

- (1) Principal in Charge: Daniel Meservey
- (2) Project Manager: Walter Moskaly
- (3) Design Manager: Robert Anderson
- (4) Field Engineer (Wayside): Robert Hammond
- (5) Field Engineer (On-Board): Braden Bond

(b) Contractor acknowledges that removal of any of the Key Personnel identified above will potentially result in UTA incurring significant losses, including loss of reputation, loss of potential government funding, and losses arising out of other contracts held by UTA related to the Project. Contractor acknowledges that those potential losses, while actual, are difficult to measure and determine with precision. If an individual identified as a Key Personnel ceases to be employed on the Project prior to the Phase 1 Completion Date, Contractor shall pay \$50,000 to UTA as liquidated damages.

(c) If UTA’s Senior Representative agrees to a change in the Key Personnel, no liquidated damages will be assessed under this section.

7. Insurance. Contractor shall obtain and maintain the insurance coverages set forth in Exhibit B, and comply with the obligations set forth in Exhibit B.

8. Phase 2 Construction Services Amendment. If UTA and Contractor agree on a scope of construction services and a lump sum price for those services, UTA and Contractor will execute an amendment to this Agreement (the “**Phase 2 Construction Services Amendment**”). The Phase 2 Construction Services Amendment will detail the scope, schedule, and price of the Phase 2 construction work, and will include other terms and conditions applicable to construction work. Execution of this Agreement in no way obligates UTA to execute the Phase 2 Construction Services Amendment.

9. Invoicing and Payment. (a) To receive payment, Contractor shall submit to UTA an Application for Payment requesting payment for all Phase 1 Work performed as of the date of the Application for Payment. Contractor shall not submit Applications for Payment more often than once per month. The Application for Payment must be accompanied by supporting documentation sufficient to establish, to UTA’s reasonable satisfaction, Contractor’s entitlement to receive payment.

(b) The Application for Payment will constitute Contractor's representation that the Phase I Work described therein has been performed consistent with the Contract Documents, and has progressed to the point indicated in the Application for Payment.

(c) UTA shall pay Contractor all amounts properly requested and documented within thirty (30) days of receipt of an Application for Payment. Notwithstanding the preceding sentence, if UTA determines that Contractor is not entitled to all or part of an Application for Payment as a result of Contractor's failure to meet its obligations hereunder, UTA will notify Contractor in writing at least five (5) days prior to the date payment is due. The notice must indicate the specific amounts UTA intends to withhold, the reasons and contractual basis for the withholding, and the specific measures Contractor must take to rectify UTA's concerns. Contractor and UTA will attempt to resolve UTA's concerns prior to the date payment is due. If the parties cannot resolve such concerns, Contractor may pursue its rights under the Contract Documents, including those under Section 12. Contractor shall continue to perform the Phase I Work pending the resolution of any such dispute.

10. Change Orders. Contractor shall not undertake any activity that materially changes the Phase I Work, or materially deviates from the requirements of the Contract Documents, except as authorized by a written Change Order signed by Contractor and UTA.

11. Indemnity. Contractor, to the fullest extent permitted by law, shall indemnify, hold harmless and defend UTA, its officers, directors, and employees from and against claims, losses, damages, liabilities, including attorneys' fees and expenses, for bodily injury, sickness or death, and property damage or destruction to the extent resulting from the negligence or willful misconduct of Contractor, Contractor's consultants and subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

12. Dispute Resolution; Forum. The parties shall attempt in good faith to resolve through negotiation any dispute arising out of or relating to this Agreement. If UTA's Project Manager and Contractor's Project Manager are not able to resolve the dispute, UTA's Senior Representative and the Contractor's Senior Representative shall meet at least once to attempt to resolve the dispute before either party may commence litigation to resolve the dispute. The exclusive forum for any such litigation is the Third District Court in and for Salt Lake County, Utah.

13. Termination. (a) Upon ten (10) days' written notice to Contractor, UTA may, for its convenience and without cause, elect to terminate this Agreement. If UTA terminates the Agreement for its convenience, UTA shall pay Contractor for Phase I Work performed up to the date of the notice of termination, plus Contractor's reasonable costs attributable to the termination.

(b) If Contractor materially fails to perform any of its obligations under this Agreement, and such failure is not cured within ten (10) days' of written notice from UTA identifying the breach, then UTA may terminate the Agreement for default. If UTA terminates the Agreement for default, UTA shall pay Contractor for Phase I Work satisfactorily performed up to the date of the notice of termination, less costs and expenses incurred by UTA as a result of the default.

14. Notices. (a) To be deemed valid, all notices, requests, claims, demands and other communications between the parties (“**Notices**”) must be in writing and addressed as follows:

If to the Utah Transit Authority:

Utah Transit Authority
ATTN: Jolene Higgins
669 West 200 South
Salt Lake City, UT 84101

With a required copy to:

Utah Transit Authority
ATTN: General Counsel
669 West 200 South
Salt Lake City, UT 84101

If to the Contractor:

Rocky Mountain Systems Services
ATTN: Dan Meservey
8201 Southpark Lane, Suite 200
Littleton CO 80120

With required copies to:

Rocky Mountain Systems Services
ATTN: Ryan Snow
8201 Southpark Lane, Suite 200
Littleton CO 80120

Rocky Mountain Systems Services
ATTN: Al Wilson
492 North 1100 West
Payson UT 84651

(b) To be deemed valid, Notices must be given by one of the following methods: (i) by delivery in person (ii) by a nationally recognized next day courier service, (iii) by first class, registered or certified mail, postage prepaid.

