



UTA CONTRACT NO. 21-03429

VEHICLE PROGRAM MANAGEMENT SERVICES CONSULTANT

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

RECITALS

WHEREAS, UTA desires to hire professional services for Vehicle Program Management Services Consultant.

WHEREAS, On April 23, 2021, UTA issued Request for Qualification Package Number 21-03429 (“RFQu”) encouraging interested parties to submit SOQs to perform the services described in the RFQu.

WHEREAS, Upon evaluation of the SOQs submitted in response to the RFQu, UTA selected Consultant as the preferred entity with whom to negotiate a contract to perform the Work.

WHEREAS, Consultant is qualified and willing to perform the Work as set forth in the Scope of Services.

AGREEMENT

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

1. SERVICES TO BE PROVIDED

- a. Consultant shall perform all Work as set forth in the Scope of Services (Exhibit A). Except for items (if any) which this Contract specifically states will be UTA-provided, Consultant shall furnish all the labor, material and incidentals necessary for the Work.
- b. Consultant shall perform all Work under this Contract in a professional manner, using at least that standard of care, skill and judgment which can reasonably be expected from similarly situated professionals.
- c. All Work shall conform to generally accepted standards in the transit industry. Consultant shall perform all Work in compliance with applicable laws, regulations, rules, ordinances, permit constraints and other legal requirements including, without limitation, those related to safety and environmental protection.
- d. Consultant shall furnish only qualified personnel and materials necessary for the performance of the Work.
- e. When performing Work on UTA property, Consultant shall comply with all UTA work site rules including, without limitation, those related to safety and environmental protection.

2. MANAGEMENT OF WORK

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

3. PROGRESS OF WORK

- a. Consultant shall prosecute the Work in a diligent and continuous manner and in accordance with all applicable notice to proceed, critical path schedule and completion date requirements set forth in (or developed and agreed by the parties in accordance with) the Scope of Services.
- b. Consultant shall conduct regular meetings to update UTA's Project Manager regarding the progress of the Work including, but not limited to, any unusual conditions or critical path schedule items that could affect or delay the Work. Such meetings shall be held at intervals mutually agreed to between the parties.
- c. Consultant shall deliver monthly progress reports and provide all Contract submittals and other deliverables as specified in the Scope of Services.
- d. Any drawing or other submittal reviews to be performed by UTA in accordance with the Scope of Services are for the sole benefit of UTA and shall not relieve Consultant of its responsibility to comply with the Contract requirements.
- e. UTA will have the right to inspect, monitor and review any Work performed by Consultant hereunder as deemed necessary by UTA to verify that such Work conforms to the Contract requirements. Any such inspection, monitoring and review performed by UTA is for the sole benefit of UTA and shall not relieve Consultant of its responsibility to comply with the Contract requirements.
- f. UTA shall have the right to reject Work which fails to conform to the requirements of this Contract. Upon receipt of notice of rejection from UTA, Consultant shall (at its sole expense and without entitlement to equitable schedule relief) promptly re-perform, replace or re-execute the Work so as to conform to the Contract requirements.
- g. If Consultant fails to promptly remedy rejected Work as provided in Section 3.f, UTA may (without limiting or waiving any rights or remedies it may have) perform necessary corrective action using other consultants or UTA's own forces. Any costs reasonably incurred by UTA in such corrective action shall be chargeable to Consultant.

4. PERIOD OF PERFORMANCE

This Contract shall commence as of the Effective Date. This Contract shall remain in full force and effect for an initial Three (3) year period expiring July 1, 2024. UTA may, at its sole election and in its sole discretion, extend the initial term for up to two (2) additional one-year option periods, for a total Contract period not to exceed five (5) years. Extension options may be exercised by UTA upon providing

Consultant with notice of such election at least thirty (30) days prior to the expiration of the initial term or then-expiring option period (as applicable). This Contract may be further extended if the Consultant and UTA mutually agree to an extension evidenced in writing. The rights and obligations of UTA and Consultant under this Contract shall at all times be subject to and conditioned upon the provisions of this Contract.

5. COMPENSATION

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

6. INCORPORATED DOCUMENTS

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

7. ORDER OF PRECEDENCE

The Order of Precedence for this contract is as follows:

- UTA Contract including all attachments
- UTA Terms and Conditions
- UTA Solicitation Terms
- Consultant's SOQ including proposed terms or conditions

Any consultant proposed term or condition which is in conflict with a UTA contract or solicitation term or condition will be deemed null and void.

8. CHANGES

- a. UTA's Project Manager or designee may, at any time, by written order designated or indicated to be a Change Order, direct changes in the Work including, but not limited to, changes:

1. In the Scope of Services;
2. In the method or manner of performance of the Work; or
3. In the schedule or completion dates applicable to the Work.

To the extent that any change in Work directed by UTA causes an actual and demonstrable impact to: (i) Consultant's cost of performing the work; or (ii) the time required for the Work, then (in either case) the Change Order shall include an equitable adjustment to this Contract to make Consultant whole with respect to the impacts of such change.

