

REQUEST FOR PROPOSALS

December 4, 2023

ADA PARATRANSIT SERVICES

RFP- Solicitation #2023-ADAParatransit-010

Proposal Due Date – January 5, 2024 - 10:00 AM CST (Central Standard Time)

Proposer’s authorized signature is required below on this RFP. It shall constitute an acceptance of a contract that may result from this RFP.

Funding Source: Federal Transit Administration (FTA)

EXHIBIT A

PROPOSER’S SIGNATORY PAGE

Company Name <i>(Include Federal I.D. No.)</i>	
Address, City State & Zip	
Phone Number(s) <i>(main, cell & fax)</i>	
Addendum Acknowledgement	Acknowledge receipt of any addendums (if any) issued. Check CATS website and reflect here: #1 _____, #2 _____, #3 _____, #4 _____
Authorized Signature	Date:
Print Authorized Name & Title <i>Include E-mail Contact(s) Info</i>	

*Proposer **MUST sign** and complete this signatory page “Exhibit A” and return with proposal submission. Failure to do so will result in the proposal being rejected. **Above signature must be original.***

Schedule of Events - Timeline & Due Dates RFP - Solicitation #2023-ADAParatransit-010	
Item/Events	Timeline & Due Dates
Public Notice - Official Journal and DBE Publication	December 4, 7 and 11, 2023
Sent via email to known list of vendors	December 4 and Continuous
Written Inquiries/Questions Due (preferred via email)	December 18, 2023
Anticipated Responses to Proposal Inquiries <i>(via addendum issued)</i>	December 28, 2023
Proposal Due Date/Deadline Receipt	January 5, 2024 @ 10:00 AM (CST)

CATS reserves the right to change the Schedule of Events - Timeline & Due Dates at any time.

IMPORTANT NOTICE TO PROPOSERS:

All responses to this Request for Proposals should be labeled as indicated and delivered or mailed to the address below.

Capital Area Transit System
Attn: CATS Procurement Department
2250 Florida Blvd.
Baton Rouge, LA 70802

Bottom Left Corner of Envelope/Package should indicate the following:

Proposing Company Name and Address
ADA Paratransit Services
Solicitation #2023-ADAParatransit-010
Due Date & Time: **January 5, 2024 – 10:00 AM (CST)**

Proposal Receipt & Location:

Proposals will be received until the time specified in the **Schedule of Events - Timeline & Due Dates** by CATS Procurement Department, **2250 Florida Blvd., Baton Rouge, LA 70802**. One original signed proposal must be submitted; **One (1) original and four (4) copies** and **one electronic copy** of the proposal on a CD or flash drive should be included in the package. These items should be sent via mail/courier in a sealed package bearing the name and address of the Proposer and the RFP Solicitation Number as indicated above in the Notice to Proposers. **CATS will be accepting electronic bids via email** at: catsprocurement@brcats.com – with a subject line: **Solicitation # title of bid**.

- The proposal delivery method is the responsibility of the proposer.
- CATS is not responsible for any delays caused by the proposers chosen means of delivery.

Late proposals will not be accepted under any circumstances. Failure to meet the opening date and time shall result in proposal rejection. Late proposal(s) will not be opened and will be rejected and considered non-responsive. The Proposer(s) will be notified via e-mail and given the opportunity to pick up rejected proposals. Late proposals not retrieved within four weeks will be destroyed.

Proposer is solely responsible for the timely delivery of the proposal and for ensuring that the delivery service (if mailed or courier) provides service to **2250 Florida Blvd. (*front reception office only*), Baton Rouge, LA 70802** between the hours of 8:00 a.m. and 4:00 p.m. (*Central Standard Time*) - Monday through Friday.

Proposer Inquiries – Questions and Answers (Q&A)

Proposers may submit written questions at any time up to the deadline reflected in the **Schedule of Events - Timeline & Due Dates**. Any explanations or responses desired by a Proposer regarding the meaning or interpretation of this solicitation must be requested in writing by email only on, or prior to, the deadline date. **Oral explanations, responses or instructions will not be binding unless CATS confirms them in writing.**

Proposer inquiries must be submitted via e-mail only to: catsprocurement@brcats.com – with a subject line: **Q&A Solicitation #2023-ADAPartransit-010**.

Responses made by CATS will be in the form of written ADDENDA to the RFP. Any addenda issued will be furnished to all Proposers, via email, who have requested to receive Addenda information within the timeline reflected after the deadline date to receive questions. This Addendum will also be posted on CATS website at <https://www.brcats.com/page/procurement>.

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PART 1

GENERAL INFORMATION

A. Introduction and Background

The Capital Area Transit System, commonly referred to as CATS, provides bus service to residents of and visitors to Baton Rouge, Louisiana. CATS currently operates 14 Paratransit vehicles helping people get to the places where they live, work and for other important necessities.

Federal Funding Award Assistance

Any contract awarded or to be awarded hereunder may be contingent upon a financial assistance contract between CATS and the US Department of Transportation (USDOT) and the Federal Transit Administration (FTA). It is contemplated that this project maybe funded in part with FTA funding; therefore, Proposers must agree to comply with any and all provisions and regulations relative to that financial assistance contract(s).

B. Goals

In this RFP, CATS is not necessarily seeking the lowest price. Evaluations will be conducted based on a combination of expertise, production and price that is the most advantageous to CATS. For all of these reasons, this RFP requires Proposers to demonstrate their experience and expertise, to describe in detail the product and service they propose to deliver and to state how much the product and service will cost.

The DBE Participation Goal for CATS is 11% (eleven percent); all minority businesses are encouraged to participate.

Bidders are encouraged to utilize the services of minority and DBE-owned banks, and other financial institutions, when such institutions are available. Information about such institutions owned and controlled by economically and socially disadvantaged individuals can be requested from the DBE liaison officer: Thomas Cating, Interim DBE Liaison Officer, phone: (225) 346-3267 or email to: tcating@brcats.com.

It is the policy of CATS that disadvantaged business enterprises (DBEs) shall have equal opportunity to participate in the performance of this contract. In this regard all offerors shall take all necessary and reasonable steps to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts or subcontracts awarded as part of this procurement. Nonetheless, all minority businesses are encouraged to participate.

C. Proposal Transmittal and Due Date

Proposers shall submit proposals by the time specified in the **Schedule of Events - Timeline & Due Dates** (refer to *Exhibit A – page 1*). Late proposals will not be accepted under any circumstances. Failure to meet the opening date and time shall result in proposal rejection. Late proposal(s) will not be opened and will be rejected and considered non-responsive. The Proposer(s) will be notified via e-mail and given the opportunity to pick up rejected proposals. Late proposals not retrieved within four weeks will be destroyed.

D. Proposer Inquiries – Questions & Answers (Q&A)

Proposers may submit written questions at any time up to the deadline date reflected in the **Schedule of Events/Timeline & Due Dates**. Any explanations or response desired by a Proposer regarding the meaning or interpretation of this solicitation must be requested in writing on or prior to the deadline date. Oral explanations, responses or instructions will not be binding.

Proposer inquiries must be submitted via e-mail only to: catsprocurement@brcats.com – with a subject line: **Q&A Solicitation #2023-ADAPartransit-010**.

Responses made by CATS will be in the form of written ADDENDA to the solicitation. Any addenda issued will be furnished to all Proposers, via email, who have requested to receive Addenda information within the timeline reflected after the deadline date to receive questions. This Addendum will also be posted on CATS website at <https://www.brcats.com/page/procurement>.

E. Pre-Proposal Conference

No Pre-Proposal Conference is scheduled at this time. If one becomes necessary, an addendum to this RFP will be posted on the CATS website and sent via email to Proposers who have requested to receive Addenda information.

F. Contract Period of Performance

It is the intention of CATS to secure a two (2) year contract for a firm to provide ADA Paratransit Services as specified in this RFP. Upon the completion of the initial contract period and mutual consent of CATS and the Contractor, this contract may be extended for three (3) additional twelve (12) month periods for a total of no more than five (5) years, depending on funding and other factors, including, but not limited to, CATS specific needs, community and customer needs.

G. Contract Award

CATS desires to award to a single Contractor consistent with the terms outlined herein. Proposers are **discouraged** from submitting their own standard terms and conditions with their submissions. The RFP, including any addenda and any new information acquired through presentations and/or discussion, and the proposal of the selected Contractor will become part of any contract initiated by CATS.

If, at any time, a Proposer is not responsive to CATS needs or requests, or if after due negotiations, the parties cannot agree to the terms of a contract, CATS shall have the right to negotiate with the other qualified proposers.

No additional changes, enhancements, or modifications to any contract resulting from this RFP shall be made without the prior written approval of CATS. Changes to the contract may include, but are not limited to, any change in compensation; beginning/ending date of the contract; scope of work; and/or Contractor change through the Assignment of Contract process. Any such changes, once approved, will result in the issuance of an amendment or change order to the contract.

H. Response Format

A crucial aspect of this project is a detailed evaluation of each company including resources, experience and performance. This solicitation is designed to facilitate the evaluation and selection of a firm that is best able to achieve CATS objectives. Proposal packages should be based upon the desired scope of work, the proposal submission requirements of the RFP, and general instructions to Proposers.

