

RFP No. 20-03378VW

DESIGN-BUILD AGREEMENT

**STATE OF GOOD REPAIR TRACTION POWER
SUBSTATION (TPSS) REHABILITATION PROJECT**



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

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DESIGN-BUILD AGREEMENT
(State of Good Repair Traction Power Substation (TPSS) Rehabilitation)

This Design-Build Agreement (State of Good Repair TPSS Rehabilitation) (“**Agreement**”) is between the Utah Transit Authority, a public transit district organized under the laws of the State of Utah (“**UTA**”), and C3M Power Systems, LLC, a limited liability company.

RECITALS

- A. UTA is engaged in a project to design and rehabilitate its Power Substations (the “**Project**”).
- B. On November 23,2020, UTA issued Request for Proposals No. 20-03378VW (the “**RFP**”), and requested that interested firms submit proposals to perform the work required by the Project.
- C. UTA evaluated the proposals and determined that C3M Power Systems, LLC’s proposal provided the best value to UTA.
- D. UTA and C3M Power Systems, LLC (the “**Design-Builder**” or “**Contractor**”) desire to enter into this Agreement to define their respective roles and responsibilities with respect to the Project.

AGREEMENT

Therefore, the parties agree as follows:

1. Scope of Work. Design-Builder shall perform the Work. In the Contract Documents, “**Work**” means all design, construction, and other services required by the Contract Documents, including procuring and furnishing all material, equipment, services and labor reasonably inferable from the Contract Documents as necessary to complete the Project. The Statement of Work including UTA furnished designs, drawings and specifications are contained at Exhibit A. This contract contains a base work package and potential option work packages, each of which may be exercised in the sole discretion of UTA at any time during the contract term and in no particular order. Option 3 work package is being exercised concurrently with execution of the base work package. UTA reserves the right to exercise Options 1 and 2 at a later time. Pricing for options 1 and 2 will be negotiated at the time options are exercised.

2. Schedule. (a) Design-Builder shall commence the Work within seven (7) days of Design-Builder’s receipt of a Notice to Proceed from UTA. UTA is not required to issue a NTP until all insurance, bonding, and other required documentation is submitted and deemed acceptable by UTA.

(b) UTA may issue a limited Notice to Proceed (“**NTP**”) on a portion of the Work, and may issue a series of limited NTPs to provide for progression of the Work in phases. Issuance of a limited NTP will not be deemed to require UTA to issue any subsequent NTPs, and will not be

deemed to obligate UTA to complete the Project or to pay Design-Builder for any portion of the Work not encompassed by an NTP issued by UTA.

(c) The Design-Builder shall achieve Substantial Completion of the entire Work no later than February 28, 2025 (the “Substantial Completion Date”). In the Contract Documents, “Substantial Completion” means that the Work is sufficiently complete in accordance with the Contract Documents so that UTA can use the Project for its intended purposes.

(d) The Design-Builder shall achieve Final Completion of the Work as expeditiously as reasonably practicable, but in no event later than 90 days after the Substantial Completion Date. In this Agreement, “Final Completion” means the date when all Work is complete in accordance with the Contract Documents, including but not limited to, final completion of all punch list items and delivery of all documents in accordance with the Standard terms and conditions.

(e) Time is of the essence with respect to the dates set forth in this section.

(f) Design-Builder acknowledges that if Substantial Completion is not attained by the Substantial Completion Date, UTA will suffer damages that are difficult to measure and determine with precision. If Substantial Completion is not attained by the Substantial Completion date, Design-Builder shall pay UTA \$5,000.00 as liquidated damages for each day that Substantial Completion extends beyond the Substantial Completion Date.

3. Price and Payment. (a) As full compensation for completing the Work in accordance with the Contract Documents, UTA shall pay to the Design-Builder the lump sum price of \$38,077,408.00 (the “Contract Price”). This price includes the scope of work for the base contract and Option No. 3. Pricing details and payment provisions are contained in Exhibit B and in Exhibit C Article 4.

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

- (1) All written amendments and Change Orders to this Agreement executed in accordance with Article 7 of the Standard terms and conditions;
- (2) This Agreement, including its exhibits, and specifically including the UTA provided design specifications contained in Exhibit A, the UTA Design and Construction Standard terms and conditions and Conditions contained at Exhibit C and required Federal Clauses at Exhibit D.
- (3) Design-Builder’s Proposal in response to the RFP;
- (4) The RFP, specifically including but not limited to the Technical and Performance Requirements included in Appendix I to the RFP and including the UTA Construction Safety and Security Program Manual, UTA’s Design Quality Plan, UTA’s Construction Quality Control Plan, and UTA’s Quality Management Plan.

(b) The parties intend that the Contract Documents include and provide for all aspects of the Work that are necessary for the proper initiation, performance, and substantial completion of the Work by the Design-Builder, prior to the Substantial Completion Date, and for the Contract Price. The parties intend that the Contract Documents be interpreted in harmony so as to avoid conflict,

with words and phrases interpreted in a manner consistent with construction and design industry standards.

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

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

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

5. Order of Precedence. The order of precedence for this Contract shall be as follows:

- 1) This contract including all exhibits, amendments, terms and conditions and other documents incorporated by reference.
- 2) The RFP including all exhibits and amendments, terms and conditions.
- 3) The Contractor’s Proposal

6. Representatives of the Parties.

(a) UTA designates Jared Scarborough as its Project Manager, and Eddy Cummins its Senior Representative. UTA’s Contract Administrator for this Agreement is Vicki Woodward. Questions or correspondence regarding the contractual aspects of this Agreement should be directed to Ms. Woodward, at the address set forth in section 8. UTA’s Project Manager, Senior Representative, and Contract Administrator are referred to collectively as the “UTA Representatives.”

(b) Design-Builder designates Salvador Benitez as its Project Manager, and Chuck Tomasco, Jr., as its Senior Representative (collectively, the “Design-Builder Representatives”).

7. Key Personnel. (a) Design-Builder shall ensure that the following Key Personnel remain assigned to the Project until Final Completion:

- | | |
|---------------------------|-----------------------|
| (1) Project Manager: | Salvador Benitez, C3M |
| (2) Construction Manager: | Mark Wade, Wasatch |
| (3) Design Manager: | Ja-Mie Luey, STV |

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

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

8. Bonds and Insurance. Design-Builder shall obtain and maintain the insurance coverages set forth in Exhibit D, and comply with the obligations set forth in Exhibit B. The Design-Builder shall provide to UTA a performance bond and a payment bond (the "Bonds") issued by a surety doing business in Salt Lake County, Utah, and listed in the then current US Department of the Treasury's Circular 570. The Bonds must each be in an amount equal to 100% of Contract Price. Design-Builder shall provide the Bonds to UTA prior to commencing any Work.

9. Value Engineering. (a) A Value Engineering Change Proposal ("VECP") is a proposal developed, prepared, and submitted to UTA by the Design-Builder, 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 Design-Builder to submit VECPs whenever it identifies potential savings or improvements. UTA may also request the Design-Builder to develop and submit a specific VECP. However, the Designer is expected to design the most innovative and effective solution for this project outside of this VECP clause and the Contractor should not expect to share in VECP savings for suggested improvements to its own design produced under this Contract.

(b) In determining whether a VECP will impair essential functions or characteristics of the Project, UTA may consider: relative service life, maintenance effort and frequency, environmental and aesthetic impacts, system service, effect of other system components, and other issues as UTA deems relevant.

(c) Design-Builder must include the following information in any VECP:

- (1) a narrative description of the proposed change,
- (2) a discussion of differences between existing requirements and the proposed change, together with advantages and disadvantages of each changed item;
- (3) a complete cost analysis, including the cost estimate of any additional ROW or easements required for implementation of the VECP;
- (4) justification for changes in function or characteristics of each item and effect of the change on the performance on the end item;
- (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 Design-Builder shall indicate the date, contract number, and the action taken by UTA; and

(6) costs of development and implementation.

(7) any additional information requested by UTA, which must be provided in a timely manner.

(d) Upon receipt of a VECP, UTA shall process it expeditiously, but will not be liable for any delay in acting upon any VECP. Design-Builder 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 VECPs.

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

(f) Any savings resulting from an approved VECP will accrue to the benefit of UTA and Design-Builder on a 50/50 cost sharing basis.

(g) All approved or disapproved VECPs will become the property of UTA and must contain no restrictions imposed by Design-Builder 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 VECP on any other projects without any obligation to Design-Builder. This provision is not intended to deny rights provided by law with respect to patented materials or processes.

