

CONSTRUCTION SERVICES AGREEMENT

25-03954DM

Utah County Park & Rides (x2)
Eagle Mountain & Saratoga Springs

This Construction Services Agreement is entered into and made effective as of the date of last signature below (the “Effective Date”) by and between UTAH TRANSIT AUTHORITY, a public transit district organized under the laws of the State of Utah (“UTA”), and Geneva Rock (“Contractor”).

RECITALS

- A. UTA desires to hire the Contractor for Utah County Park & Ride per the Specifications and Bid Schedule included in the Request for Proposal (RFP).
- B. On June 4, 2025, UTA issued RFP Package Number 25-03954 (RFP), encouraging interested parties to submit proposals to perform the services described in the RFP.
- C. Upon review and evaluation of the responsive proposals, UTA selected Contractor as the preferred entity to negotiate a contract and perform the Work.
- D. Contractor is qualified and willing to perform the Work as set forth in the Scope of Services.

AGREEMENT

NOW, THEREFORE, in accordance with the foregoing Recitals, which are incorporated herein by reference, and for and in consideration of the mutual covenants and agreements hereafter set forth, the mutual benefits to the parties to be derived here from, and for other valuable consideration, the receipt and sufficiency of which the parties acknowledge, it is hereby agreed as follows:

1. SERVICES TO BE PROVIDED

- a. Contractor shall perform all Work as set forth in the Scope of Services (Exhibit A). Except for items (if any) which this Contract specifically states will be UTA-provided, Contractor shall furnish all the labor, material, and incidentals necessary for the Work. The work scope is divided into Phase I and Phase II as described in Exhibit A. Only Phase I work is being awarded at this time. Once regulatory requirements are fulfilled, Phase II will be added by Change Order.
- b. Contractor shall perform all Work under this Contract in a professional manner, using at least that standard of care, skill, and judgment which can reasonably be expected from similarly situated professionals.
- c. All Work shall conform to generally accepted standards in the transit industry. Contractor shall perform all Work in compliance with applicable laws, regulations, rules, ordinances, permit constraints, and other legal requirements, including, without limitation, those related to safety and environmental protection.
- d. Contractor shall furnish only qualified personnel and materials necessary for the performance of the Work.

- e. When performing Work on UTA property, Contractor shall comply with all UTA work site rules, including, without limitation, those related to safety and environmental protection.

2. MANAGEMENT OF WORK

- a. Contractor's Project Manager will be the day-to-day contact person for Contractor and will be responsible for all Work, as well as the coordination of such Work with UTA.
- b. UTA's Project Manager will be the day-to-day contact person for UTA and shall act as the liaison between UTA and Contractor with respect to the Work. UTA's Project Manager shall also coordinate any design reviews, approvals, or other direction required by UTA with respect to the Work.

3. PROGRESS OF WORK

- a. Contractor shall prosecute the Work diligently and continuously, and in accordance with all applicable notices to proceed, critical path schedules, and guaranteed completion date requirements set forth in (or developed and agreed by the parties in accordance with) the Scope of Services.
- b. Contractor shall conduct regular meetings to update UTA's Project Manager regarding the progress of the Work, including, but not limited to, any unusual conditions or critical path schedule items that could affect or delay the Work. Such meetings shall be held at intervals mutually agreed to between the parties.
- c. Contractor shall deliver monthly progress reports and provide all Contract submittals and other deliverables as specified in the Scope of Services.
- d. Any drawing or other submittal reviews to be performed by UTA in accordance with the Scope of Services are for the sole benefit of UTA and shall not relieve the Contractor of its responsibility to comply with the Contract requirements.
- e. UTA will have the right to inspect, monitor, and review any Work performed by Contractor hereunder as deemed necessary by UTA to verify that such Work conforms to the Contract requirements. Any such inspection, monitoring, and review performed by UTA is for the sole benefit of UTA and shall not relieve the Contractor of its responsibility to comply with the Contract requirements.
- f. UTA shall have the right to reject Work which fails to conform to the requirements of this Contract. Upon receipt of notice of rejection from UTA, Contractor shall (at its sole expense and without entitlement to equitable schedule relief) promptly re-perform, replace, or re-execute the Work so as to conform to the Contract requirements.
- g. If Contractor fails to promptly remedy rejected Work as provided in Section 3.6, UTA may (without limiting or waiving any rights or remedies it may have) perform necessary corrective action using other contractors or UTA's own forces. Any costs reasonably incurred by UTA in such corrective action shall be chargeable to the Contractor.

4. PERIOD OF PERFORMANCE

This Contract shall commence as of the Effective Date. This Contract shall remain in full force and effect until all Work is completed in accordance with this Contract, as reasonably determined by UTA. Contractor shall complete all Work no later than December 31, 2026. This guaranteed completion date may be extended if the Contractor and UTA mutually agree to an extension, evidenced by a written Change Order. The rights and obligations of UTA and Contractor under this Contract shall always be subject to and conditioned upon the provisions of this Contract.

5. COMPENSATION

- a. For the performance of the Work, UTA shall pay the Contractor a not-to-exceed amount of which is conditioned upon evaluation and approval of payment by UTA, for a total not-to-exceed (NTE) amount of \$2,463,007.50 in accordance with the payment provisions described in Exhibit B. Payments shall be made in accordance with the milestones, progress billing, monthly billing, or other payment provisions detailed in Exhibit B. If Exhibit B does not specify any milestones or other payment provisions, then payment shall be made upon completion of all Work and final acceptance thereof by UTA.
- b. To the extent that Exhibit B or another provision of this Contract calls for any portion of the consideration to be paid on a cost-reimbursement basis, such costs shall only be reimbursable to the extent allowed under 2 CFR Part 200 Subpart E. Compliance with federal cost principles shall apply regardless of funding source for this Contract.
- c. To the extent that Exhibit B or another provision of this Contract calls for any portion of the consideration to be paid on a time and materials or labor hour basis, then Contractor must refer to the not-to-exceed amount, maximum Contract amount, Contract budget amount or similar designation (any of these generically referred to as the "Not to Exceed Amount") specified in Exhibit B (as applicable). Unless and until UTA has notified Contractor by written instrument designated or indicated to be a Change Order that the Not to Exceed Amount has been increased (which notice shall specify a revised Not to Exceed Amount): (i) Contractor shall not be obligated to perform services or incur costs which would cause its total compensation under this Contract to exceed the Not to Exceed Amount; and (ii) UTA shall not be obligated to make payments which would cause the total compensation paid to Contractor to exceed the Not to Exceed Amount.
- d. UTA may withhold and/or offset from payment any amounts reasonably reflecting: (i) items of Work that have been rejected by UTA in accordance with this Contract; (ii) invoiced items that are not payable under this Contract; or (iii) amounts Contractor owes to UTA under this Contract.

6. INCORPORATED DOCUMENTS

- a. The following documents, hereinafter listed in chronological order, with the most recent document taking precedence over any conflicting provisions contained in prior documents (where applicable), are hereby incorporated into the Contract by reference and made a part hereof:
 1. The terms and conditions of this Construction Services Agreement
 2. Addendum 1 Supplemental Terms and Conditions for Construction Services. (including any exhibits and attachments hereto).
 3. Contractor's Proposal, including, without limitation, all federal certifications (as applicable).
 4. UTA's RFP, including, without limitation, all attached or incorporated terms, conditions, federal clauses (as applicable), drawings, plans, specifications, and standards, and other descriptions of the Construction Services.
- b. The above-referenced documents are made as fully a part of the Contract as if hereto

7. **ORDER OF PRECEDENCE**

The Order of Precedence for this contract is as follows:

1. UTA Contract including all terms and conditions, exhibits, and attachments
2. Addendum 1 Supplemental Terms and Conditions for Construction Services
3. UTA Solicitation Terms (RFP)
4. Contractor's Bid or Proposal, including proposed terms or conditions

Any contractor-proposed term or condition that conflicts with a UTA contract or solicitation term or condition will be deemed null and void.

8. **INVOICING PROCEDURES**

- a. The Contractor shall invoice UTA after achievement of contractual milestones or delivery of all Goods and satisfactory performance of all Services, or in accordance with an approved progress or periodic billing schedule. The Contractor shall submit all invoices to ap@rideuta.com and the UTA PM, Carlie Torres, carlie.torres@rideuta.com, for processing and payment. To timely process invoices, the Contractor shall include the following information on each invoice:
 - I. Contractor Name
 - II. Unique Invoice Number
 - III. UTA PO Number
 - IV. Invoice Date
 - V. UTA Account Codes
 - VI. Detailed Description of Goods or Services provided
 - VII. Line-Item Pricing
 - VIII. Total Dollar Amount Due
 - IX. Monthly Progress Report
 - X. Updated Project Schedule
- b. UTA reserves the right to change or update Account Codes as it deems necessary based on funding sources. Contractor must cite the most recently provided Account Code on each invoice in order to receive payment.
- c. UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Software or Services. Approval by UTA shall not be unreasonably withheld. UTA shall also have the right to offset (against payments) amounts reasonably reflecting the value of any claim that UTA has against Contractor under the Contract. Payment for all invoice amounts not specifically disapproved or offset by UTA shall be provided to Contractor within thirty (30) calendar days of invoice submittal to ap@rideuta.com. Invoices not submitted electronically will be paid thirty (30) calendar days from the date of receipt by UTA's accounting department.

9. **OWNERSHIP OF DESIGNS, DRAWINGS, AND WORK PRODUCT**

Any deliverables prepared or developed pursuant to the Contract including without limitation drawings, specifications, manuals, calculations, maps, sketches, designs, tracings, notes, reports, data, computer programs, models and samples, shall become the property of UTA when prepared, and, together with any documents or information furnished to Contractor and its employees or agents by UTA hereunder, shall be delivered to UTA upon request, and, in any event, upon termination or final acceptance of the Goods and Services.

UTA shall have full rights and privileges to use and reproduce said items. To the extent that any deliverables include or incorporate preexisting intellectual property of Contractor, Contractor hereby grants UTA a fully paid, perpetual license to use such intellectual property for UTA's operation, maintenance, modification, improvement, and replacement of UTA's assets. The scope of the license shall be to the fullest extent necessary to accomplish those purposes, including the right to share the same with UTA's contractors, agents, officers, directors, employees, joint owners, affiliates, and Contractors.

10. USE OF SUBCONTRACTORS

- a. The Contractor shall give advance written notification to UTA of any proposed subcontract (not indicated in the Contractor's Proposal) negotiated with respect to the Work. UTA shall have the right to approve all subcontractors, such approval not to be withheld unreasonably.
- b. No subsequent change, removal, or substitution shall be made with respect to any such subcontractor without the prior written approval of UTA.
- c. The Contractor shall be solely responsible for making payments to subcontractors, and such payments shall be made within thirty (30) days after the Contractor receives corresponding payments from UTA.
- d. The Contractor shall be responsible for and direct all Work performed by subcontractors.
- e. The Contractor agrees that no subcontracts shall provide for payment on a cost-plus-percentage-of-cost basis. The Contractor further agrees that all subcontracts shall comply with all applicable laws, requirements, and terms and conditions as outlined in this Contract.

11. KEY PERSONNEL

Contractor shall provide the key personnel as indicated in Contractor's Proposal (or other applicable provisions of this Contract) and shall not change any of said key personnel without the express written consent of UTA.

12. INFORMATION, RECORDS, and REPORTS; AUDIT RIGHTS

Contractor shall retain all books, papers, documents, accounting records, and other evidence to support any cost-based billings allowable under Exhibit B (or any other provision of this Contract). Such records shall include, without limitation, time sheets and other cost documentation related to the performance of labor services, as well as subcontracts, purchase orders, other contract documents, invoices, receipts or other documentation supporting non-labor costs. Contractor shall also retain other books and records related to the performance, quality, or management of this Contract and/or Contractor's compliance with this Contract.

Records shall be retained by Contractor for a period of at least six (6) years after completion of the Work, or until any audit initiated within that six-year period has been completed (whichever is later). During these six years, such records shall be made available at all reasonable times for audit and inspection by UTA and other authorized auditing parties, including, but not limited to, the Federal Transit Administration.

Copies of requested records shall be furnished to UTA or designated audit parties upon request. The Contractor agrees that it shall flow down (as a matter of written contract) these record requirements to all subcontractors utilized in the performance of the Work at any tier.

13. FINDINGS CONFIDENTIAL

Any documents, reports, information, or other data and materials delivered or made available to or prepared or assembled by Contractor or subcontractor under this Contract are considered confidential and shall not be made available to any person or organization, or entity by Contractor without consent in writing from UTA.

If confidential information is released to any third party without UTA's written consent as described above, the Contractor shall notify UTA of the data breach within 10 days and provide its plan for immediate mitigation of the breach for review and approval by UTA. It is hereby agreed that the following information is not considered to be confidential:

1. Information is already in the public domain.
2. Information disclosed to the Contractor by a third party who is not under a confidentiality obligation.
3. Information developed by or in the custody of Contractor before entering into this Contract.
4. Information developed by Contractor through its work with other clients; and
5. Information required to be disclosed by law or regulation, including, but not limited to, subpoena, court order, or administrative order.

14. PUBLIC INFORMATION.

Contractor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Contractor's response to the solicitation for the Contract will also be a public document subject to GRAMA, except for legitimate trade secrets, so long as such trade secrets were properly designated in accordance with the terms of the solicitation.

15. GENERAL INDEMNIFICATION – see Article 6 of Special Provisions

16. INSURANCE REQUIREMENTS – see Article 7 of Special Provisions

17. OTHER INDEMNITIES -see Article 6 of Special Provisions

18. INDEPENDENT CONTRACTOR

Contractor is an independent contractor and agrees that its personnel will not represent themselves as, nor claim to be, an officer or employee of UTA by reason of this Contract. The Contractor is responsible for providing and paying the cost of all its employees' benefits.