Proposals submitted for consideration should follow the format and order of presentation described below:

a) Required Exhibit forms in this RFP

- **Exhibit A** – Signatory Page **must be signed** and submitted with proposal submission & Addendum should be Acknowledgement. Otherwise, the proposal shall be rejected.
- **Exhibit B** – Price Form **must be completed and submitted with your proposal submission, under separate cover**. Otherwise, the proposal may be rejected.
- **Exhibit C** – Document Checklist should be completed by vendor. (*Exhibit C does not need to be submitted with the proposal*)
- **Exhibit D** – Affidavit of Non-Collusion (*Exhibit D **should** be signed & submitted prior to award*)
- **Exhibit E** – Corporate Resolution (Should be signed and submitted prior to award)
- **Exhibit F** – Bidder's Organization

b) Proposer's Cover Letter – The Proposer's cover letter should reflect the Proposer's depth of understanding of the requested services as they relate to this project and approach to the project. It should contain a summary of Proposer's ability to provide the product and perform the services described in the RFP and enter into a contract with CATS. The cover letter should also contain the following:

- The name, title, address, phone numbers (including cell & fax), and e-mail(s) of the person(s) authorized to contractually obligate the Proposer
- Name and contact information for technical and contractual clarifications.

c) Signature and Proposal Submittal – By signing **Exhibit A** and submitting a proposal, the Proposer certifies compliance with the signature authority to bind a contract. The person signing the proposal must be a current corporate officer, partnership member, or other individual specifically authorized to submit a proposal as reflected in the appropriate records on file with the Secretary of State; or an individual authorized to bind the company as reflected by a corporate resolution, certificate or affidavit; or other documents indicating authority to bind. Proof of signature authority should be submitted with the proposal.

d) Table of Contents – The proposal should include a table of contents with **corresponding page numbers**. It should be organized in the order requested in this RFP. **NOTE:** Please be sure to number each and every page of your Proposal. *This is for easy reference for CATS Procurement and the Proposal Evaluation Committee (PEC).*

e) Background, Experience and Availability of the Company and Personnel.

- f) **Methodology** – the overall approach to the project should be provided, along with specialized services that will be offered.
- g) **Schedule of Tasks** – Outlined the Scope of Work, along with meetings, deliverables, and approximate hours and staff required to complete the work.
- h) **Assigned Staff** – The Proposer shall designate and identify the project manager/team leader. The Proposer shall also designate and identify other individuals (if applicable) serving on the team and their position.
- i) **Proposer Qualifications and Experience** – Proposer’s eligibility to respond to this solicitation is based on Proposer’s ability to meet the requirements listed below. CATS, at its sole discretion, reserves the right to determine whether any Proposer meets the minimum eligibility standards, to determine whether a proposal is responsive, and to select a proposal which best serves its financial and program objectives. If a Proposer cannot meet all qualification requirements as stated herein, their proposal may be rejected without further consideration.

To have a proposal considered, Proposer must demonstrate qualifications in the following categories:

- j) **Company History & Background** – Provide a brief history of the organization including background information providing the type of equipment and service requested in the RFP. Indicate the length of time the company has been in business and number of employees. Indicate home office and/or branch office locations (if different).
- k) **Staff Experience and Qualifications** – Provide information indicating the Proposer’s background and qualifications related to the service required.
- l) **References & Performance Record** – Proposers must include references of at least three (3) past clients. This should include examples of similar work indicating the responder’s level of involvement in the project and the key personnel involved with the project. Provide demonstrated track record of acceptable performance on similar projects. The references should include company name, address, phone number(s), e-mail and contact person directly involved with the project.

PART 2

CATS TERMS & CONDITIONS

A. Assignment, Transfer of Interest

There shall be no assignment/transfer of interest or delegation of Contractor's rights, duties or responsibilities of the Contractor under the contract derived from this RFP without the prior written approval of CATS. The contract that will be derived from this RFP shall not be subcontracted except with the prior written consent of CATS. No such consent shall be construed as making CATS a party to such subcontract, or subjecting CATS to liability of any kind to any subcontractor. No subcontract shall, under any circumstances, relieve the prime Contractor of its liability and obligation under this contract. All transactions with CATS must be through the prime Contractor.

B. Audit (Right to Audit)

The Contractor shall permit an authorized representative of CATS to periodically inspect and audit all data and records of the Contractor relating to his performance and/or obligations under this contract.

C. Binding (Proposal or Bid Binding)

All responses submitted in accordance with the terms and conditions of this RFP shall be binding upon the responder for a minimum of **one hundred twenty days (120)** after the RFP opening date.

D. CATS Rights

The subsequent contract from this RFP will be awarded to the proposer whose response will be most advantageous to CATS, with all factors considered.

1. CATS reserves the right to reject all of the proposals and to waive informalities and minor irregularities in the responses received, to issue subsequent requests for proposals, to cancel or change this request for proposals, and to, at any time, approve, disapprove, reduce, expand or cancel any or all of the work to be undertaken pursuant to this RFP without expense to CATS.
2. CATS reserves the right to terminate the contract if it is in the best interests of CATS, provided that payment will be made for CATS approved costs and services rendered up to the date of notice of termination, or as provided in the termination for convenience provisions found in this RFP.

E. Confidentiality of Solicitation Information

The following provisions will apply unless the CATS statement of work specifically indicates that all information exchanged will be non-confidential:

All financial, statistical, personal, technical, and other data and information relating to the CATS on Demand operations which are designated confidential by CATS and made available to the Contractor in order to carry out this contract, shall be protected by the Contractor from unauthorized use and disclosure through the observance of the same or more effective procedural requirements as are applicable to CATS. The identification of all such confidential data and

information as well as CATS procedural requirements for protection of such data and information from unauthorized use and disclosure shall be provided by CATS in writing to the Contractor. If the methods and procedures employed by the Contractor for the protection of the Contractor's data and information are deemed by CATS to be adequate for the protection of CATS confidential information, such methods and procedures may be used, with the written consent of CATS, to carry out the intent of this paragraph. The Contractor shall not be required under the provisions of the paragraph to keep confidential any data or information, which is or becomes publicly available, is already rightfully in the Contractor's possession, is independently developed by the Contractor outside the scope of the contract, or is rightfully obtained from third parties.

F. Changes/Addenda and Withdrawals

- 1) **CHANGES/ADDENDA**: Any/all changes to the RFP will be issued in the form of written addenda which will be posted on CATS website.
- 2) Vendors are encouraged to check the CATS website frequently for any possible addenda that may be issued to this RFP. CATS is not responsible for a proposer's failure to download any addenda documents required to complete this RFP.
- 3) The Proposer should complete and acknowledge receipt of all addenda(s) to the RFP by completing and submitting **Exhibit A – Proposer's Signatory Page**. By signing, the **PROPOSER** acknowledges receipt of **ALL** addenda which can be found on the CATS website at: <https://www.brcats.com/page/procurement>.

Responses received after the deadline designated in this RFP shall not be opened and will be considered non-responsive. The late proposer will be notified by telephone, email or US mail and given the opportunity to pick up the late proposal. Late proposals which are not picked up within four weeks will be destroyed.

- 4) CATS reserves the right to change the Schedule of Events - Timeline & Due Dates and/or issue addenda to the RFP at any time. CATS also reserves the right to cancel or re-issue this RFP.

Withdrawals: A proposer may withdraw a response that has been submitted at any time up to the RFP specified opening date and time. To accomplish this, a written request signed by the authorized representative of the proposer must be submitted to the CATS Procurement Manager. After the proposal receipt deadline, proposals may not be withdrawn for one hundred twenty (120) calendar days.

G. Contractor Responsibility

The Contractor shall be the sole point of contact regarding all products and services provided and payment of all charges resulting from this contract. Further, Contractor must agree as follows:

- Perform its duties as an independent Contractor and not as an employee of CATS;
- Assure that all applicable certifications, licenses and insurance shall remain current during the entire contract term.

H. Corporation Requirements

If the Contractor is a corporation not incorporated under the laws of the State of Louisiana, the Contractor should have obtained a certificate of authority pursuant to R.S. 12:301-302 from the

Secretary of State of Louisiana. If the Contractor is a for-profit corporation whose stock is not publicly traded, the Contractor should ensure that a disclosure of ownership form has been properly filed with the Secretary of State of Louisiana. Please file in accordance with the Louisiana Secretary of State:

<https://www.sos.la.gov/businessservices/searchforloisianabusinessfilings/pages/default.aspx>.

Any Contractor who is awarded a contract will be required to be registered with the Louisiana Secretary of State prior to award, and within 7-10 days of request by CATS.

I. Costs For Developing Solicitation

This RFP is not to be construed as a commitment of any kind, nor does it commit CATS to pay for any costs incurred in the submission of a proposal or for any cost incurred prior to the execution of a formal contract. CATS is not liable for any costs incurred by prospective Proposers, Vendors or Contractors prior to issuance of or entering into, a contract. Costs associated with developing the proposal, submission of electronic presentations and all other expenses incurred by the proposer in responding to the RFP are entirely the responsibility of the proposer, and shall not be reimbursed in any manner by CATS.

J. Definitions and Terminology

1. ADA – Americans With Disabilities Act
2. Authorized Signature – The person who is executing this contract on behalf of Proposer/Contractor who is authorized to bind a contract.
3. Bidder/Proposer/Contractor/Vendor – Any firm submitting a proposal or bid to CATS
4. CATS - Capital Area Transit System
5. Contract – The word “contract” shall be considered synonymous with the word “agreement”
6. Contractor – The word “contractor” shall be considered synonymous with the words “vendor, bidder, proposer”
7. DBE – Disadvantaged Business Enterprise
8. FTA – Federal Transit Administration
9. May - The term “may” denotes an advisory or permissible action
10. PEC – Proposal Evaluation Committee
11. RFQ – Request for Qualifications
12. RFP – Request for Proposals
13. Should – The term “should” denotes a desirable action
14. Sub-Contractor – A person or business who is awarded a portion of an existing contract by a principal or general contractor
15. Suitable – Type, material design, and method approved by CATS
16. UCP-DBE: Unified Certification Program – Disadvantaged Business Enterprise
17. USDOT – United States Department of Transportation
18. Will, Shall or Must – The terms “will/shall/must” denote mandatory requirements.