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

If to the Utah Transit Authority:
Utah Transit Authority
ATTN: Vicki Woodward
669 West 200 South
Salt Lake City, UT 84101

With a required copy to:
Utah Transit Authority
ATTN: Jared Scarborough
669 West 200 South
Salt Lake City, UT 84101

If to the Design-Builder:
C3M Power Systems, LLC
1030 Hampton Park
Boulevard, Suite 200
Capitol Heights, MD 20743

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

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

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

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

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

UTAH TRANSIT AUTHORITY

C3M Power Systems, LLC

By:
Carolyn Gonot
Executive Director

Date:

DocuSigned by:
Chuck Tomasco
9EA645C9C321437...
Chuck Tomasco
Senior Vice President
& General Manager

Date: 6/3/2021

By:
Mary DeLoretto
Chief Service Development Officer

Date:

Federal ID Number:

By:
David Hancock
Director, Capital Construction

Date:

Approved as to Legal Form and Content:

DocuSigned by:
Michael Bell
Michael Bell, AAG State of Utah
And Utah Transit Authority Legal Counsel

Date: 6/3/2021

By:
Jared Scarbrough
UTA Project Manger

Date:

EXHIBIT A – SCOPE OF WORK

1.0 SCOPE OF WORK

Final Design

The contractor shall utilize the Preliminary Design and Specifications developed by UTA to finalize and submit the design as required for this project for all TPSS rehabilitation locations.

UTA has not determined whether the Reference As-Built drawings provided in this RFP are accurate, complete, or pertinent or of any value to the Proposers. Any As-Built drawings contained herein will not form part of the contract between UTA and the Design-Builder except as identified in the RFP. Except as may be provided otherwise in the DB Contract, UTA makes no representation, warranty or guarantee as to, and will not be responsible for the accuracy, completeness, or pertinence of the As-Built drawings and in addition, shall not be responsible for any conclusions drawn there from. Whether or not such information may be accurate, complete, or pertinent, or of any value shall be the sole decision of the Proposer. The Design Builder shall make itself aware of existing site conditions and shall conduct a review of all existing As-Built plans.

The Contractor shall provide all submittals, transmittals, RFI's, Testing and Quality Documentation to UTA utilizing the UTA-owned Integrated Project Controls System (IPCS). Upon contract execution contractors shall identify a team member who will be handling submittals and they will receive training by UTA on IPCS, if needed. Documentation, including Requests for Information (RFIs) shall not be considered formally received by UTA unless it is sent via IPCS. Design drawings shall be submitted to UTA for UTA review in the following manner:

- Intermediate Design (60%)
- Final Design (90%)
- Issued for Construction- IFC (100%)

The contractor shall utilize the Preliminary Specifications as provided by UTA. The contractor shall finalize and submit specifications to UTA for review in the following manner:

- Final Design (90%)
- Issued for Construction- IFC (100%)

Design for this project shall adhere to the UTA Light Rail Design Criteria and UTA CAD Standards, available at <https://www.rideuta.com/Doing-Business/UTA-Design-Information>.

The contractor shall provide signed and stamped engineered (Registered Professional Engineer in the State of Utah) Issued for Construction (IFC) design and final specifications documents for the project, including final As-Built drawings in (pdf and CAD).

This project spans a large portion of the UTA Light Rail System. There will be system-wide drawings that will need to be updated as part of this project that will be in addition to the TPSS locations identified in this RFP. The contractor shall account for updating the system-wide drawings as part of this contact which may include, but not limited to:

- Sectionalization Drawings
- Master Wiring Schematics
- OCS Layout drawings

Contractor shall submit Product Submittal information to UTA via IPCS for UTA review prior to procurement of materials.

Prior to the commencement of work the Contractor shall submit for UTA's approval a Program Management Plan (PMP) & Quality Management Plan (QMP) that describes how Contractor intends to complete the TPSS Rehabilitation Project. The management plan system shall include a configuration management plan and progress and delivery schedules. At a minimum, the Project Management Plan shall include:

- Work procedures.
- Overview of the project schedule
- Overview of TPSS rehabilitation sequence of work
- Implementation plan to minimize impacts of revenue service during rehabilitation
- Site Work Plan that identifies work to be performed including durations and document any disruption to UTA operations and TPSS down time
- Overview of Contractor's TPSS project management approach
- Overview of Contractor's TPSS engineering development approach
- An organization chart identifying managers for all project organization departments
- The methodology to control program schedule and warranty
- A master program schedule, emphasizing key milestones and events
- A critical path schedule, showing criteria path elements for items of design and manufacture that require approval
- A configuration management plan for all Submittals, including contractor's plan to manage configurable components that will be installed as part of this project
- The Program Management Plan shall be developed as a project overview document, suitable for management review

TPSS Rehabilitation and construction scope of work (19 TPSS Locations)

This project will be organized by a Base Scope of Work that will be included in the contract as well as additional Options that may be included in the contract at the sole discretion of UTA. The Base Scope of Work that will be included in this contract is described below as Base Scope of Work A through D. Option 1, Option 2 and Option 3 are likewise described below the Base Scope of Work in this section. The Base Scope of Work shall also include a condition assessment, with necessary testing, to determine a recommendation to UTA as to whether Option 1, Option 2, and Option 3 should be executed.

All the Base Scope of Work categories A, B, C, & D include the following Provision Sum item which will be provided by UTA, and should not be priced separately by the proposer:

- Provisional Sum 2: HVAC & Essential Building Improvement

Provisional Sum 2, HVAC & Essential Building Improvements will be included in the contract price to account for the design and construction of the HVAC improvements and other building improvements that will be implemented as part of this project. Proposers shall plan to perform HVAC system improvements or replacements at all 19 Impulse locations and one (1) Siemens (Atwood) location. Locations that are being modified from a 1.5 MW TPSS to a 2 MW TPSS will need engineering verification from winning team to determine an appropriate HVAC system to accommodate the 2 MW TPSS setup. All other locations that remain as a 1.5 MW TPSS will also need engineering verification from winning team to determine an appropriate HVAC system that will provide the appropriate climate control to each TPSS.

Provisional Sum 2 will also account for any incidental building improvements such as lighting fixtures, light switches, building facades (SRJ14, SRN13, and 900 East (E2) that may require repair or replacement, dielectric flooring replacement, door handles on enclosures, access doors, Emergency Signs, worn or damaged equipment tags, fire extinguishers and other incidental building improvements that may be necessary in conjunction with the Base Scope of Work of this project. This Provisional Sum will account for an assessment to determine which building improvements are needed at each site.

The project consists of the design, procurement, installation, testing and construction services for the provision and installation of the following new substation equipment:

- DC feeder breakers, their associated cubicles, and all their associated components
- Transformer-rectifier units (at select location identified below)
- Exterior DC Disconnect switches and their associated DC Positive feeder cables for connection to the Overhead Catenary System
- Addition of DC Positive feeder cables for connection to the Overhead Catenary System (at select location identified below)

- Complete upgrade of the control, protection, and monitoring system of the substations for successful integration with SCADA
- Provision of one (1) complete portable substation (covered in previous section)
- Essential equipment within the TPSS buildings enclosures

The TPSS rehabilitation will consist in providing the aforementioned equipment, installing them into the existing substation and successfully integrating the new substation configurations into the track electrification system (TES) at the following locations:

TPSS Rehabilitation Locations and Names			Base Scope of Work
TPSS No.	1	SRJ14 - Jordan	D
TPSS No.	2	SNR13 - 9400	A
TPSS No.	3	SRR12 - Rio Grande	C
TPSS No.	4	SRS11 - Sugar Hwy	A
TPSS No.	5	SRP9 - Pallas	A
TPSS No.	6	SRM8 - Murray	C
TPSS No.	7	SRC7 - Central	C
TPSS No.	8	SRW6 - Walton	C
TPSS No.	9	SRH5 - Hustlers	A
TPSS No.	10	SRB4 - Burton	C
TPSS No.	11	SRN3 - 900 S	C
TPSS No.	12	SRT2 - 300 S	D
TPSS No.	13	SRD1 - Delta	D
TPSS No.	14	E1. 200 East	B
TPSS No.	15	E2. 900 East	B
TPSS No.	16	E3. Stadium	B
TPSS No.	17	E4. Fort Douglas	D
TPSS No.	18	E5. Medical Center	B

TPSS No.	19	YRY1 – Midvale Yard	B
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The Contractor shall provide all labor, material, accessories, and incidentals necessary for demolition of the existing TPSS equipment and installation of the new equipment as shown in the preliminary drawings to provide a completely functional TPSS.

DC disconnect switches improvements consist of the replacing the existing pole-mounted disconnect switches with pad-mounted switches (at 11 total locations) and obtaining the disconnect switch status of the existing and/or new pad-mount disconnect switches for the TPSS annunciation and supervisory control system.