19. PROHIBITED INTEREST

No member, officer, agent, or employee of UTA during his or her tenure or for one year thereafter shall have any interest, direct or indirect, including prospective employment by Contractor in this Contract or the proceeds thereof, without specific written authorization by UTA.

20. CLAIMS/DISPUTE RESOLUTION - see Article 11 of Special Provisions

21. GOVERNING LAW

This Contract shall be interpreted in accordance with the substantive and procedural laws of the State of Utah. Any litigation between the parties arising out of or relating to this Contract will be conducted exclusively in federal or state courts in the State of Utah, and the Contractor consents to the jurisdiction of such courts.

22. ASSIGNMENT OF CONTRACT

Contractor shall not assign, sublet, sell, transfer, or otherwise dispose of any interest in this Contract without prior written approval of UTA, and any attempted transfer in violation of this restriction shall be void.

23. NONWAIVER

No failure or waiver or successive failures or waivers on the part of either party in the enforcement of any condition, covenant, or article of this Contract shall operate as a discharge of any such condition, covenant, or article nor render the same invalid, nor impair the right of either party to enforce the same in the event of any subsequent breaches by the other party.

24. NOTICES OR DEMANDS

Any formal notice or demand to be given by one party to the other shall be given in writing by one of the following methods: (i) hand delivered; (ii) deposited in the mail, properly stamped with the required postage; (iii) sent via registered or certified mail; or (iv) sent via recognized overnight courier service. All such notices shall be addressed as follows:

If to UTA:

Utah Transit Authority
ATTN: Daniel Merritt
669 West 200 South
Salt Lake City, UT 84101

with a required copy to:

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

If to Contractor:

Geneva Rock
4393 Riverrock Road Ste 400
Taylorsville, UT 84123
ATTN: Reed Phillips, Project Manager

- a. Any such notice shall be deemed to have been given, and shall be 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 which was not properly communicated shall not defeat or delay the giving of a notice. Either party may change the address at which such party desires to receive written notice by providing written notice of such change to any other party.
- b. Notwithstanding the above, the parties may, through mutual agreement, develop alternative communication protocols to address change notices, requests for information, and similar categories of communication. Communications provided pursuant to such agreed means shall be recognized as valid notices under this Contract.

25. CONTRACT ADMINISTRATOR

UTA's Contract Administrator for this Contract is Daniel Merritt or designee. All questions and correspondence relating to the contractual aspects of this Contract should be directed to said Contract Administrator or designee.

26. INSURANCE COVERAGE REQUIREMENTS FOR CONTRACTOR EMPLOYEES – see Article 8 of Special Provision

27. COSTS AND ATTORNEY'S FEES

If any party to this Agreement brings an action to enforce or defend its rights or obligations hereunder, the prevailing party shall be entitled to recover its costs and expenses, including mediation, arbitration, litigation, court costs, and attorney's fees, if any, incurred in connection with such suit, including on appeal.

28. NO THIRD-PARTY BENEFICIARY

The parties enter into this Contract for the sole benefit of the parties, in exclusion of any third party, and no third-party beneficiary is intended or created by the execution of this Contract.

29. FORCE MAJEURE

Neither party to the Contract will be held responsible for delay or default caused by fire, riot, acts of God, and/or war which are beyond that party's reasonable control. UTA may terminate the Contract after determining that such delay or default will reasonably prevent successful performance of the Contract.

30. SEVERABILITY

Any provision of this Contract prohibited or rendered unenforceable by operation of law shall be ineffective only to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Contract.

31. UTAH ANTI-BOYCOTT OF ISRAEL ACT

Contractor agrees it will not engage in a boycott of the State of Israel for the duration of this contract.

32. ENTIRE AGREEMENT

This Contract shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any dispute between the terms of the Contract and the terms printed on any such standard forms or documents, and such standard forms or documents will not be considered written amendments of the Contract.

33. **AMENDMENTS**

Any amendment to this Contract must be in writing and executed by the authorized representatives of each party.

34. **COUNTERPARTS**

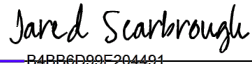
This Contract may be executed in any number of counterparts and by each of the parties hereto on separate counterparts, each of which, when so executed and delivered, shall be an original, but all such counterparts shall together constitute but one and the same instrument. Any signature page of the Contract may be detached from any counterpart and reattached to any other counterpart hereof. The electronic transmission of a signed original of the Contract or any counterpart hereof and the electronic retransmission of any signed copy hereof shall be the same as delivery of an original.


35. **SURVIVAL**


Provisions of this Contract intended in their nature and content to survive termination of this Contract shall so survive, including, but not limited to, Articles 5, 7, 8, 10, 14, 15, 17, 18, 19, 20, 23, 29, and 30.

UTAH TRANSIT AUTHORITY:

By: _____
Jay Fox, Executive Director

By:  8/8/2025
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Jared Scarbrough, Acting Chief
Capital Services Officer

By:  8/8/2025
70E33A415BA44F6...
Mike Bell, AAG, State of Utah
and UTA Legal Counsel

By:  8/8/2025
FE0F739FAC8C4B5...
Carlie Torres, UTA Project
Manager

GENEVA ROCK:

By:  8/8/2025
EEC8675E8147486
Reed Phillips, Project Manager

Design and/or Construction Special Provisions

ARTICLE 1

General

- 1.1 **Cooperation.** UTA and Contractor commit at all times to cooperate fully with each other and proceed on the basis of trust and good faith, so as to permit each party to realize the benefits afforded under the Contract Documents.
- 1.2 **Professional Standards.** Contractor shall perform the Work in a good and workmanlike manner, and shall use reasonable skill, care, and diligence. If the Work includes professional services, the Contractor shall perform those services in a professional manner, using at least that standard of care, skill, and judgment that can reasonably be expected from similarly situated professionals.
- 1.3 **Definitions.** Terms that are defined in the Agreement have the same definition in all the Contract Documents, including these General Conditions. Unless expressly modified by the Agreement, the following definitions shall also apply to all Contract Documents:
- “Agreement” means the document signed by Contractor and UTA to which these General Conditions are attached as an exhibit or into which these General Conditions are incorporated by reference.
- “Application for Payment” shall mean an invoice for a progress or final payment made in accordance with the requirements of Article 4.
- “Basis of Design Documents” means those preliminary drawings, concept design drawings, technical requirements, performance requirements, project criteria, or other documents that are (i) included in the Contract Documents, and (ii) serve as the basis or starting point for design services to be performed by Contractor, if any.
- “Claim” has the meaning indicated in Section 8.1 of these General Conditions.
- “Construction Documents” means the final drawings and specifications that set forth in detail the requirements for construction of the Project.
- “Contract Documents” means those documents designated as Contract Documents in the Agreement.
- “Contract Times” means the guaranteed dates for Substantial Completion, Final Completion (if applicable), and any other deadlines for completion of the Work, or a part thereof, all as set forth in the Agreement.
- “Contractor” means the entity that has entered into a contract with UTA to perform construction and other services as detailed in the Contract Documents. The Contractor may be a Design-Builder, general contractor, Construction Manager/General Contractor, or other type of entity.

“Day” means a calendar day unless otherwise specifically noted in the Contract Documents.

“Differing Site Condition” has the meaning indicated in Section 3.2 of these General Conditions.

“Final Completion” has the meaning indicated in Section 4.7 of these General Conditions.

“Force Majeure Event” means a delay caused by any national or general strikes, fires, riots, acts of God, acts of the public enemy, floods, acts of terrorism, unavoidable transportation accidents or embargoes, or other events: (i) which are not reasonably foreseeable as of the date the Agreement was executed; (ii) which are attributable to a cause beyond the control and without the fault or negligence of the party incurring such delay; and (iii) the effects of which cannot be avoided or mitigated by the party claiming such Force Majeure Event through the use of commercially reasonable efforts. The term Force Majeure Event does not include a delay caused by seasonal weather conditions, inadequate construction forces, general economic conditions, changes in the costs of goods, or Contractor’s failure to place orders for equipment, materials, construction equipment or other items sufficiently in advance to ensure that the Work is completed in accordance with the Contract Documents.

“General Conditions” means this document.

“Legal Requirements” means all applicable federal, state, and local laws, codes, ordinances, rules, regulations, orders and decrees of any government or quasi-government entity having jurisdiction over the Project or Site, the practices involved in the Project or Site, or any Work including, without limitation, those related to safety and environmental protection. The terms Legal Requirements shall also include any requirements or conditions included in a permit required for, or issued in conjunction with, the Project.

“Potential Change Notice” has the meaning indicated in Section 7.3 of these General Conditions.

“Project” means the construction project described in the Agreement.

“Punchlist” means shall mean a schedule of Work items (developed in accordance with the procedures described in Article 4) which remain to be completed prior to Final Completion, but which do not adversely affect the performance, operability, capacity, efficiency, reliability, cost effectiveness, safety or use of the Project after Substantial Completion.

“Schedule of Values” means the detailed statement furnished by Contractor and approved by UTA in accordance with Section 4.1, which statement outlines the various components of the Contract Price and allocates values for all such components in a manner that can be used for preparing and reviewing invoices.

“Site” means the land or premises on which the Project is located, as more particularly defined and described in the Contract Documents.

“Subcontractor” means any person or entity (including subcontractors at any tier, design engineers, laborers and materials suppliers) retained by Contractor or any other Subcontractor to perform a portion of Contractor’s obligations under the Contract Documents.

“Substantial Completion” or “Substantially Complete” has the meaning indicated in Section 4.6 of these General Conditions.

“Work” means all obligations, duties, requirements, and responsibilities for the successful completion of the Project by Contractor, including furnishing of all services and/or equipment (including obtaining all applicable licenses and permits to be acquired by Contractor) in accordance with the Contract Documents.

ARTICLE 2

Contractor’s Services

2.1 General Services.

- 2.1.1 Contractor’s Project Manager shall be reasonably available to UTA and shall have the necessary expertise and experience required to supervise the Work. Contractor’s Project Manager shall communicate regularly with UTA and shall be vested with the authority to act on behalf of Contractor.
- 2.1.2 Contractor shall provide UTA with a monthly status report detailing the progress of the Work, including: (i) whether the Work is proceeding according to schedule; (ii) whether discrepancies, conflicts, or ambiguities exist in the Contract Documents that require resolution; (iii) whether unusual health and safety issues exist in connection with the Work; and (iv) other items that require resolution so as not to jeopardize Contractor’s ability to complete the Work for the Contract Price and within the Contract Time(s).
- 2.1.3 Unless a schedule for the execution of the Work has been attached to the Agreement as an exhibit at the time the Agreement is executed, Contractor shall prepare and submit, within seven (7) Days of the execution of the Agreement, a schedule for the execution of the Work for UTA’s review and response. The schedule must indicate the dates for the start and completion of the various stages of Work, including the required dates when UTA obligations must be completed to enable Contractor to achieve the Contract Time(s). Such UTA obligation dates may include (where contemplated in the Contract Documents): (i) Site availability requirements; and/or (ii) dates when UTA information or approvals are required. The schedule shall be revised as required by conditions and progress of the Work, but such revisions shall not relieve Contractor of its obligations to complete the Work within the Contract Time(s), as such dates may be adjusted in accordance with the Contract Documents. UTA’s review of, and response to, the schedule shall not be construed as relieving Contractor of its complete and exclusive control over the means, methods, sequences and techniques for executing the Work.

2.2 Design Services.

If the Work includes any design services, provisions 2.2.1 through 2.2.8 apply.

2.2.1 Contractor shall provide the necessary design services, including architectural, engineering and other design professional services, for the preparation of the required drawings, specifications and other design submittals to permit Contractor to complete the Work consistent with the Contract Documents. Contractor shall ensure that design services are performed by qualified, licensed design professionals employed by Contractor, or by qualified, independent licensed design contractors procured by Contractor.

2.2.2 Contractor and UTA shall, consistent with any applicable provision of the Contract Documents, agree upon any interim design submissions that UTA may wish to review, which interim design submissions may include design criteria, drawings, diagrams, and specifications setting forth the Project requirements. Interim design submissions must be consistent with the Basis of Design Documents, as the Basis of Design Documents may have been changed through the design process set forth in this Section 2.2.2. On or about the time of the scheduled submissions, Contractor and UTA shall meet and confer about the submissions, with Contractor identifying during such meetings, among other things, the evolution of the design and any changes to the Basis of Design Documents, or, if applicable, previously submitted design submissions. Changes to the Basis of Design Documents shall be processed in accordance with Article 7. Minutes of the meetings, including a full listing of all changes, will be maintained by Contractor and provided to all attendees for review. Following the design review meeting, UTA will be entitled to at least ten (10) Days to review and approve the interim design submissions and meeting minutes.

2.2.3 To the extent not prohibited by the Contract Documents or Legal Requirements, and with the approval of UTA, Contractor may prepare interim design submissions and Construction Documents for a portion of the Work to permit construction to proceed on that portion of the Work prior to completion of the Construction Documents for the entire Work.

2.2.4 Contractor shall submit proposed Construction Documents to UTA, which must be consistent with the latest set of interim design submissions, as such submissions may have been modified in a design review meeting and recorded in the meeting minutes. The parties shall have a design review meeting to discuss, and UTA shall review and approve, the Construction Documents in accordance with the procedures set forth in Section 2.2.2 above. Contractor shall submit one set of approved Construction Documents to UTA prior to commencement of construction

2.2.5 UTA's review and approval of interim design submissions, meeting minutes, and Construction Documents is for the purpose of mutually establishing a conformed set of Contract Documents compatible with the requirements of the Work. Neither UTA's review nor approval of any interim design submissions, meeting minutes, and Construction Documents shall be deemed to: (i) relieve Contractor from its obligations to comply with the Contract Documents; (ii) relieve Contractor from its obligations with respect to the

accuracy of the design submittals; or (iii) transfer any design liability from Contractor to UTA.