(c) Either party may change the address at which that party desires to receive written notice by delivery of Notice of such change to the party as set forth above. Notices will be deemed effective on delivery to the notice address then applicable for the party to which the Notice is directed, provided, however, that refusal to accept delivery of a Notice or the inability to deliver a Notice because of an address change that was not properly communicated shall not defeat or delay the effectiveness of a Notice.

15. Work Product. (a) All drawings, specifications, reports, calculations, and other documents furnished by Contractor to UTA pursuant to this Agreement (those documents, the “**Work Product**”) are deemed to be instruments of service and Contractor shall retain the ownership and intellectual property rights therein.

(b) Upon UTA’s payment in full for the Phase 1 Work required for Contractor to prepare any Work Product, Contractor will be deemed to have granted to UTA a license to use that Work Product in connection with the design, construction, occupancy, and maintenance of the Project, or any other UTA project or facility.

16. Prohibited Interest. No member, officer, agent, or employee of UTA during his or her tenure or for one year thereafter shall have any interest in, direct or indirect, including prospective

employment by, Contractor or the proceeds under this Contract without specific written authorization by UTA.

17. Assignment. Contractor acknowledges that the Work to be performed by Contractor is considered personal by UTA. Contractor shall not assign or transfer its interest in this Contract without prior written approval by UTA.

18. Successorship. Contractor and UTA intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and permitted assigns.

19. Governing Law. The Agreement is governed by the laws of the State of Utah, without giving effect to its conflict of law principles. Actions to enforce the terms of this Agreement may only be brought in the Third District Court for Salt Lake County, Utah.

20. Severability. If any provision or any part of a provision of the Contract Documents is finally determined to be superseded, invalid, illegal, or otherwise unenforceable, such determination shall not impair or otherwise affect the validity, legality, or enforceability of the remaining provision or parts of the provision of the Contract Documents, which will remain in full force and effect as if the unenforceable provision or part were deleted.

21. No Waiver. The failure of either Contractor or UTA to insist, in any one or more instances, on the performance of any of the obligations required by the other under the Contract Documents shall not be construed as a waiver or relinquishment of such obligation or right with respect to future performance.

22. Headings. The headings used in this Agreement, or any other Contract Document, are for ease of reference only and shall not in any way be construed to limit or alter the meaning of any provision.

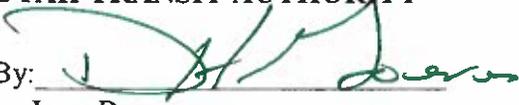
23. Amendments. The Contract Documents may not be changed, altered, or amended in any way except in writing signed by a duly authorized representative of each party.

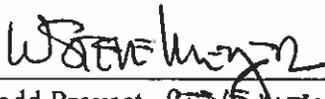
24. Counterparts. The parties may execute this Agreement in any number of counterparts, each of which when executed and delivered will constitute a duplicate original, but all counterparts together will constitute a single agreement.

25. Effectiveness; Date. The Agreement will become effective when all parties have fully signed it. The date of this Agreement will be the date it is signed by the last individual to sign it (as indicated by the date associated with that individual's signature).

Each individual is signing this Agreement on the date stated opposite that individual's signature.

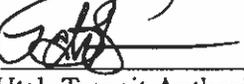
UTAH TRANSIT AUTHORITY

By:  Date: 26 Apr 18
64 ← Jerry Benson
President and CEO

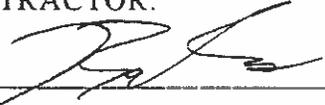
By:  Date: 4/26/18
~~Todd Provost~~ STEVE MEYER
VP of Operations, Capital, & Assets

By:  Date: 4/26/2018
~~Travis Baxter~~ Kyle Stoddy
Project Manager

Approved as to Legal Form:

By: 
Utah Transit Authority
Legal Counsel

CONTRACTOR:

By:  Date: 4-15-18

Name: Ryan Snow
Title: Authorized Representative RMSS

Contractor's Federal ID Number:

EXHIBIT A

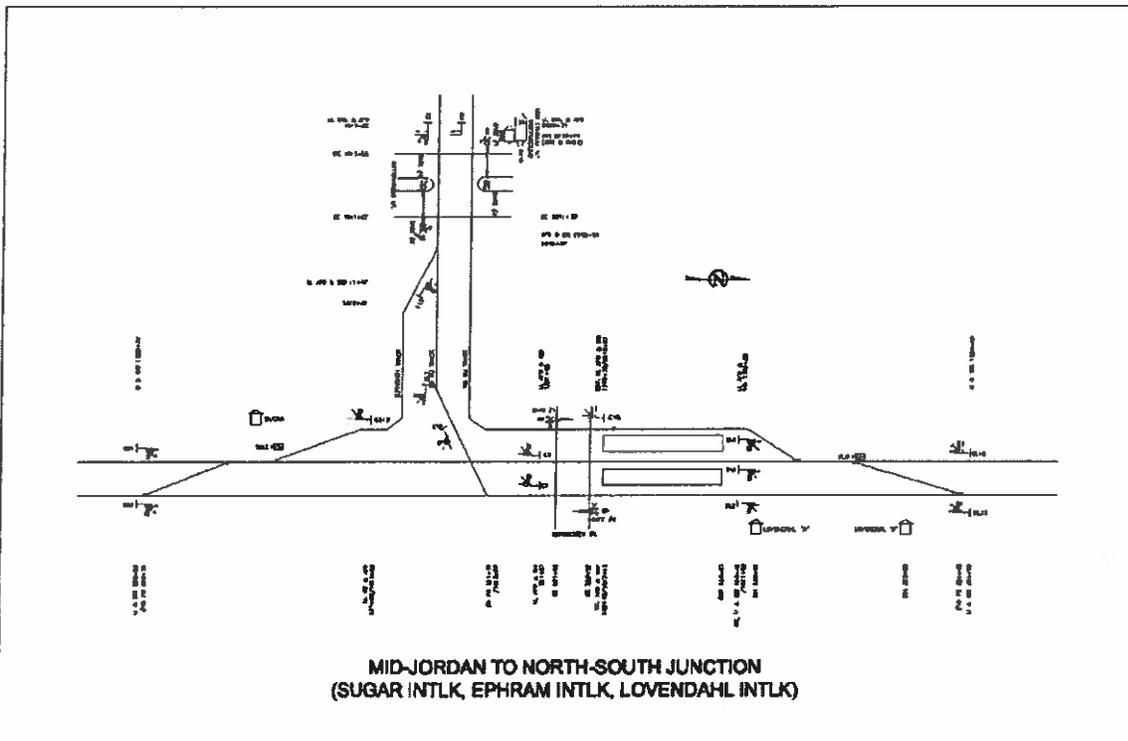
Scope of Phase 1 Work

The Contractor shall be responsible for providing a turnkey Automatic Red Signal Enforcement System. The scope of work can be considered as two elements, the wayside system and the on-board system as outlined below. The wayside system is described in detail in Appendix II. The on-board vehicle system is described in detail in Appendix III. The successful integration of the two elements is essential to the successful delivery of the project:

1) Wayside

The required work shall be to install devices where the Red and Blue lines converge near Winchester St. in Murray Utah (Mid-Jordan to North-South Junction) and where the Green and Red/Blue lines converge near 2100 South in Salt Lake City (West Valley to North-South Junction). These two locations are shown below.

Mid-Jordan To North-South Junction



- Sugar Interlocking:
 - S2
 - S4
 - S10

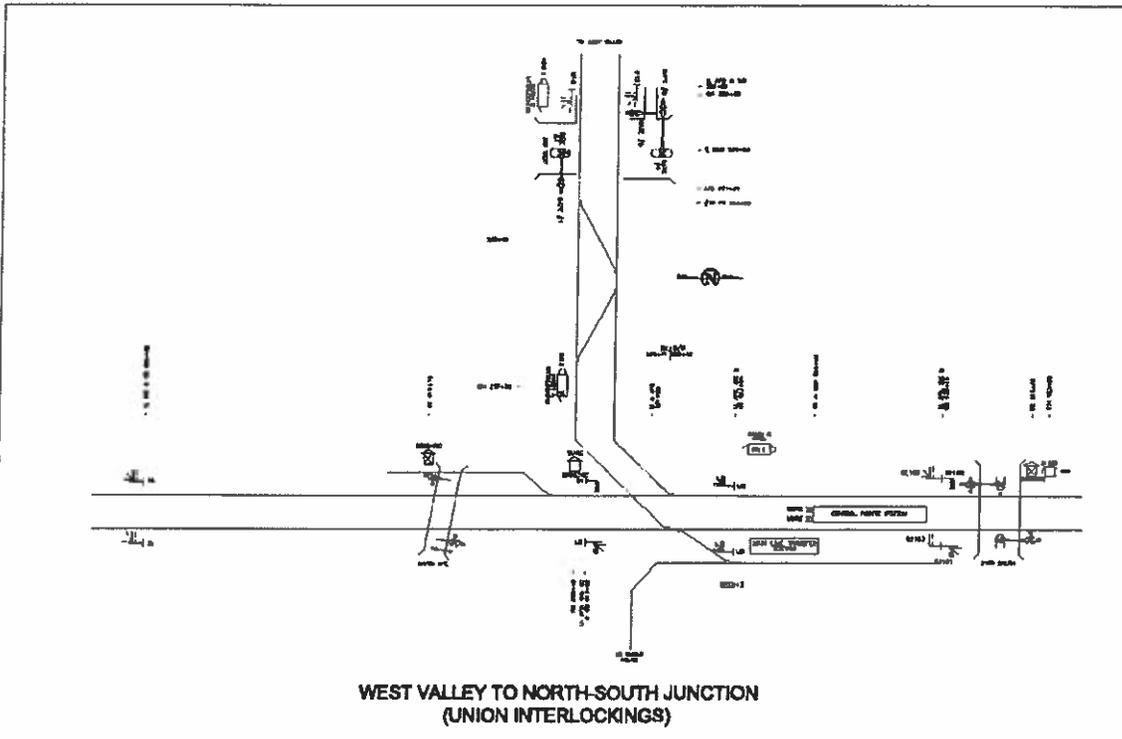
- Ephram Interlocking:

- E2
- E4
- E6
- E8
- E12

- Lovendahl Interlocking:

- L2
- L4
- L6
- L10
- L12

West Valley To North-South Junction



Union Interlocking:

- U2
- U4

- U6
- U8
- U10
- U12

The wayside equipment supplied shall be integrated with UTA's existing signal system, utilities, physical layout and environment.