The Base Scope of Work is organized into four common groups (A, B, C, D) as described below:

- Base Scope of Work A:
 - Upgrade of the control, protection and monitoring system of the substation
 - Replacement of DC Switchgear
 - Pole-mount to pad-mount disconnect switches replacement
 - Replacement of positive feeder cable
 - Repair and replacement of essential equipment within the TPSS buildings enclosures
 - Condition assessment and testing of the negative feeder cables
 - Base Scope of Work A Applies to the following four (4) locations:
 - Ninety-Four Hundred TPSS (SRN13)
 - Sugar Highway TPSS (SRS11)
 - Pallas Yard TPSS (SRP9)
 - Hustlers TPSS (SRH5)
- Base Scope of Work B:
 - Upgrade of the control, protection and monitoring system of the substation
 - Replacement of DC Switchgear
 - Retrofit of pad-mount disconnect switches
 - Repair and replacement of essential equipment within the TPSS buildings enclosures
 - Condition assessment and testing of the positive and negative feeder cables
 - Base Scope of Work B Applies to the following five (5) locations:
 - 200 East TPSS (E1)
 - 900 East TPSS (E2)
 - Stadium TPSS (E3)
 - Medical Center TPSS (E5)
 - Midvale Yard TPSS (YRY1)
- Base Scope of Work C:
 - Upgrade of the control, protection and monitoring system of the substation
 - Replacement of DC Switchgear

- Replacement of the transformer-rectifier unit (TRU) with a 2MW unit and all ancillary TP equipment associated with the TRU replacement
- Pole-mount to pad-mount disconnect switches replacement
- Replacement of positive feeder cable
- Repair and replacement of essential equipment within the TPSS buildings enclosures
- Condition assessment and testing of the negative feeder cables
 - Base Scope of Work C Applies to the following six (6) locations:
 - Rio Grande TPSS (SRR12)
 - Murray TPSS (SRM8)
 - Central TPSS (SRC7)
 - Walton TPSS (SRW6)
 - Burton TPSS (SRB4)
 - Ninth South TPSS (SRN3)
- Base Scope of Work D:
 - Upgrade of the control, protection and monitoring system of the substation
 - Replacement of DC Switchgear
 - Replacement of the transformer-rectifier unit (TRU) with a 2MW unit and all ancillary TP equipment associated with the TRU replacement
 - Retrofit of pad-mount disconnect switches
 - Repair and replacement of essential equipment within the TPSS buildings enclosures
 - Condition assessment and testing of the positive and negative feeder cables
 - Base Scope of Work D Applies to the following four (4) locations:
 - Jordan TPSS (SRJ14)
 - Delta Center TPSS (SRD1)
 - Three Hundred South TPSS (SRT2)
 - Fort Douglas TPSS (E4)

A description of the Base Scope of Work required for the TPSS rehabilitation locations include the following:

- A. The Contractor shall provide all labor, materials, accessories, and incidentals necessary for demolition of the existing TPSS equipment and installation of the following major work elements for integrating them into a fully functional TPSS.
- B. The Work shall include providing all labor, materials, accessories, and incidentals necessary for the final design, fabrication, manufacture, assembly, delivery, construction, testing, and technical support of traction power equipment for the traction power facilities (TPFs) as detailed herein and elsewhere in the Contract Documents.
- C. Perform civil, structural, mechanical, electrical, and communications work required for the demolition, installation and operation of the TPFs including demolition, reconstruction, modification, and new construction work, as indicated in the Contract Documents.
- D. After removal of the TPSS equipment as shown on the contract drawings, contractor shall perform a TPSS building condition assessment and repair existing dielectric insulated flooring, replace non-functioning HVAC Units, and replace not properly functioning meters of the equipment that is not being replaced or retrofitted. (Provisional Sum 2, as described above)

- E. Manufacture, integrate, factory test, and deliver to the agency's site, and install all new and completely functioning traction equipment as specified herein at each TPF site as appropriate
- F. The Contractor shall provide the following major TPSS equipment components, including the following:
 - 1. Remove the existing DC Switchgear and install new 800VDC high-resistance grounded switchgear assemblies and multifunction protection relays (MPRs).
 - 2. Replace the existing solid-state protection relays at the existing AC switchgear cubicle with new digital integrated protection relays (IPR) and all associated equipment.
 - 3. Provide Supervisory Control and Data Acquisition (SCADA) Equipment including providing one main TPSS Programmable Logic Controller (PLC), a Supervisory Control Cabinet (SCC) with SCADA HMI and network switch for interface with the TPSS alarms and indications and connection to the external SCADA network.
 - 4. Provide open-source network protocol such as Modbus or Genisys or approved equal for communication with the TPSS relays and UTA centralized SCADA network. Contractor shall only connect up to the network switch as shown on the contract drawings. External fiber connections and interfaces to the centralized SCADA network to be by others. Contractor shall support integration and testing of the TPSS with the SCADA network. Dedicated fiber optic strands between the UTA SCADA network and the substations exist today and are available at the fiber patch panels of each substation.
 - 5. Provide input-output modules (IOM) and programmable IOMs to interface the existing TPSS equipment alarms and indications with the SCADA system.
 - 6. Provide emergency and transfer trip capability at the Impulse TPSS through the DC feeder breaker MPRs and TPSS PLC.
 - 7. Provide emergency and transfer trip interface including providing input-output modules and other related equipment necessary for the interface to the end of line and junction Siemens TPSS to enable transfer tripping capability between an Impulse TPSS and an adjacent Siemens TPSS.
 - 8. Provide a new communication network security cabinet (CCA), provide provisions for future closed-circuit TV (CCTV) camera infrastructure at the TPSS entryways, and new access control system at the TPSS as indicated on the contract drawings.
 - 9. Remove the existing TPSS intrusion keypads and integrate the TPSS fire alarm system with new access control system and intrusion panel.
 - 10. Contractor shall determine and implement all the settings of the new equipment, as well as the affected existing equipment as required, including but not limited to: PLCs, network switches, IOMs, MPRs, IPRs, protective relays, HMIs, emergency and transfer trip systems, fire alarm system, access control systems and others. These settings shall be supported by engineering studies and/or calculations provided by the contractor and shall be approved by UTA prior to installation.
 - 11. Remove the existing pole mounted switches at ten (10) locations, as shown below, and replace with new pad-mount disconnect switches with safety electrical interlocking provisions and voltage sensing and all the necessary equipment to pick up the disconnect switch status and relay the indications to the TPSS SCADA system. Provide underground duct banks for low voltage and high voltage cables as necessary. Also, replace all the necessary positive feeder cables as indicated in the contract drawings. Note that the number of conductors per circuit may increase, as indicated in the preliminary drawings. Contractor shall ensure that the new pad mount disconnect switch alignment is well illuminated and shall provide and install lighting fixtures as necessary if existing site

conditions do not allow sufficient lighting to operate and maintain these switches.

- Ninety-Four Hundred TPSS (SRN13)
- Rio Grande TPSS (SRR12)
- Sugar Highway TPSS (SRS11)
- Pallas Yard TPSS (SRP9)
- Murray TPSS (SRM8)
- Central TPSS (SRC7)
- Walton TPSS (SRW6)
- Hustlers TPSS (SRH5)
- Burton TPSS (SRB4)
- Ninth South TPSS (SRN3)

12. Retrofit the existing pad mount disconnect switches at eight (8) locations to be fitted with devices to accommodate safety electrical interlocking and voltage sensing of the switches and provide contacts and devices to pick up the disconnect switch status and relay the indications to the TPSS SCADA system. Provide underground ductbanks for low voltage cables as necessary, as indicated in the contract drawings.
 - Jordan TPSS (SRJ14)
 - Three Hundred South TPSS (SRT2)
 - Delta Center TPSS (SRD1)
 - 200 East TPSS (E1)
 - 900 East TPSS (E2)
 - University TPSS (E3)
 - E4 TPSS (E4)
 - E5 TPSS (E5)
 13. At the eight (8) locations with existing pad mount disconnect switches and at the one (1) yard location with existing pole mount disconnect switches, nine (9) substations in total, contractor shall conduct an assessment and perform testing of the dc positive feeder cables as specified in contract specification 34 22 23 and discuss findings with UTA to determine if the cables are in need of replacement. Contractor shall issue a report to UTA containing the tests results and engineering recommendations. UTA will then determine at their sole discretion as to whether any of portion of Option 1 should be executed. See below for more information on Option 1.
 14. At all twenty (20) locations, including the Siemens substation SRA10, contractor shall conduct an assessment and perform testing of the dc negative feeder cables as specified in contract specification 34 22 23 and discuss findings with UTA to determine if the cables are in need of replacement. Contractor shall issue a report to UTA containing the tests results and engineering recommendations. UTA will then determine at sole discretion as to whether any of portion Option 2 should be executed. See below for more information on Option 2.
- G. At the ten (10) locations indicated below, remove the existing 1.5 MW transformer-rectifier units (TRUs) and install new 2MW TRUs and all ancillary TP equipment associated with the TRU replacement as shown on the contract drawings.