- b. A change in the Work may only be directed by UTA through a written Change Order or (alternatively) UTA's expressed, written authorization directing Consultant to proceed pending negotiation of a Change Order. Any changes to this Contract undertaken by Consultant without such written authority shall be at Consultant's sole risk. Consultant shall not be entitled to rely on any other manner or method of direction.
- c. Consultant shall also be entitled to an equitable adjustment to address the actual and demonstrable impacts of "constructive" changes in the Work if: (i) subsequent to the Effective Date of this Contract, there is a material change with respect to any requirement set forth in this Contract; or (ii) other conditions exist or actions are taken by UTA which materially modify the magnitude, character or complexity of the Work from what should have been reasonably assumed by Consultant based on the information included in (or referenced by) this Contract. In order to be eligible for equitable relief for "constructive" changes in Work, Consultant must give UTA's Project Manager or designee written notice stating:
1. The date, circumstances, and source of the change; and
 2. That Consultant regards the identified item as a change in Work giving rise to an adjustment in this Contract.
- d. Consultant must provide notice of a "constructive" change and assert its right to an equitable adjustment under this Section within ten (10) days after Consultant becomes aware (or reasonably should have become aware) of the facts and circumstances giving rise to the "constructive" change. Consultant's failure to provide timely written notice as provided above shall constitute a waiver of Consultant's rights with respect to such claim.
- e. As soon as practicable, but in no event longer than 30 days after providing notice, Consultant must provide UTA with information and documentation reasonably demonstrating the actual cost and schedule impacts associated with any change in Work. Equitable adjustments will be made via Change Order. Any dispute regarding the Consultant's entitlement to an equitable adjustment (or the extent of any such equitable adjustment) shall be resolved in accordance with Article 21 of this Contract.

9. INVOICING PROCEDURES

- a. Consultant shall submit invoices to UTA's Project Manager for processing and payment in accordance with Exhibit B. If Exhibit B does not specify invoice instructions, then Consultant shall invoice UTA after completion of all Work and final acceptance thereof by UTA. Invoices shall be provided in the form specified by UTA. Reasonable supporting documentation demonstrating Consultant's entitlement to the requested payment must be submitted with each invoice.

- b. UTA shall have the right to disapprove (and withhold from payment) specific line items of each invoice to address non-conforming Work or invoicing deficiencies. Approval by UTA shall not be unreasonably withheld. UTA shall have the right to offset from payment amounts reasonably reflecting the value of any claim which UTA has against Consultant under this Contract. Payment for all invoice amounts not specifically disapproved by UTA shall be provided to Consultant within thirty (30) calendar days of invoice submittal.

10. OWNERSHIP OF DESIGNS, DRAWINGS, AND WORK PRODUCT

Any deliverables prepared or developed pursuant to the Contract including without limitation drawings, specifications, manuals, calculations, maps, sketches, designs, tracings, notes, reports, data, computer programs, models and samples, shall upon Consultant's receipt of payment for its services become the property of UTA, and, together with any documents or information furnished to Consultant and its employees or agents by UTA hereunder, shall be delivered to UTA upon request, and, in any event, upon termination or final acceptance of the Goods and Services. UTA shall have full rights and privileges to use and reproduce said items. To the extent that any deliverables include or incorporate preexisting intellectual property of Consultant, Consultant hereby grants UTA a fully paid, perpetual license to use such intellectual property for UTA's operation, maintenance, modification, improvement and replacement of UTA's assets. The scope of the license shall be to the fullest extent necessary to accomplish those purposes, including the right to share same with UTA's consultants, agent, officers, directors, employees, joint owners, affiliates and consultants.

11. USE OF SUBCONSULTANTS

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

12. KEY PERSONNEL

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

13. SUSPENSION OF WORK

- a. UTA may, at any time, by written order to Consultant, require Consultant to suspend, delay, or interrupt all or any part of the Work called for by this Contract. Any such order shall be specifically identified as a "Suspension of Work Order" issued pursuant to this Article. Upon receipt of such an order, Consultant shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of further costs allocable to the Work covered by the order during the period of Work stoppage.

- b. If a Suspension of Work Order issued under this Article is canceled, Consultant shall resume Work as mutually agreed to in writing by the parties hereto.
- c. If a Suspension of Work Order is not canceled and the Work covered by such order is terminated for the convenience of UTA, reasonable costs incurred as a result of the Suspension of Work Order shall be considered in negotiating the termination settlement.
- d. If the Suspension of Work causes an increase in Consultant's cost or time to perform the Work, UTA's Project Manager or designee shall make an equitable adjustment to compensate Consultant for the additional costs or time, and modify this Contract by Change Order.

14. TERMINATION

- a. **FOR CONVENIENCE:** UTA shall have the right to terminate the Contract at any time by providing written notice to Consultant. If the Contract is terminated for convenience, UTA shall pay Consultant: (i) in full for Goods delivered and Services fully performed prior to the effective date of termination; and (ii) an equitable amount to reflect costs incurred (including Contract close-out and subconsultant termination costs that cannot be reasonably mitigated) and profit on work-in-progress as of to the effective date of the termination notice. UTA shall not be responsible for anticipated profits based on the terminated portion of the Contract. Consultant shall promptly submit a termination claim to UTA. If Consultant has any property in its possession belonging to UTA, Consultant will account for the same, and dispose of it in the manner UTA directs.
- b. **FOR DEFAULT:** If Consultant (a) becomes insolvent; (b) files a petition under any chapter of the bankruptcy laws or is the subject of an involuntary petition; (c) makes a general assignment for the benefit of its creditors; (d) has a receiver appointed; (e) should fail to make prompt payment to any subconsultants or suppliers; or (f) fails to comply with any of its material obligations under the Contract, UTA may, in its discretion, after first giving Consultant seven (7) days written notice to cure such default:
 - 1. Terminate the Contract (in whole or in part) for default and obtain the Goods and Services using other consultants or UTA's own forces, in which event Consultant shall be liable for all incremental costs so incurred by UTA;
 - 2. Pursue other remedies available under the Contract (regardless of whether the termination remedy is invoked); and/or
 - 3. Except to the extent limited by the Contract, pursue other remedies available at law.
- c. **CONSULTANT'S POST TERMINATION OBLIGATIONS:** Upon receipt of a termination notice as provided above, Consultant shall (i) immediately discontinue all work affected (unless the notice directs otherwise); and (ii) deliver to UTA all data, drawings and other deliverables, whether completed or in process. Consultant shall also remit a final invoice for all services performed and expenses incurred in full accordance with the terms and conditions of the Contract up to the effective date of termination. UTA shall calculate termination damages payable under the Contract, shall offset such damages against Consultant's final invoice, and shall invoice Consultant for any additional amounts payable by Consultant (to the extent termination damages exceed the invoice). All rights and remedies provided in this Article are cumulative and not exclusive. If UTA terminates the Contract for any reason, Consultant shall remain available, for a period not exceeding 90 days, to UTA to respond to any questions or concerns that UTA may have regarding the Goods and Services furnished by Consultant prior to termination.