The equipment shall be modular such that UTA can expand the number of protected locations subject to future requirements. The Contractor shall provide pricing for options for additional installations during Phase 2 Services. UTA has the option to calculate the construction pricing for the optional work based on the various cost elements negotiated as part of the Phase 2 services for the base scope:

- Option 1A – Valley Interlocking:
 - V-6
- Option 1B - Access Interlocking:
 - A-2
 - A-8
- Option 1C - ZCMI Interlocking:
 - Z-10
 - Z-12
- Option 1D – Individual Addition signal/switch locations identified per future UTA requirements.

All options shall be valid for up to 5 years from the date of contract award.

2) Onboard Equipment

The Contractor shall install and integrate onboard equipment that can interpret the status of the wayside devices and initiate an emergency brake application in the event that a vehicle passes a signal showing stop.

The base project shall include:

- The Non-Recurring-Engineering for each of UTA's 3 LRV fleets (SD100s, SD160s and S70s)
- Installation on each of UTA's 23 x SD100 LRVs
- Installation on each of UTA's 17 x SD160 LRVs

- Installation on 3 of UTA's 77 x S70 LRVs to allow interoperability testing.

The Contractor shall also provide pricing for options to complete the installation on the remaining S70 LRVs. UTA has the option to calculate the construction pricing for the optional work based on the various cost elements negotiated as part of the Phase 2 services for the base scope:

- Option 2A: Installation of on-board equipment on 4th – 40th S70 LRV (37 cars).
- Option 2B: Installation of on-board equipment on 41st – 77th S70 LRV (37 cars).

All options and pricing shall be valid for up to 5 years from the date of contract award.

CONTRACT SCHEDULE

UTA intends to solicit multiple competitive proposals, evaluate each proposal received, and award this work as one Contract to the contractor deemed to provide the best value to UTA. Due to the different requirements for wayside equipment installation and onboard equipment installation UTA has prepared two corresponding technical specifications (see Appendix II and Appendix III).

The Contract shall be undertaken in two phases as follows

- Phase 1 will consist of pre-construction services for the Project.
- Phase 2 will consist of construction services for the Project.

Notice To Proceed for Phase 2 of the Contract will be issued once the deliverables from Phase 1 have been reviewed and approved. The Notice to Proceed will be subject to the negotiation of a lump sum price for construction services and the execution of a Phase 2 amendment to the initial contract. If UTA and the contractor are for any reason unable to negotiate a Phase 2 amendment, UTA will maintain ownership of all deliverables from Phase 1 including, without limitation, the final design work package and construction contracting plan.

The Contractor shall be required to work with UTA to develop an acceptable baseline schedule for completing Phase 1 and 2 of the Contract.

The UTA RSES is a priority project for UTA and the Contractor shall propose and comply with a schedule to ensure the system is operational as quickly as possible.

Phase 1 - SCOPE OF PRE-CONSTRUCTION SERVICES

1.1 Pre-Construction Services (Phase I Services) shall be provided under the terms of a Contract to be executed by the parties, a sample of which is attached in Part 4.

1.2 UTA reserves the right to negotiate with the Contractor prior to issuing the Notice to Proceed for Phase 1. Alternatively, UTA reserves the right to require the Contractor to execute the Phase 1 – Pre-construction Services Contract without further negotiation, incorporating the terms of the Proposal. The prices submitted for each task shall be inclusive of all costs and markups, including profit. However, UTA may determine, at its sole discretion, that scope

modifications are needed for Pre-Construction Services prior to execution of the Agreement included in Part 4.

1.3 The anticipated scope of Pre-Construction Services under this Contract, identified by task number, is summarized below; see Appendix II and Appendix III for more detailed information on these tasks.

Task	Summary Description
1	<p><u>Project Management:</u></p> <p>Provide Project Management services beginning with the issuance of the Notice to Proceed (NTP) for the entire duration of the Pre-Construction Services Agreement.</p> <p>The Project Management Plan (PMP) shall include, among other items, Systems Engineering and Design Management, Cost and Schedule Control, and General Administration and Coordination activities.</p> <p>Additionally, this task also includes preparation of a Pre-Construction Services Quality Control Plan and a Baseline Schedule of Activities – each consistent with the UTA Project Specifications and the Pricing Form - for UTA’s review and approval.</p> <p>The PMP, Quality Control Plan and Baseline Schedule of Activities for the Pre-Construction Phase shall be submitted to UTA within 2 weeks of NTP.</p> <p>Monthly Progress reports shall be submitted to UTA within 5 days of the first of each month. Progress reports shall include a summary of progress, activities completed and planned for the next month, listing of open issues, and project schedule update.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 1 – Project Management Plan CDRL 2 – Pre-Construction Services Quality Control Plan CDRL 3 – Baseline Schedule of Activities CDRL 4 – Monthly Progress Reports
2	<p><u>Preliminary Design Work Package:</u></p> <p>Prepare and submit a Preliminary Design Work Package to UTA.</p> <p>The Preliminary Design Work Package shall include a narrative description the operation of the system and how the on-board equipment functions in conjunction with the wayside equipment. The description of the on-board equipment shall include preliminary equipment locations on each vehicle type, Operator interface, and logging of violations that occur. The description of the wayside equipment shall</p>