K. Equal Opportunity Employer (EEO)

CATS is an equal opportunity employer, and does not discriminate against anyone on the basis of race, sex, creed, color, religion, national origin, ancestry, reprisal, disability, sexual orientation, marital status or political affiliation.

L. Errors and Omissions

CATS will not be liable for errors in the RFP. Responders will not be allowed to alter RFP documents after the deadline for submission. CATS reserves the right to make corrections or clarifications due to patent errors identified in RFP by CATS or the responders. CATS reserves the right to request clarification or additional information from the responders.

M. Ethics

The State of Louisiana Code of Governmental Ethics places restrictions against conflict of interest and establishes guidelines to ensure that appropriate ethical standards are followed. If any question exists regarding potential violation of the Code of Ethics, Contractor should contact CATS Procurement Department prior to submission of this RFP. Any violation of the Code of Ethics shall be grounds for disqualification of Proposer or cancellation of contract.

N. Insurance Requirements – Required Coverage

(Certificate Of Insurance is required at the time of Contract processing)

Contractor shall procure, maintain, and keep in force, at Contractor's expense, the insurance coverage as required below and shall cause CATS to be an additional insured on all policies (except professional liability). Contractor shall provide Proof of Insurance to CATS prior to contract award. Proof of Insurance shall include an additional insured endorsement. For the duration of the Agreement and until all work under the Agreement is completed, Contractor shall have and maintain, at Contractor's sole expense, the following types of insurance and shall comply with all limits, terms and conditions of such insurance.

Commercial General and Umbrella Liability Insurance: Commercial General Liability (CGL) Insurance and, if necessary, Commercial Umbrella covering bodily injury and property damage. This insurance shall be written on standard ISO occurrence form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract. Combined single limit shall not be less than \$1,000,000 each occurrence and \$2,000,000 in the aggregate.

1. **Workers' Compensation:** Workers Compensation insurance shall be in compliance with the Workers Compensation law of the State of the Contractor's headquarters. Employers Liability is included with a minimum limit of \$1,000,000 per accident/per disease/per employee. If work is to be performed over water and involves maritime exposure, applicable LHWCA, Jones Act, or other maritime law coverage shall be included. A.M. Best's insurance company rating requirement may be waived for workers compensation coverage only.
2. **Automobile Liability:** Automobile Liability insurance covering owned or non-owned vehicles. Combined single limit per occurrence shall not be less than \$1,000,000.
3. **Professional Liability:** Contractor shall obtain, at Contractor's expense, and keep in effect during the term of this Agreement, Professional Liability Insurance covering any damages caused by an error, omission or any negligent acts. Combined single limit per occurrence shall not be less than \$1,000,000, or the equivalent. Annual aggregate limit shall not be less than \$2,000,000. If the Professional liability insurance required under

this Agreement is arranged on a “claims made” basis “tail” coverage will be required at the completion of this Agreement and for 24 months duration thereafter. Contractor shall be responsible for furnishing certification of “tail” coverage or continuous “claims made” liability coverage for 24 months following Agreement completion. Continuous “claims made” coverage will be acceptable in lieu of “tail” coverage provided its retroactive date is on or before the effective date of this Agreement.

4. **Cyber Liability:** Cyber liability insurance, including first-party costs, due to an electronic breach that compromises CATS confidential data shall have a minimum limit per occurrence of \$1,000,000. Claims-made coverage is acceptable. The date of the inception of the policy must be no later than the first date of the anticipated work under this contract. It shall provide coverage for the duration of this contract and shall have an expiration date no earlier than 30 days after the anticipated completion of the contract. The policy shall provide an extended reporting period of not less than 24 months from the expiration date of the policy, if the policy is not renewed. The policy shall not be cancelled for any reason, except non-payment of premium. (Cyber insurance may not be required due to the type of Contract that is being administered.)
5. **Subcontractors:** Contractor shall include all subcontractors as insureds under its policies OR shall be responsible for verifying and maintaining the Certificates provided by each subcontractor. Subcontractors shall be subject to all of the requirements stated herein. The Agency reserves the right to request copies of subcontractor’s Certificates at any time.

O. Indemnification

The Contractor agrees to indemnify, defend, and hold harmless CATS, its officers, commissioners, directors, employees, agents, and assigns from and against any and all actual or alleged claims, any and all losses, damages, which include incidental, consequential, indemnity and special damages, expenses, including attorneys’ fees and costs of defense, fines and penalties and other liabilities that may be asserted by any person or entity that arises out of the fault or negligence of the Contractor, sub-contractor, partner, and any of their officers, directors, employees, agents and assigns respectively in carrying out their obligations under this agreement, which is caused by defective workmanship or materials in products manufactured or supplied by Contractor, or which arises out of Contractor’s failure to comply with any state or federal stature, law, regulation. Contractor shall have no indemnification liability under this section for any claims, damages, losses and expenses to the extent they arise out of or relate to the negligent acts or omissions or willful misconduct of CATS.

P. Law Governing

All disputes concerning the solicitation and award of this contract will be subject to, governed by, and construed according to CATS procurement protest procedure and the laws of the state of Louisiana. The proper venue for any dispute shall be the 19th Judicial District court for the Parish of East Baton Rouge.

Q. Liability Disclaimer

In the absence of a written provision in the contract with the successful Proposer specifically stating otherwise, CATS shall not hold harmless or indemnify any Contractor for any liability whatsoever.

R. Material in Solicitation

Proposals shall be based only on the material contained in this solicitation. The solicitation addenda include official responses to questions and other material, which may be provided by CATS pursuant to the solicitation.

S. Ownership of Documents/Records

CATS shall acquire sole ownership of all work products arising out of, or related to, the Contractor's performance hereunder. CATS retains ownership of all documents, drawings, specifications, etc., furnished by or in connection with this Contract. The Contractor must request in writing and receive written approval from CATS prior to using any documents in connection with this Contract.

T. Ownership of Solicitation

All materials submitted in response to this solicitation become the property of CATS. Selection or rejection of a response does not affect this right. All proposals submitted will be retained by CATS and not returned to proposers, unless it is a late proposal, in accordance with "Proposal Transmittal and Due Date" section in this solicitation.

U. Patent and Copyright Infringement (*with indemnification language*)

Contractor shall, at its own sole expense, indemnify, defend and hold harmless, Capital Area Transit System ("CATS"), its agents, employees, officers, directors, subcontractors, and their successors and assigns against all claims, demands, suits, actions, proceedings, investigations, damages, settlements, costs and expenses (including all reasonable costs or expenses of all proceedings, and including attorneys', experts' and witness fees), arising from or relating to any actual or alleged infringement or violation of any patent, copyright, trademark, trade secrets, or other intellectual property right of a third party. In the event of any action or threatened action, Contractor shall promptly notify CATS of such action or threatened action. The indemnification obligations contained in this Article shall survive the expiration or termination of this Agreement.

V. Payment and Invoicing Procedures

Advance or down payments of any kind will not be made. Federal and State law requires proof of the materials having been furnished, the services rendered or the labor performed as described, before payment is made.

1. Following Intent to Award notice, CATS and the successful Contractor will enter into a separate contract which will include a detailed payment schedule.
2. CATS Payment Terms in general are Net 30 after receipt of approved invoice.

Invoices: At a minimum, all invoices must include the following information:

1. project name and purchase order number;
2. detailed itemized description of items and amount to be paid;
3. date(s) of service(s)/deliveries made.

W. Permits, Licenses & Taxes

The contractor shall furnish all necessary permits, licenses and certificates and comply with all laws or ordinances specific to providing graphic design services as reflected in this RFP.

X. Rejection (Right to Reject)

Issuance of this RFP in no way constitutes a commitment by CATS to award a contract. CATS shall have the right to reject all of the proposals received and to waive irregularities and informalities.

Y. CATS Protest Procedures

Any protest concerning the issuance, form, contents or interpretation of a request for Bids, bid solicitation, or request for a quotation of price and other terms, must be filed in writing to CATS Procurement, via email to: catsprocurement@brcats.com, prior to ten (10) calendar days before the date the response is due. If not filed timely, all such protests shall be deemed to have been waived. Any protest concerning CATS evaluation of submitted Bids, bids or the award of a contract must be filed in writing with the President of CATS Board no later than six (6) days after the contract award.

All protests shall state specific reasons for the protest and shall provide a physical address, an electronic mailing address, a fax number if available and a telephone number through which the protester can be notified. As soon as possible after the receipt of the protest, the President shall contact a person designated by the President to decide upon the merits of the protest. Except as otherwise provided in this protest procedure statement, the decision of the designated person shall be final. The designated person shall contact both the CATS official in charge of the procurement and the protestor and shall arrange an opportunity for both parties to submit written or oral arguments to the designated person. The designated person may attempt to arrange a telephone or personal conference at which both parties can be heard or can appear, but shall not be required to do so.

Protests, changes and modifications, disputes, claims, litigation, and settlements, FTA 2 CFR 200.