15. INFORMATION, RECORDS and REPORTS; AUDIT RIGHTS

Consultant shall retain all books, papers, documents, accounting records and other evidence to support any cost-based billings allowable under Exhibit B (or any other provision of this Contract). Such records shall include, without limitation, time sheets and other cost documentation related to the performance of labor services, as well as subcontracts, purchase orders, other contract documents, invoices, receipts or other documentation supporting non-labor costs. Consultant shall also retain other books and records related to the performance, quality or management of this Contract and/or Consultant's compliance with this Contract. Records shall be retained by Consultant for a period of at least six (6) years after completion of the Work, or until any audit initiated within that six-year period has been completed (whichever is later). During this six-year period, such records shall be made available at all reasonable times for audit and inspection by UTA and other authorized auditing parties including, but not limited to, the Federal Transit Administration. Copies of requested records shall be furnished to UTA or designated audit parties upon request. Consultant agrees that it shall flow-down (as a matter of written contract) these records requirements to all subconsultants utilized in the performance of the Work at any tier.

16. FINDINGS CONFIDENTIAL

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

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

17. PUBLIC INFORMATION.

Consultant acknowledges that the Contract and related materials (invoices, orders, etc.) will be public documents under the Utah Government Records Access and Management Act (GRAMA). Consultant'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.

18. GENERAL INDEMNIFICATION

Consultant shall indemnify, hold harmless and defend UTA, its officers, trustees, agents, and employees (hereinafter collectively referred to as "Indemnities") from and against all liabilities, claims, actions, damages, losses, and expenses including without limitation reasonable attorneys' fees and costs (hereinafter referred to collectively as "claims") related to bodily injury, including death, or loss or damage to tangible or intangible property to the extent caused by the negligent acts or omissions of Consultant or any of its owners, officers, directors, agents, employees or subconsultants. This indemnity includes any claim or amount arising out of the failure of such Consultant to conform to federal, state, and local laws and regulations. If an employee of

Consultant, a subconsultant, anyone employed directly or indirectly by any of them or anyone for whose acts any of them may be liable brings a claim against UTA or another Indemnities, Consultant's indemnity obligation set forth above will not be limited by any limitation on the amount of damages, compensation or benefits payable under any employee benefit acts, including workers' compensation or disability acts. The indemnity obligations of Consultant shall not apply to the extent that claims arise out of the sole negligence of UTA or the Indemnities.

19. INSURANCE REQUIREMENTS

The insurance requirements herein are minimum requirements for this Contract and in no way limit the indemnity covenants contained in this Contract. The Utah Transit Authority in no way warrants that the minimum limits contained herein are sufficient to protect the Consultant from liabilities that might arise out of the performance of the work under this contract by the Consultant, his agents, representatives, employees or subconsultants and Consultant is free to purchase additional insurance as may be determined necessary.

MINIMUM SCOPE AND LIMITS OF INSURANCE: Consultant shall provide coverage with limits of liability not less than those Stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

a. Commercial General Liability – Occurrence Form

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

- General Aggregate \$4,000,000
- Products – Completed Operations Aggregate \$1,000,000
- Personal and Advertising Injury \$1,000,000
- Each Occurrence \$2,000,000

1. The policy shall be endorsed to include the following additional insured language: "The Utah Transit Authority shall be named as an additional insured with respect to liability arising out of the activities performed by, or on behalf of the Consultant".

2. Automobile Liability

Bodily Injury and Property Damage for any owned, hired, and non-owned vehicles used in the performance of this Contract.

Combined Single Limit (CSL) \$2,000,000

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

3. Worker's Compensation and Employers' Liability

Workers' Compensation Statutory

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

(i) Policy shall contain a waiver of subrogation against the Utah Transit Authority.

(ii) This requirement shall not apply when a consultant or subconsultant is exempt under UCA, AND when such consultant or subconsultant executes the appropriate waiver form.

4. Professional Liability (Errors and Omissions Liability)

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

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

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

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

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

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

c. **NOTICE OF CANCELLATION:** Each insurance policy required by the insurance provisions of this Contract shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the Utah Transit Authority, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. Such notice shall be sent directly to (Utah Transit Authority agency Representative's Name & Address).

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

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

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

All certificates required by this Contract shall be emailed directly to Utah Transit Authority's insurance email address at insurancercerts@rideuta.com. The Utah Transit Authority project/contract number and project description shall be noted on the certificate of insurance. **DO NOT SEND CERTIFICATES OF INSURANCE TO THE UTAH TRANSIT AUTHORITY'S CLAIMS AND INSURANCE DEPARTMENT.**

f. **SUBCONSULTANTS:** Consultants' certificate(s) shall include all subconsultants as additional insureds under its policies or subconsultants shall maintain separate insurance as

determined by the Consultant, however, subconsultant's limits of liability shall not be less than \$1,000,000 per occurrence / \$2,000,000 aggregate. Sub-consultants maintaining separate insurance shall name Utah Transit Authority as an additional insured on their policy. Blanket additional insured endorsements are not acceptable from sub-consultants. Utah Transit Authority must be scheduled as an additional insured on any sub-consultant policies.