TPSS	TPSS Nominal Rating
Delta-SRD1	2MW

300 South-SRT2	2MW
Burton-SRB4	2MW
Walton-SRW6	2MW
Central-SRC7	2MW
Murray-SRM8	2MW
900 South-SRN3	2MW
Rio Grande-SRR12	2MW
Jordan-SRJ14	2MW
E4	2MW

- H. The Impulse TPSSs will be rehabilitated in a phased sequence that shall be coordinated with UTA. Upon assessment of the system and final design, contractor may offer additional improvements that can be exercised depending on additional funding becoming available and as coordinated with UTA.
- J. Submit all documentation as indicated. The Contractor shall conform to the requirements for the submittal of design, performance, and testing as indicated in the preliminary Contract Data Requirements List (CDRL) as indicated in the Contract Specifications. The Contractor shall furnish labor, supervision, engineering, incidentals, and all other requirements for the proper execution and completion of the Contract in accordance with the schedule.
- K. At substation 300 South (SRT2), the Contractor shall replace the existing 2x500 MCM cables of circuit "2A" with 2x750 MCM cables, in order to increase the total ampacity of this circuit which feeds an OCS section.

OPTIONS 1 AND 2: FEEDER CABLE REPLACEMENT (NOT EXERCISED AT THE TIME OF CONTRACT EXECUTION)

In an effort to increase the life cycle of the components of the traction power substations, UTA may exercise the following work as an option under this contract. The proposer shall provide a price for these options as shown on the Price Proposal form in Part 5.

Upon assessment of the conditions of the equipment and testing of the existing feeding cables of the Impulse substations by the contractor as described in the Base Scope of Work above, UTA will determine if the positive and negative feeder cables shall be replaced. Based on this assessment, UTA reserves the right to define the scope of work associated to this task and may include the completion of this work under this contract.

OPTION 1: Positive Feeder Replacement

At the eight (8) locations with existing pad mount disconnect switches and at the one (1) yard location with existing pole mount disconnect switches, nine (9) substations in total, contractor shall conduct an assessment and perform testing of the dc positive feeder cables as specified in contract specification 34 22 23 and discuss findings with UTA to determine if the cables are in need of replacement. If the positive feeder cables are deemed not suitable for reuse, contractor shall remove the existing positive feeders to the track wayside and install new positive feeder cables. The feeder cables are to be pulled through existing underground raceways and pull boxes as indicated on the contract drawings.

Option 1	Locations
Option 1A	TPSS SRJ14: Jordan
*Option 1B	TPSS SRT2: Three Hundred South
Option 1C	TPSS SRD1: Delta Center
Option 1D	TPSS E1: 200 East
Option 1E	TPSS E2: 900 East
Option 1F	TPSS E3: University
Option 1G	TPSS E4: E4
Option 1H	TPSS E5: E5
Option 1I	TPSS YRY1: Collet Yard

- For the cable replacement of Option 1B, TPSS SRT2, the existing positive 500 MCM conductors must be replaced with 750 MCM conductors.

OPTION 2: Negative Feeder Cable Replacement

At all nineteen (19) locations and the one (1) Siemens substation SRA10 (Atwood), twenty (20) substations in total, contractor shall conduct an assessment and perform testing of the dc negative feeder cables as specified in contract specification 34 22 23 and discuss findings with UTA to determine if the cables are in need of replacement. If the negative feeder cables are deemed not suitable for reuse, contractor shall remove the existing negative feeders to the track wayside and install new negative feeder cables. The feeder cables are to be pulled through existing underground raceways and pull boxes as indicated on the contract drawings.

Option 2	Locations
Option 2A	TPSS SRJ14: Jordan
Option 2B	TPSS SNR13 - 9400
Option 2C	TPSS SRR12: Rio Grande
Option 2D	TPSS SRS11: Sugar Hwy.
Option 2E	TPSS SRP2: Pallas
Option 2F	TPSS SRM8: Murray
Option 2G	TPSS SRC7: Central
Option 2H	TPSS SRW6: Walton
Option 2I	TPSS SRH5: Hustlers
Option 2J	TPSS SRB4: Burton
Option 2K	TPSS SNR3: 900 South
Option 2L	TPSS SRT2: Three Hundred South
Option 2M	TPSS SRD1: Delta Center
Option 2N	TPSS E1: 200 East
Option 2O	TPSS E2: 900 East
Option 2P	TPSS E3: University
Option 2Q	TPSS E4: E4
Option 2R	TPSS E5: E5
Option 2S	TPSS YRY1: Collet Yard
Option 2T	TPSS SRA10: Atwood

The scope of work of any of the two options aforementioned shall include (but is not limited to): cable removal, cable provision and required incidentals, cable installation in existing duct banks as shown in the preliminary drawings, repair of pull boxes and/or duct banks, testing and connection of new cables.

**OPTIONS 3: DISCONNECT SWITCHES REPLACEMENT AT SRA10, ATWOOD SUBSTATION
(EXERCISED AT TIME OF CONTRACT EXECUTION)**

In an effort to increase the safety of the operation of the traction power substations, UTA may exercise the following work as an option under this contract. The proposer shall provide a price for these options as shown on the Price Proposal form in Part 5.

SRA10 is a Siemens TPSS equipped with a substation PLC which is currently monitored by the UTA's SCADA system. The positive disconnect switches of this substation are pole mounted on their respective OCS poles. These disconnect switches currently do not provide any switch status and control information to the substation PLC.

Option 3 will consist in the following scope of work:

- Remove the existing pole mounted switches at this location and replace with new pad-mount disconnect switches with safety electrical interlocking provisions and voltage sensing and all the necessary equipment to pick up the disconnect switch status and relay the indications to the TPSS SCADA system.
- Provide underground duct banks for low voltage and high voltage cables as necessary
- Also, replace all the necessary positive feeder cables as indicated in the contract drawings. Note that the size of the conductors for circuit "1A" will increase from 2x500 MCM cables to 2x750 MCM cables, as indicated in the preliminary drawings.
- Contractor shall ensure that the new pad mount disconnect switch alignment is well illuminated and shall provide and install lighting fixtures as necessary if existing site conditions do not allow sufficient lighting to operate and maintain these switches. Provisional Sum 2 will cover these costs and the scope will be determined at a later date.

COORDINATION WITH OTHERS

UTA has multiple projects that will be active during this TPSS Rehabilitation project that will require project, technical, schedule and personnel coordination from the Project Team for this project.

Examples of coordination efforts that are anticipated are as shown:

- A. TPSS equipment is procured and installed under this Contract. The equipment manufacturer shall provide technical support to the Installation Contractor during equipment installation and testing.

- B. Coordinate with the UTA for all power and controls functional and physical interfaces with the existing facilities.
- C. The Contractor shall deliver each piece of equipment to the site as designated by UTA only upon UTA's written request. UTA will provide 20-day notice prior to the required delivery to each installation site.
- D. Contractor shall coordinate with UTA and/or third-party communications and controls contractors for all the communication interfaces with adjacent substations and the centralized SCADA network.
 - i. Integration and testing of the TPSS with the SCADA Network
 - ii. Troubleshoot and support troubleshooting any issues related to the interface between the substations SCADA system and the existing UTA SCADA network
 - iii. Verify and ensure compatibility of communication protocols and equipment of substations with the existing UTA SCADA network
 - iv. Verify and ensure compatibility of communication protocols and equipment functionality of substations (i.e., emergency and transfer trip system) with adjacent substations
- E. The Contractor shall submit operation and maintenance manuals for use by UTA and future use by other contractors.
- F. Contractor shall coordinate with UTA for Salvage Fees (UTA Credit)
 - i. In the event disposal of UTA assets will occur as a result of the project, the contractor will provide an anticipated credit amount back to UTA for money they might receive from scrapping steel or any other method they may receive monies back in return for the disposal of these items.
 - ii. If the asset is determined in the Contractor's opinion to be in a condition that they would not be able to sell or scrap the item, a \$0.00 would be acceptable.
 - iii. The contractor can coordinate with the Project Manager to see what items may be considered assets.
 - iv. Any items considered for salvage will be handled via a deductive change order at a later date.
- G. Contractor shall coordinate with UTA Systems Engineering, UTA Maintenance of Way (MOW), Operations, UTA Track Access, UTA State of Good Repair, and Capital Development groups as necessary for track access and potential concurrent project coordination.