Task	Summary Description
	<p>include preliminary equipment locations, modifications to UTA signal houses, and proposed conduit routings.</p> <p>The Preliminary Design Work package shall include drawings and specifications for all work at the 75% completion level.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 5 – Preliminary Design Description CDRL 6 – Preliminary Plans and Specifications CDRL 7 – Preliminary Construction Staging and Cutover Plan CDRL 8 – Preliminary Test and Commissioning Plan
3	<p><u>Preliminary Construction Schedule:</u></p> <p>Concurrent with submission of the Preliminary Design Work Package, prepare a Preliminary Critical Path Method (CPM) Construction Schedule for UTA review and comment.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> <u>CDRL 9 – Preliminary Construction Schedule</u>
4	<p><u>Preliminary Construction Cost Estimate:</u></p> <p>Also concurrent with submission of the Preliminary Design Work Package, prepare a Preliminary Construction Cost Estimate for UTA review and comment.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 10 – Preliminary Construction Cost Estimate
5	<p><u>Final Design Work Package:</u></p> <p>Prepare and submit a Final Design Work Package to UTA.</p> <p>The Final Design Work Package shall include a narrative description of the operation of the system and how the on-board equipment functions in conjunction with the wayside equipment. The description of the on-board equipment shall include final equipment location on each vehicle type and the wayside including detailed work plans and procedures for all installations, test plans and procedures</p>

Task	Summary Description
	<p>to qualify equipment and verify proper operation, and an integrated test plan to commission and safety certify the RSES.</p> <p>Detailed schematics and drawings for the installation of all equipment required for the RSES shall be provided. Interfaces to existing circuits and equipment shall be clearly marked and listed as a separate detail.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 11 – Final Design Description CDRL 12 – Schematic and Drawing Package CDRL 13 – Listing of Recommended Spare Parts and Special Tools CDRL 14 - Final Construction Staging and Cutover Plan CDRL 15–Draft Operations and Maintenance Manuals including Preventative Maintenance Schedules CDRL 16 – Draft Training Program Outline
6	<p><u>Final Construction Schedule:</u></p> <p>Concurrent with submission of the Typical Element Design Package, prepare a Final Baseline Construction Schedule in CPM format for UTA review and approval.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 17 – Final Construction Schedule
7	<p><u>Final Construction Cost Estimate:</u></p> <p>Prepare a Final Construction Cost Estimate for UTA review and approval.</p> <p>The Final Cost Estimate shall be submitted in two parts, one for the on-board vehicle work and one for the wayside work. Cost estimates shall include both material and labor costs and be based on unit prices, e.g. cost per foot of conduit.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 18 – Final Construction Cost Estimate
8	<p><u>Construction Contracting Plan:</u></p> <p>Work with UTA to develop and finalize a Construction Contracting Plan for accomplishment of all related work. As part of this Contracting Plan, recommend packaging of the work to facilitate competitive bidding and award of trade contracts.</p>

Task	Summary Description
	<p>Recommend which work, if any, should be procured through best value selection, in lieu of lowest bid. Confirm the work which the Contractor proposes to self-perform.</p> <p>Also ensure that the Construction Contracting Plan includes provisions for the collection and documentation of lien waivers from all subcontractors and material suppliers.</p> <p>The plans and specifications to be issued for construction shall be included in the Construction Contracting Plan. Plans and specifications shall include all UTA comments and changes from the Final Drawing Package review. Wayside plans and specifications shall be sealed by a Professional Engineer licensed in the State of Utah.</p> <p>The Construction Contracting Plan shall utilize solicitation methods that comply with UTA's Standard Operating Procedures for Procurement and state and federal laws. All subcontracts shall be procured in accordance with the Construction Contracting Plan approved by UTA. Portions of the construction services may be self-performed by the contractor only after the market pricing for such work is established through a competitive solicitation for subcontracts and only upon expressed approval by UTA.</p> <p>Deliverables:</p> <p style="padding-left: 40px;">CDRL 19 – Construction Contracting Plan</p> <p style="padding-left: 40px;">CDRL 20 – Plans and Specifications Issued for Construction</p>

Phase 2 - SCOPE OF CONSTRUCTION SERVICES

2.1 The scope of the Phase 2 services shall include, but is not necessarily be limited to, the tasks stated below. See Appendix II for more detail on each task listed.

Construction Task No.	Summary Description
1	<p><u>Project Management:</u></p> <p>Provide Project Management services and an on-site Field Engineer(s) along with the required support staff to coordinate, direct and manage the work for the entire duration of the Project.</p> <p>Provide all necessary resources to complete overall work within established milestones and in accordance with the agreed-upon Baseline Construction Schedule. Provide a monthly summary of the</p>

Construction Task No.	Summary Description
	<p>percent of Project budget utilized compared to the total budget and percent complete of the project.</p> <p>Solicit subcontracts for the work per the approved Construction Contracting Plan.</p> <p>Monthly Progress reports shall be submitted to UTA within 5 days of the first of each month. Progress reports shall include a summary of progress, activities completed and planned for the next month, listing of open issues, and project schedule update. The Baseline Project Construction Schedule and monthly schedule updates shall be provided in CPM format.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 51 – Project Management Plan CDRL 52 – Baseline Construction Schedule CDRL 53 – Configuration Management Plan CDRL 54 – Monthly Progress Reports
2	<p><u>Systems Engineering Support:</u></p> <p>Provide Systems Engineering support for all implementation/ construction efforts to ensure proper component design and systems integration.</p> <p>Prepare and submit shop drawings, test reports, and technical data (Manufacturer's Cut-sheets) for all relevant components, construction/installation locations and equipment.</p> <p>All revisions, changes, and modifications to the Issued for Construction drawings and specifications shall be tracked with an approved Construction Management Plan. Equipment updates, both hardware and software shall also be included in the Configuration Management Plan.</p> <p>Deliverables:</p> <ul style="list-style-type: none"> CDRL 55 – Project Technical Data CDRL 56 – Configuration Management Plan CDRL 57 – Integrated Test Plan and Procedures