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

20. OTHER INDEMNITIES

- a. Consultant shall protect, release, defend, indemnify and hold harmless UTA and the other Indemnities against and from any and all Claims of any kind or nature whatsoever on account of infringement relating to Consultant's performance under this Contract. If notified promptly in writing and given authority, information and assistance, Consultant shall defend, or may settle at its expense, any suit or proceeding against UTA so far as based on a claimed infringement and Consultant shall pay all damages and costs awarded therein against UTA due to such breach. In case any portion of the Work is in such suit held to constitute such an infringement or an injunction is filed that interferes with UTA's rights under this Contract, Consultant shall, at its expense and through mutual agreement between the UTA and Consultant, either procure for UTA any necessary intellectual property rights, or modify Consultant's services or deliverables such that the claimed infringement is eliminated.
- b. Consultant shall: (i) protect, release, defend, indemnify and hold harmless UTA and the other Indemnities against and from any and all liens or Claims made or filed against UTA or upon the Work or the property on which the Work is located on account of any labor performed or labor, services, and equipment furnished by subconsultants of any tier; and (ii) keep the Work and said property free and clear of all liens or claims arising from the performance of any Work covered by this Contract by Consultant or its subconsultants of any tier. If any lien arising out of this Contract is filed, before or after Work is completed, Consultant, within ten (10) calendar days after receiving from UTA written notice of such lien, shall obtain a release of or otherwise satisfy such lien. If Consultant fails to do so, UTA may take such steps and make such expenditures as in its discretion it deems advisable to obtain a release of or otherwise satisfy any such lien or liens, and Consultant shall upon demand reimburse UTA for all costs incurred and expenditures made by UTA in obtaining such release or satisfaction. If any non-payment claim is made directly against UTA arising out of non-payment to any subconsultant, Consultant shall assume the defense of such claim within ten (10) calendar days after receiving from UTA written notice of such claim. If Consultant fails to do so, Consultant shall upon demand reimburse UTA for all costs incurred and expenditures made by UTA to satisfy such claim.

21. INDEPENDENT CONSULTANT

Consultant is an independent consultant and agrees that its personnel will not represent themselves as, nor claim to be, an officer or employee of UTA by reason of this Contract. Consultant is responsible to provide and pay the cost of all its employees' benefits.

22. 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 Consultant in this Contract or the proceeds thereof without specific written authorization by UTA.

23. CLAIMS/DISPUTE RESOLUTION

- a. "Claim" means any disputes between UTA and the Consultant 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 6. Claims must be made by written notice. The responsibility to substantiate claims rests with the party making the claim.
- b. Unless otherwise directed by UTA in writing, Consultant 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.
- c. The parties shall attempt to informally resolve all claims, counterclaims and other disputes through the escalation process described below. No party may bring a legal action to enforce any term of this Contract without first having exhausted such process.
- d. The time schedule for escalation of disputes, including disputed requests for change order, shall be as follows:

Level of Authority	Time Limit
UTA's Program/Project Manager Kyle Stockley/Consultant's Program Manager, David Warnock	Five calendar days
UTA's Director of Asset Management David Hancock/Consultant's Division Manager, Conrad Fawcett	Five calendar days
UTA's Chief Service Development Officer Mary DeLoretto/Consultant's West Unit Manager, Tony Purdon	Five calendar days

Unless otherwise directed by UTA's Project Manager, Consultant shall diligently continue performance under this Contract while matters in dispute are being resolved.

If the dispute cannot be resolved informally in accordance with the escalation procedures set forth above, then either party may commence formal mediation under the Juris Arbitration and Mediation (JAMS) process using a mutually agreed upon JAMS mediator. If resolution does not occur through Mediation, then legal action may be commenced in accordance the venue and governing law provisions of this contract.

24. GOVERNING LAW

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

25. ASSIGNMENT OF CONTRACT

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

26. NONWAIVER

No failure or waiver or successive failures or waivers on the part of either party in the enforcement of any condition, covenant, or article of this Contract shall operate as a discharge of

any such condition, covenant, or article nor render the same invalid, nor impair the right of either party to enforce the same in the event of any subsequent breaches by the other party.

27. NOTICES OR DEMANDS

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

If to UTA:

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

with a required copy

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

If to: Mott MacDonald, LLC

ATTN: General Counsel
111 Wood Avenue South
Iselin, NJ 08830

- b. Any such notice shall be deemed to have been given, and shall be effective, on delivery to the notice address then applicable for the party to which the notice is directed; provided, however, that refusal to accept delivery of a notice or the inability to deliver a notice because of an address change which was not properly communicated shall not defeat or delay the giving of a notice. Either party may change the address at which such party desires to receive written notice by providing written notice of such change to any other party.
- c. Notwithstanding Section 23.1, the parties may, through mutual agreement, develop alternative communication protocols to address change notices, requests for information and similar categories of communications. Communications provided pursuant to such agreed means shall be recognized as valid notices under this Contract.

28. CONTRACT ADMINISTRATOR

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

29. INSURANCE COVERAGE REQUIREMENTS FOR CONSULTANT EMPLOYEES

- a. The following requirements apply to the extent that: (i) the initial value of this Contract is equal to or in excess of \$2 million; (ii) this Contract, with subsequent modifications, is reasonably anticipated to equal or exceed \$2 million; (iii) Consultant has a subcontract at any tier that involves a sub-consultant that has an initial subcontract equal to or in excess of \$1 million; or (iv) any subcontract, with subsequent modifications, is reasonably anticipated to equal or exceed \$1 million:
- b. Consultant shall, prior to the effective date of this Contract, demonstrate to UTA that Consultant has and will maintain an offer of qualified health insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5) for the Consultant's employees and the employee's dependents during the duration of this Contract.
- c. Consultant shall also demonstrate to UTA that subconsultants meeting the above-described

subcontract value threshold have and will maintain an offer of qualified health insurance coverage (as defined by Utah Code Ann. § 17B-2a-818.5 for the subconsultant's employees and the employee's dependents during the duration of the subcontract.