EXHIBIT B – PRICING

Pricing Ground rules:

- 1. All pricing is on a firm fixed not-to-exceed (NTE) basis.**
- 2. Pricing for Options No. 1 and 2 has not been determined at this time but shall be negotiated at the time of option exercise.**
- 3. The requirement to provide a portable substation has been deleted from the SOW and the pricing has been zeroed out in this contract.**

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BASE SCOPE OF WORK BID TABULATION						
Proposer Team: C3M Power Systems LLC						Revised: 5/24/2021
40 SITEWORK & SPECIAL CONDITIONS						
ITEM No.	ITEM	UNIT	UNIT COST (\$)	APPROX. QUANTITY	TOTAL BID PRICE (\$)	
40.01	DEMOLITION, CLEARING, EARTHWORK					
	CLEARING & GRUBBING	LB	\$ 42,168.00	1	\$	42,168.00
	DEMOLITION & REMOVAL OF OBSTRUCTIONS	LB	\$ 316,770.94	1	\$	316,770.94
					40.01 SUB-TOTAL	\$ 399,338.94
40.02	SITE UTILITIES, UTILITY RELOCATION					
	DRAINAGE AND IRRIGATION	LB	\$ -	0	\$	-
	WET UTILITIES (WATER, SANITARY SEWER)	LB	\$ -	0	\$	-
	DRY UTILITIES (GAS, ELECTRIC, COMMUNICATIONS)	LB	\$ -	0	\$	-
					40.02 SUB-TOTAL	\$ -
40.03	HAZ. MAT'L, CONTAM'D SOIL REMOVAL/MITIGATION, GROUND WATER TRTMT					
	HAZMAT/CONTAMINATED MATERIALS PLAN & IMPLEMENTATION	LB	\$ -	0	\$	-
					40.03 SUB-TOTAL	\$ -
40.04	ENVIRONMENTAL MITIGATION					
	WETLAND MIGATION	LB	\$ -	0	\$	-
	WASTE MANAGEMENT	LB	\$ 100,245.72	1	\$	100,245.72
					40.04 SUB-TOTAL	\$ 100,245.72
40.08	TEMPORARY FACILITIES AND OTHER INDIRECT COSTS DURING CONSTRUCTION					
	PAYMENT/PERFORMANCE BOND	LB	\$ 401,684.42	1	\$	401,684.42
	WARRANTY BOND (COST INCLUDED WITH PAYMENT/PERFORMANCE BOND)	LB	\$ -	1	\$	-
	CONTRACTOR'S INSURANCE (NOT COVERED BY OCIP)	LB	\$ 330,331.63	1	\$	330,331.63
	PERMITS, APPROVALS, & ADJACENT PROPERTY ACCESS (PROVISIONAL SUM)	LB	\$ 50,000.00	1	\$	50,000.00
	PROJECT MANAGEMENT & SUPERVISION - CONSTRUCTION	LB	\$ 4,323,105.53	1	\$	4,323,105.53
	DESIGN & CONSTRUCTION QC/QA PLAN & PROGRAM ADMINISTRATION	LB	\$ 2,934,670.77	1	\$	2,934,670.77
	SECURITY, SAFETY PLAN & PROGRAM ADMINISTRATION	LB	\$ 404,565.21	1	\$	404,565.21
	CONTRACTOR'S TEMPORARY FACILITIES & EQUIPMENT	LB	\$ 755,292.90	1	\$	755,292.90
	OBLIGATIONS DURING FIVE-YEAR WARRANTY PERIOD	LB	\$ 59,874.71	1	\$	59,874.71
	CONSTRUCTION SURVEY & LAYOUT	LB	\$ 49,330.81	1	\$	49,330.81
	PUBLIC INFORMATION, COMMUNITY RELOCATIONS & MITIGATIONS	LB	\$ 22,199.67	1	\$	22,199.67
	MOBILIZATION	LB	\$ 3,819,396.21	1	\$	3,819,396.21
	CONTRACTOR'S FEE	LB	\$ 1,950,386.44	1	\$	1,950,386.44
	MAINTENANCE OF TRAFFIC PLAN, IMPLEMENTATION & OPERATIONS	LB	\$ 25,370.84	1	\$	25,370.84
	RAILROAD FLAGGING	LB	\$ 6,496.04	1	\$	6,496.04
	EROSION CONTROL & IMPLEMENTATION	LB	\$ 91,331.16	1	\$	91,331.16
40.08	PROVISIONAL SUM 1-TPSS COORDINATION					
	PORTABLE SUBSTATION UTILIZATION ASSESSMENT AND INSTALLATION COORDINATION-PROVISIONAL SUM 1	LB	\$ -	0	\$	-
					40.08 SUB-TOTAL	\$ 15,224,036.34
50 SYSTEMS						
ITEM No.	ITEM	UNIT	UNIT COST (\$)	APPROX. QUANTITY	TOTAL BID PRICE (\$)	
50.03	TRACTION POWER SUPPLY: SUBSTATIONS, APPLICABLE TO COMMON BASE SCOPE OF WORK FOR A, B, C & D					
	PROCUREMENT OF PORTABLE SUBSTATION	LB	\$ -	0	\$	-
	PROTECTIVE, CONTROL AND MONITORING RELAY RETROFIT FOR SCADA INTEGRATION	PER TPSS	\$ 109,451.99	19	\$	2,079,587.81
	INSTALLATION AND PROCUREMENT OF DC BREAKER, WITH NEW CUBICLE	EA	\$ 152,831.78	19	\$	2,903,803.82
	GENERAL DUCTBANK AND PULLBOX REPAIRS	LB	\$ 40,640.74	1	\$	40,640.74
	MANUALS AND TRAINING	LB	\$ 67,045.17	1	\$	67,045.17
	PROJECT AS-BUILTS	LB	\$ 329,587.42	1	\$	329,587.42
	SPARE PARTS AND SPECIAL TOOLS	LB	\$ 498,716.34	1	\$	498,716.34
	FACTORY ACCEPTANCE TESTING (FAT)	LB	\$ 45,694.90	1	\$	45,694.90
	INSTALLATION AND FIELD TESTING	LB	\$ 468,981.33	1	\$	468,981.33
	INTEGRATION TESTING AND COMMISSIONING	MH	\$ 88.09	320	\$	28,188.80
	DESIGN SUPPORT DURING CONSTRUCTION	LB	\$ 1,654,655.30	1	\$	1,654,655.30
50.03	PROVISIONAL SUM 2: HVAC & ESSENTIAL BUILDING IMPROVEMENTS					
	HVAC AND ESSENTIAL BUILDING IMPROVEMENTS ASSESSMENT, DESIGN, INSTALLATION-PROVISIONAL SUM 2	PER TPSS	\$40,000.00	20	\$	800,000.00
					COMMON BASE SCOPE SUB-TOTAL	\$ 8,916,901.63