2.2.6 Upon completion of the Work, and as a condition to receiving final payment pursuant to Section 4.7, Contractor shall prepare and provide to UTA a final set of as-built drawings, depicting the Project as completed, including all changes to the Project made subsequent to the approval of the Construction Documents.

2.2.7 All drawings, specifications, interim design submissions, Construction Documents, and other documents furnished by Contractor to UTA pursuant to the Contract Documents (those documents, the "Work Product") are deemed to be instruments of service and Contractor shall retain the ownership and intellectual property rights therein.

2.2.8 Once UTA has made a corresponding payment for the 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 construction, occupancy, and maintenance of the Project, or any other UTA project or facility.

2.3 Government Approvals, Permits, and Legal Requirements.

2.3.1 Except where the Contract Documents expressly state that UTA will be responsible for a specific entitlement, Contractor shall obtain and pay for all necessary permits, approvals, licenses, government charges and inspection fees required for the prosecution of the Work by any government or quasi-government entity having jurisdiction over the Project or Site. Contractor shall provide reasonable assistance to UTA in obtaining any permits, approvals, and licenses that the Contract Documents expressly specify to be a UTA responsibility.

2.3.2 Contractor shall perform the Work in accordance with all Legal Requirements and shall provide all notices applicable to the Work as required by the Legal Requirements.

2.3.2 Contractor shall file a notice of commencement, a notice of completion, and other notices required by Utah Code Title 38 (Liens). Contractor shall file such notices in the manner and within the time periods required by law.

2.3.3 The Contract Price and/or Contract Time(s) will be adjusted to compensate Contractor for the effects of any changes in the Legal Requirements provided that such changes: (i) materially increase Contractor's cost of, or time required for, the performance of the Work; and (ii) are enacted after the effective date of the Agreement.

2.4 Construction Services.

- 2.4.1 Contractor shall proceed with construction in accordance with the approved Construction Documents.
- 2.4.2 Except to the extent that the Contract Documents expressly identify UTA obligations related to the Work, Contractor shall provide through itself or Subcontractors the necessary supervision, labor, inspection, testing, start-up, material, equipment, machinery, temporary utilities and other temporary facilities (whether or not expressly stated or depicted in the Contract Documents or Construction Drawings) to permit Contractor to complete construction of the Project consistent with the Contract Documents.
- 2.4.3 Contractor is responsible for securing the Site until UTA issues a Certificate of Substantial Completion.
- 2.4.4 Contractor shall perform all construction activities efficiently and with the requisite expertise, skill and competence to satisfy the requirements of the Contract Documents. Contractor shall at all times exercise complete and exclusive control over the means, methods, sequences, techniques and procedures of construction.
- 2.4.5 Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall take necessary precautions for the safety of, and shall provide necessary protection to prevent damage, injury or loss to the following: (i) all Contractor, Subcontractor, UTA employees, the public and other persons who may be affected thereby; (ii) all Work and all equipment and materials to be incorporated into the Work; and (iii) other property at the Site or adjacent thereto. Contractor shall comply with the minimum standards imposed by UTA's Construction Safety and Security Program Manual, as updated from time to time (UTA's Construction Safety and Security Program Manual is incorporated into the Contract Documents by reference). However, Contractor shall be responsible for all additional as necessary to comply protect persons and property and comply with applicable Legal Requirements related to safety.
- 2.4.6 Contractor shall employ only Subcontractors who are duly licensed and qualified to perform the Work consistent with the Contract Documents. UTA may require Contractor to remove from the Project a Subcontractor or anyone employed directly or indirectly by any Subcontractor, if UTA reasonably concludes that the Subcontractor is creating safety risks at the Site or quality risks to the Project.
- 2.4.7 Contractor is responsible for the proper performance of the Work by Subcontractors and for any acts and omissions in connection with such performance. Nothing in the Contract Documents is intended or deemed to create any legal or contractual relationship between UTA and any Subcontractor, including but not limited to any third-party beneficiary rights.
- 2.4.8 Contractor shall coordinate the activities of all of its Subcontractors. If UTA performs other work on the Project or at the Site with separate contractors under UTA's control,

Contractor agrees to reasonably cooperate and coordinate its activities with those of such separate contractors so that the Project can be completed in an orderly and coordinated manner without unreasonable disruption.

- 2.4.9 Contractor shall keep the Site reasonably free from debris, trash and construction wastes to permit Contractor to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas. Upon Substantial Completion of the Work, or a portion of the Work, Contractor shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Work or applicable portions thereof to permit UTA to occupy the Project or a portion of the Project for its intended use.

2.5 Quality Control, Quality Assurance, Inspection, Rejection and Correction of Work.

- 2.5.1 Contractor shall develop a Project-specific construction quality control plan as contemplated in UTA's Quality Management Plan and Construction Quality Plan. The Contractor's plan shall satisfy the minimum requirement imposed by UTA's Construction Quality Plan and shall be sufficient to ensure that Work is performed in compliance with the Contract Documents. If the Work includes any design services, Contractor shall also develop and thereafter comply with a design quality plan that meets the minimum requirements set forth in the UTA Design Quality Plan. The UTA Quality Management Plan, Construction Quality Plan and Design Quality Plan are incorporated into the Contract Documents by reference. The Contractor's plans shall be subject to UTA's review and approval.
- 2.5.2 Contractor shall comply with the approved quality control plan(s). Responsibilities shall include inspection and testing and related activities including administration, management, supervision, reports, record keeping and use of independent testing agencies and laboratories. Contractor shall provide evidence of compliance with the Contract Documents.
- 2.5.3 UTA will have the right to audit and spot check the Contractor's quality control procedures and documentation. This will include the Company's right to inspect and test all Work at reasonable times. Contractor shall cooperate with any inspection and testing performed by UTA. All contractor-furnished materials and supplies shall be subject to inspection at the point of manufacture.
- 2.5.2 Any inspection and testing performed by UTA shall be for the sole and exclusive benefit of UTA. Neither inspection and testing of Work, nor the lack of same nor acceptance of the Work by UTA, nor payment therefore shall relieve Contractor from any of its obligations under the Contract Documents.

- 2.5.3 At any time prior to Substantial Completion, UTA may reject Work which fails to conform to the Contract Documents. Contractor shall, at its sole expense, promptly re-perform or correct any Work so as to conform to the requirements of the Contract. Contractor shall not be entitled to an adjustment to the Contract Price and/or Contract Times with respect to any corrective action necessary to rectify non-conforming Work.
- 2.5.4 If Contractor fails to promptly remedy rejected Work, UTA may, without limiting or waiving any other rights or remedies it may have, self-perform (through its own forces or through other contractors) the necessary corrective action(s) and deduct all amounts so incurred from any amount then or thereafter due Contractor.

2.6 Contractor's Warranty.

- 2.6.1 Contractor warrants to UTA that all Work, including all materials and equipment furnished as part of the Work, shall be: (i) of good quality conforming to generally recognized industry standards; (ii) in conformance with the Contract Documents; (iii) free of defects in materials and workmanship; and (iv) consistent with applicable Legal Requirements. Without limiting the generality of the foregoing, Contractor also specifically warrants that any design, engineering, or other professional services provided by Contractor shall be shall satisfy applicable professional standards of care and that all materials and any equipment furnished as part of the construction shall be new (unless otherwise specified in the Contract Documents). This provision is not intended to limit any manufacturer's warranty that provides UTA with greater warranty rights than set forth in this Section 2.6. Contractor shall provide UTA with all manufacturers' warranties upon Substantial Completion. Similarly, nothing in this Article is intended to limit any other express warranties set forth in the Contract Documents or to limit any other warranties implied by law, customs, or usage of trade.
- 2.6.2 If Contractor becomes aware of any defect in the Work or non-conformance with the Contract Documents, Contractor shall give prompt written notice of that defect or non-conformance to UTA.
- 2.6.3 Except as otherwise stated in the Agreement, Contractor shall correct any Work that does not comply with the warranties provided above for a period of two years following the date of Substantial Completion.
- 2.6.4 Contractor shall, within seven (7) Days of receipt of written notice from UTA that the Work does not comply with the warranties provided above, take meaningful steps to commence corrective action, including the correction, removal, replacement, or re-performance of the nonconforming Work and the repair of any damage to other property caused the warranty failure. If Contractor fails to commence the necessary corrective action within such seven (7) Day period (or thereafter fails to continuously and diligently pursue such corrective action to completion), UTA may (in addition to any other remedies provided under the Contract Documents) provide Contractor with written notice that UTA will self-perform (through its own forces or through other contractors) correction of the warranty failure at Contractor's expense. If UTA performs (or causes to

be performed) such corrective action, UTA may collect from Contractor all amounts so incurred. If the nonconforming Work creates an emergency requiring an immediate response, the seven (7) Day period identified above shall be deemed inapplicable.

- 2.6.5 The two-year period referenced in Section 2.6.3 above only applies to Contractor's obligation to correct nonconforming Work and is not intended to constitute a period of limitations for any other rights or remedies UTA may have regarding Contractor's other obligations under the Contract Documents.

ARTICLE 3

Bond Requirements

- 3.1** The contract value exceeds the small purchase threshold; Contractor shall provide the following bonds:
- 3.1.1 A Bid Bond (or equivalent guaranty in the form of a letter of credit, certified check, or other negotiable instrument deemed to be equivalent by the Authority) equal to five percent of the proposed Contract price, securing performance in accordance with the Bid or Proposal provided with submission of bid or proposal.
- 3.1.2 A Performance Bond equal to 100% of the Contract price provided prior to formal contract execution; and
- 3.1.3 A Payment Bond equal to 100% of the Contract price is provided prior to formal contract execution.

ARTICLE 4.0

Site Conditions

- 4.1 Hazardous Materials.**
- 4.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Contractor's Work, Contractor is not responsible for any Hazardous Materials encountered at the Site. "Hazardous Materials" means any substance that: (i) is deemed a hazardous waste or substance under any environmental law; or (ii) might endanger the health of people exposed to it.
- 4.1.2 If Contractor discovers at the Site any substance the Contractor reasonably believes to be a Hazardous Material, Contractor shall immediately stop Work in the area of the discovery and immediately report the discovery to the UTA Project Manager. UTA shall determine how to deal with the Hazardous Material, and the Contractor shall resume Work in the area when directed to do so by the UTA Project Manager.
- 4.1.3 Contractor will be entitled to an adjustment to the Contract Price and/or Contract Time(s) to the extent Contractor's cost and/or time of performance have been adversely impacted by the presence of Hazardous Materials.

- 4.1.4 The risk allocation and change provisions of Sections 3.1.1 through 3.1.3 do not apply to any Hazardous Materials introduced to the Site by Contractor, its Subcontractors, or anyone for whose acts Contractor is responsible. Those provisions also exclude Hazardous Materials that were properly stored and/or contained at the Site but thereafter released as a result of the Contractor's negligent performance of the Work. To the extent that Hazardous Materials are introduced and/or released at the Site by Contractor as described above in this Section 3.1.4, then: (i) to the fullest extent permitted by law, Contractor shall defend and indemnify UTA from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from such Hazardous Materials; and (ii) Contractor shall not be entitled to an extension of Contract Price and/or Contract Time(s).

4.2 Differing Site Conditions.

- 4.2.1 If Contractor encounters a Differing Site Condition, Contractor will be entitled to an adjustment to the Contract Price and/or Contract Time(s) to the extent Contractor's cost and/or time of performance have been adversely impacted by the Differing Site Condition. "Differing Site Condition" means concealed or latent physical conditions at the Site that: (i) materially differ from the conditions indicated in the Contract Documents; and (ii) are of an unusual nature, differing materially from the conditions ordinarily encountered and generally recognized as inherent in the Work.
- 4.2.2 Upon encountering a Differing Site Condition, Contractor shall provide prompt written notice to UTA of such condition, which notice shall not be later than five (5) Days after such condition has been encountered. Contractor shall, to the extent reasonably possible, provide such notice before the Differing Site Condition has been substantially disturbed or altered.

ARTICLE 5

Payment

5.1 Schedule of Values (Applicable where payment is made on the basis of progress, milestones, or on a periodic basis.)

- 5.1.1 Unless required by UTA upon execution of this Agreement, within ten (10) Days of execution of the Agreement, Contractor shall submit for UTA's review and approval a Schedule of Values for all of the Work. The Schedule of Values will: (i) subdivide the Work into its respective parts; (ii) include values for all items comprising the Work; and (iii) serve as the basis for monthly progress payments made to Contractor throughout the Work.
- 5.1.2 UTA will timely review and approve the Schedule of Values so as not to delay the submission of the Contractor's first application for payment. UTA and Contractor shall timely resolve any differences so as not to delay the Contractor's submission of its first application for payment.

5.2 Application for Payment.

- 5.2.1 To receive payment, Contractor shall submit to UTA an Application for Payment requesting payment to which Contractor is entitled, depending on the type of payment specified in Article 5 and Exhibit B. 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.
- 5.2.2 The Application for Payment may request payment for equipment and materials not yet incorporated into the Project, provided that: (i) UTA is satisfied that the equipment and materials are suitably stored at either the Site or another acceptable location; (ii) the equipment and materials are protected by suitable insurance; and (iii) upon payment, UTA will receive the equipment and materials free and clear of all liens and encumbrances.
- 5.2.3 The Application for Payment will constitute Contractor's representation that the Work described therein has been performed consistent with the Contract Documents, has progressed to the point indicated in the Application for Payment, and that title to all materials and equipment will pass to UTA free and clear of all claims, liens, encumbrances, and security interests upon the incorporation of the materials and equipment into the Project, or upon Contractor's receipt of payment, whichever occurs earlier.