30. COSTS AND ATTORNEYS FEES

[Not Used]

31. ANTIDISCRIMINATION

- a. Employment Practices. Offeror hereby declares that it is and will remain fully compliant with the provisions of the Utah Anti-discrimination Act (UTAH CODE §§ 34A-5-101 TO 34A-5-108) and the equivalent anti-discrimination laws of its State of incorporation and/or headquarters location. Under the Act, an employer may not refuse to hire, promote, discharge, demote, or terminate a person, or to retaliate against, harass, or discriminate in matters of compensation or in terms, privileges, and conditions of employment against a person otherwise qualified, because of race, color, sex, pregnancy, childbirth, or pregnancy-related conditions; age, if the individual is 40 years of age or older; religion; national origin; disability; sexual orientation; or gender identity.
- b. Goods and Services Provided to UTA. In addition to avoiding discriminatory employment practices as described above, Offeror also declares that all goods and services it provides to UTA are useable and accessible by individuals with disabilities as described in Title II of the American with Disabilities Act and also Section III (H) of UTA Policy 6.1.1 which states that programs, services, and facilities procured by UTA will be accessible to and useable by individuals with disabilities. Offeror further certifies that any digital software, tool, program or web application must meet the most recent version of the Web Content Accessibility Guidelines (WCAG) found at <https://www.w3.org/TR/WCAG21>. To the extent Offeror is providing transportation services, vehicles or facilities it also declares that it is in compliance with Department of Transportation (DOT) ADA standards found at 49 CFR Parts 27, 37, 38, and 39.

32. NO THIRD-PARTY BENEFICIARY

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

33. 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.

34. SEVERABILITY

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

35. ENTIRE AGREEMENT

This Contract shall constitute the entire agreement and understanding of the parties with respect to the subject matter hereof, and shall supersede all offers, negotiations and other agreements with respect thereto. The terms of the Contract supersede any additional or conflicting terms or provisions that may be preprinted on Vendor's work plans, cost estimate forms, receiving tickets, invoices, or any other related standard forms or documents of Vendor that may subsequently be used to implement, record, or invoice Goods and/or Services hereunder from time to time, even if such standard forms or documents have been signed or initialed by a representative of UTA. The terms of the Contract prevail in any dispute

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

36. AMENDMENTS

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

37. COUNTERPARTS

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

38. SURVIVAL

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

IN WITNESS WHEREOF, the parties have made and executed this Contract as of the day, month and year of the last signature contained below:

UTAH TRANSIT AUTHORITY:

MOTT MACDONALD, LLC

By _____
Mary DeLoretto
Interim Executive Director
Date: _____

By _____
David Hancock
Director of Asser Management
Date: _____

DocuSigned by:
By Conrad Pawcett _____
Conrad Pawcett
018A1E0C50FD4B9...
Vice President
Date: 6/24/2021

DocuSigned by:
By David Warnock _____
David Warnock
66C40641F4645...
Vice President
Date: 6/24/2021

Approved as to Content and Form

DocuSigned by:
Mike Bell _____ 6/24/2021
Mike Bell
361F16F838704A9...
Assistant Attorney General
UTA Counsel

Reviewed & Recommended

DocuSigned by:
Kyle Stockley _____ 6/24/2021
Kyle Stockley
446E2357024E1...
Rail Infrastructure Project Manager

UTA Project Code: SGR040

Exhibit A Scope of Work

1.0 Management / Coordination / Administration

The Consultant will report to UTA's Vehicle Program Manager (Kyle Stockley). The Consultant will lead or provide assistance with overall program management, continual coordination with UTA, monthly progress reports, and invoicing. This effort will include the following elements:

- Allocation of resources:
The Consultant will assist UTA in establishing and maintaining a staffing plan that assigns UTA and Consultant staff to projects based on staffing priorities. A component of this effort will be to work with UTA to determine which projects will be undertaken by UTA staff and which projects will need to be assigned to support staff from the Consultant. In some cases, the Consultant may have its staff lead certain projects, with general oversight of the UTA Vehicle Program Manager. As such, the terms "assist" and "support" used herein this Appendix 1 may be construed liberally, as determined by the UTA Vehicle Program Manager.
- Prepare monthly invoices that include progress reports describing the Consultant services provided each month per UTA requirements. As part of the monthly progress report, the Consultant will provide the UTA Vehicle Program Manager with an estimate of the up-coming month expenditures.
- Establish and track performance metrics.
- Provide an annual program evaluation and concomitant recommendations.
- Use modern recordkeeping methods, which can readily be integrated with existing enterprise-wide platforms at UTA.
- Other duties associated with leading the Consultant team effort.

As part of the administration duties, under the direction of the UTA Vehicle Program Manager, the Consultant may assist with the development, planning, and implementation of a team-building program that would involve the Vehicle Program Management Consultant team and the UTA Vehicle Capital team. This program should identify the strengths of each team member and clearly identify their role and contribution to the Vehicle Capital Projects team. This team-building program will first be implemented with the Vehicle Capital Projects team and then expanded out to other UTA departments and even external stakeholders that are directly involved with the Capital Plan.

No work under this Program Management contract is guaranteed. All requests will be issued through work authorizations at the sole discretion of UTA.