Exhibit B Price Sheet

2023-ADAPartransit-010

SUMMARY OF EXPENSES		YEAR 1	YEAR 2	2-YEAR TOTAL
LABOR:		\$	\$	\$
Drivers		\$	\$	\$
Maintenance		\$	\$	\$
Supervision		\$	\$	\$
Management		\$	\$	\$
Administration		\$	\$	\$
Provide Other Employee Cost		\$	\$	\$
HR & Labor Relations		\$	\$	\$
Provide Other Expenses		\$	\$	\$
	SUBTOTAL:	\$	\$	\$
FACILITIES COSTS:		\$	\$	\$
Utilities		\$	\$	\$
Lease		\$	\$	\$
Provide Other Costs		\$	\$	\$
	SUBTOTAL:	\$	\$	\$
PROVIDE ALL INSURANCE COSTS		\$	\$	\$
TOTAL COST	TOTAL COST	\$	\$	\$
		YEAR 1	YEAR 2	2-YEAR TOTAL
ESTIMATED REVENUE HOURS		40,000	40,000	80,000
REVENUE HOUR RATE		\$	\$	\$
OPTION #1				
Cost Per Additional Vehicle		\$	\$	\$
*Please attach an outline break down of the above expenses.				
COMPANY NAME				
ADDRESS, CITY, STATE, ZIP				
PHONE / CELL / FAX				
EMAIL CONTACTS				
INDIVIDUAL NAME & TITLE				
AUTHORIZED SIGNATURE				DATE:

EXHIBIT C

CHECKLIST OF INCLUDED DOCUMENTS

Exhibit C – Checklist of Included Documents – A list of included items to be submitted with your proposal. This checklist was created for the proposing company in an effort to assist the vendor and ensure that the required documents are submitted with your proposal and/or bid.

Please contact CATS Procurement at: catsprocurement@brcats.com for any questions or concerns as to what needs to be submitted.

Item #	Checklist of included Documents	Check Here
1.	Proposer’s Signatory Page Completed - Exhibit A – page 1 coversheet <i>(must be signed and returned with proposal)</i>	
2.	Acknowledgement of all Addendums - Exhibit A - page 1 <i>(check and acknowledge receipt of any addendums)</i>	
3.	Proposers Price Form (Fees/Costs) - Exhibit B <i>(must be completed and returned under separate cover, in a sealed package, with proposal)</i>	
4.	Checklist of Included Documents – Exhibit C	
5.	FTA Lobbying Certificate Exhibit–D <i>(must be completed and returned with proposal)</i>	
6.	Affidavit of Non-Collusion - Exhibit E <i>(should be signed & submitted prior to award)</i>	
7.	Corporate Resolution – Exhibit F <i>(should be signed and submitted prior to award)</i>	
8.	Bidders Organization form – Exhibit G <i>(should be included with proposal)</i>	
9.	Vendor’s Proposal Response Package with any miscellaneous attachments and/or other literature supporting the submission	

Exhibit D

FTA Lobbying Certification Required Certification RFP #2023-ADAParatransit-010

Certification Regarding Lobbying

(Must be submitted with a proposal 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 sub awards at all tiers (including subcontracts, sub grants, and contracts under grants, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (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.

Date:	
Signature of Contractor's Authorized Official:	
Name & Title of Contractor's Authorized Official:	
Company Name:	

EXHIBIT E

**AFFIDAVIT OF NON-COLLUSION
 Solicitation #2023-ADAParatransit-010**

I hereby swear (or affirm) under penalty for perjury:

1. That I am the proposer (if the proposer is an individual), a partner in the proposal (if the proposer is a partnership), or an officer or employee of the proposing corporation having the authority to sign on behalf (if the proposer is a corporation);
2. That the attached proposal has been arrived at by the proposer independently, and has been submitted without collusion, and without any agreement, understanding, or planned common course of action with any other vendor of materials, supplies, equipment, or services described in the Request for Proposals, designed to limit independent proposing or competition.
3. That the contents of the proposal have not been communicated by the proposer or its employees or agents to any person not an employee or agent of the proposer or its surety or any bond furnished with the proposal, and will not be communicated to any such person prior to the official opening of the proposals; and
4. That I have fully informed myself regarding the accuracy of the statement made in the affidavit.

Company/Firm Name	
Address (City, State, Zip)	
Authorized by:	
Signature:	
Title:	
Date:	

Subscribed and sworn to me this ____ day of _____, 20 ____ .

 Notary Public

My commission expires _____, 20 ____ .

EXHIBIT F

CORPORATE RESOLUTION

A meeting of the Board of Directors of _____,
a corporation organized under the laws of the State of _____ and
domiciled in _____ was held this ____ day of _____ 20____ and
was attended by a quorum of the members of the Board of Directors.

The following resolution was offered, duly seconded and after discussion was unanimously adopted by
said quorum:

BE IT RESOLVED, that _____ is hereby
authorized to submit proposals and execute agreements on behalf of this corporation with the Capital Area
Transit System.

BE IT FURTHER RESOLVED, that said authorization and appointment shall remain in full force and effect,
unless revoked by resolution of this Board of Directors and that said revocation will not take effect until
the Procurement Director of Capital Area Transit System, shall have been furnished a copy of said
resolution, duly certified.

I, _____, hereby certify that I am the Secretary of _____
a corporation created under the laws of the State of _____ domiciled in _____
that the foregoing is a true and exact copy of a resolution adopted by a quorum of the Board of
Directors of said corporation at a meeting legally called and held on the ____ day of _____
20____, as said resolution appears of record in the Official Minutes of the Board of Directors in my
possession. This ____ day of _____, 20__.

SECRETARY

EXHIBIT G

BIDDER'S ORGANIZATION

(If the bid is by a joint venture all parties to the bid must complete this form:

BIDDER IS:

AN INDIVIDUAL:

Individual's Name: _____

Doing business as: _____

Address: _____

Telephone No.: _____ Fax No.: _____

A PARTNERSHIP

Firm Name: _____

Address: _____

Name of person authorized to sign: _____

Title: _____

Telephone No.: _____ Fax No.: _____

A LIMITED LIABILITY COMPANY

Company Name: _____

Address: _____

Name of person authorized to sign: _____

Title: _____

Telephone No.: _____ Fax No.: _____

A CORPORATION IF BID IS BY A CORPORATION, THE CORPORATE RESOLUTION MUST BE SUBMITTED WITH BID.

Corporation Name: _____

Address: _____

State of Incorporation: _____

Name of person authorized to sign: _____

Title: _____

Telephone No.: Fax No.: _____

PART 3

EVALUATION SELECTION PROCESS CATS ADA Paratransit Services

All proposal responses are subject to evaluation by the CATS Proposal Evaluation Committee (PEC) established for the purpose of selecting a firm(s) to whom CATS shall award a contract. CATS will evaluate each proposal submitted in response to this RFP to determine the most responsive and responsible proposer. CATS seeks the proposer offering the best value, while maintaining a high standard and best meeting CATS objectives, as described in this RFP. However, CATS retains the sole discretion to choose one proposal or to reject all proposals.

The PEC will be comprised of members who have expertise in various aspects of the solicitation requirements. Proposals shall be evaluated utilizing the stated evaluation criteria as reflected in the table below.

Under no circumstances will any PEC member be allowed to discuss or provide information of any type regarding the evaluations to anyone who is not a member of the committee. Any attempt to communicate or contact a PEC member may result in the disqualification of a proposal.

A written award recommendation shall be made by CATS based on the PEC findings for the Proposer whose proposal, conforming to the RFP, will be the most advantageous to CATS, price and other factors considered.

#	PARATRANSIT SERVICES EVALUATION CRITERIA	POINTS
1.	Understanding and Approach to the Project, Service Plan, and Implementation Schedule – General overall proposed operations of the Paratransit services requested and an implementation timeline schedule, including innovative ideas conveyed in the proposal.	25
2.	Qualifications & Experience of Contractor(s) and Key Personnel Assigned - Demonstrated ability to effectively deliver the required ADA-Para-Transit Demand Response Services. <i>To support evaluation in this area, the contractor should submit a sampling of representative applicable projects demonstrating the contractor's qualifications and previous experience providing para-transit services and relevant experience for the individual(s) and key personnel who will act in the primary professional capacities of this contract.</i>	25
3.	Technical Capacity –Ability to perform as evidenced by contractor's ownership and/or access to resources, employees, staffing plan, training, technical experience, and other service quality programs.	25
4.	References and Contractors Financial Strengths and Viability	10
5.	Cost Proposal Reasonableness / Price & Fee Schedule – PEC Comments: The following financial criteria will be evaluated: The lowest cost price scored will receive the high score in the points of this criteria. All other vendors evaluated will follow the below scoring. A proposer's base cost score (BCS) will be based on the cost information proposed and computed as follows: $BCS = (LPC / PC \times MAP)$ <i>WHERE: BCS = COMPUTED COST SCORE (POINTS) FOR PROPOSER BEING EVALUATED</i> <i>LPC = LOWEST PROPOSED COST OF ALL (RESPONSIVE) PROPOSERS</i> <i>PC = TOTAL COST OF PROPOSER BEING EVALUATED</i> <i>MAP = MAXIMUM ALLOWED POINTS (15)</i>	15
CATS will evaluate each proposal on the basis of the above criteria, which is set forth in order of importance. As shown in the above schedule, the total maximum score for each proposal is 100 points.		100
TOTAL Maximum Score = 100		

PART 4

SCOPE OF WORK

- A. BACKGROUND/ CURRENT SERVICES PROVIDED:** CATS contracted Para-Transit Services is currently being provided by MV Transportation. This service Contract is currently scheduled to end April 30, 2024.
- 1) MV Transportation currently uses Trapeze software to schedule trips. CATS do prefer to use Trapeze software, but we are open to discussion.
 - 2) CATS Paratransit Service provides curb-to-curb shared transportation to persons with disabilities residing in CATS on Demand services area and serves destinations within $\frac{3}{4}$ mile of fixed-route bus service operated by CATS.
 - 3) Pre-registration certification by CATS for these persons is required in order to ensure the passengers ADA Para-Transit eligibility.
 - 4) CATS Paratransit operations service hours are shown below, but are subject to change.
 - Monday-Friday: 5:00 a.m. - 10:30 p.m.
 - Saturday: 5:00 a.m. - 9:45 p.m.
 - Sunday: 5:30 a.m. - 8:45 p.m.
 - 5) Paratransit service is not available on the following holidays: Thanksgiving Day, and Christmas Day. Fares are \$1.75 per person per ride/per trip.
- B. CATS OBJECTIVES:** CATS is seeking a contract for Management and Operation of **CATS ADA Paratransit Services**. Services are anticipated to begin on May 1, 2024. The successful proposing company (hereinafter referred to as the “CONTRACTOR”) will be responsible for all aspects of management, and operations with the exception of:
- policy development and planning;
 - provision of paratransit service vehicles;
 - marketing and public information;
 - certification of ADA Paratransit Eligibility.