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BASE SCOPE OF WORK A						
	REMOVAL OF POLE MOUNT DISCONNECT SWITCHES	EA	\$	882.01	16	\$ 14,112.16
	PAD MOUNT DISCONNECT SWITCHES CONCRETE FOUNDATION	EA	\$	106,290.45	4	\$ 425,161.80
	INSTALLATION OF PAD MOUNT DISCONNECT SWITCHES	EA	\$	17,852.20	4	\$ 71,408.80
	DC DUCTBANK FOR FEEDER CABLES	PER TPSS	\$	76,101.85	4	\$ 304,407.40
	DC PULLBOX FOR FEEDER CABLES	EA	\$	14,281.06	1	\$ 14,281.06
	RECONDITIONING OF EXISTING DC PULLBOX FOR FEEDER CABLES	EA	\$	2,812.41	10	\$ 28,124.10
	LOW VOLTAGE UNDERGROUND DUCTBANK	PER TPSS	\$	29,225.14	4	\$ 116,900.56
	REPLACEMENT OF POSITIVE FEEDER CABLES	LF	\$	31.84	13480	\$ 429,203.20
	CONDITION ASSESSMENT AND TESTING OF NEGATIVE CABLES	LD	\$	24,727.07	1	\$ 24,727.07
						BASE SCOPE OF WORK A PRICE \$ 1,428,326.15
BASE SCOPE OF WORK B						
	RETROFIT OF EXISTING PAD MOUNT DISCONNECT SWITCHES	EA	\$	5,811.81	5	\$ 29,059.05
	LOW VOLTAGE UNDERGROUND DUCTBANK	PER TPSS	\$	44,654.10	5	\$ 223,270.50
	CONDITION ASSESSMENT AND TESTING OF POSITIVE CABLES	LD	\$	46,363.26	1	\$ 46,363.26
	CONDITION ASSESSMENT AND TESTING OF NEGATIVE CABLES	LD	\$	23,181.63	1	\$ 23,181.63
						BASE SCOPE OF WORK B PRICE \$ 321,874.44
BASE SCOPE OF WORK C						
	2.0 MW TRANSFORMER-RECTIFIER UNIT	PER TPSS	\$	397,596.66	6	\$ 2,385,579.96
	REMOVAL OF POLE MOUNT DISCONNECT SWITCHES	EA	\$	882.01	24	\$ 21,168.24
	PAD MOUNT DISCONNECT SWITCHES CONCRETE FOUNDATION	EA	\$	106,290.45	6	\$ 637,742.70
	INSTALLATION OF PAD MOUNT DISCONNECT SWITCHES	EA	\$	17,199.51	6	\$ 103,197.06
	DC DUCTBANK FOR FEEDER CABLES	PER TPSS	\$	76,090.73	6	\$ 456,544.38
	DC PULLBOX FOR FEEDER CABLES	EA	\$	16,652.45	2	\$ 33,304.90
	RECONDITIONING OF EXISTING DC PULLBOX FOR FEEDER CABLES	EA	\$	2,812.41	16	\$ 44,998.56
	LOW VOLTAGE UNDERGROUND DUCTBANK	PER TPSS	\$	28,654.26	6	\$ 171,925.56
	REPLACEMENT OF POSITIVE FEEDER CABLES	LF	\$	34.37	15425	\$ 530,157.25
	CONDITION ASSESSMENT AND TESTING OF NEGATIVE CABLES	LD	\$	37,090.59	1	\$ 37,090.59
						BASE SCOPE OF WORK C PRICE \$ 4,421,709.20
BASE SCOPE OF WORK D						
	2.0 MW TRANSFORMER-RECTIFIER UNIT	PER TPSS	\$	411,237.84	4	\$ 1,644,951.36
	RETROFIT OF EXISTING PAD MOUNT DISCONNECT SWITCHES	EA	\$	1,159.24	16	\$ 18,547.84
	RECONDITIONING OF EXISTING DC PULLBOX FOR FEEDER CABLES	EA	\$	4,035.73	32	\$ 129,143.36
	LOW VOLTAGE UNDERGROUND DUCTBANK	PER TPSS	\$	27,665.09	4	\$ 110,660.36
	LOW VOLTAGE AERIAL CONDUITS INSIDE SUBSTATION (ONLY APPLICABLE TO TPSS BRT)	LD	\$	149,126.92	1	\$ 149,126.92
	CONDITION ASSESSMENT AND TESTING OF POSITIVE CABLES	LD	\$	55,635.93	1	\$ 55,635.93
	CONDITION ASSESSMENT AND TESTING OF NEGATIVE CABLES	LD	\$	18,545.30	1	\$ 18,545.30
						BASE SCOPE OF WORK D PRICE \$ 2,126,611.07
						BASE SUB-TOTAL \$ 8,298,520.86
80.04	TRACTION POWER DISTRIBUTION: OVERHEAD CONTACT SYSTEM					
	TEMPORARY OCS CONFIGURATION DURING TPSS REHAB	PER TPSS	\$	21,129.67	19	\$ 401,463.73
						80.04 SUB-TOTAL \$ 401,463.73
80.05	COMMUNICATIONS					
	COMM NETWORK SECURITY, CLOSED-TV CIRCUIT AND ACCESS CONTROL SYSTEM EQUIPMENT INSTALLATION	PER TPSS	\$	-	0	\$ -
	HARDWARE INSTALLATION FOR COMMUNICATION WITH UTA FIBER OPTIC NETWORK	EA	\$	16,869.89	19	\$ 320,527.91
	SUBSTATION COMM. FUNCTIONAL TESTING, PRIOR TO SCADA INTEGRATION	EA	\$	31,603.99	19	\$ 600,475.81
	SUBSTATION COMM. INTEGRATION TESTING (INCLUDING TRANSFER TRIP), PRIOR TO SCADA INTEGRATION	EA	\$	10,170.47	19	\$ 193,238.93
						80.05 SUB-TOTAL \$ 1,114,242.65
80.07	CENTRAL CONTROL					
	SUBSTATION SCADA INTEGRATION TESTS, IN COLLABORATION WITH UTA	LD	\$	103,709.39	1	\$ 103,709.39
						80.07 SUB-TOTAL \$ 103,709.39
80 PROFESSIONAL SERVICES						
ITEM No.	ITEM	UNIT	UNIT COST (\$)	APPROX. QUANTITY	TOTAL BID PRICE (\$)	
80.01	PROJECT DEVELOPMENT	LD	\$ 286,382.30	1	\$ 286,382.30	
80.02	ENGINEERING	LD	\$ 1,304,086.53	1	\$ 1,304,086.53	
80.03	PROJECT MANAGEMENT FOR DESIGN AND CONSTRUCTION	LD	\$ 423,939.23	1	\$ 423,939.23	
80.04	CONSTRUCTION ADMINISTRATION & MANAGEMENT	LD	\$ 540,215.58	1	\$ 540,215.58	
80.05	PROFESSIONAL LIABILITY AND OTHER NON-CONSTRUCTION INSURANCE	LD	\$ 336,367.41	1	\$ 336,367.41	
80.06	NOT USED	N/A				
80.07	SURVEYS, TESTING, INVESTIGATION, INSPECTION	LD	\$ 89,376.36	1	\$ 89,376.36	
80.08	STARTUP	LD	\$ 89,376.36	1	\$ 89,376.36	
						80.01-08 SUB-TOTAL \$ 3,069,743.77
						BASE SCOPE OF WORK GRAND TOTAL \$ 37,628,203.03

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OPTIONS 1, 2 & 3 : BID TABULATION

50 SYSTEMS						
ITEM No.	ITEM	UNIT	UNIT COST (\$)	APPROX. QUANTITY	TOTAL BID PRICE (\$)	
50.00 TRACTION POWER SUPPLY: SUBSTATIONS						
OPTION 1 POSITIVE FEEDER CABLES:						
OPTION 1A	TPSS SRJ14: JORDAN	LF	\$ -	0	\$ -	-
OPTION 1B	TPSS SRT2: THREE HUNDRED SOUTH	LF	\$ -	0	\$ -	-
OPTION 1C	TPSS SRD1: DELTA CENTER	LF	\$ -	0	\$ -	-
OPTION 1D	TPSS E1: 200 EAST	LF	\$ -	0	\$ -	-
OPTION 1E	TPSS E2: 800 EAST	LF	\$ -	0	\$ -	-
OPTION 1F	TPSS E3: UNIVERSITY	LF	\$ -	0	\$ -	-
OPTION 1G	TPSS E4: E4	LF	\$ -	0	\$ -	-
OPTION 1H	TPSS E5: E5	LF	\$ -	0	\$ -	-
OPTION 1I	TPSS VRY1: COLLET YARD	LF	\$ -	0	\$ -	-
					Option 1 Total	\$ -
OPTION 2 NEGATIVE FEEDER CABLES:						
OPTION 2A	TPSS SRJ14: JORDAN	LF	\$ -	0	\$ -	-
OPTION 2B	TPSS SRR13: RIO GRANDE	LF	\$ -	0	\$ -	-
OPTION 2C	TPSS SRR12: RIO GRANDE	LF	\$ -	0	\$ -	-
OPTION 2D	TPSS SRB11: SUGAR HWY.	LF	\$ -	0	\$ -	-
OPTION 2E	TPSS SRP2: FALLS	LF	\$ -	0	\$ -	-
OPTION 2F	TPSS SRM5: MURRAY	LF	\$ -	0	\$ -	-
OPTION 2G	TPSS SRC7: CENTRAL	LF	\$ -	0	\$ -	-
OPTION 2H	TPSS SRW6: WALTON	LF	\$ -	0	\$ -	-
OPTION 2I	TPSS SRN5: HUSTLERS	LF	\$ -	0	\$ -	-
OPTION 2J	TPSS SRM4: BRYAN	LF	\$ -	0	\$ -	-
OPTION 2K	TPSS SRR3: 800 SOUTH	LF	\$ -	0	\$ -	-
OPTION 2L	TPSS SRT2: THREE HUNDRED SOUTH	LF	\$ -	0	\$ -	-
OPTION 2M	TPSS SRD1: DELTA CENTER	LF	\$ -	0	\$ -	-
OPTION 2N	TPSS E1: 200 EAST	LF	\$ -	0	\$ -	-
OPTION 2O	TPSS E2: 800 EAST	LF	\$ -	0	\$ -	-
OPTION 2P	TPSS E3: UNIVERSITY	LF	\$ -	0	\$ -	-
OPTION 2Q	TPSS E4: E4	LF	\$ -	0	\$ -	-
OPTION 2R	TPSS E5: E5	LF	\$ -	0	\$ -	-
OPTION 2S	TPSS VRY1: COLLET YARD	LF	\$ -	0	\$ -	-
OPTION 2T	TPSS SRA10: ATWOOD	LF	\$ -	0	\$ -	-
					Option 2 Total	\$ -
OPTION 3 DISCONNECT SWITCHES REPLACEMENT AT SRA10, ATWOOD SUBSTATION						
	REMOVAL OF POLE MOUNT DISCONNECT SWITCHES	EA	\$ 1,031.60	6	\$ 6,189.60	
	PAD MOUNT DISCONNECT SWITCHES CONCRETE FOUNDATION	EA	\$ 63,287.05	1	\$ 63,287.05	
	INSTALLATION OF PAD MOUNT DISCONNECT SWITCHES	EA	\$ 121,282.48	1	\$ 121,282.48	
	DC DUCTBANK FOR FEEDER CABLES	PER TPSS	\$ 81,724.46	1	\$ 81,724.46	
	DC PULLBOX FOR FEEDER CABLES	EA	\$ 26,249.91	1	\$ 26,249.91	
	LOW VOLTAGE UNDERGROUND DUCTBANK	PER TPSS	\$ 22,945.07	1	\$ 22,945.07	
	REPLACEMENT OF POSITIVE FEEDER CABLES	LF	\$ 34.56	3690	\$ 127,526.40	
					TOTAL ALL OPTIONS*	\$ 449,204.97

* Proposer shall also include an estimated Schedule of Payments that correspond to work being completed. See next sheet.