2.0 Capital Program Development Support

The Consultant team will assist with advancing an overall agency Capital Program. The Consultant will meet with the UTA Planning, Capital, and Executive departments to better understand current and future needs. The Consultant may also assist with evaluating the existing long-range transportation plans as developed by WFRC and MAG. In addition, the Consultant may also assist with evaluating the revenue vehicle fleet management plans to help develop a strategy to Deliver projects in a collaborative approach with FTA, FRA, UDOT, WFRC, MAG, and local government partners. Then, with thoughtful consideration and collaboration amongst the UTA staff, a Vehicle Capital Program will be developed.

Once the Vehicle Capital Program has been approved, the Consultant will assist with developing a work plan that outlines the strategies, identifies opportunities, prioritizes projects, evaluates timelines, and ensures sustainable ongoing operations to effectively deliver the UTA Vehicle Capital Program.

2.1 Capital Plan Development

In addition to this work plan, the Consultant will engage in the following projects to ensure the successful delivery of the Capital Plan:

- Develop needed procedures, mechanisms, and processes to ensure that UTA managers and staff are setting priorities and making timely decisions as required to meet Federal, State and local requirements for implementation and funding of projects.
- Assist with analyzing projects associated with the Vehicle Capital Plan and current workloads within UTA and the Consultant to determine the appropriate Consultants needed to perform specialized work and/or regular project work to complete the projects.
- Thoughtfully involve internal and external stakeholders in project work and decisions.
- Effective coordination with the Federal Transit Administration (FTA), Union Pacific (UP), Utah Department of Transportation (UDOT), Wasatch Front Regional Council (WFRC), Mountainland Association of Governments (MAG), and other applicable governmental entities in the planning, design, and development of the Vehicle Capital Program.
- Develop an internal (inside UTA), dynamic and static, cloud-based dashboard and reporting with regular, consistent updating.
- Develop an external (outside UTA), dynamic and static internet dashboard and reporting for public and stakeholder understanding and transparency with regular, consistent updating.
- Develop a white paper to identify a unified project development approach with other Transit Agencies. Identify key projects and initiatives that could be done as joint projects.
- Develop an innovation white paper to help guide the project development process for the next 5 years. The white paper should identify innovative approaches to Consultant procurements, contracting and project delivery. The goal of this effort is to identify ways to improve quality, reduce the cost of project delivery and speed the process.

2.2 Capital and Financial Planning

- As part of the annual UTA budgeting and scheduling process, the Consultant will assist UTA management in the preparation of items to be included in each annual budget. This includes cost estimates, identification of anticipated expenditures for each project combined with planned sources of revenue to cover those costs.
- As required by FTA guidelines, UTA must produce a financial plan as part of the documentation for the application for numerous programs. Capital and operating costs for each project are developed and then combined into the long-range financial

plan for UTA. Updating of the UTA financial plan is the responsibility of UTA Project Managers working with the UTA budget and accounting staff. The Consultant will aid UTA staff in assembling the needed financial information for incorporation into the overall financial plan. Strong cost estimating methods at all concept and project phases are needed.

- The Consultant may assist UTA with their Financial Model in helping to forecast future revenue, anticipated tax generation, operating & maintenance costs, and budget shortfalls.
- The Consultant may be directed to support UTA in procuring additional revenue vehicles which may include commuter rail, light rail, fixed route bus and paratransit buses. Support will be performed as agreed upon within this contract or a future Projects.

3.0 Project Management & Administration Services

In most cases, a UTA staff person will be assigned as Project Manager (PM) for each of the projects undertaken by UTA departments. For some projects, a Consultant staff person will be assigned as a Project Associate. In other cases, the Consultant will serve as the Project Manager, as determined by the UTA Vehicle Program Manager. Working under the direction of the UTA PM, the Consultant will assist or be responsible for the overall management of Consultants and Consultants involved with the project. This Project Associate position has primary responsibility for assisting the UTA PM in the establishment and maintenance of project budget, schedule and quality performance. This includes regular updating of project information regarding project scope, schedule, and budget. However, this staff support could be in any area of UTA's current organizational structure that may be needed on a shortened basis to maintain the schedule of active projects. Regardless, the Consultant will either assist the UTA PM, or be responsible as the designated PM to perform the following assessments/reviews on new Vehicle Capital Projects, or existing projects as deemed necessary.

3.1 Risk Registries and Assessments

- The Consultant will help facilitate risk reviews for projects and develop a risk register when needed. The development and use of risk management analytical tools will be performed as agreed upon. The Consultant will evaluate any major project risks with the associated overall Vehicle Capital Program risks. The Consultant will also assist with regular project risk reviews to help identify and prevent project funding or delivery concerns.

3.2 Project Readiness Reviews

- The Consultant will assist with project readiness reviews for both federal and non-federally funded projects.

3.3 Project Cost Estimating and Budgeting

- Through the use of innovative tools and techniques, the Consultant will help UTA develop a consistent approach to project cost estimation and budgeting.

3.4 Program/Project Planning / Contract Delivery Method

- Working with UTA, the Consultant will make recommendations regarding program/project phasing, logistics, site plans, and procurement methods, to minimize program costs and conflicts within the Vehicle Capital Program, and to maintain efficient operations of UTA. Where feasible, project stakeholders (internal and external) involved with the project should be included in this assessment.

3.5 Safety & Security Approach

- In conjunction with UTA's Safety and Security Department and conforming to UTA's safety policies/protocols, the Consultant will assist with the evaluation of safety and security concerns and approaches.