The awarded contractor shall fulfill the following objectives and requirements:

- 1) Any and all equipment and supplies furnished by CATS to the Contractor shall be used solely for CATS ADA Paratransit Services and are to be returned upon termination of the contract, unless they are consumed during operation.
- 2) **Overview of ADA Act of 1990 / Paratransit Services** On September 6, 1991, the US Department of Transportation published final regulations implementing certain provisions of the **Americans with Disabilities Act of 1990** (ADA). Included in the regulation was a requirement that public entities operating fixed-route transportation services for the general public also provide complementary paratransit services to persons unable to use the fixed-route system. The regulations specify the following:
 - When service is required;

- Eligibility criteria for ADA paratransit passengers;
 - The level of service which must be provided; and
 - Standards for certain aspects of operation.
- 3) In all aspects of the design, operation, and performance of ADA Paratransit Services, it is the intent of CATS to maintain full compliance with the requirements of the Americans with Disabilities Act (ADA). In this regard, the Contractor shall implement the policies and procedures of CATS in meeting the requirements of the ADA and shall carry out its responsibilities under this Contract and work cooperatively with CATS to ensure full ADA compliance. CATS ADA requirements can be found at: https://www.ada.gov/ada_req_ta.htm.
 - 4) In addition to the American with Disabilities Act, the CONTRACTOR shall be in compliance with all applicable Federal, State and Local regulations and requirements.
 - 5) It is the intent of CATS that there are no denials of requests for service as defined by the ADA.
 - 6) Within the scope of this Agreement and the ADA regulations, and at no additional cost to CATS, the Contractor is expected to be innovative in their operation and management of service to ensure that no trip requests are denied. Proposers are encouraged to describe proposed innovative service delivery arrangements to ensure ADA compliance.
 - 7) At contract termination, the Contractor must provide all records to CATS in a useable format (flash drive or CD) within 30 days of cancellation of Contract.

C. CONTRACT / PERFORMANCE PERIOD: The Contract Performance Period will be effective for an **initial term of two (2) years** beginning with the acceptance of an award of contract. The anticipated start date is May 1, 2024. After the initial term of two (2) years, at the option of CATS and mutual agreement with Contractor, there may be renewal options available for up to three (3) successive one (1) year renewal periods. At the written request of the vendor at least 60 days prior to the end of the renewal period, CATS may consider a price adjustment after the first 2 years of the contract based on the Producer Price Indexes (PPI) at time of renewal. (*See Bureau of Labor Statistics Data – PPI tables <http://www.bls.gov/ppi/#tables>*). Prices must remain firm for the initial 2-year term.

During the period of performance, the Contractor will perform the following services:

- 1) Contractor will provide “standard Paratransit trips” for which Contractor will take customer trip reservations at least 24-hours in advance, but not more than 7 days in advance. Same-day reservations are not to be accepted.
- 2) Reservations will be accepted from 8:00 a.m. to 4:30 p.m., Monday through Friday.
- 3) Contractor must also provide a means to accept messages by telephone during off hours.
- 4) Contractor will provide a scheduler to review the next day’s trips to ensure service efficiency and compliance with CATS policies on ride times. The designated scheduler must also provide CATS with a copy of the Daily Manifest. On the day of service, Contractor will dispatch and provide the scheduled rides. Contractor will be responsible for handling any questions from the passengers about provision of service, including policies, fares and vehicle arrival and departure times. CATS on Demand services policy can be found at this link: <https://www.brcats.com/page/cats-on-demand>.
- 5) The Proposal must state a sufficient number of Paratransit Operators, plus additional “back-up” operators, to operate the number of vehicles necessary to meet daily service demands. A zero tolerance is in effect for denial of a “reservation trip” request.
- 6) CATS will have ten (10) vehicles to add to this Paratransit on Demand service.

- 7) CATS will expect the Contractor to provide the remaining vehicles for this service. Which will total 20 vehicles in all to run the services.
- 8) Contractor will prepare and provide all monthly management and operations reports required by CATS to meet all State and Federal ADA Paratransit reporting requirements. All required reports will be submitted to CATS within 10 business days of the end of the reporting months.
8. Contractor will meet on a regular basis with CATS ADA Manager to discuss and resolve operational challenges and policy support that Contractor may require from CATS to operate a productive and high-quality service, while effectively managing demand and revenue hours. A meeting schedule will be developed at CATS discretion.
9. Contractor will prepare and provide all monthly management and operations reports required by CATS to meet all CATS, State and Federal transit reporting requirements. The Contractor will be responsible for presenting the reports to CATS Board Commissioners and Community Relations monthly meetings. All required reports will be submitted to ADA Paratransit Manager within 10 days of the end of the reporting month.

D. CATS PARATRANSIT RIGHTS AND RESPONSIBILITIES

1. **PLANNING:** CATS will have the exclusive right to plan the general operation of CATS Paratransit system, including, but not necessarily limited to, the right to determine and modify from time to time the following matters:
 - a) Service delivery parameters including routes, trip assignment policies and stop locations
 - b) Times of day services are to be rendered
 - c) Service areas in which Paratransit service is to operate
 - d) Data collection and data reporting procedures and formats, preparation of planning documents, budgets, grant applications and related documentation
 - e) Advertising, promotion, public information, and customer feedback process
 - f) Performance standards to which Contractor shall either strive to achieve or be held responsible by CATS within reason.
2. **OPERATIONS & MANAGEMENT SUPERVISION:** CATS reserves certain rights with respect to oversight and monitoring of the performance of Contractor as follows:
 - a) CATS reserves the right to monitor the process by which records and reports, as required by CATS and the contract, are developed, maintained and retained by Contractor.
 - b) CATS reserves the right to monitor the performance and conduct of employees performing the duties related to the provision of Paratransit service, as required by CATS and the contract.
 - c) CATS may install on any vehicles any equipment or accessories deemed necessary or appropriate by CATS, such as video equipment, to monitor the quality of service delivered by Contractor.
 - d) CATS will establish written operational rules with Contractor that are reasonable for the operation of the Paratransit system. To help ensure that the service delivered by Contractor is in compliance with the ADA and the terms of the Contract, and the operational rules may be amended with any changes to any state/federal laws governing paratransit service.
 - e) CATS may require daily manual passenger counts and/or other special counts/surveys to be conducted by vehicle operators or other appropriate staff, per applicable state and federal regulations (i.e., NTD).

- f) CATS will require that Contractor complete all operations, management, and/or performance reports required by federal (NTD) regulations governing Paratransit service and the use of applicable equipment/vehicles for its provision, unless otherwise directed by CATS. Reports must be submitted to CATS within the first ten (10) days of each month. Retention of all materials required for completing such reports must be maintained by Contractor for at least five (5) years from the expiration/termination date of the contract. CATS shall inform Contractor of key deadlines for submitting required reports prior to the effective date of the Contract and reserve the right to change the dates with reasonable, prior notice.
 - g) CATS reserves the right to reject any subcontractors proposed or utilized by Contractor to carry out the terms of the Contract.
3. **EQUIPMENT:** The Contractor is to always provide 20 working vehicles to be in service at all times. CATS will provide the Contractor with 10 of the 20 Paratransit vehicles. If one of those 10 CATS vehicles become out of service, the Contractor is to replace them. These vehicles and their associated equipment shall be used only in activities directly related to CATS On Demand services under this contract, unless otherwise authorized in writing by CATS.
- a) Contractor is expected to equip all vehicles with communications as. All facilities, equipment and services required for ADA Paratransit Services shall be furnished by Contractor unless CATS specifically identifies an element of equipment or aspect of service to be its responsibility.
 - b)
 - c) CATS will require that Contractor be responsible to provide for the safe and secure collection of fares onboard paratransit vehicles. CONTRACTOR shall record all fares collected, deposited weekly and provide monthly proof of deposit to CATS. CATS reserves the right to perform periodic audits to ensure fares are collected and secured properly, and to confirm reconciliation of the record of fares collected and deposited.
 - d) It is the responsibility of the Contractor to take all steps required to maintain the safe and operable condition of the vehicle provided for service by CATS. In the event of damage to an ADA Paratransit vehicle (traffic accidents, mechanical failures) that requires the vehicles removal from service if the cause of the vehicle of the removable is deemed to be the fault of Contractor or its agents, Contractor will provide a substitute/replacement vehicle until the CATS vehicle is returned for service or permanently replaced by the Contractor. The operations of the substitute vehicle will provided at no cost to CATS. Substitute vehicles provided by Contractor must meet all applicable standards for ADA service operations provided under this Contract.
4. **PUBLIC INFORMATION SYSTEM:** CATS will assume all responsibility for the following:
- a) Printing, obtaining and producing brochures, and like materials required for the operation of ADA paratransit service, and;
 - b) Promotions, advertising and public outreach efforts.
 - c) CATS will be responsible for the preparation, placement, scheduling and costs for all advertising and promotional materials designed to inform CATS on Demand operations and to promote ridership.