5.3 Invoicing Procedures

- 5.3.1 Contractor shall invoice UTA after achievement of contractual milestones or after delivery of all Goods and satisfactory performance of all Services. Contractor shall submit invoices to ap@rideuta.com and the UTA Project Manager, Carlie Torres, at carlie.torres@rideuta.com for processing and payment. To timely process invoices, Contractor shall include the following information on each invoice:
- I. Contractor Name
 - II. Unique Invoice Number
 - III. UTA PO Number
 - IV. Invoice Date
 - V. UTA Account Code
 - VI. Detailed Description of Charges
 - VII. Line-item Pricing
 - VIII. Total Dollar Amount Due
 - IX. Monthly Progress Report
 - X. Updated Project Schedule
- 5.3.2 UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Goods or Services. Approval by UTA shall

not be unreasonably withheld. UTA shall also have the right to offset (against payments) amounts reasonably reflecting the value of any claim that UTA has against Contractor under the Contract. Payment for all invoice amounts not specifically disapproved or offset by UTA shall be provided to the Contractor within thirty (30) calendar days of invoice submittal.

5.4 Sales Tax Exemption

5.4.1 Purchases of certain materials are exempt from Utah sales tax. UTA will provide a sales tax exemption certificate to the Contractor upon request. UTA will not pay Contractor for sales taxes for exempt purchases, and such taxes should not be included in Contractor's Application for Payment.

5.5 UTA's Payment Obligations.

- 5.5.1 UTA shall pay the Contractor all amounts properly requested and documented within thirty (30) Days of receipt of an Application for Payment.
- 5.5.2 Notwithstanding Section 5.5.1, UTA may withhold up to 5% of each payment as retention in accordance with Utah Code Ann. § 13-8-5.
- 5.5.3 Notwithstanding Section 5.5.1, UTA may offset from such Application for Payment amounts any amounts owed to UTA by Contractor pursuant to the Contract Documents.
- 5.5.4 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 under the Contract Documents, UTA will notify Contractor of the specific amounts UTA has withheld (or intends to withhold), the reasons and contractual basis for the withholding, and the specific actions Contractor must take to qualify for payment under the Contract Documents. If the Contractor disputes UTA's bases for withholding, the Contractor may pursue its rights under the Contract Documents, including those under Article 8.

5.6 Contractor's Payment Obligations.

- 5.6.1 Contractor shall pay Subcontractors, in accordance with its contractual obligations to such parties, all the amounts Contractor has received from UTA on account of their work. The Contractor shall indemnify and defend UTA against any claims for payment and mechanics' liens as set forth in Section 6.2 hereof. The Contractor may withhold up to 5% of each payment as retention corresponding to retentions withheld by UTA but must pay the subcontractor all retained monies within 30 days of receipt from UTA by the Contractor. All retentions must be in compliance with Utah Code Ann. § 13-8-5.
- 5.6.2 Contractor shall pay its employees also ensure its sub-tier contractors at every level pay their eligible employees the prevailing wage rate as established by the Utah State Labor Commission.
- 5.6.3 If the Contract Documents include Federal Clauses, the terms of those Federal Clauses pertaining to payment of Subcontractors supersede any conflicting terms of this Article 5.

5.7 Substantial Completion.

- 5.7.1 Contractor shall notify UTA when it believes the entire Work is Substantially Complete. As used in the Contract Documents, “Substantially Complete” or “Substantial Completion” refers to the Contractor’s satisfactory completion of all Work in accordance with the Contract Documents (excluding Punchlist items) to point such that UTA may safely start-up, occupy or otherwise fully use the Project for its intended purposes in compliance with applicable Legal Requirements. The terms “Substantially Complete” or “Substantial Completion” also require the completion of any items of Work specifically set forth as conditions precedent to Substantial Completion in the Agreement. Within five (5) Days of UTA’s receipt of Contractor’s notice, UTA and Contractor will jointly inspect such Work to verify that it is Substantially Complete in accordance with the requirements of the Contract Documents. If such Work is Substantially Complete, UTA shall prepare and issue a Certificate of Substantial Completion that will set forth: (i) the date of Substantial Completion of the Work or portion thereof; (ii) the remaining Punchlist items that have to be completed before Final Completion and final payment; and (iii) provisions (to the extent not already provided in the Contract Documents) establishing UTA’s and Contractor’s responsibility for the Project’s security, maintenance, utilities and insurance pending Final Completion and final payment.
- 5.7.2 Promptly after issuing the Certificate of Substantial Completion, UTA shall release to the Contractor all retained amounts, less an amount equal to two times the reasonable value of all remaining Punchlist items noted in the Certificate of Substantial Completion.
- 5.7.3 Upon Contractor’s request or UTA’s own initiative, UTA may, in its sole discretion, deem a discrete segment of the Project to be Substantially Complete. The provisions of Sections 5.6.1 and 5.6.2 will apply to that discrete segment of the Project. In addition, before UTA may take possession of a discrete segment of the Project, UTA and Contractor shall obtain the consent of their sureties, insurers, and any government authorities having jurisdiction over the Project.
- 5.7.4 Following Substantial Completion, UTA may restrict the Contractor’s access to the Site. UTA shall allow the Contractor reasonable access to the Site in order for the Contractor to achieve Final Completion.

5.8 Final Payment.

- 5.8.1 When Contractor has achieved Final Completion of the Work, Contractor shall submit a Final Application for Payment. As used in the Contract Documents, “Final Completion” refers to the Contractor’s satisfactory completion of all Work in accordance with the Contract Documents, including completion of Punchlist items, demobilization from the Site, and the transmittal of all deliverables required by the Contract Documents. The Final Application for Payment shall include (at a minimum) the items set forth below.
- 5.8.1.1 An affidavit that there are no claims, obligations, or liens outstanding or unsatisfied for labor, services, materials, equipment, taxes, or other items performed, furnished, or incurred for or in connection with the Work which will in any way affect UTA’s interests;

- 5.8.1.2 A general release executed by the Contractor waiving, upon receipt of final payment, all claims, except those claims previously made in writing to UTA and remaining unsettled at the time of final payment;
 - 5.8.1.3 All as-built drawings, redlined drawings, operating manuals, warranty assignments, and other deliverables required by the Contract Documents; and
 - 5.8.1.4 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.
- 5.8.2 Deficiencies in the Work discovered after Substantial Completion, whether such deficiencies would have been included on the Punchlist if discovered earlier, will be deemed warranty Work. The Contractor shall correct such deficiencies pursuant to Section 2.6, and UTA may withhold from the final payment the reasonable value of completion of the deficient work until that work is completed.

ARTICLE 6

Indemnification and Loss

- 6.1 **Patent and Copyright Infringement.** If the Work includes any design services, provisions 6.1.1 through 6.1.3 apply.
- 6.1.1 Contractor shall defend any action or proceeding brought against UTA based on any claim that the Work, or any part thereof, or the operation or use of the Work or any part thereof, constitutes infringement of any United States patent or copyright, now or hereafter issued. UTA shall give prompt written notice to Contractor of any such action or proceeding and will reasonably provide authority, information, and assistance in the defense of the same. The Contractor shall indemnify UTA from and against all damages and costs, including but not limited to attorneys' fees and expenses, awarded against UTA or the Contractor in any such action or proceeding. Contractor shall keep UTA informed of all developments in the defense of such actions.
 - 6.1.2 If UTA is enjoined from the operation or use of the Work, or any part thereof, as the result of any patent or copyright suit, claim, or proceeding, Contractor shall at its sole expense take reasonable steps to procure the right to operate or use the Work. If Contractor cannot procure such right within a reasonable time, Contractor shall promptly, at Contractor's expense, either: (i) modify the Work so as to avoid infringement of any such patent or copyright; or (ii) replace said Work with Work that does not infringe or violate any such patent or copyright.
 - 6.1.3 Sections 6.1.1 and 6.1.2 above shall not be applicable to any suit, claim or proceeding based on infringement or violation of a patent or copyright: (i) relating solely to a particular process or product of a particular manufacturer specified by UTA and not offered or recommended by Contractor to UTA; or (ii) arising from modifications to the Work by UTA or its agents after acceptance of the Work

6.2 Payment Claim Indemnification. Provided that UTA is not in breach of its contractual obligation to make payments to Contractor for the Work, Contractor shall indemnify, defend and hold harmless UTA from any claims or mechanic's liens brought against UTA or against the Project as a result of the failure of Contractor, its Subcontractors, or others for whose acts Contractor is responsible, to pay for any services, materials, labor, equipment, taxes or other items or obligations furnished or incurred for or in connection with the Work. Within three (3) Days of receiving written notice from UTA that such a claim or mechanic's lien has been filed, Contractor shall commence to take the steps necessary to discharge said claim or lien, including, if necessary, the furnishing of a mechanic's lien bond. If Contractor fails to do so, UTA will have the right to discharge the claim or lien and hold Contractor liable for costs and expenses incurred, including attorneys' fees.

6.3 Contractor's General Indemnification.

6.3.1 Contractor, to the fullest extent permitted by law, shall indemnify, hold harmless and defend UTA, its officers, trustees, 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 resulting from or arising out of the negligent acts or omissions of Contractor, Subcontractors, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable.

6.3.2 If an employee of Contractor, a Subcontractor, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable has a claim against UTA, its officers, directors, employees, or agents, Contractor's indemnity obligation set forth in Section 5.3.1 above will not be limited by any limitation on the amount of damages, compensation or benefits payable by or for Contractor, Subcontractors, or other entity under any employee benefit acts, including workers' compensation or disability acts.

6.4 Risk of Loss. The Contractor bears all risk of loss to the Project, including materials and equipment not yet incorporated into the Project, until final payment is made by UTA. The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. UTA 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, and Contractor is free to purchase additional insurance as may be determined necessary.

ARTICLE 7
INSURANCE REQUIREMENTS

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 and Contractor is free to purchase 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.

1. Commercial General Liability – Occurrence Form

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

- General Aggregate \$4,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$2,000,000
 - 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".
 - b. The policy must also contain the following endorsement, WHICH MUST BE STATED ON THE CERTIFICATE OF INSURANCE: “Contractual Liability Railroads” ISO from CG 24 17 10 01 (or a substitute form providing equivalent coverage) showing “Utah Transit Authority Property” as the Designated Job Site

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) \$2,000,000

- 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. Workers' 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)

The policy shall cover professional misconduct or lack of ordinary skill for those positions defined in the Scope of Services of this contract.

Each Claim	\$1,000,000
Annual Aggregate	\$2,000,000

- a. In the event that the professional liability insurance required by this Contract is written on a claims-made basis, Contractor 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.

5. **Railroad Protective Liability Insurance (RRPLI)** – (if applicable)

During construction and maintenance within fifty (50) feet of an active railroad track, including but not limited to installation, repair or removal of facilities, equipment, services or materials, the Contractor must maintain “Railroad Protective Liability” insurance on behalf of UTA only as named insured, with a limit of not less than \$2,000,000 per occurrence and an aggregate of \$6,000,000.

If the Contractor is not enrolling for this coverage under UTA’s blanket RRPLI program, the policy provided must have the definition of “JOB LOCATION” AND “WORK” on the declaration page of the policy shall refer to this Agreement and shall describe all WORK or OPERATIONS performed under this Agreement.

6. **Contractors’ Pollution Legal Liability and/or Asbestos Legal** project involves environmental hazards) with limits no less than \$1,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. *(NOTE: Projects over \$10,000,000 will require limits of \$2,000,000 per occurrence and \$4,000,000 aggregate; Projects over \$40,000,000 will require limits of \$5,000,000 per occurrence and \$5,000,000 aggregate)*

7. **Builder's Risk:** Builder's risk (course of construction) insurance, covering the risk of loss for any damage or loss to the building or structure by any means or occurrence until the final completion of the contract work. Coverage shall utilize an "All Risk" (Special Perils) coverage form, with limits equal to the completed value of the project and no coinsurance penalty provisions. The coverage shall include mechanical breakdown, property in transit, property at temporary storage locations, earthquake damage and flood damage insuring the interests of UTA, SLCDA and their respective subcontractors of any tier providing equipment, materials or services for the project.

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 Contractor. Insurance limits indicated in this agreement are minimum limits. Larger limits may be indicated after the contractor'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.
3. Contractor and their insurers shall endorse the required insurance policy(ies) to waive their right of subrogation against UTA. Contractor's insurance shall be primary with respect to any insurance carried by UTA. Contractor will furnish UTA at least thirty (30) days advance written notice of any cancellation or non-renewal of any required coverage that is not replaced.

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 (Utah Transit Authority agency Representative's Name & Address).

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 (on standard ACORD form) 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 sent to utahta@ebix.com and 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 emailed directly to Utah Transit Authority's insurance email address at utahta@ebix.com. 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 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.

Article 8.0

Health Insurance

Insurance Coverage for Employees.

8.1 If the Contract Price is \$2,000,000 or more, Contractor shall, prior to the effective date of the Agreement, demonstrate to UTA that Contractor has and will maintain an offer of qualified health insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5) for the Contractor's employees and the employee's dependents during the duration of the Contract.