3.6 Project Management Plans (PMP)

- ☐ When FTA funds are being used, or anticipated to be used for a Vehicle Capital Project, the Consultant will assist UTA with preparing an FTA required PMP for major capital projects in the Vehicle Capital Program in accordance with 49 CFR 633. A PMP serves as the implementation plan that spans the entire project from start to finish. It shall describe policies, practices, and procedures related to the management, design, and completion of a project. The PMP must be tailored to include the specific action plan for implementing the project and managing the cost, schedule, quality, and associated risks. The PMP must also include a Safety and Security Management Plan (SSMP). UTA already has a template for PMP's but might require assistance, as needed, in filling out the PMP for specific projects.

3.7 FTA Reporting

- ☐ In addition to the PMP assistance mentioned above, the Consultant will assist UTA in generating other reports and gathering information for monthly/quarterly updates relating to Federal projects and Federal grant requirements.

4.0 Planning, Engagement, and Outreach

UTA's recently restructured organization brought together the planning and engagement programs to strengthen its policy and service planning functions, backed and informed by integrated public/stakeholder engagement. The Consultant will also serve these planning, engagement, and outreach programs as an extension of staff, either in a lead or support role, to be determined by UTA, by providing services such as program evaluation, program recommendations, project management, planning assistance, peer review, and preparing scopes of work for separate procurements, graphics production, stakeholder outreach, research and similar other support services, as needed. Examples of some specific support are:

- ☐ Plan and staff public engagement events and development of engagement tools
- ☐ Technical planning support in development of goals, purpose and need, alternatives, and evaluation criteria
- ☐ Document formatting and layout, graphic and rendering development

5.0 Grants Management Services

In order to assist with delivering projects within the Capital Program, UTA relies on grant funds from local, State, and Federal programs. The Consultant will assist UTA in providing grants management services to help in funding UTA projects and/or programs.

5.1 Identification, Recommendations, and Preparation

- As requested, the Consultant will assist UTA's Grants Management group and Project Development group with identifying and defining potential grant funding opportunities. In addition, as requested, the Consultant will assist UTA in identifying projects with local funding and timelines that meet the eligibility requirements of

applicable grants. As requested, the Consultant will assist UTA with the preparation and submittal of grant applications. This includes, but is not limited to, developing grant applications, Benefit-Cost Analysis, and other similar data needed for grant applications, as necessary.

5.2 Grant Tracking and Reporting

- As requested, the Consultant may assist UTA in the monthly, quarterly, and yearly reporting that is required for grants. This could also include updating software inputs and processes involved with grant tracking and reporting requirements.

6.0 Project Controls Services

Project controls services are required to ensure that projects are delivered on schedule, within budget, and within the requirements dictated by the project funding sources. Specific project controls services needed for the Vehicle Capital Program are detailed below:

6.1 Cost Estimating

- During the planning and design phases of projects, the Consultant will assist UTA in preparing and periodically updating cost estimates for all projects in the Vehicle Capital Program. The level of detail contained in individual cost estimates will vary based on information available for specific projects. These estimates need to be prepared initially as concept-level cost estimates for projects in the planning phase, and subsequently updating these cost estimates as more detailed information becomes available during the design phase. As projects move into the implementation phase, the Consultant may also be asked to prepare detailed labor estimates. The Consultant will also assist UTA in reviewing cost estimates prepared internally or by outside parties to confirm that correct methodologies and assumptions were used, and the estimates are reasonable.

6.2 Funding Management/Planning

- The Consultant will assist UTA with regularly analyzing the overall Vehicle Capital Program funding plan and providing recommendations on how to best utilize the various funding sources available to address the Program's highest priority projects. The Consultant will also assist UTA with assigning funds to projects as new sources become available to ensure that specific projects being funded over time coincide with the anticipated project cash flows.

6.3 Budget and Cost Management

- The Consultant will assist UTA with budget and cost management for all projects in the Vehicle Capital Program. Prior to the start of design, the Consultant will assist UTA in developing a comprehensive budget for each project in the Capital Program. This comprehensive budget will be established on the most recent cost estimate as discussed previously in this section.

6.4 Cost Tracking

- In order to ensure that project expenditures are accurately tracked, and the forecast of project cost is accurately projected and updated, the Consultant will assist UTA in preparing monthly cost reports using standard templates. The cost reports will include current and forecasted budget information based on actual and anticipated changes, as well as project expenditures to date. These reports must align with actual expenditures from UTA's JD Edwards accounting system.

The Consultant will use UTA's budget monitoring and control system. UTA currently uses a custom-built software system (IPCS) to track projects, budgets, and schedules. The Consultant will evaluate this existing control system and make recommendations to improve efficiency, accuracy, and amount of information presented. UTA will then make a decision to either stay with the existing system, make changes, or incorporate a new system.

6.5 Contract/Cost Change

- The Consultant will assist UTA with preparing, processing, and tracking the status of contract

changes for projects, including projects amendments, contract modifications, and change orders. The Consultant will provide analysis and recommendations on approving changes and will recommend budget and schedule recovery strategies where appropriate. As directed by UTA, the Consultant will review the contract changes requested by third-party Consultants and Consultants. As contract changes occur throughout projects, the Consultant will assist UTA with tracking changes to scope, budget/funding, schedule, contract duration, and funding agency concurrence related to changes.

6.6 Cost Negotiations

- The Consultant will assist in reviewing and negotiating costs with Consultants.

6.7 Cash Flows

- The Consultant will assist UTA in preparing cash flows which track and predict project expenditures over time by funding source. The cash flows will be updated on a quarterly basis or as requested by UTA.

6.8 Project Schedule Updates

- Using market standards and innovative techniques, the Consultant will work with project schedule management software and assist the UTA project manager to establish and maintain a detailed implementation schedule for each project including major milestones and completion dates. The Consultant is to bring creativity and value-added ideas to the team and is expected to inform UTA of state-of-the-art best management practices and other efficiency which could be utilized by UTA and Project Managers. The Consultant will regularly monitor and update progress on each project. This schedule coordination would include integrating schedules from various projects to produce local, State and Federal funding documentation. An example would be monitoring inputs to the UTA Financial Plan which must be based on updated schedule information for each project included in the Financial Plan.