- d) Contractor shall distribute and disseminate such materials under the direction of CATS.
- e) CATS actively solicits information from customers for the purpose of continually improving customer satisfaction with CATS on Demand services.
- f) Contractor’s Project Manager shall attend meetings scheduled by CATS to solicit feedback from customers as well as any other meetings as required by CATS. A designated representative may attend on occasion, in place of the Project Manager, with prior approval from CATS.

5. MODIFICATION OF SERVICE AND FARES –

- a) CATS will give thirty (30) days prior written notice to Contractor from the effective date of a modification to the fare or service delivery structure.
- b) In the event of an emergency or natural disaster as declared by the City of Baton Rouge, the State of Louisiana, or by CATS, the 30-day provision shall not apply, and Contractor shall use its best efforts to modify the existing service or provide additional service as requested and directed by appropriate CATS emergency response officials to respond effectively to the emergency.

6. ADVERTISING:

- a) CATS may utilize the interior of all vehicles used to provide service under this contract for the display of any written or printed public information notices at CATS's sole cost.
- b) Contractor will display only CATS issued material on the interiors of CATS vehicles.
- c) No advertising or other material is to be displayed on the exterior of vehicles used to provide service under this contract.

7. SERVICE MONITORING

- a) CATS may make unannounced spot check rides on paratransit vehicles. While performing such checks, authorized CATS staff will be able to ride the paratransit vehicles free of charge with proper identification, if space is available.
- b) Spot checks will be used for evaluating the Contractor’s performance, checking conformance to pick-up schedules, collecting ridership data, and reviewing route performance, as necessary.
- c) Contractor agrees to cooperate with CATS by arranging scheduled spot rides at CATS’ request.
- d) CATS shall also conduct, at its discretion, any number of observations of the reservation and dispatch functions.
- e) Contractor is also expected to implement an on-going system of performance monitoring in order to ensure service quality. Such activities should include both observed and unobserved road evaluations conducted by a member of the Contractor’s management or supervisory staff. Contractor may also utilize external resources to assist with the monitoring of service quality. Contractor shall describe in detail in its Proposal response its plans for the provision of these service-monitoring activities. A monthly report should include the number of checks, when they took place, and the results.

E. CONTRACTOR'S RIGHTS AND RESPONSIBILITIES – PARATRANSIT OPERATIONS

- 1. **SERVICES PROVIDED BY CONTRACTOR:** Contractor shall perform the duties and accept the responsibilities set forth below in connection with its operation of CATS Paratransit Services. The omission of a duty or responsibility herein below shall not relieve Contractor of its obligation to perform such duty or accept such responsibility, so long as it is usual, customary, and generally

accepted within the public transportation industry as being an integral element of operating a paratransit system of a kind and character such as CATS.

- a) Contractor shall provide the necessary management, technical, and operating services for the operation of CATS Paratransit Services as specified by CATS.
- b) Contractor shall assist and cooperate with CATS in meeting the objectives of providing quality ADA paratransit services. Contractor shall establish and maintain close liaison activities, coordination, and cooperation with CATS on matters relating to operations, monitoring, reporting and service performance measurements.
- c) Contractor shall provide CATS with access to the scheduling and dispatch software systems used by Contractor for the purpose of updating and maintaining a database of ADA-eligible riders certified by CATS. Contractor shall also provide access to two User License.
- d) All facilities, equipment and services required in the operation and management of CATS shall be furnished by Contractor unless CATS specifically identifies an element of equipment or aspect of service to be its responsibility.

2. PERFORMANCE and SERVICE STANDARDS: Contractor shall strive at all times to provide service in a manner that will maximize productivity and, at the same time, maximize customer service. Recognizing that the goals of productivity and customer service levels may conflict, the following standards are intended to be reasonably attainable by Contractor, fair to the customer, and consistent with CATS's expectations.

- a) At the option of CATS, CATS may enforce the penalties indicated for substandard performance. Failure to enforce any penalty for any such substandard performance shall not serve to invalidate said criteria nor preclude future enforcement of that penalty. CATS agrees that penalty for Performance Criteria #1 (Service Productivity "CATS Performance and Service Standards" table) will not be enforced for the first initial 90 days of the Contract.
- b) Contractor and CATS shall periodically meet to evaluate performance of the system based upon the service standards.
- c) If the standards are not fulfilling their intended purpose, they shall be adjusted based upon recommendations made by Contractor with concurrence and final decision by CATS.
- d) Should it be found that Contractor's performance has contributed to Contractor's failure to achieve these standards, Contractor shall take all reasonable actions requested by CATS to correct deficiencies in performance.
- e) Should deficiencies persist, CATS may take whatever additional action is necessitated by the circumstances and provided for in the AGREEMENT of which this Scope of Services is a part. Below is the CATS on Demand services Standards listing, including criteria, standard and penalty. Any and all penalties will be applied to that month's invoice and deducted from the total amount due for that month.
- f) Refer to Performance and Service Standards in the table below.

CATS PERFORMANCE and SERVICE STANDARDS			
Item #	Performance Criteria	Service Standard	Penalty
1.	Service Productivity	Annual Average of 1.5 Passenger Trips per Vehicle Service Hour (VSH)	Reduction of compensation by \$1.00 per VSH for each 0.1 VSH of the month in which performance is below the standard.
2.	On-time Performance	98% or better	\$100.00 for each month that performance is less than standard.
3.	Failure to Wait	Five (5) minutes after on-time vehicle arrival	\$100.00 per incident of failing to wait at least 5 minutes.
4.	Missed Trip	Arrival at pick-up location more than 20 minutes late or not at all	\$100.00 per incident
5.	Vehicle Cleanliness	As defined in SOW	\$100.00 per incident
6.	Complaints	More than 5 valid complaints in a calendar month	\$100.00 for each month that performance is less than standard.
7.	Driver Uniform	As defined in SOW	\$50.00 per incident
8.	Chauffer's License Certificates (or CDL if applicable)	100% of drivers and vehicles to have valid Chauffers' License certificates and/or CDL Licenses, if applicable	\$500.00 per incident of driver or vehicle in service without proper Chauffer's License Certificate (or CDL if applicable)
9.	Report Submission	State and Federal, as well as CATS, required reporting	\$100.00 for each month that reporting is submitted late or incomplete

3. OPERATIONS MANAGEMENT:

- a) Contractor shall provide operations management at a level and capability sufficient to oversee its functions and employees.
- b) Contractor shall designate and provide the services of a full-time Project Manager, subject to the approval of CATS, who shall provide overall management and supervision of CATS on Demand operations under the terms of the contract.
- c) The Project Manager shall work cooperatively with CATS ADA Manager in matters relating to service quality, providing operational and other data as described in this Scope of Services, responding to comments from CATS and the general public, and responding to specific requests for other assistance as the needs arise.
- d) Contractor shall assure CATS that the Project Manager designated for this project will not be replaced without the written consent of CATS. Should the services of the Project Manager become unavailable to Contractor, the resume and qualifications of the proposed replacement

shall be submitted to CATS for approval as soon as possible, but in no event later than five (5) working days prior to the departure of the incumbent Project Manager, unless Contractor is not provided with such notice by the departing employee. CATS shall respond to Contractor concerning acceptance of the candidate for replacement Project Manager. Should the position of Project Manager remain unfilled for a period of thirty (30) days or more, CATS may deduct the Project Manager's compensation from Contractor's payments.

- e) The Contractor shall further designate one or more Operations Supervisor(s) to assist the Project Manager in carrying out all activities relative to CATS on Demand operations.
- f) The Project Manager will be physically located in Baton Rouge or another mutually agreed upon location. The Project Manager will be expected to remain at the facility or otherwise within CATS on Demand services area as appropriate to the maximum extent possible.
- g) At all times, the Project Manager or an Operations Supervisor designated to act for the Project Manager, shall be available either by phone or in person to make decisions regarding day-to-day CATS on Demand operations and provide coordination as necessary, and shall be authorized to act on behalf of Contractor regarding all matters pertaining to this Scope of Services. Contractor to respond within one (1) hour or sooner to such calls.

4. EMPLOYEE SELECTIONS AND SUPERVISION

- a) Contractor shall be responsible for the employment and supervision of all employees necessary to perform CATS on Demand operations. Such responsibilities shall include employee recruitment, screening, selection, training, supervision, employee relations, evaluation, retention and termination.
- b) The Contractor shall be solely responsible for the provision and satisfactory work performance of all employees, as described by this Request for Proposal, and shall be solely responsible for the payment of all employees and or subcontractor wages and benefits.
- c) Without any additional expense to CATS, the Contractor shall comply with the requirements of employee liability, workers compensation, employment insurance, and social security.
- d) The Contractor is, at all times, an independent Contractor, and nothing in this Request for Proposals, nor in any Agreement, which arises as a result of the Request for Proposals, shall be construed to create a relationship other than that of independent Contractor and client.
- e) The Contractor's employees are not, nor at any time will they be considered, employees, or agents of CATS.

5. REQUIRED POSITIONS: Contractor shall provide the following minimum staffing positions.

- a) Contractor shall provide employees in sufficient numbers and with sufficient training in order to ensure the effective operation of the service at all times.
- b) Service quality is of the utmost importance to CATS. Consequently, Contractor must at a minimum meet the following staffing levels:
 - Project Manager
 - Operations Supervisor
 - Scheduling/Dispatch Supervisor
 - Scheduling/Reservation/Dispatch Personnel
 - On Street Supervisor
 - Clerical and Support Staff
 - Drivers

- Maintenance and Service Staff
 - Safety/Security/Training Supervisor
- c) Contractor shall describe in their Proposal response the plans to provide for these positions, including the anticipated numbers of full and part-time employees by position.
- d) Staffing flexibility through job-sharing, non-traditional work hours, cross-training, and so forth, is encouraged, as long as the quality, availability, and integrity of the ADA Paratransit Services are not compromised.
- e) CATS expects these types of efficiencies to result in lower costs for these services compared to traditional staffing.
- f) If at any time Contractor fails to meet the minimum staffing levels required by CATS, the value of wages and benefits for the vacant position(s) will be deducted from the monthly payment due Contractor.