8.2 If the Contractor enters into any subcontracts under the Contract Documents in an amount of \$1,000,000 or more, then Contractor shall also demonstrate to UTA that such subcontractor(s) have and will maintain an offer of qualified health insurance coverage for the subcontractor's employees and the employee's dependents during the duration of the subcontract

Article 9.0

Timeliness

- 9.1 Obligation to Achieve the Contract Times.** Contractor shall commence performance of the Work and achieve the Contract Time(s) in accordance with the Contract Documents. The Contract Documents specify critical completion milestones with which Contractor must comply. All time and schedule requirements included within the Contract Documents are of the essence. By executing the Agreement, Contractor confirms that the completion milestones in the Contract Documents are reasonable for the performance of the Work. Unless otherwise excused by the terms of the Contract Documents, Contractor's failure to timely perform the Work in accordance with the completion milestones shall result in the assessment of liquidated damages (if, and to the extent, set forth in the Agreement) and (where no liquidated damages are provided under the Agreement or where the maximum liquidated damages available under the Agreement have been incurred) an event of default.
- 9.2 Excusable Delays.** The Contract Time(s) for performance shall be equitably adjusted by Change Order to the extent that Contractor is actually and demonstrably delayed in the performance of the Work because of: (i) Differing Site Conditions (as provided in Section 3.2); (ii) Hazardous Materials (as provided in Section 3.1); (iii) Force Majeure Events (as defined in Section 1.3); (iv) changes in the Work directed by UTA (as provided in Section 7.2); (v) constructive changes (as provided in Section 7.3); (vi) changes in Legal Requirements (as provided in Section 2.3.3); (viii) a suspension without cause (as provided in Section 9.1); or (viii) UTA's unexcused delay in performing any UTA obligation specified in the Contract Documents in accordance with the completion milestones indicated in the approved schedule.
- 9.3 Excusable and Compensable Delays.** In addition to Contractor's right to a time extension for those events set forth in Section 6.2 above, Contractor will also be entitled to an appropriate adjustment of the Contract Price provided, however, that the Contract Price will not be adjusted for delays caused by Force Majeure Events.

ARTICLE 10

Changes

10.1 Change Orders.

10.1.1 Contractor shall not undertake any activity that materially changes the Work, or materially deviates from the requirements of the Contract Documents, except as authorized in this Article 10. Any costs incurred by Contractor without authorization as provided in this Article 10 will be considered non-compensable.

10.1.2 A Change Order is a written instrument, signed by UTA and Contractor, issued after execution of the Agreement, stating their agreement on a change in: (i) the scope of the Work; (ii) the Contract Price; and/or (iii) the Contract Time(s).

10.1.3 All changes in the Work authorized by applicable Change Order shall be performed under the applicable conditions of the Contract Documents. UTA and Contractor shall negotiate in good faith and as expeditiously as possible the appropriate adjustments for such changes.

10.2 UTA-Directed Changes. UTA may direct changes in the Work. Upon receipt of such direction, Contractor shall prepare an estimate of the cost and schedule impact of the change (if any). Upon agreement between UTA and Contractor on the scope of the change to the Work, and the adjustment, if any, to the Contract Price and/or Contract Times, UTA and Contractor shall execute a written Change Order.

10.3 Constructive Changes.

10.3.1 To the extent that Contractor: (i) receives a written or verbal direction or proceeding from UTA that Contractor believes to constitute a material change to the nature, character or schedule of the Work; and/or (ii) becomes aware of any circumstance or condition that expressly provides Contractor a right to a Change Order under the terms of the Contract Documents, then (in either case) Contractor shall deliver to UTA's Project Manager written notice (hereinafter a "Potential Change Notice") within ten (10) Days after Contractor becomes aware of (or should have reasonably become aware) the facts and circumstances which Contractor believes to give rise to a Change Order.

10.3.2 Contractor's failure to deliver a Potential Change Notice in a timely manner shall constitute a waiver of all of Contractor's rights to a Change Order.

10.3.3 In conjunction with the Potential Change Notice or not longer than 30 days after delivery of notice, Contractor shall submit to UTA all supporting information and documentation necessary for UTA to evaluate the contractual basis for the Potential Change Notice and to also evaluate the relief claimed by Contractor. Contractor shall promptly respond to all UTA inquiries about the Potential Change Notice and the supporting information and documentation.

- 10.3.4 To the extent UTA concludes that the Potential Change Notice demonstrates Contractor's entitlement to a Contract adjustment, and provided that the parties are able to negotiate mutually agreeable adjustments to the Contract Documents, then UTA and Contractor shall execute a written Change Order.

10.4 Direction or Authorization to Proceed.

10.4.1 Prior to final agreement with respect to a Change Order, UTA may issue a Direction or Authorization to Proceed ("DAP"). A DAP is a written order unilaterally prepared and signed by UTA directing the Contractor to proceed with specified Work while Change Order negotiations or Claim resolution discussions continue. UTA may issue a DAP at any time, and Contractor shall undertake the Work as set forth in the DAP, and in accordance with the Contract Documents.

10.4.2 After issuance of a DAP, UTA and Contractor shall continue to negotiate in good faith to resolve outstanding issues expeditiously.

- 10.5 **Requests for Information.** UTA shall have the right, from time to time, to issue clarifications to the Work of a non-material nature at any time. Contractor shall have the corresponding right to seek clarification with respect to ambiguous or conflicting provisions of the Contract Documents. Such clarifications or conflicts shall be confirmed, implemented and documented through a Request for Information ("RFI") process to be developed for the Project. The RFI process may also be used to document minor changes in the Work do not involve an adjustment in the Contract Price and/or Contract Time(s) and do not materially and adversely affect the Work, including the design, quality, performance and workmanship required by the Contract Documents.

10.6 Contract Price Adjustments.

10.6.1 The increase or decrease in Contract Price resulting from a change in the Work will be determined by one or more of the following methods:

10.6.1.1 Unit prices set forth in the Agreement or as subsequently agreed to between the parties;

10.6.1.2 A mutually accepted lump sum, properly itemized and supported by sufficient substantiating data to permit evaluation by UTA;

10.6.1.3 Costs, fees and any other markup rates set forth in the Agreement; or

10.6.1.4 If an increase or decrease cannot be agreed to as set forth in items 10.6.1.1 through 10.6.1.3 above and UTA issues a DAP, the cost of the change of the Work shall be determined by the reasonable expense and savings in the performance of the Work resulting from the change, including a reasonable overhead and profit rate, as may be set forth in the Agreement.

10.6.2 If unit prices are set forth in the Contract Documents or are subsequently agreed to by the parties, but application of such unit prices will cause substantial inequity to UTA

or Contractor because of differences in the character or quantity of such unit items as originally contemplated, such unit prices shall be equitably adjusted.

10.6.3 Negotiations over changes in the Contract Price will be conducted using an open-book cost-estimating process. UTA defines “open-book” to include all elements of Contractor’s costs, including labor hours and rates, units and estimated quantities, unit prices, equipment estimates, material costs, and subcontractor costs. Contractor shall openly share its detailed cost estimate, material and subcontractor quotations and any other information used to compile its cost estimate.

10.7 **Disputes Regarding Change Orders.** If the parties are not able to agree as to whether a Change Order is warranted under the Contract Documents, or cannot agree upon the extent of relief to be granted under a Change Order after good faith negotiations, either party may refer the dispute to the Claim resolution provisions of Article 11. Pending resolution of such Claim, Contractor shall proceed with the Work as directed by UTA under a reservation of rights. UTA shall continue to pay any undisputed payments related to such Claim.

10.8 **Emergencies.** In any emergency affecting the safety of persons and/or property, Contractor shall act, at its discretion, to prevent threatened damage, injury or loss. Any change in the Contract Price and/or Contract Time(s) on account of emergency work shall be determined as provided in this Article 7.

ARTICLE 11

Claims and Dispute Resolution

11.1 Claims.

11.1.1 “Claim” means any disputes between UTA and the Contractor arising out of or relating to the Contract Documents including any disputed claims for Contract adjustments that cannot be resolved in accordance with the Change Order negotiation process set forth in Article 8. Claims must be made by written notice. The responsibility to substantiate claims rests with the party making the claim.

11.1.2 Unless otherwise directed by UTA in writing, Contractor shall proceed diligently with performance of the Work pending final resolution of a Claim, including litigation. UTA shall continue to pay any undisputed payments related to such Claim.

11.2 Dispute Resolution.

11.2.1 The parties shall attempt in good faith to resolve promptly through negotiation any Claim arising out of or relating to the Contract Documents. If a Claim should arise, UTA’s Project Manager and Contractor’s Project Manager will meet at least once to attempt to resolve the Claim. For such purpose, either may request the other to meet within seven (7) Days of the date the Claim is made, at a mutually agreed upon time and place.

- 11.2.2 If UTA's Project Manager and Contractor's Project Manager are not able to resolve the Claim within fourteen (14) Days after their first meeting (or such longer period of time as may be mutually agreed upon), either party may request that UTA's Senior Representative and the Contractor's management representative ("Contractor's Management Representative") meet at least once to attempt to resolve the Claim.
- 11.2.3 If the Claim has not been resolved within sixty (60) Days of the date the Claim is made, either party may refer the Claim to non-binding mediation by sending a written mediation request to the other party. In the event that such a request is made, the Parties agree to participate in the mediation process. Non-binding mediation of claims or controversies under the Contract Documents shall be conducted by a professional mediator that is mutually acceptable to and agreed upon by both parties (the "Mediator"). The parties and the Mediator may join in the mediation any other party necessary for a mutually acceptable resolution of the Claim. The mediation procedure shall be determined by the Mediator in consultation with the parties. The fees and expenses of the Mediator shall be borne equally by the parties.
- 11.2.4 If the Claim is not resolved within thirty (60) days after the commencement of mediation, or if no mediation has been commenced within one hundred and twenty (120) days of the date the Claim is made, either party may commence litigation to resolve the Claim. The exclusive forum for any such litigation is the Third District Court in and for Salt Lake County, Utah.

ARTICLE 12

Suspension and Termination

12.1 UTA's Right to Stop Work.

- 12.1.1 UTA may, without cause and for its convenience, order Contractor in writing to stop and suspend the Work. Such suspension shall not exceed one hundred and twenty (120) consecutive Days or aggregate more than two hundred and forty (240) Days during the duration of the Project. In the event a suspension continues longer than the above-referenced periods, Contractor shall have the right to terminate the Agreement. Any such termination shall be considered to be a termination for convenience by UTA.
- 12.1.2 If a suspension is directed by UTA without cause, Contractor shall be entitled to seek an adjustment of the Contract Price and/or Contract Time(s) if its cost or time to perform the Work has been adversely impacted by any suspension or stoppage of the Work by UTA.
- 12.1.3 In addition to its rights under Section 12.1.1, UTA shall have the right to order a suspension for cause if the Work at any time ceases to comply with the workmanship, safety, quality or other requirements of the Contract Documents or

any Legal Requirements. Contractor shall not be entitled to seek an adjustment the Contract Price and/or Contract Time(s) with regard to any such suspension.

12.2 UTA's Right to Terminate for Convenience. Upon written notice to Contractor, UTA may, for its convenience and without cause, elect to terminate this Agreement. In such event, UTA shall pay Contractor for the following:

- 12.2.1 All Work satisfactorily completed or commenced and in process as of the effective date of termination;
- 12.2.2 The reasonable and demonstrable costs and expenses attributable to such termination, including demobilization costs and amounts due in settlement of terminated contracts with Subcontractors; and
- 12.2.3 The fair and reasonable sums for overhead and profit on the sum of items 12.2.1 and 12.2.2 above. UTA shall not be liable for anticipated profits, costs or overhead based upon Work not yet performed as of the date of termination.

12.3 UTA's Right to Terminate for Cause; Other Remedies for Default.

- 12.3.1 Subject to the cure provision of Section 12.3.2 below and other limitations set forth in these General Conditions, Contractor shall be in default of its obligations under the Contract Documents if Contractor: (i) fails to provide a sufficient number of skilled workers; (ii) fails to supply the materials required by the Contract Documents; (iii) fails to comply with applicable Legal Requirements; (iv) fails to timely pay its Subcontractors without proper cause; (v) makes a materially false or misleading representation or certification in conjunction with the Contract Documents; (vi) fails to prosecute the Work with promptness and diligence to ensure that the Work is completed by the Contract Time(s), as such times may be adjusted; (vii) fails to satisfy any guaranteed interim or completion milestone set forth in the Contract Documents; or (viii) fails to perform any other material obligations under the Contract Documents. In any such event, UTA (in addition to any other rights and remedies provided in the Contract Documents or by law) shall have the rights set forth in Sections 12.3.2 through 12.3.5 below.
- 12.3.2 Upon the occurrence of an event of default set forth in Section 12.3.1 above, UTA may provide written notice to Contractor that it intends to terminate the Agreement (in whole or in part) or pursue other available remedies unless the grounds for default are cured within ten (10) Days of Contractor's receipt of such notice. If Contractor fails to cure the grounds for default within such period, then UTA may declare the Agreement, or portions of the Agreement, terminated for default by providing written notice to Contractor of such declaration; provided, however, that to the extent that an item included is the notice of default and demand for cure is capable of cure, but not within the ten-Day cure period, then the Agreement shall not be terminated so long as Contractor commences actions to reasonably cure such breach within the 10-Day cure period and thereafter continuously and diligently

proceeds with such curative actions until completion (such additional period not to exceed 45 Days). UTA may terminate the Agreement without opportunity to cure if the breach involves the Contractor's material failure to comply with any Legal Requirements pertaining to safety or environmental compliance.