Construction Task No.	Summary Description
3	<p><u>Construction Quality Control Plan:</u></p> <p>Prepare and submit a Construction Quality Control Plan, consistent with UTA's Quality Assurance Program Manual for use during the Project Construction Phase.</p> <p>Include the outline of an Inspection and Construction Materials Testing Plan as an Appendix to the Quality Control Plan submittal.</p> <p>The Quality Control Plan shall be submitted for UTA review and approval within 2 weeks of the issuance of NTP for Phase II Services.</p> <p>Once approved, the Contractor will strictly adhere to the provisions of the Quality Control Plan throughout the Project Construction Phase.</p> <p>Deliverables:</p> <p>CDRL 58 – Construction Quality Control Plan</p>
4	<p><u>Project Safety Plan:</u></p> <p>Proposer shall adhere to UTA's Roadway Worker Protection (RWP) and other applicable safety programs.</p> <p>The Proposer shall identify its proposed safety plan and approach to incident-free management of safety risks for this Project.</p> <p>Deliverables:</p> <p>CDRL 59 – Project Safety Plan</p>
5	<p><u>Implement Red Signal Enforcement System Testing:</u></p> <p>Conduct all necessary testing and prepare and submit test reports and related documentation as required.</p> <p>Deliverables:</p> <p>CDRL 60 – Test Reports</p> <p>CDRL 61 – Safety Certification Checklist</p>
6	<p><u>Red Signal Enforcement System Training:</u></p> <p>Develop and undertake a comprehensive Training Program that fully prepares relevant UTA personnel for the complete onsite implementation, field testing, operation and maintenance of all Red Signal Enforcement System components.</p> <p>Maintain records of personnel training.</p>

Construction Task No.	Summary Description
	<p>Deliverables:</p> <p>CDRL 62 – Training Program</p>
7	<p><u>Record Drawings and Specifications (“As-Builts”):</u></p> <p>Maintain current, hard copies of As-Built drawings, software, and specifications revisions to the approved IFC drawings, software management plan and component technical specifications per UTA standards and procedures, including all work performed by subcontractors, and submit Final As-Built record information to UTA.</p> <p>Identify any revisions by UTA assigned change order numbers and in accordance with the approved Quality Control Plan and UTA change procedures.</p> <p>Deliverables:</p> <p>CDRL 63 – As-built Drawings</p>
8	<p><u>Project Close-out:</u></p> <p>Prepare and submit all final Contract Close-out documentation, records, spare parts, warranty certifications, operation and maintenance manuals, and training manuals and records. Submit any other information and/or materials that are also required by the UTA Technical Specifications or Contract provisions.</p> <p>Operations and Maintenance Manuals shall be delivered with the delivery of the applicable equipment.</p> <p>Deliverables:</p> <p>CDRL 60 – Operation and Maintenance Manuals</p> <p>CDRL 61 – Close-out Documentation</p>

EXPLANATION OF THE NEGOTIATED LUMP SUM PRICE

UTA and the Contractor will negotiate a construction lump sum price for the Project through an open-book cost estimating process. “Open-book” means the proposer shall provide UTA access to all bid documents, quotations, takeoffs, other implementation cost estimates, staff direct

cost information, and overhead or other relevant information during negotiations. All work and services necessary to complete the Project must be completed within the respective construction lump sum price for the Project.

Exhibit B - Insurance Requirements



Utah Transit Authority

Light Rail Red Signal Enforcement System

CM/GC Agreement - Phase 1 Pre-Construction Services Agreement

INSURANCE REQUIREMENTS:

Contractor and subcontractors shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Contract are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Contractor, his agents, representatives, employees or subcontractors.

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract.

The Utah Transit Authority in no way warrants that the minimum limits contained herein are sufficient to protect the Contractor from liabilities that might arise out of the performance of the work under this Contract by the Contractor, his agents, representatives, employees, or subcontractors. Contractor is free to purchase such additional insurance as may be determined necessary.

A. **MINIMUM SCOPE AND LIMITS OF INSURANCE** - Contractor shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis. In addition, the policy shall be endorsed to reflect Contractual Liability Insurance specifically related to the indemnity provisions of this contract. Any exclusion for construction or demolition activities (including installing wells or bore holes) conducted within 50 feet of railroad tracks shall be removed from policy.

1. **Commercial General Liability – Occurrence Form**

Policy shall include bodily injury, property damage, broad form contractual liability and XCU coverage.

Minimum Requirements:

• General Aggregate	\$5,000,000
• Products – Completed Operations Aggregate	\$2,000,000
• Personal and Advertising Injury	\$1,000,000
• Each Occurrence	\$5,000,000

- a. The policy shall be endorsed to include the following additional insured language:
"The Utah Transit Authority shall be named as an additional insured with respect to

liability arising out of the activities performed by, or on behalf of the Contractor, including completed operations”.

2. Automobile Liability

Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$1,000,000

- a. The policy shall be endorsed to include the following additional insured language: "The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Contractor, including automobiles owned, leased, hired or borrowed by the Contractor".