6.9 Additional Periodic Reports

- As directed by UTA, the Consultant will assist in developing additional reports to monitor various aspects of the Vehicle Capital Program. This may include additional program-wide reports.

6.10 Document Control

- UTA has an established document control system (Laserfiche) that has been used effectively on previous and ongoing projects. The Consultant will assist UTA with developing a process to help improve the utilization of this document control system. The Consultant will assist in maintaining project files and records including, but not limited to, reports, drawings, databases, and computer files of any type. All project files are the property of UTA and will be maintained in good condition.

7.0 Engineering Oversight

Vehicle specific engineering oversight will be required of the Consultant to support UTA in coordinating and expediting the execution of vehicle systems projects. This would provide oversight for design and general oversight. This Engineering Oversight would include items such as mechanical, electrical, software engineering type work.

8.0 Quality Assurance and Consultant Performance Evaluation

All work will be performed and completed to the satisfaction and acceptance of UTA. The Consultant will abide by all applicable professional standards, local codes, manufacturer recommendations, and safe work practices to complete the described work in this Scope of Services.

The Consultant will be subject to periodic performance evaluations throughout contract term. UTA will use a designated Consultant evaluation scorecard to identify any performance gaps and/or monitor quality of services provided by the Consultant and any associated subConsultants.

8.1 Quality Management Plan

The Consultant must provide a Quality Management Plan (QMP) that will be used specifically for this Vehicle Program Management contract. The QMP must specify how the Consultant will perform Quality Assurance and Quality Control (QA/QC) activities throughout the duration of the contract to ensure delivery of a quality product in a timely manner that conforms to established contract requirements. Components of the QMP must include the following project specific items:

- A List of Requirements
- Intent of the QMP
- Philosophy of the QMP
- Technical Document Review Process
- Checking Procedures
- Quality Control Verification
- Definitions

9.0 Adjunct Services

In addition to the Core Services outlined in this Scope of Services, the Consultant may be asked to provide professional consulting services on an “as-needed” basis. At the written direction of UTA, the Consultant will meet short-term requirements in excess of core services specified in this Scope of Services. Projects may include technical services provided on an hourly basis or specific projects with short-term deliverables.

Documentation will include, but not limited to: Detailed Scopes of Work, Schedules, Contract Deliverables, Cost & Price Forms including Direct Costs, and Workforce Loaded Work Plans. These are intended to bring on staff quickly and may commence at the written direction of UTA, provided the level of effort has been determined and sufficient funds are available.

The following is a list of anticipated additional services that the Consultant could be called upon to perform at some point during this Vehicle Program Management contract on a limited or short-term basis either in a lead or support role:

- Agency policy and planning development that is dependent upon support and information from this Consultant
- Procurement and contract administration, for all types of capital-related services, materials and equipment
- Vehicle Structural Engineering reviews and analysis –structural designs, and recommendations
- Electrical Engineering reviews and analysis of existing revenue vehicles
- Mechanical Engineering reviews and analysis of existing revenue vehicles
- Operation and Capacity Analysis
- Plans and documents to meet specific program and project needs
- Coordination with Federal, State and local entities and Agencies
- FRA, FTA, Federal, State, local and railroad regulatory requirements
- Technical support for maintenance and operations issues, including safety
- Project/contract acceptance, testing, certification, startup and commissioning
- Visualization, graphics and presentation material
- Other areas for services deemed appropriate and needed by UTA, which are consistent with this procurement

Exhibit B

Price

Role	Program Manager Light Rail Overhaul	Program Manager Commuter Rail Overhaul	Overall Program Manager	As needed Electrical engineer	As needed Mechanical Engineer	As needed Structural Engineer	As needed Technical Writer	As needed Procurement Document Associate
Name	Chris Terry	TBD	David Warnock	Mark Lowther	Juan Carlos Hernandez	Richard Harrison	Joe Pinelli	Nick Laverick
Direct Hourly Rate	\$52.89	\$80.00	\$124.88	\$58.69	\$81.36	\$45.23	\$70.01	\$73.37
FAR Overhead Rate	162.36%	114.75%	162.36%	162.36%	162.36%	162.36%	162.36%	162.36%
Fully Burdened Hourly Rate	\$152.64	\$188.98	\$360.40	\$169.37	\$234.80	\$130.53	\$202.05	\$211.74

Prime Firm Audited Overhead Rate: 162.36%

Prime Firm Proposed Subconsultant Markup (%): 3%

Prime Firm Proposed Profit (%): 10%

Prime Firm Audited Overhead Rate (Home Office / Part Time Staff): 114.75%

Prime Firm Audited Overhead Rate (Field Office / Full Time Staff): 139.41%

Prime Firm Audited Overhead Rate (Field Office / Part Time Staff): 91.80%

Fully burdened rate = direct rate + (direct rate * overhead rate) + profit

The cost of this contract is a not to exceed amount of \$600,000 per year. The total not to exceed amount is \$3,000,000 over a five year period.

FEDERAL CLAUSES

The clauses listed below are self-deleting to the extent they do not apply to the type program management consulting effort which is the subject of this contract. Also, if a federal clause is duplicative of a clause contained in the contract above (e.g. termination), the contract clause shall control.

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 7%. A separate contract goal of **__ DBE participation has** 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.

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.)*

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.

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.

SEISMIC SAFETY REQUIREMENTS

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.

ADA ACCESS

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.

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

Any subsidiary of the above listed entities.

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.