- 12.3.3 Upon the continuance of a breach described in Section 12.3.1 for more than ten (10) Days following delivery of written notice to Contractor (and regardless of whether the Agreement, or any portion hereof, has been terminated as provided above), UTA shall be entitled to self-perform (through its own forces or through other contractors) the corrective action necessary to cure Contractor's event of default and deduct all costs so incurred from any amount then or thereafter due to Contractor.
- 12.3.4 Upon the continuance of a breach described in Section 12.3.1 for more than ten (10) Days following delivery of written notice to Contractor (and regardless of whether the Agreement, or any portion hereof, has been terminated as provided above), UTA shall be entitled to seek performance by any guarantor of Contractor's obligations hereunder or draw upon any surety or security provided for in the Contract Documents.
- 12.3.5 Upon declaring the Agreement terminated pursuant to Section 12.3.2 above, UTA may enter upon the premises and take possession, for the purpose of completing the Work, of all materials, equipment, scaffolds, tools, appliances and other items thereon, which have been purchased or provided for the performance of the Work, all of which Contractor hereby transfers, assigns and sets over to UTA for such purpose, and to employ any person or persons to complete the Work and provide all of the required labor, services, materials, equipment and other items. In the event of such termination, Contractor shall not be entitled to receive any further payments under the Contract Documents until the Work shall be finally completed in accordance with the Contract Documents. At such time, if the unpaid balance of the Contract Price exceeds the cost and expense incurred by UTA in completing the Work, such excess shall be paid by UTA to Contractor. If UTA's cost and expense of completing the Work exceeds the unpaid balance of the Contract Price, then Contractor shall pay the difference to UTA. Such costs and expenses include not only the cost of completing the Work, but also losses, damages, costs and expenses, including attorneys' fees and expenses, incurred by UTA in connection with the reprocurement and defense of claims arising from Contractor's default.
- 12.3.6 All rights and remedies set forth in the Contract Documents are cumulative, and unless otherwise specifically provided in the Contract Documents are not exclusive of any other rights or remedies that may be available, whether provided by law, equity, statute, in any other agreement between the Parties or otherwise. Upon the occurrence of any such default, following the applicable process described in this Article, UTA shall be entitled to pursue any and all other rights and remedies,

including without limitation damages, that UTA may have against Contractor under the Contract Documents or at law or in equity.

- 12.3.7 If UTA improperly terminates the Agreement for cause, the termination for cause will be converted to a termination for convenience in accordance with the provisions of Section 12.2 above.

12.4 Bankruptcy of Contractor.

- 12.4.1 If Contractor institutes or has instituted against it a case under the United States Bankruptcy Code, such event may impair or frustrate the Contractor's ability to perform its obligations under the Contract Documents. Accordingly, should such event occur:

12.4.1.1 Contractor, its trustee or other successor, shall furnish, upon request of UTA, adequate assurance of the ability of the Contractor to perform all future material obligations under the Contract Documents, which assurances shall be provided within ten (10) Days after receiving notice of the request; and

12.4.1.2 Contractor shall file an appropriate action within the bankruptcy court to seek assumption or rejection of the Agreement within sixty (60) Days of the institution of the bankruptcy filing and shall diligently prosecute such action. If Contractor fails to comply with its foregoing obligations, UTA shall be entitled to request the bankruptcy court to reject the Agreement, declare the Agreement terminated and pursue any other recourse available to the UTA under this Article 12.

- 12.4.2 The rights and remedies under Section 12.4.1 above shall not be deemed to limit the ability of UTA to seek any other rights and remedies provided by the Contract Documents or by law, including its ability to seek relief from any automatic stays under the United States Bankruptcy Code.

ARTICLE 13

Value Engineering

13.1 Value Engineering Change Proposals.

- 13.1.1 A Value Engineering Change Proposal (“VECP”) is a proposal developed, prepared, and submitted to UTA by the Contractor, which reduces the cost of the Work without impairing essential functions or characteristics of the Project, as determined by UTA in its sole discretion. UTA encourages Contractor to submit VECPs whenever it identifies potential savings or improvements. UTA may also request the Contractor to develop and submit a specific VECP.
- 13.1.2 In determining whether a VECP will impair essential functions or characteristics of the Project, UTA may consider: (i) relative service life; (ii) maintenance effort and frequency; (iii) environmental and aesthetic impacts; (iv) system service; (v) effect of other system components; and (vi) other issues as UTA deems relevant. A VECP must not be based solely on a change in quantities.
- 13.1.3 Contractor must include the following information in any VECP:
 - 13.1.3.1 A narrative description of the proposed change,
 - 13.1.3.2 A discussion of differences between existing requirements and the proposed change, together with advantages and disadvantages of each changed item;
 - 13.1.3.3 A complete cost analysis, including the cost estimate of any additional rights-of-way or easements required for implementation of the VECP;
 - 13.1.3.4 Justification for changes in function or characteristics of each item and effect of the change on the performance on the end item;
 - 13.1.3.5 A description of any previous use or testing of the proposed approach and the conditions and results. If the VECP was previously submitted on another UTA project, the Contractor shall indicate the date, contract number, and the action taken by UTA;
 - 13.1.3.6 Costs of development and implementation; and
 - 13.1.3.7 Any additional information requested by UTA, which must be provided in a timely manner.

13.2 Review and Approval of VECPs

- 13.2.1 Upon receipt of a VECP, UTA shall process it expeditiously, but will not be liable for any delay in acting upon any VECP. Contractor may withdraw all or part of any VECP at any time prior to approval by UTA, but shall, in any case, be liable for costs incurred by UTA in reviewing the withdrawn VECP, or part thereof. In all

other situations, each party will bear its own costs in connection with preparation and review of VECs.

13.2.2 UTA may approve in whole or in part any VEC submitted. The decision of UTA regarding rejection or approval of any VEC will be at the sole discretion of UTA and will be final and not subject to appeal. Contractor will have no claim for any additional costs or delays resulting from the rejection of a VEC, including development costs, loss of anticipated profits, or increased material or labor costs.

13.3 **Cost Savings.** Except as otherwise stated in the Agreement, any savings resulting from an approved VEC will accrue to the benefit of UTA and Contractor on a 50/50 cost sharing basis. Nevertheless, a Contractor shall not be eligible to share in cost savings where the Contractor had responsibility under its scope of work for drafting, reviewing or approving the designs or processes involved in the VEC.

13.4 **Ownership of VECs.** All approved or disapproved VECs will become the property of UTA and must contain no restrictions imposed by the Contractor on their use or disclosure. UTA retains the right to use, duplicate, and disclose, in whole or in part, any data necessary for the utilization of the VEC on any other projects without any obligation to Contractor. This provision is not intended to deny rights provided by law with respect to patented materials or processes.

ARTICLE 14

Miscellaneous

14.1 **Confidential Information:** "Confidential Information" means information that is determined by the transmitting party to be of a confidential or proprietary nature and: (i) the transmitting party identifies in writing as either confidential or proprietary; (ii) the transmitting party takes steps to maintain the confidential or proprietary nature of the information; and (iii) the document is not otherwise available in or considered to be in the public domain. To the extent permitted by law (including specifically UCA Title 63G Chapter 2), the receiving party shall maintain the confidentiality of the Confidential Information and shall use the Confidential Information solely in connection with the Project. The parties agree that the Agreement itself (including all incorporated Contract Documents) does not constitute Confidential Information.

14.2 **Public Information:** Vendor acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Vendor's response to the solicitation for the Contract will also be a public document subject to GRAMA, except for legitimate trade secrets, so long as such trade secrets were properly designated in accordance with terms of the solicitation.

14.3 **Prohibited Interest.** No member, officer, agent, or employee of UTA during his or her tenure or for one year thereafter shall have any interest, direct or indirect, including prospective employment by, Contractor or the proceeds under the Contract Documents without specific written authorization by UTA.

- 14.4 **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 the Contract Documents without prior written approval by UTA.
- 14.5 **Successors.** Contractor and UTA intend that the provisions of the Contract Documents are binding upon the parties, their employees, agents, heirs, successors and permitted assigns.
- 14.6 **Governing Law.** The Agreement and all Contract Documents are 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.
- 14.7 **Attorneys Fees and Costs.** If any party to this Agreement brings an action to enforce or defend its rights or obligations hereunder, the prevailing party shall be entitled to recover its costs and expenses, including mediation, arbitration, litigation, court costs and attorneys' fees, if any, incurred in connection with such suit, including on appeal.
- 14.8 **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 pursuant to any applicable Legal Requirements, 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 shall remain in full force and effect as if the unenforceable provision or part were deleted.
- 14.9 **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.
- 14.10 **Headings.** The headings used in these General Conditions, 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.
- 14.11 **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.
- 14.12 **Force Majure:** Neither party to the Contract will be held responsible for delay or default caused by fire, riot, acts of God and/or war which are beyond that party's reasonable control. UTA may terminate the Contract after determining such delay or default will reasonably prevent successful performance of the Contract.
- 14.13 **Entire Agreement:** The Contract constitutes the entire agreement between the parties with respect to the subject matter, and supersedes any and all other prior and contemporaneous agreements and understandings between the parties, whether oral or written. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any

dispute between the terms of the Contract and the terms printed on any such standard forms or documents, and such standard forms or documents will not be considered written amendments of the Contract.

EXHIBIT A

SCOPE OF WORK

The scope of work for the project shall be in conformance with the contract documents, including, at a minimum, the project plans, specifications, and other related documents referred to in the Contract. Phases I and II, outlined below, are intended to be a general description of the scope of work. Exclusion of any items of work in the general description shall not release the Contractor from completing the work.

Phase I - Eagle Mountain (EM) (Pony Express Parkway & approximately Plum Creek Drive): A paved park-and-ride lot with 56 parking stalls, a retention pond, an access road connecting to Rock Creek Rd, *UTA monument signage with lighting and a platform*, lighting, xeriscaping, and landscaping, two (2) new bus stops (westbound and eastbound on Pony Express Parkway), with a shelter at the eastbound stop, connection to the existing walking path/trails, relocate drainage, and a HAWK signalized pedestrian crosswalk on Pony Express Parkway. Additionally, in Saratoga Springs at Pony Express Parkway & Seaside St (800 E), two (2) new bus stops (westbound and eastbound on Pony Express Parkway), a shelter at the eastbound stop, connection to the existing walking path/trails, widening and restriping of Pony Express Parkway with traffic signalization at the Seaside Street intersection, and *the updated roadway dead end barrier and signage as detailed in the "UPR_SS_RFC Plans v.1_Site Plan Sheet C.2.01"*.

The EM site is constrained, it is in the RMP corridor with overhead high voltage power lines, and by the presence of the buried lines owned by Kern River Gas. Care must be taken to understand the limitations of the means and methods when constructing the Project, and not interfering, impacting, or interacting with those facilities. The selected Contractor will be required to obtain an encroachment permit from RMP. All work must be coordinated with RMP and Kern River Gas. Additionally, the selected Contractor will need to coordinate with Dominion Energy to relocate a gas line. Construction of the EM bus stops will require MOT on Pony Express and permit approvals from EM City. The Phase I SS portion of the work is on Pony Express Parkway and at the intersection of Seaside St. Construction will require MOT and permit approvals from SS City.

Phase II - Saratoga Springs (SS) (Pony Express Parkway & Seaside St) is not being awarded at this time, and no Phase II work is currently authorized. It is under review by the Army Corp. of Engineers for the jurisdictional wetland determination requirements and must be protected as detailed in the contract plans and documents. Once all regulatory prerequisites have been satisfied and a fair and reasonable price has been negotiated, Phase II may be added via Change Order, subject to UTA Board approval.

Phase II - Saratoga Springs (SS) (Pony Express Parkway & Seaside St): A paved park-and-ride lot with 54 parking stalls, a detention pond, an access road connecting to Seaside St., *UTA monument signage with lighting and a platform*, lighting, and associated xeriscaping and landscaping. The selected Contractor will be required to obtain a permit from SS and Utah County (Landowner). The selected Contractor will need to provide fill for the site, stabilization monitoring, and install the remaining infrastructure for the designed drainage.

Anticipated Project stakeholders include UTA, SS City, EM City, Mountainland Association of Governments (MAG), Utah County, Timpanogos Special Service District (TSSD), Rocky Mountain Power (RMP), Kearn River Gas Transmission Company (KRGTC), Dominion Energy/Enbridge Gas, and the Utah Department of Transportation (UDOT).