3. Worker's Compensation and Employers' Liability

Workers' Compensation	Statutory
Employers' Liability	
Each Accident	\$100,000
Disease – Each Employee	\$100,000
Disease – Policy Limit	\$500,000

- a. Policy shall contain a waiver of subrogation against the Utah Transit Authority.
- b. This requirement shall not apply when a contractor or subcontractor is exempt under UCA, **AND** when such contractor or subcontractor executes the appropriate waiver form.

4. Professional Liability (Errors and Omissions Liability)

Each Claim	\$5,000,000
Annual Aggregate	\$10,000,000

- a. In the event that any professional liability insurance required by this Contract is written on a claims-made basis, Consultant warrants that any retroactive date under the policy shall precede the effective date of this Contract; and that either continuous coverage will be maintained or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Contract is completed.
- b. Policy shall contain a waiver of subrogation against the Utah Transit Authority.

B. ADDITIONAL INSURANCE REQUIREMENTS: The policies shall include, or be endorsed to include, the following provisions:

- 1. On insurance policies where the Utah Transit Authority is named as an additional insured, the Utah Transit Authority shall be an additional insured to the full limits of liability purchased by the Consultant. Insurance limits indicated in this agreement are minimum limits. Larger limits may be indicated after the consultant's assessment of the exposure for this contract; for their own protection and the protection of UTA.

2. The Contractor's insurance coverage shall be primary insurance and non-contributory with respect to all other available sources.

C. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the Utah Transit Authority, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to Jolene Higgins at 669 West 200 South, Salt Lake City, UT 84101.

D. **ACCEPTABILITY OF INSURERS:** Insurance is to be placed with insurers duly licensed or authorized to do business in the State and with an "A.M. Best" rating of not less than A-VII. The Utah Transit Authority in no way warrants that the above-required minimum insurer rating is sufficient to protect the Contractor from potential insurer insolvency.

E. **VERIFICATION OF COVERAGE:** Contractor shall furnish the Utah Transit Authority with certificates of insurance (ACORD form or equivalent approved by the Utah Transit Authority) as required by this Contract. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

All certificates and any required endorsements are to be received and approved by the Utah Transit Authority before work commences. Each insurance policy required by this Contract must be in effect at or prior to commencement of work under this Contract and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Contract or to provide evidence of renewal is a material breach of contract.

All certificates required by this Contract shall be sent directly to Jolene Higgins at 669 West 200 South, Salt Lake City, UT 84101. The Utah Transit Authority project/contract number and project description shall be noted on the certificate of insurance. The Utah Transit Authority reserves the right to require complete, certified copies of all insurance policies required by this Contract at any time. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE UTAH TRANSIT AUTHORITY'S CLAIMS AND INSURANCE DEPARTMENT.**

F. **SUBCONTRACTORS:** Contractors' certificate(s) shall include all subcontractors as additional insureds under its policies or subcontractors shall maintain separate insurance as determined by the Contractor, however, subcontractor's limits of liability shall not be less than \$1,000,000 per occurrence / \$2,000,000 aggregate. Sub-contractors maintaining separate insurance shall name Utah Transit Authority as an additional insured on their policy. Blanket additional insured endorsements are not acceptable from sub-contractors. Utah Transit Authority must be scheduled as an additional insured on any sub-contractor policies.

G. **APPROVAL:** Any modification or variation from the insurance requirements in this Contract shall be made by the Utah Transit Authority Claims and Insurance Department or the Office of General Counsel, whose decision shall be final. Such action will not require a formal Contract amendment, but may be made by administrative action.

EXHIBIT C

Federal Clauses

FEDERAL CLAUSES

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

The Authority and the 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 Authority, the Contractor or any other party (whether or not a party to the Contract) pertaining to any matter resulting from the Contract. The Contractor agrees to include the above clause in each subcontract or purchase order financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor or Supplier who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, et seq. and United States Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the Contract. 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 the 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 USC §5307, the federal government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n)(1) on the Contractor, to the extent the federal government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract or purchase order 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 or Supplier who will be subject to the provisions.

ACCESS TO RECORDS AND REPORTS

The Contractor agrees to provide the Authority, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts and transcriptions. The Contractor also agrees, pursuant to 49 CFR 633.17 to provide the FTA Administrator or his authorized representatives including any project management oversight auditor access to the Contractor's records and construction sites pertaining to a major capital project (defined at 49 USC §5302(a)(1)), which is receiving federal financial assistance through the programs described at 49 USC §§5307, 5309 or 5311. The Contractor further agrees to include in all of its subcontracts and purchase orders under the Contract a provision to the effect that the Subcontractor or Supplier agrees that the Authority, the United States Department of Transportation and the Comptroller General of the United States, the project management oversight auditor, or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and other records of the Subcontractor or Supplier.

FEDERAL CHANGES

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

CIVIL RIGHTS REQUIREMENTS

(1) **Nondiscrimination** - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) **Equal Employment Opportunity** - The following equal employment opportunity requirements apply to the underlying contract:

(a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note). and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) **Age** - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) **Disabilities** - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

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

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is 6.2 %. A separate contract goal has not been established for this procurement.

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

c. *{If a separate contract goal has been established, use the following}* Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following **[concurrent with and accompanying sealed bid] [concurrent with and accompanying an initial proposal]:**

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

[Bidders][Offerors] must present the information required above as a matter of responsiveness (see 49 CFR 26.53(3)).

{If no separate contract goal has been established, use the following} The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

- d. **Prompt Payment and Return of Retainage.** The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the Utah Transit Authority. In addition, is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.
- e. The contractor must promptly notify Utah Transit Authority, 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 Utah Transit Authority.