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Proposer Team:		C3M Power Systems LLC
ESTIMATED SCHEDULE OF PAYMENTS		
5-YEAR TIME PERIOD	MONTH OF THE YEAR	ESTIMATED INVOICED AMOUNT (\$)
FIRST YEAR	1ST MONTH	\$ 1,785,180.08
	2ND MONTH	\$ 1,785,180.08
	3RD MONTH	\$ 1,785,180.08
	4TH MONTH	\$ 459,287.62
	5TH MONTH	\$ 459,287.62
	6TH MONTH	\$ 459,287.62
	7TH MONTH	\$ 459,287.62
	8TH MONTH	\$ 459,287.62
	9TH MONTH	\$ 459,287.62
	10TH MONTH	\$ 459,287.62
	11TH MONTH	\$ 459,287.62
	12TH MONTH	\$ 459,287.62
	Subtotal	\$ 9,489,128.82
SECOND YEAR	1ST MONTH	\$ 896,312.00
	2ND MONTH	\$ 896,312.00
	3RD MONTH	\$ 896,312.00
	4TH MONTH	\$ 896,312.00
	5TH MONTH	\$ 896,312.00
	6TH MONTH	\$ 896,312.00
	7TH MONTH	\$ 896,312.00
	8TH MONTH	\$ 896,312.00
	9TH MONTH	\$ 896,312.00
	10TH MONTH	\$ 896,312.00
	11TH MONTH	\$ 896,312.00
	12TH MONTH	\$ 896,312.00
	Subtotal	\$ 10,755,744.00
THIRD YEAR	1ST MONTH	\$ 896,312.00
	2ND MONTH	\$ 896,312.00
	3RD MONTH	\$ 896,312.00
	4TH MONTH	\$ 896,312.00
	5TH MONTH	\$ 896,312.00
	6TH MONTH	\$ 896,312.00
	7TH MONTH	\$ 896,312.00
	8TH MONTH	\$ 896,312.00
	9TH MONTH	\$ 896,312.00
	10TH MONTH	\$ 896,312.00
	11TH MONTH	\$ 896,312.00
	12TH MONTH	\$ 896,312.00
	Subtotal	\$ 10,755,744.00
FOURTH YEAR	1ST MONTH	\$ 896,312.00
	2ND MONTH	\$ 896,312.00
	3RD MONTH	\$ 896,312.00
	4TH MONTH	\$ 896,312.00
	5TH MONTH	\$ 896,312.00
	6TH MONTH	\$ 896,312.00
	7TH MONTH	\$ 896,312.00
	8TH MONTH	\$ 802,607.18
	9TH MONTH	
	10TH MONTH	
	11TH MONTH	
	12TH MONTH	
	Subtotal	\$ 7,076,791.18
FIFTH YEAR	1ST MONTH	
	2ND MONTH	
	3RD MONTH	
	4TH MONTH	
	5TH MONTH	
	6TH MONTH	
	7TH MONTH	
	8TH MONTH	
	9TH MONTH	
	10TH MONTH	
	11TH MONTH	
	12TH MONTH	
	Subtotal	
	GRAND TOTAL	\$ 38,077,408.00

EXHIBIT C

UTA DESIGN AND CONSTRUCTION STANDARD TERMS AND CONDITIONS & CONDITIONS

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, 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 in these Standard terms and 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 Standard terms and conditions are attached as an exhibit or into which these Standard terms and 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 Standard terms and 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 Standard terms and conditions.

“Final Completion” has the meaning indicated in Section 4.7 of these Standard terms and 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.

“Standard terms and 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 Standard terms and 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 Standard terms and 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 consultants 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 forgoing, 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 that 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, custom 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

Site Conditions

3.1 Hazardous Materials.

3.1.1 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.

3.1.2 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 Contractor shall resume Work in the area when directed to do so by the UTA Project Manager.

3.1.3 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.

3.1.4 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).

3.2 Differing Site Conditions.

3.2.1 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.

3.2.2 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 4

Payment

4.1 Schedule of Values.

4.1.1 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.

4.1.2 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.

4.2 Application for Payment.

4.2.1 To receive payment, Contractor shall submit to UTA an Application for Payment requesting payment for all Work performed as of the date of the Application for Payment. Contractor shall not submit Applications for Payment more often than once per month. The Application for Payment must be accompanied by supporting documentation sufficient to establish, to UTA's reasonable satisfaction, Contractor's entitlement to receive payment.

4.2.2 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.

4.2.3 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.

4.3 Sales Tax Exemption

4.3.1 Purchases of certain materials are exempt from Utah sales tax. UTA will provide a sales tax exemption certificate to 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.

4.4 UTA's Payment Obligations.

4.4.1 UTA shall pay Contractor all amounts properly requested and documented within thirty (30) Days of receipt of an Application for Payment.

4.4.2 Notwithstanding Section 4.4.1, UTA may withhold up to 5% of each payment as retention in accordance with Utah Code Ann. § 13-8-5.

4.4.3 Notwithstanding Section 4.4.1, UTA may offset from such Application for Payment amounts any owed to UTA by Contractor pursuant to the Contract Documents.

4.4.4 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, Contractor may pursue its rights under the Contract Documents, including those under Article 8.

4.5 Contractor's Payment Obligations.

4.5.1 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. Contractor shall indemnify and defend UTA against any claims for payment and mechanic's liens as set forth in Section 5.2 hereof.

4.5.2 Contractor shall pay its employees and 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.

4.5.3 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 4.

4.6 Substantial Completion.

4.6.1 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.

4.6.2 Promptly after issuing the Certificate of Substantial Completion, UTA shall release to 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.

4.6.3 Upon Contractor's request or upon 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 4.6.1 and 4.6.2 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.

4.6.4 Following Substantial Completion, UTA may restrict Contractor's access to the Site. UTA shall allow Contractor reasonable access to the Site in order for the Contractor to achieve Final Completion.

4.7 **Final Payment.**

4.7.1 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.

4.7.1.1 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;

4.7.1.2 A general release executed by 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;

4.7.1.3 All as-built drawings, redlined drawings, operating manuals, warranty assignments and other deliverables required by the Contract Documents; and

4.7.1.4 Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of the Contract Documents.

4.7.2 Deficiencies in the Work discovered after Substantial Completion, whether or not such deficiencies would have been included on the Punchlist if discovered earlier, will be deemed warranty Work. 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 5

Indemnification and Loss

5.1 **Patent and Copyright Infringement.** If the Work includes any design services, provisions 5.1.1 through 5.1.3 apply.

5.1.1 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 same. Contractor shall indemnify UTA from and against all damages and costs, including but not limited to attorneys' fees and expenses awarded against UTA or Contractor in any such action or proceeding. Contractor shall keep UTA informed of all developments in the defense of such actions.

5.1.2 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 so 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.

5.1.3 Sections 5.1.1 and 5.1.2 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

5.2 **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.

5.3 **Contractor's General Indemnification.**

5.3.1 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.

5.3.2 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.

5.4 **Risk of Loss.** 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 6

Time

6.1 **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.

6.2 **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.

6.3 **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 7

Changes

7.1 Change Orders.

7.1.1 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 7. Any costs incurred by Contractor without authorization as provided in this Article 7 will be considered non-compensable.

7.1.2 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).

7.1.3 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.

7.2 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.

7.3 Constructive Changes.

7.3.1 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.

7.3.2 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.

7.3.3 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.

7.3.4 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.

7.4 Direction or Authorization to Proceed.

7.4.1 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.

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

7.5 **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.

7.6 Contract Price Adjustments.

7.6.1 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:

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

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

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

7.6.1.4 If an increase or decrease cannot be agreed to as set forth in items 7.6.1.1 through 7.6.1.3 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.

7.6.2 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.

7.6.3 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.

7.7 **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 8. 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.

7.8 **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 8

Claims and Dispute Resolution

8.1 Claims.

8.1.1 "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.

8.1.2 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.

8.2 Dispute Resolution.

8.2.1 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.

8.2.2 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.

8.2.3 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.