EAGLE MOUNTAIN PARK & RIDE LOT SCHEDULE

ID	Name	Type	Plan... Dura...	Start	Finish	Total Float
P25RP043 - UTA...	UTA Park & Ride Utah County		203d	04-Aug-25...	13-May-2...	0d
WBS1 - Eagle M...	Eagle Mountain		66d	04-Aug-25...	03-Nov-2...	137d
WBS61 - EM ...	EM Milestones		66d	04-Aug-25...	03-Nov-2...	137d
A1020	Project Finish	Finish Milestone	0d		03-Nov-2...	132d
A1010	Project Start	Start Milestone	0d	04-Aug-25...		0d
A1030	Calendar Days	Level of Effort	91d	04-Aug-25...	03-Nov-2...	185d
WBS71 - EM S...	EM Schedule		66d	04-Aug-25...	03-Nov-2...	137d
A1280	Signage	Activity Depe...	2d	06-Oct-25 ...	07-Oct-2...	151d
A1350	Landscaping	Activity Depe...	21d	06-Oct-25 ...	03-Nov-2...	132d
A1310	Pavement Marking & Message Paint	Activity Depe...	1d	03-Oct-25 ...	03-Oct-2...	132d
A1300	Striping Removal	Activity Depe...	1d	02-Oct-25 ...	02-Oct-2...	132d
A1270	HMA	Activity Depe...	2d	30-Sep-25 ...	01-Oct-2...	0d
A1260	Trail Prep	Activity Depe...	1d	29-Sep-25 ...	29-Sep-2...	0d
A1240	Concrete Waterway Prep	Activity Depe...	1d	26-Sep-25 ...	26-Sep-2...	0d
A1210	UTBC	Activity Depe...	3d	23-Sep-25 ...	25-Sep-2...	0d
A1340	Pour Sidewalk & Conc. Pavement & ...	Activity Depe...	14d	13-Sep-25 ...	26-Sep-2...	223d
A1250	Sidewalk & Conc. Pavement Prep	Activity Depe...	2d	11-Sep-25 ...	12-Sep-2...	157d
A1230	12" Type S and 6" Curb Wall Prep	Activity Depe...	2d	09-Sep-25 ...	10-Sep-2...	157d
A1330	Pour Concrete Curb & Cure	Activity Depe...	14d	09-Sep-25 ...	22-Sep-2...	0d
A1320	Street Lighting & Site Lighting	Activity Depe...	14d	09-Sep-25 ...	26-Sep-2...	158d
A1360	HAWK System	Activity Depe...	14d	09-Sep-25 ...	26-Sep-2...	158d
A1220	Curb & Gutter Prep/Ribbon Curb Prep	Activity Depe...	5d	02-Sep-25 ...	08-Sep-2...	0d
A1200	Granular Borrow	Activity Depe...	2d	28-Aug-25...	29-Aug-2...	0d
A1190	Finish Subgrade	Activity Depe...	2d	26-Aug-25...	27-Aug-2...	0d
A1180	Remove Concrete Curb & Gutter	Activity Depe...	1d	25-Aug-25...	25-Aug-2...	0d
A1170	Site & Roadway Ex	Activity Depe...	9d	12-Aug-25...	22-Aug-2...	0d
A1160	Clear & Grub	Activity Depe...	3d	07-Aug-25...	11-Aug-2...	0d
A1150	Traffic Control Set Up	Activity Depe...	1d	06-Aug-25...	06-Aug-2...	0d
A1140	Mobilization & Survey Control	Activity Depe...	2d	04-Aug-25...	05-Aug-2...	0d

SARATOGA SPRINGS (PHASE I) SCHEDULE

ID	Name	Type	Plan... Dura...	Start	Finish	Total Float
WBS11 - Sarato...	Saratoga Springs		160d	02-Oct-25 ...	13-May-2...	0d
WBS81 - SS M...	SS Milestones		160d	02-Oct-25 ...	13-May-2...	0d
A1120	Project Finish	Finish Milestone	0d		13-May-2...	0d
A1070	Project Start	Start Milestone	0d	02-Oct-25 ...		0d
A1130	Calendar Days	Level of Effort	218d	02-Oct-25 ...	13-May-2...	0d
WBS91 - SS Sc...	SS Schedule		160d	02-Oct-25 ...	13-May-2...	0d
A1600	Landscape Restoration	Activity Depe...	5d	07-May-26...	13-May-2...	0d
A1590	Raise Utilities to Grade	Activity Depe...	5d	30-Apr-26 ...	06-May-2...	0d
A1560	Traffic Signage	Activity Depe...	2d	28-Apr-26 ...	29-Apr-2...	0d
A1570	Concrete Barrier	Activity Depe...	2d	24-Apr-26 ...	27-Apr-2...	0d
A1550	Pavement Marking & Message Paint	Activity Depe...	3d	21-Apr-26 ...	23-Apr-2...	0d
A1540	Remove Pavement Marking Paint	Activity Depe...	1d	20-Apr-26 ...	20-Apr-2...	0d
A1500	HMA/HMHMA	Activity Depe...	3d	15-Apr-26 ...	17-Apr-2...	0d
A1490	Pour & Cure Sidewalk & Bus Pad	Activity Depe...	14d	14-Apr-26 ...	27-Apr-2...	15d
A1470	Sidewalk & Bus Stop Pad Prep	Activity Depe...	3d	09-Apr-26 ...	13-Apr-2...	11d
A1480	UTBC	Activity Depe...	4d	09-Apr-26 ...	14-Apr-2...	0d
A1460	Curb & Gutter Pour & Cure	Activity Depe...	14d	26-Mar-26...	08-Apr-2...	0d
A1620	Winter Shutdown	Activity Depe...	75d	11-Dec-25 ...	25-Mar-2...	0d
A1580	Streetlight w/ Power Connection	Activity Depe...	2d	09-Dec-25 ...	10-Dec-2...	0d
A1610	Street Signal	Activity Depe...	21d	06-Nov-25...	08-Dec-2...	0d
A1440	Install Geotextile & Granular Borrow	Activity Depe...	9d	24-Oct-25 ...	05-Nov-2...	0d
A1450	Finish Subgrade	Activity Depe...	1d	23-Oct-25 ...	23-Oct-2...	0d
A1430	SD Inlet Box	Activity Depe...	1d	22-Oct-25 ...	22-Oct-2...	0d
A1420	15" RCP	Activity Depe...	1d	21-Oct-25 ...	21-Oct-2...	0d
A1390	Site & Roadway Ex	Activity Depe...	6d	13-Oct-25 ...	20-Oct-2...	0d
A1410	Remove Curb & Gutter	Activity Depe...	1d	10-Oct-25 ...	10-Oct-2...	0d
A1400	Sawcut & Remove Conc./Asphalt	Activity Depe...	2d	08-Oct-25 ...	09-Oct-2...	0d
A1380	Clear & Grub	Activity Depe...	1d	07-Oct-25 ...	07-Oct-2...	0d
A1370	Traffic Control Set Up	Activity Depe...	1d	06-Oct-25 ...	06-Oct-2...	0d
A1110	Mobilization & Survey Control	Activity Depe...	2d	02-Oct-25 ...	03-Oct-2...	0d

(PHASE I) COSTS ONLY**EXHIBIT B****Not to Exceed (NTE) \$2,463,007.50**

BID SCHEDULE					
Eagle Mountain Site Base Bid					
No.	Description	Unit	Qty	Unit Price	Total
E1	Mobilization	LS	1.00	\$145,000.00	\$145,000.00
E2	Traffic Control	LS	1.00	\$31,000.00	\$31,000.00
E3	Erosion Control / SWPPP	LS	1.00	\$18,000.00	\$18,000.00
E4	Survey	LS	1.00	\$17,000.00	\$17,000.00
E5	Clear and Grub	SF	61,880.00	\$0.30	\$18,564.00
E6	Site and Roadway Excavation — Plan Quantity	CY	2,900.00	\$34.00	\$98,600.00
E7	Sawcut & Remove Asphalt Pavement	SF	2,900.00	\$1.50	\$4,350.00
E8	Sawcut & Remove Concrete Sidewalk	SF	250.00	\$7.00	\$1,750.00
E9	Remove Curb & Gutter	LF	615.00	\$8.00	\$4,920.00
E10	Remove Pavement Marking Paint	LF	120.00	\$9.00	\$1,080.00
E11	Hot Mix Asphalt (HMA)	T	670.00	\$110.00	\$73,700.00
E12	Untreated Base Course (UTBC) — Plan Quantity	CY	680.00	\$62.00	\$42,160.00
E13	Granular Borrow — Plan Quantity	CY	620.00	\$57.00	\$35,340.00
E14	Concrete Pavement (6 Inch)	SF	4,560.00	\$13.60	\$62,016.00
E15	Concrete Sidewalk (5 Inch)	SF	2,980.00	\$11.00	\$32,780.00
E16	Concrete Pedestrian Bus Stop Pad (6 Inch)	SF	550.00	\$19.00	\$10,450.00
E17	Truncated Dome	EA	7.00	\$600.00	\$4,200.00
E18	24" Curb and Gutter (Type E)	LF	910.00	\$47.00	\$42,770.00
E19	24" Fallout Curb and Gutter (Modified Type E)	LF	520.00	\$47.00	\$24,440.00
E20	12" Concrete Ribbon	LF	1,080.00	\$46.00	\$49,680.00
E21	12" Curb (Modified Type S)	LF	45.00	\$110.00	\$4,950.00
E22	6" Curb Wall (Type P)	LF	130.00	\$63.00	\$8,190.00
E23	Concrete Waterway (4' Wide)	LF	60.00	\$102.00	\$6,120.00
E24	Pavement Striping	GAL	12.00	\$350.00	\$4,200.00

E25	Pavement Message	EA	17.00	\$290.00	\$4,930.00
E26	Traffic Sign	EA	6.00	\$1,400.00	\$8,400.00
E27	Tree Removal	EA	5.00	\$700.00	\$3,500.00
E28	Topsoil	CY	150.00	\$60.00	\$9,000.00
E29	Turf Sod	SF	2,110.00	\$1.25	\$2,637.50
E30	Weed Barrier	SF	42,140.00	\$0.40	\$16,856.00
E31	Landscape Rock	T	1,400.00	\$75.00	\$105,000.00
E32	Concrete Mowcurb	LF	2,750.00	\$14.00	\$38,500.00
E33	3'-5' Landscape Boulder	EA	91.00	\$105.00	\$9,555.00
E34	6'-7' Evergreen Tree	EA	19.00	\$650.00	\$12,350.00
E35	2" Caliper Deciduous Tree	EA	23.00	\$550.00	\$12,650.00
E36	5 Gallon Shrub	EA	325.00	\$100.00	\$32,500.00
E37	1 Gallon Shrub	EA	502.00	\$36.00	\$18,072.00
E38	Native Seed with HECP	SF	2,830.00	\$0.50	\$1,415.00
E39	Irrigation	SF	17,500.00	\$1.80	\$31,500.00
E40	Street Light Relocation & Site Lighting with Power Connection	LS	1.00	\$165,000.00	\$165,000.00
E41	HAWK Signal System	LS	1.00	\$105,000.00	\$105,000.00
E42	UTA Monument Sign, Foundation & Conduit	EA	1.00	\$5,500.00	\$5,500.00
EM Site Base Bid Total					\$1,323,625.50

BID SCHEDULE					
Saratoga Springs Bus Stops & Road Widening Site Base Bid					
No.	Description	Unit	Qty	Unit Price	Total
S1	Mobilization	LS	1.00	\$115,000.00	\$115,000.00
S2	Traffic Control	LS	1.00	\$30,000.00	\$30,000.00
S3	Erosion Control / SWPPP	LS	1.00	\$18,000.00	\$18,000.00
S4	Survey	LS	1.00	\$21,000.00	\$21,000.00
S5	Clear and Grub	SF	5,200.00	\$0.50	\$2,600.00
S6	Roadway Excavation — Plan Quantity	CY	2,260.00	\$35.00	\$79,100.00
S7	Sawcut & Remove Asphalt Pavement	SF	1,740.00	\$3.00	\$5,220.00
S8	Sawcut & Remove Concrete Sidewalk	SF	970.00	\$3.00	\$2,910.00
S9	Remove Curb & Gutter	LF	245.00	\$9.00	\$2,205.00

S10	Remove Pavement Marking Paint	LF	1,930.00	\$1.25	\$2,412.50
S11	Hot Mix Asphalt (HMA)	T	1,630.00	\$100.00	\$163,000.00
S12	High Mod Hot Mix Asphalt (HM-HMA)	T	140.00	\$125.00	\$17,500.00
S13	UntreatedBaseCourse(UTBC)— PIanQuantity	CY	1,180.00	\$53.00	\$62,540.00
S14	Granular Borrow — Plan Quantity	CY	2,060.00	\$60.00	\$123,600.00
S15	Geotextile	SF	58,470.00	\$0.35	\$20,464.50
S16	Concrete Sidewalk (5 Inch)	SF	4,670.00	\$12.00	\$56,040.00
S17	Concrete Pedestrian Bus Stop Pad (6 Inch)	SF	540.00	\$19.00	\$10,260.00
S18	Truncated Dome	EA	1.00	\$600.00	\$600.00
S19	30" Curb and Gutter (Type A)	LF	1,080.00	\$47.00	\$50,760.00
S20	Pavement Striping	GAL	10.00	\$1,200.00	\$12,000.00
S21	Pavement Message	EA	22.00	\$300.00	\$6,600.00
S22	Traffic Sign	EA	7.00	\$650.00	\$4,550.00
S23	Traffic Sign Attached to Concrete Barrier	EA	4.00	\$650.00	\$2,600.00
S24	Concrete Barrier with Reflective Tape (10' Long)	EA	12.00	\$2,400.00	\$28,800.00
S25	15" RCP	LF	18.00	\$440.00	\$7,920.00
S26	Storm Drain Inlet Box	EA	1.00	\$6,000.00	\$6,000.00
S27	Modify Existing Drainage Structure	LS	1.00	\$2,600.00	\$2,600.00
S28	Raise Sewer Lid to Grade	EA	4.00	\$1,500.00	\$6,000.00
S29	Raise Sewer/Storm Lid to Grade with Concrete Collar	EA	8.00	\$1,500.00	\$12,000.00
S30	Restore Landscaping	LS	1.00	\$11,000.00	\$11,000.00
S31	Streetlight with Power Connection	LS	1.00	\$70,000.00	\$70,000.00
S32	Pony Express / Seaside Street Signalization	LS	1.00	\$145,000.00	\$145,000.00
S33	Type III Marker w/Sign	EA	8.00	\$1,250.00	\$10,000.00
S34	Jersey Barrier	EA	8.00	\$3,200.00	\$25,600.00
S35	UTA Monument Sign, Foundation & Conduit	EA	1.00	\$5,500.00	\$5,500.00
SS Site Base Bid Total					\$1,139,382.00

	TOTAL CONTRACT NTE	\$2,463,007.50
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EXHIBIT C

Federal Clauses

ACCESS TO RECORDS AND REPORTS

1. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, leases, subcontracts, arrangements, other third party Contracts of any type, and supporting materials related to those records. (a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

2. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.334. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

3. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information, including such records and information the contractor or its subcontractors may regard as confidential or proprietary, related to performance of this contract in accordance with 2 CFR § 200.337.

4. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract in accordance with 2 CFR § 200.337.