INCORPORATION OF FTA TERMS

All contractual provisions required by the United States Department of Transportation, as set forth in the most recent edition and revisions of FTA Circular 4220.1F, "Third Party Contracting Guidance," are incorporated by reference into the Contract Documents. All FTA mandated terms shall take precedence over other conflicting terms, if any in the Contract Documents. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any Authority requests that would cause the Authority to be in violation of any FTA terms and conditions.

TERMINATION

(For contracts over \$10,000.00)

- a. **Termination for Convenience (General Provision)** The (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government'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 (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.
- b. **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 (Recipient) 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 only be paid 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 (Recipient) 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 (Recipient), 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.

c. Opportunity to Cure (General Provision) The (Recipient) 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 (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure 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 provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient 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 Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor 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 the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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 the Recipient.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

The Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals (as defined at 49 CFR 29.995) or affiliates (as defined at 49 CFR 29.905) are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any subcontract or purchase order that it enters into. *(A certification is to be submitted with each bid or offer of \$25,000 or more.)*

BUY AMERICA REQUIREMENTS

The Contractor agrees to comply with 49 USC §5323(j) and 49 CFR Part 661, which provide that federal funds may not be obligated unless steel, iron and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 49 USC §5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content. The Contractor agrees to include these requirements in each subcontract or purchase order financed in whole or in part with federal assistance provided by the Authority.

BREACHES AND DISPUTE RESOLUTION

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

Performance During Dispute – Unless otherwise directed by The Authority, Contractor shall continue performance under this Contract while matters in dispute are being resolved.

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

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

Rights and Remedies – The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by laws. No action or failure to act by The Authority or Authority's authorized representative or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

LOBBYING

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance For New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Contractors who apply or bid for an award of \$100,000 or more

shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

APPENDIX A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

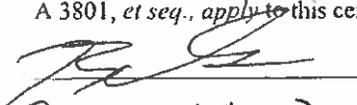
(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

 Signature of Contractor's Authorized Official

Ryan Snow, Authorized Person Name and Title of Contractor's Authorized Official

4-15-18 Date

CLEAN AIR REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 USC §§ 7401, et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to the FTA and the appropriate EPA Regional Office. The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

CLEAN WATER REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §1251, et seq. The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate Regional Office of the United States Environmental Protection Agency. The

Contractor also agrees to include these requirements in each subcontract or purchase order exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

CARGO PREFERENCE

The Contractor agrees to: (a) use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Contractor in the case of a Subcontractor's or Supplier's bill-of-lading.); and (c) include these requirements in all subcontracts and purchase orders issued pursuant to the Contract Documents when the subcontract may involve the transport of equipment, material or commodities by ocean vessel. *(A certification is to be submitted with each bid or offer exceeding \$500,000 if shipping is applicable.)*

FLY AMERICA REQUIREMENTS

The Contractor agrees to comply with 49 USC §40118 and 41 CFR Part 301-10, which provide that contractors are required to use United States -Flag air carriers for federally financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by 49 USC §40118 and CFR Part 301-10.

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each

classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

- (1) The classification is utilized in the area by the construction industry; and
- (2) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
- (3) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The Authority shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Authority may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1 (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv)

that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Authority for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(1) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit Administration or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) **Apprentices and trainees** - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary

employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) Compliance with Copeland Act requirements - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) Contract termination: debarment - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) Compliance with Davis-Bacon and Related Act requirements - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) Disputes concerning labor standards - Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) Certification of eligibility - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

BONDING REQUIREMENTS

Bid Bond Requirements (Construction)

(a) Bid Security

A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance and Payment bonds

1. The penal amount of performance and payment bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance and payment bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment, furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

SEISMIC SAFETY REQUIREMENTS

Seismic Safety - The Contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The Contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

ENERGY CONSERVATION REQUIREMENTS

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.

RECYCLED PRODUCTS

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

ADA ACCESS

ADA Access for Individuals with Disabilities – The Contractor agrees to comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities. The Recipient also agrees to comply with all applicable provisions of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of programs or activities receiving Federal financial assistance; with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities; and with other laws and amendments thereto pertaining to access for individuals with disabilities that may be applicable. In addition, the Recipient agrees to comply with applicable implementing Federal regulations, and any later amendments thereto, and agrees to follow applicable Federal implementing directives, except to the extent FTA approves otherwise in writing. Among those regulations and directives are: (1) U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37; (2) U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27; (3) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB)/U.S. DOT regulations, "Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 36 C.F.R. Part 1192 and 49 C.F.R. Part 38; (4) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35; (5) U.S. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36; (6) U.S. General Services Administration (U.S. GSA) regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19; (7) U.S. EEOC, "Regulations to

Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630; (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and (11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

SEAT BELT USE

In accordance with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, the Recipient 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, rented, or personally operated vehicles, and to include this provision in any third party contracts, third party subcontracts, or subagreements involving the Project.

DISTRACTED DRIVING, INCLUDING TEXT MESSAGING WHILE DRIVING

In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C. § 402 note, the Recipient is encouraged to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messages while using an employer supplied electronic device and driving a vehicle you own or rent, a company owned, rented or leased vehicle, a privately owned vehicle when performing any company work on behalf of the project or any vehicle on or off duty. This provision is to be included in any third party contracts, third party subcontracts or subagreements at each tier financed with federal funds.