6. MINIMUM QUALIFICATIONS FOR REQUIRED POSITIONS: Contractor shall provide resumes for individuals proposed to fill the following required positions. The resumes should adequately describe the individuals background and experience, such that the CATS Proposal Evaluation Committee (PEC) can effectively assess the candidates capabilities to successfully fulfill the positions. Vendor to submit their company's policy with proposal regarding all training they will provide.

- a) **Project Manager (PM)** - The Project Manager must have a minimum of five (5) years' experience in public transportation operations, of which at least 2 years was in Paratransit Operations Management, and at least three years supervisory experience. A bachelor's degree in a transportation or related field is preferred but not required. The PM must have demonstrated experience in personnel management; fleet maintenance oversight; paratransit scheduling and dispatching; and project administration, including liaison with a client. Professional references should be provided with the candidate's resume that will reflect upon the candidate's experience in the qualified transportation professional is provided. CATS will interview this person for the purpose of ensuring that an experienced and qualified paratransit transportation professional is provided.

The PM shall be assigned full-time to the management of CATS ADA Paratransit Services. The PM must demonstrate, by decision and action, competence in all aspects of CATS ADA services. The PM, or his/her delegated representative, shall be available to make decisions or provide coordination, as necessary, at the request of CATS at all times. Contractor shall commit the services of the PM for the duration of the contract term, and shall not re-assign the PM without the written approval of CATS. The PM is not required to reside within the CATS on Demand services area, but must be capable of responding within one (1) hour driving time in order to provide effective management of these services. Contractor will not, without prior written notice to and the consent of CATS, remove or re-assign the PM at any time prior to or after execution of the Contract.

- b) **Operations Supervisor or Equivalent** - The proposed Operations Supervisor shall have a minimum of three (3) years of experience in the operations of paratransit systems. At least two (2) of these years of experience must have been in a supervisory capacity. The proposed

candidate should have demonstrated experience with operation scheduling; industry-best operation practices, and operation personnel management. The proposed Operations Supervisor must be fully qualified and experienced with the operation of all aspects of the system. This person will be authorized to make operational decisions in the PM's absence.

- c) **Scheduling and Dispatching Supervisors (or Equivalent)** - The proposed Scheduling and Dispatching Supervisors shall have a minimum of three (3) years of experience with the reservation intake, trip scheduling, and vehicle dispatching functions of the provision of paratransit service. At least one (1) of these years of experience shall have been in a Lead Dispatcher or supervisory role. The proposed candidates should have demonstrated experience in the provision of ADA-regulated paratransit service, and should be fully knowledgeable of all applicable ADA regulations. The proposed candidates should be fully experienced with any automatic scheduling and dispatching program that Contractor may include in their proposal response. A supervisor will be available and within the paratransit service area at all times, when vehicles are in service.
- d) **Reservation and Dispatching Personnel** – Contractor will be required to employ personnel to perform trip reservation and dispatching duties. These employees will be required to attend sensitivity and customer service training annually. Contractor will ensure that there are staff in Contractor's office at least one-half hour before the first scheduled pick-up, and at least one-half hour after the final scheduled drop-off, and will provide proof to substantiate this requirement.
- e) **On-Street Supervision** – Contractor must provide personnel to conduct on-road, planned, and random supervision of driver performance. These persons may perform other functions as well, such as investigating accidents and providing road supervision assisting with the preparation of required reports. All Supervision staff will be required to attend sensitivity and customer service training annually, totaling at least eight (8) hours per year.
- f) **Clerical and Support Staff** - Contractor must have adequate clerical and support staff to perform administrative and non-operations assignments. Office staff will be required to attend sensitivity and customer service training annually.
- g) **Drivers** – Contractor shall provide a sufficient number of drivers who have been properly trained in all aspects of the ADA Paratransit Services in order to insure consistent, safe, and reliable operation of the service. Contractor shall determine the number of drivers, and whether they are full-time or part-time employees. Drivers/Operators will be required to attend sensitivity and customer service training annually. Contractor shall make provisions for trained back-up drivers to insure consistent service delivery. Contractor shall ensure that each driver has met the minimum requirements listed below, and CATS will require documents to show these requirements are met:
 - 1) Drivers must possess a current Louisiana Driver's License of the class required for the operation of the vehicle they are assigned to drive, and must possess any and all other licenses, permits, and/or endorsements required by applicable Federal, State, and Local regulations (*Note: a Chauffeur licenses is required when driving CATS 12-passenger vans.*

- 2) All drivers must have a safe driving record with no more than one (1) moving violation for the last five (5) years prior to submitting an employment application to drive for this program;
 - 3) If her/his license has ever been suspended or revoked, a driver applicant must have the last two (2) full subsequent years with no violations;
 - 4) Drivers must have completed a criminal background check (cost to be paid by Contractor);
 - 5) A driver must not have been convicted of a felony;
 - 6) Drivers must have passed a pre-employment drug screen, and participate in a U.S. Department of Transportation (USDOT) compliant drug/alcohol testing program (all at no cost to CATS);
 - 7) Drivers shall be trained and qualified to operate any vehicle in the CATS paratransit fleet;
 - 8) Drivers shall have an accurate timepiece on their person at all times, while in revenue service.
- h) **Maintenance and Service Staff** – Contractor shall provide personnel to conduct any service duties that are the responsibility of the Contractor. These duties include Contractor’s staff to clean the vehicles.
7. **PERSONNEL POLICIES:** Contractor shall implement effective personnel policies so as to be in compliance with all applicable Federal, State, and Local labor and regulatory provisions at all times.
- a) **Employee Compensation Plan** CATS desires that the ADA paratransit service continue to be delivered without interruption or disruption. CATS further recognizes the need for a consistent, high quality, and highly qualified workforce to achieve this goal. Contractor is encouraged to implement an employee compensation plan that will address this concern, and that will allow for consistent staffing of all required positions. Contractor should address the subject of employee compensation in sufficient detail in the Proposal response, in order to permit CATS to gauge the effectiveness of the Contractor’s proposed personnel retention program.
 - b) **Driver Screening:** Contractor shall use appropriate driver screening and selection criteria in order to employ drivers. These criteria will include Louisiana Department of Motor Vehicles license check and physical examination sufficient to meet all applicable requirements for CATS vehicle operations. The costs of meeting these requirements shall be paid by Contractor.
 - c) **Drug & Alcohol:** Contractor shall develop, implement, and maintain an employee substance abuse/alcohol abuse-testing program, subject to CATS approval, for all employees in safety-sensitive positions including personnel engaged in the operation, and control of CATS vehicles and equipment. Such program will meet all applicable federal requirements promulgated to implement the Omnibus Transportation Employee Test Act of 1991 and related supplements and amendments. The Contractor will be part of CATS Drug & Alcohol Safety Sensitive Random Testing and responsible for tracking all paperwork required for the annual MIS report in March of each year.
 - d) **Limited English Proficiency:** Contractor shall be responsible to recruit a sufficient number of multi-lingual employees and/or to provide multi-language assistance to the public to ensure that the Limited English Proficiency Compliance requirement under Title VI of the Civil Rights Act of 1964 is met.

- e) **Civil Rights:** Contractor shall at all times comply with applicable state and federal employment laws, including Title VI of the Civil Rights Act of 1964, as amended.

8. TRAINING OF DRIVERS AND OPERATIONS PERSONNEL

- a) Contractor shall develop, implement, and maintain a comprehensive formal training and retraining program that shall be subject to review and approval by CATS.
- b) CATS reserves the right to include CATS personnel in the Contractor's training program.
- c) An outline of the training program shall be submitted to CATS with Proposal, and periodic updates, as applicable, shall be submitted to CATS when updated.
- d) **Training Program:** The Contractor's training program shall be on file in the office of CATS ADA Manager. All drivers, dispatchers, telephone information personnel, and supervisors shall participate in the program.
- e) **Training Hours / Refresher Training:** Contractor shall implement and maintain a specific training and retraining program for all drivers presented by an instructor duly authorized to provide such training. CATS expects drivers to have a **minimum of eighty (80) hours of initial training** prior to operating a CATS Paratransit vehicle. CATS is also requiring that all operators receive refresher training annually. The driver-training program shall include, but not be limited to, the following minimum components. This is not exclusive, but provides a minimum basis for training:
 - 1) Vehicle Components and Familiarization;
 - 2) CATS Guidelines;
 - 3) Service Area Familiarization;
 - 4) Defensive Driving;
 - 5) Radio Procedures;
 - 6) Transporting Special Needs Passengers (Including Mobility Device Securement);
 - 7) Sensitivity Training;
 - 8) Customer Service/ Passenger Relations;
 - 9) Pre- and Post-Trip Requirements;
 - 10) Emergency Procedures.
- f) **Training Hours /Classroom and Behind the Wheel:** The drivers training program must include both classroom and behind-the-wheel components. In addition, drivers must receive on-going, in-service training totaling at least eight (8) hours per year, with at least one session presented each quarter. At least once every six (6) months, a supervisor, through an on-board evaluation check-ride, shall evaluate each driver. Contractor shall also be required to conduct such an in-service evaluation of a driver, as requested by CATS.
- g) **Driver Applicants with Previous Experience:** Driver candidates with prior transit and/or paratransit experience may be presented an abbreviated training curriculum provided, however, only provided that these drivers demonstrate proficiency and understanding of all aspects of the complete drivers' training program.
- h) **Formal Training Certificate:** All drivers shall be certified as having completed Contractor's formal training course for new drivers as approved by CATS, and be licensed with a valid Louisiana

Chauffeur’s License (as applicable) with appropriate certification(s) and medical card. CATS reserves the right to periodically check the license status of Contractor’s drivers to ensure compliance.