AMERICANS WITH DISABILITIES ACT(ADA)

The contractor agrees to comply with all applicable requirements of section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of handicaps, with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments to that Act, and with the Architectural Barriers act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to persons with disabilities, including any subsequent amendments to that Act. In addition, the contractor agrees to comply with any and all applicable requirements issued by the FTA, DOT, DOJ, U.S. GSA, U.S. EEOC, U.S. FCC, any subsequent amendments thereto and any other nondiscrimination statute(s) that may apply to the Project.

BUY AMERICA REQUIREMENTS

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661 and 2 CFR § 200.322 Domestic preferences for procurements, which provide that Federal funds may not be obligated unless all 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 C.F.R. § 661.7.

Build America, Buy America Act. Construction materials used in the Project are subject to the domestic preference requirement of the Build America, Buy America Act, Pub. L. 11758, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget’s “Buy America Preferences for Infrastructure Projects,” 2 CFR Part 184. The Recipient acknowledges that this agreement is neither a waiver of § 70914(a) nor a finding under § 70914(b). In accordance with 2 CFR § 184.2(a), the Recipient shall apply the standards of 49 CFR Part 661 to iron, steel, and manufactured products. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C), 49 U.S.C. § 5323(u) and 49 C.F.R. § 661.11. Domestic preferences for procurements The bidder or offeror must submit to the Agency the appropriate Buy America certification. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive. For more information please see the FTA’s Buy America webpage at: <https://www.transit.dot.gov/buyamerica>

CARGO PREFERENCE REQUIREMENTS

The contractor agrees:

- a. to use privately owned United States Flag commercial vessels to ship at least 50 percent of any equipment, materials or commodities procured, contracted for or otherwise obtained with funds granted, guaranteed, loaned, or advanced by the U.S. Government under this agreement, and which may be transported by ocean vessel, shall be transported on privately owned United States flag commercial vessels, if available. 46 U.S.C. § 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S. Flag Vessels,” 46 CFR Part 381.
- b. to furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, ‘onboard’ commercial ocean bill of lading in English for each shipment of cargo described in 46 CFR § 381.7(a)(1) shall be furnished to both the recipient (through the prime contractor in the case of subcontractor bill of lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590; and
- c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

CIVIL RIGHTS LAWS AND REGULATIONS

The following Federal Civil Rights laws and regulations apply to all contracts. The Contractor and any subcontractor agree to comply with all the requirements prohibiting discrimination on the basis of race, color, or national origin of the Title VI of the Civil Rights Action of 1964, as amended 52 U.S.C 2000d, and U.S. DOT regulation “Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of the Title VI of the Civil rights Act, “49 C.F. R. Part 21 and any

implementing requirement FTA may issue.

1 Federal Equal Employment Opportunity (EEO) Requirements. These include, but are not limited to: a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity. b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, “Equal Employment Opportunity,” September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.

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

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

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

Civil Rights and Equal Opportunity

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

1. Nondiscrimination. In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

2. Race, Color, Religion, National Origin, Sex. In accordance with Title VII of the Civil Rights Act, as

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

3. Age. In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any Implementing requirements FTA may issue.

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

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

CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

The Contractor agrees to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 74017671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 12511387). Violations must be reported to FTA and the Regional Office of the Environmental Protection Agency. The following applies for contracts of amounts in excess of \$150,000: Clean Air Act (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq. (2) The contractor agrees to report each violation to the Agency and understands and agrees that the Agency will, in turn, report each violation as required to assure notification to the Agency, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office. (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal

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

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

Compliance with the Contract Work Hours and Safety Standards Act.

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

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

(3) Withholding for unpaid wages and liquidated damages. The agency shall upon its own action or

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

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

DAVIS BACON ACT AND COPELAND ANTIKICKBACK ACT

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis Bacon Act and the Copeland "AntiKickback" Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis Bacon Act, 40 U.S.C. §§ 31413144, and 31463148 as supplemented by DOL regulations at 29 C.F.R. part 5, "Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction." In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland "AntiKickback" Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States." The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

DEBARMENT AND SUSPENSION

Debarment and Suspension (Executive Orders 12549 and 12689). A covered transaction (see 2 C.F.R. §§ 180.220 and 1200.220) must not be entered into with any party listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. 180 that implement Executive Orders 12549 (31 U.S.C. § 6101 note, 51 Fed. Reg. 6370,) and 12689 (31 U.S.C. § 6101 note, 54 Fed. Reg. 34131), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. The Recipient agrees to include, and require each Third Party Participant to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: (1) Complies with federal debarment and suspension requirements; and (2) Reviews the SAM at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 CFR Part 1200.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

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

It is the policy of the Agency and the United States Department of Transportation ("DOT") that Disadvantaged Business Enterprises ("DBE's"), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in Dot assisted contracts. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of Dot assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the Agency deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as nonresponsible. 49 C.F.R. § 26.13(b). Prime contractors are required to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the Agency makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, the contractor shall utilize the specific DBEs listed unless the contractor obtains the Agency's written consent; and that, unless the Agency's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

ENERGY CONSERVATION

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

EQUAL EMPLOYMENT OPPORTUNITY

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

- (4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

FLY AMERICA

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

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

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

d) In the event that the Contractor selects a carrier other than a U.S. flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows: Statement of Unavailability of U.S. Flag Air Carriers International air transportation of persons (and their personal effects) or property by U.S. flag air carrier was not available or it was necessary to use foreign flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]: e) Contractor shall include the substance of this clause, including this paragraph

(e), in each subcontract or purchase under this contract that may involve international air transportation.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

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

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

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

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

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

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

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT.

a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to: 1) Procure or obtain covered telecommunications equipment or services; 2) Extend or renew a contract to procure or obtain covered telecommunications equipment or services; or 3) Enter into a contract (or extend or renew a contract) to procure or obtain covered telecommunications equipment or services.

(b) As described in section 889 of Public Law 115232, "covered telecommunications equipment or services" means any of the following: (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities); (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities); (3) Telecommunications or video surveillance services provided by such entities or using such equipment; (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country;

(c) For the purposes of this section, "covered telecommunications equipment or services" also include systems that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(d) In implementing the prohibition under section 889 of Public Law 115232, heads of executive

agencies administering loan, grant, or subsidy programs must prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered telecommunications equipment or services, to procure replacement equipment or services, and to ensure that communications service to users and customers is sustained.

(e) When the recipient or subrecipient accepts a loan or grant, it is certifying that it will comply with the prohibition on covered telecommunications equipment and services in this section. The recipient or subrecipient is not required to certify that funds will not be expended on covered telecommunications equipment or services beyond the certification provided upon accepting the loan or grant and those provided upon submitting payment requests and financial reports.

(f) For additional information, see section 889 of Public Law 115232 and 200.471.

PROMPT PAYMENT

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

The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work. In addition, the contractor is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed. The contractor must promptly notify the Agency, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of the Agency.

RESTRICTIONS ON LOBBYING

Conditions on use of funds.

(a) No appropriated funds may be expended by the recipient of a Federal contract, grant, loan, or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(b) Each person who requests or receives from an agency a Federal contract, grant, loan, or cooperative agreement shall file with that agency a certification, that the person has not made, and will not make, any payment prohibited by paragraph (a) of this section.

(c) Each person who requests or receives from an agency a Federal contract, grant, loan, or a cooperative agreement shall file with that agency a disclosure form if such person has made or has agreed to make any payment using nonappropriated funds (to include profits from any covered Federal action), which would be prohibited under paragraph (a) of this section if paid for with appropriated funds.

(d) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a statement, whether that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

(e) Each person who requests or receives from an agency a commitment providing for the United States to insure or guarantee a loan shall file with that agency a disclosure form if that person has made or has agreed to make any payment to influence or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with that loan insurance or guarantee.

Certification and disclosure.

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

(b) Each person shall file a certification, and a disclosure form, if required, upon receipt by such person of: (1) A Federal contract, grant, or cooperative agreement exceeding \$100,000; or (2) A Federal loan or a commitment providing for the United States to insure or guarantee a loan exceeding \$150,000, Unless such person previously filed a certification, and a disclosure form, if required, under paragraph (a) of this section.

(c) Each person shall file a disclosure form at the end of each calendar quarter in which there occurs any event that requires disclosure or that materially affects the accuracy of the information contained in any disclosure form previously filed by such person under paragraphs (a) or (b) of this section. An event that materially affects the accuracy of the information reported includes: (1) A cumulative increase of \$25,000 or more in the amount paid or expected to be paid for influencing or attempting to influence a covered Federal action; or (2) A change in the person(s) or individual(s) influencing or attempting to influence a covered Federal action; or, (3) A change in the officer(s), employee(s), or Member(s) contacted to influence or attempt to influence a covered Federal action.

(d) Any person who requests or receives from a person referred to in paragraphs (a) or (b) of this section: (1) A subcontract exceeding \$100,000 at any tier under a Federal contract; (2) A subgrant, contract, or subcontract exceeding \$100,000 at any tier under a Federal grant; (3) A contract or subcontract exceeding \$100,000 at any tier under a Federal loan exceeding \$150,000; or, (4) A contract or subcontract exceeding \$100,000 at any tier under a Federal cooperative agreement, Shall file a certification, and a disclosure form, if required, to the next tier above.

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

(f) Any certification or disclosure form filed under paragraph (e) of this section shall be treated as a material representation of fact upon which all receiving tiers shall rely. All liability arising from an erroneous representation shall be borne solely by the tier filing that representation and shall not be

shared by any tier to which the erroneous representation is forwarded. Submitting an erroneous certification or disclosure constitutes a failure to file the required certification or disclosure, respectively. If a person fails to file a required certification or disclosure, the United States may pursue all available remedies, including those authorized by section 1352, title 31, U.S. Code.

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

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

SAFE OPERATION OF MOTOR VEHICLES

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

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

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 (DOT) Seismic Safety Regulations 49 C.F.R. 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.

SIMPLIFIED ACQUISITION THRESHOLD

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

SOLID WASTES (RECOVERED MATERIALS)

(a) A Recipient or subrecipient that is a State agency or agency of a political subdivision of a State and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended, 42 U.S.C. 6962. The requirements of Section 6002 include procuring only items designated in the guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

(b) The recipient or subrecipient should, to the greatest extent practicable and consistent with law, purchase, acquire, or use products and services that can be reused, refurbished, or recycled; contain recycled content, are biobased, or are energy and water efficient; and are sustainable. This may include purchasing compostable items and other products and services that reduce the use of single use plastic products. See Executive Order 14057, section 101, Policy.

SPECIAL DOL EEO CLAUSE FOR CONSTRUCTION PROJECTS

The applicant hereby agrees that it will incorporate or cause to be incorporated into any contract for construction work, or modification thereof, as defined in the regulations of the Secretary of Labor at 41 CFR Chapter 60, which is paid for in whole or in part with funds obtained from the Federal Government or borrowed on the credit of the Federal Government pursuant to a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, the following equal opportunity clause:

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

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation

information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

The applicant further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the applicant so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract. The applicant agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise

assist the administering agency in the discharge of the agency's primary responsibility for securing compliance. The applicant further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the applicant agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

TERMINATION

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

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

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

Opportunity to Cure (General Provision)

The Agency, in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the Notice of Termination will state the time period in which cure is permitted and other appropriate conditions. If Contractor fails to remedy to Agency's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from Agency setting forth the nature of said breach or default, Agency shall have the right to terminate the contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude Agency from also pursuing all available remedies against Contractor and its sureties.

for said breach or default.

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

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

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

Termination for Default (Transportation Services) If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, the Agency may terminate this contract for default. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract. If this contract is terminated while the Contractor has possession of Agency goods, the Contractor shall, upon direction of the Agency, protect and preserve the goods until surrendered to the Agency or its agent. The Contractor and Agency shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Agency.

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

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

Termination for Convenience or Default (Architect and Engineering)

The Agency may terminate this contract in whole or in part, for the Agency's convenience or because of the failure of the Contractor to fulfill the contract obligations. The Agency shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall

(1) immediately discontinue all services affected (unless the notice directs otherwise), and

(2) deliver to the Agency's Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. Agency has a royalty free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials. If the termination is for the convenience of the Agency, the Agency's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If the termination is for failure of the Contractor to fulfill the contract obligations, the Agency may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Agency. If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Agency

Termination for Convenience or Default (Cost Type Contracts)

The Agency may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of Agency or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the Agency, or property supplied to the Contractor by the Agency.

If the termination is for default, the Agency may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the Agency and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of Agency, the Contractor shall be paid its contract closeout costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination. If, after serving a Notice of Termination for Default, the Agency determines that the Contractor has an excusable reason for not performing, the Agency, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

VETERANS HIRING PREFERENCE

Veterans Employment Construction contracts of Federal financial assistance shall ensure that contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

VIOLATION AND BREACH OF CONTRACT

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

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

Claims for Damages: Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage. Remedies: Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the agencies authorized representative and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the Agency is located. Rights and Remedies: Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the Agency or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

CONFORMANCE WITH ITS NATIONAL ARCHITECTURE

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

FEDERAL TAX LIABILITY AND RECENT FELONY CONVICTIONS

(1) The contractor certifies that it: (a) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and (b) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months. If the contractor cannot so certify, the Recipient will refer the matter to FTA and not enter into any Third Party Agreement with the Third Party Participant without FTA's written approval. 78

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

SEVERABILITY

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

TRAFFICKING IN PERSONS

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

- (a) Engage in severe forms of trafficking in persons during the period of time that the Recipient's Award is in effect;
- (b) Procure a commercial sex act during the period of time that the Recipient's Award is in effect; or
- (c) Use forced labor in the performance of the Recipient's Award or subagreements thereunder. 79