8.2.4 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 9

Suspension and Termination

9.1 UTA's Right to Stop Work.

9.1.1 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.

9.1.2 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.

9.1.3 In addition to its rights under Section 9.3, 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.

9.2 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:

9.2.1 All Work satisfactorily completed or commenced and in process as of the effective date of termination;

9.2.2 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

9.2.3 The fair and reasonable sums for overhead and profit on the sum of items 9.2.1.1 and 9.2.1.2 above. UTA shall not be liable for anticipated profits, costs or overhead based upon Work not yet performed as of the date of termination.

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

9.3.1 Subject to the cure provision of Section 9.3.2 below and other limitations set forth in these Standard terms and 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 9.3.2 through 9.3.5 below.

9.3.2 Upon the occurrence of an event of default set forth in Section 9.3.1 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.

9.3.3 Upon the continuance of a breach described in Section 9.3.1 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.

9.3.4 Upon the continuance of a breach described in Section 9.3.1 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.

9.3.5 Upon declaring the Agreement terminated pursuant to Section 9.3.2 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 procurement and defense of claims arising from Contractor's default.

9.3.6 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.

9.3.7 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 9.2 above.

9.4 **Bankruptcy of Contractor.**

9.4.1 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:

9.4.1.1 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

9.4.1.2 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 9.

9.4.2 The rights and remedies under Section 9.4.1 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 10

(Superseded by VECP Clause (Article 9) of Contract as shown above)

Value Engineering

10.1 Value Engineering Change Proposals.

10.1.1 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.

10.1.2 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.

10.1.3 Contractor must include the following information in any VECP:

10.1.3.1 A narrative description of the proposed change,

10.1.3.2 A discussion of differences between existing requirements and the proposed change, together with advantages and disadvantages of each changed item;

10.1.3.3 A complete cost analysis, including the cost estimate of any additional rights-of-way or easements required for implementation of the VECP;

10.1.3.4 Justification for changes in function or characteristics of each item and effect of the change on the performance on the end item;

10.1.3.5 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;

10.1.3.6 Costs of development and implementation; and

10.1.3.7 Any additional information requested by UTA, which must be provided in a timely manner.

10.2 **Review and Approval of VECPs**

10.2.1 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 VECPs.

10.2.2 UTA may approve in whole or in part any VECP submitted. The decision of UTA regarding rejection or approval of any VECP 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 VECP, including development costs, loss of anticipated profits, or increased material or labor costs

10.3 **Cost Savings.** Except as otherwise stated in the Agreement, any savings resulting from an approved VECP 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 VECP.

10.4 **Ownership of VECPs.** All approved or disapproved VECPs will become the property of UTA and must contain no restrictions imposed by 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 VECP 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 11

Health Insurance

11.1 Insurance Coverage for Employees.

11.1.1 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.

11.2.1 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 12

Miscellaneous

12.1 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.

12.2 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.

12.3 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.

12.4 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.

12.4 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.

12.5 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.

12.6 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.

12.7 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.

12.8 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.

12.9 **Headings.** The headings used in these Standard terms and 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.

12.10 **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.

12.11 **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 such delay or default will reasonably prevent successful performance of the Contract.

12.12 **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 D
REQUIRED FEDERAL CLAUSES

FEDERAL CLAUSES

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

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

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS

The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC §3801, et seq. and United States Department of Transportation regulations, "Program Fraud Civil Remedies," 49 CFR Part 31, apply to its actions pertaining to the Contract. Upon execution of the underlying Contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract or the FTA assisted project for which the Work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious or fraudulent claim, statement, submission, or certification, the federal government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the federal government deems appropriate. The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission or certification to the federal government under a contract connected with a project that is financed in whole or in part with federal assistance originally awarded by FTA under the authority of 49 USC §5307, the federal government reserves the right to impose the penalties of 18 USC §1001 and 49 USC §5307(n)(1) on the Contractor, to the extent the federal government deems appropriate. The Contractor agrees to include the above two clauses in each subcontract or purchase order financed in whole or in part with federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the Subcontractor or Supplier who will be subject to the provisions.

ACCESS TO RECORDS AND REPORTS

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

FEDERAL CHANGES

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

CIVIL RIGHTS REQUIREMENTS

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

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

(a) **Race, Color, Creed, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S.

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

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

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

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

DISADVANTAGED BUSINESS ENTERPRISES (DBE)

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

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the

termination of this contract or such other remedy as Utah Transit Authority deems appropriate. **Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph** (see 49 CFR 26.13(b)).

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

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

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

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

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

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

INCORPORATION OF FTA TERMS

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

TERMINATION

(For contracts over \$10,000.00)

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

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If

it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) The (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

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

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

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

Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include: acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

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

BUY AMERICA REQUIREMENTS

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

BREACHES AND DISPUTE RESOLUTION

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

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

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

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

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

LOBBYING

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

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)
- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

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

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying

contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

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

Certification for Contracts, Grants, Loans, and Cooperative Agreements

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

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

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

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

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

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

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

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and

agrees that the provisions of 31 U.S.C. A 3801, *et seq., apply* to this certification and disclosure, if any.

_____ Signature of Contractor's Authorized Official

_____ Name and Title of Contractor's Authorized Official

_____ Date

CLEAN AIR REQUIREMENTS

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

CLEAN WATER REQUIREMENTS

The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC §1251, *et seq.* The Contractor agrees to report each violation to the Authority and understands and agrees that the Authority will, in turn, report each violation as required to assure notification to FTA and the appropriate Regional Office of the United States Environmental Protection Agency. The Contractor also agrees to include these requirements in each subcontract or purchase order exceeding \$100,000 financed in whole or in part with federal assistance provided by FTA.

CARGO PREFERENCE

The Contractor agrees. to: (a) use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; (b) furnish within twenty (20) working days following the date of loading for shipments originating within the United States or within thirty (30) working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described to the Division of National Cargo, Office of Market Development,

Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the Contractor in the case of a Subcontractor's or Supplier's bill-of-lading.); and (c) include these requirements in all subcontracts and purchase orders issued pursuant to the Contract Documents when the subcontract may involve the transport of equipment, material or commodities by ocean vessel. *(A certification is to be submitted with each bid or offer exceeding \$500,000 if shipping is applicable.)*

FLY AMERICA REQUIREMENTS

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

DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1 (b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage

determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

- (1) The classification is utilized in the area by the construction industry; and
 - (2) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and
 - (3) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.
- (B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for

fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30- day period that additional time is necessary.

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

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

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

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

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

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

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

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the

Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

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

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid

(including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1 (b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

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

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

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

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

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

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

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination.

Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

(6) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses

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

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

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

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

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

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

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

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

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

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

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

BONDING REQUIREMENTS

Bid Bond Requirements (Construction)

(a) Bid Security

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

(b) Rights Reserved

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

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

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

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

Performance and Payment Bonding Requirements (Construction)

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

(a) Performance and Payment bonds

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

Advance Payment Bonding Requirements

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

Patent Infringement Bonding Requirements (Patent Indemnity)

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

Warranty of the Work and Maintenance Bonds

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

required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

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

SEISMIC SAFETY REQUIREMENTS

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

ENERGY CONSERVATION REQUIREMENTS

The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

RECYCLED PRODUCTS

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

ADA ACCESS

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

C.F.R. Subpart 101-19; (7) U.S. EEOC, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630; (8) U.S. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; (9) U.S. ATBCB regulations, "Electronic and Information Technology Accessibility Standards," 36 C.F.R. Part 1194; (10) FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609; and (11) Federal civil rights and nondiscrimination directives implementing the foregoing Federal laws and regulations, except to the extent the Federal Government determines otherwise in writing.

SEAT BELT USE

In accordance with Executive Order No. 13043, "Increasing Seat Belt Use in the United States," April 16, 1997, 23 U.S.C. § 402 note, the Recipient is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned, rented, or personally operated vehicles, and to include this provision in any third party contracts, third party subcontracts, or subagreements involving the Project.

DISTRACTED DRIVING, INCLUDING TEXT MESSAGING WHILE DRIVING

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

Domestic Preference

In accordance with 2 CFR 200.322 all contractors shall, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products or materials

produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products).

For purposes of this clause:

- a. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through application of coatings, occurred in the United States.
- b. "Manufacturing products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

This requirement must be included in all subcontracts awarded under this award.

Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment

In accordance with 2 CFR 200.216, contractor and its subcontractors are prohibited from expending funds under this contract for the procurement of equipment, services, or 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.

- a. "covered telecommunications equipment or services" is telecommunications or video surveillance equipment or services produced by:
 - a. Huawei Technologies Company
 - b. ZTE Corporation
 - c. Hytera Communications Corporation
 - d. Hangzhou Hikvision Digital Technology Company
 - e. Dahua Technology Company
 - f. Any subsidiary of the above listed entities.