- i) **Employee Handbook:** Contractor shall prepare and furnish to CATS for approval prior to initiation of service an Employee Handbook, which will be provided to all drivers, dispatchers, telephone operators, and supervisors and shall include, at a minimum, the following subject areas: driver’s rules; accident/incident policies; radio policies and procedures; fare policies and procedures; fog and inclement weather policy; vehicle inspection, reporting procedures and pertinent sample forms; federal mandated Drug and Alcohol/Drug Free Work Place Policies.
- j) **Customer Service and Sensitivity Training:** Contractor shall prepare and furnish to CATS for approval prior to initiation of service a Customer Service and Sensitivity Training Program. Dispatchers, telephone operators, supervisors, and any other personnel who may from time to time be assigned to provide telephone information on the paratransit telephone reservation lines shall be trained and annually re-trained in customer relation skills, telephone manners, accident/incident procedures, fares, paratransit reservation procedures, and operating policies. Operations control personnel assigned to paratransit trip scheduling and vehicle dispatching duties shall have a detailed knowledge of applicable procedures and professional techniques.
- k) **Uniform Behavior:** Contractor’s employees shall not transact other than incidental personal business while in uniforms identifying them as CATS representatives, and they shall not purchase, possess or consume intoxicating beverages or contraband while in uniform, nor are they to act in any inappropriate manner.

9. DRIVER'S RESPONSIBILITIES

- a) Drivers will, when requested by CATS, hand out notices to passengers or otherwise render assistance in CATS’s customer relations, promotion, monitoring, and supervisory functions.
- b) Drivers are to conduct a “pre-trip” vehicle inspection prior to starting service every day.
- c) Drivers will be required to honor special passes; collect, cancel and/or validate passes and tickets as determined by CATS. Drivers will verify that correct cash fares are collected. Drivers will record ridership information in accordance with National Transit Data (NTD) reporting procedures.
- d) When working for the ADA Paratransit Program, Contractor’s employees may not have weapons of any kind in their possession or on the vehicles.
- e) CATS promotes and supports a smoke-free work environment. Smoking will not be allowed in the vehicles or in the Contractor’s facility at any time.
- f) **Cell Phones:** Vehicle operators are not allowed to use cell phones while driving or while passengers are on board, boarding or alighting the vehicles.
 - This includes use of hands free cell phone devices adaptations (for example Bluetooth devices).
 - This also includes texting. Cell phones distract vehicle operators from the job they are performing and personal calls and texting are not allowed under any circumstances while driving, while passengers are on board or boarding and/or alighting.
 - Any cell phone devices the driver may carry while on the job must be turned off (not on “silent mode” or “vibrate mode”) while the driver is in revenue service to CATS On-Demand. If cell phones are distributed by the CONTRACTOR for use in service instead of radios, then the phones will only be used for service related issues.

- In addition to the above, it is the CONTRACTOR'S responsibility to make sure vehicle operators follow any state and/or local laws governing the use of cell phones, whether hand-held or hands-free for talking or for texting.

10. UNIFORMS

- a) Drivers and other operating staff shall be in uniform at all times while in service or otherwise on duty.
- b) Contractor shall provide driver uniforms to its employees.
- c) The design, type, and logo of the uniforms shall be subject to CATS approval, and must be unique to CATS.
- d) Uniforms cannot be generic to Contractor's company.
- e) Drivers shall be required to maintain a neat and clean appearance at all times while on duty.
- f) Proposers are to submit a photo of their uniforms with proposal, along with their uniform policy.
- g) A sample uniform should be submitted within 3 days of CATS request, if necessary.
- h) A CATS logo must be included on the uniform for use only when operating CATS Paratransit Services.

11. SAFETY AND SECURITY PROGRAM

- a) Contractor shall assume full responsibility for assuring that the safety of passengers, operations personnel, and CATS vehicles and equipment are maintained at the highest possible level throughout the term of this AGREEMENT.
- b) Contractor shall comply with all applicable FTA and OSHA requirements.
- c) Contractor shall develop, implement, and maintain in full compliance a formal safety illness and injury prevention program including periodic safety meetings, participation in safety organizations, safety incentives offered by Contractor to drivers and other employees, and participation in risk management activities under the auspices of Contractor's insurance carrier or other organization.
- d) Contractor shall provide a copy of said Safety Program, and subsequent program update as well as safety meeting notice/minutes and safety communications to CATS with proposal.
- e) Contractor will require all drivers, dispatch/control room personnel, and supervisors to participate in the safety program.
- f) Contractor shall develop, implement and maintain Security and Emergency Management Program in accordance with the State and Federal provisions. Contractor shall provide a copy of said Security and Emergency Management Program with proposal and provide program updates to CATS subsequently.

12. ROAD SUPERVISION

- a) Contractor shall provide road supervision as necessary to monitor drivers and vehicles and assist drivers in revenue service.

13. ACCIDENT, INCIDENT AND COMPLAINT PROCEDURES

- a) Prior to initiating services under this agreement, Contractor shall develop, implement and maintain formal procedures, subject to CATS review and approval, for response to accidents, incidents, service interruptions, and complaints. Such occurrences to be addressed include, but are not limited to: vehicle accidents, passenger injuries, passenger disturbances, in-service vehicle failures, lift failures of vehicles in service, and paratransit vehicles operating more than thirty (30) minutes behind promised schedule.

- b) All traffic accidents involving transit system vehicles, irrespective of injury, shall be reported to the Baton Rouge Police Department, East Baton Rouge Sheriff's Department or Louisiana State Police, as appropriate.
- c) Contractor will advise such agency of the accident and request a police unit to investigate the accident.
- d) CATS ADA Manager shall be notified in writing by the Contractor of all accidents and incidents resulting in loss or damage to CATS property within **12 hours**.
- e) In cases involving injury, Contractor shall notify CATS ADA Manager **immediately**. In the event CATS ADA Manager is not available, Contractor shall notify CATS Chief Operating Officer **immediately** upon receipt by Contractor of such information.
- f) In the event of vehicle accidents in which Contractor's driver is found to be at fault, CONTRACTOR shall be responsible for all monetary damages associated with the repair or replacement of CATS paratransit vehicles.
- g) In the event that traffic citations are issued to Contractor's drivers during the operation of CATS paratransit vehicles, Contractor is responsible for the payment of citation fees to the appropriate agency. In the event CATS is notified regarding non-payment of traffic citations by Contractor, CATS will deduct the amount from the monthly payment due Contractor, and will continue to do so for every month the citation is not paid, including any additional costs associated with the citation.

14. VEHICLE SCHEDULING AND DISPATCHING

- a) Contractor shall utilize a systematic, computer-assisted method to schedule and transport passengers using paratransit vehicles. The method should be capable of accommodating advanced reservations and integrating all demand for service into efficient vehicle tours that maximize productivity and assure service quality to levels described in this Scope of Work.
- b) Contractor shall provide an adequate fixed number of persons to staff the paratransit scheduling and system vehicle dispatching functions. These persons shall also be responsible for maintaining radio control with all vehicles in service and for maintaining the daily dispatch log to be proposed by Contractor.
- c) Contractor shall only transport ADA-eligible passengers approved through CATS under CATS eligibility requirements on CATS-owned paratransit vehicles for CATS personnel.

15. OPERATIONS FACILITY

- a) Contractor shall be responsible for securing, establishing and maintaining a facility for the operation and administration of CATS ADA Paratransit Services. With the approval of CATS, such facility may be shared with operation of similar services for another client agency. At a minimum any CATS on Demand operations facility shall have the following:
 - Secure facility housing the operations/dispatch center, vehicle storage yard for CATS vehicles and administrative offices. A facility that is located in Baton Rouge or no more than three (3) miles outside Baton Rouge city limits, or which has been agreed to in writing by CATS. Adequate area to clean the vehicles in accordance with the Agreement.
 - A security-fenced, paved and lighted area for overnight vehicle parking with adequate space for all vehicles.
 - Adequate appropriately equipped space for administrative personnel, dispatching and information staff, driver lounge or ready room, and training/safety meetings.

- A furnished control room, including maps, cue boards, time clock, adequate desks, tables, chairs and other equipment as may be appropriate.

16. TELEPHONE RESERVATION AND INFORMATION SYSTEM

- a) Contractor shall provide telephone equipment and all telephone information and dispatch personnel necessary to effectively respond to incoming calls at a quality and level consistent with CATS patron demand, and in strict accordance with the operating days and hours set forth by CATS, or any future revisions thereto.
- b) Contractor shall make special efforts to respond to telephone service and information requests from deaf or non-English speaking patrons of CATS. Contractor will provide TDD equipment for communications with deaf patrons, and will provide bilingual telephone information personnel or assistance for at least eight hours per operating day. An answering machine shall be available for recording trip requests for the paratransit service when the administrative and dispatch offices are closed.
- c) Contractor will provide its own telephone system using the current **CATS reservations numbers of (225) 239-2550, (800) 737-1813 (Spanish language) and a TTY number of (800) 846-5277**. Upon termination of the Agreement of which this Scope of Services is a part, CATS reserves the rights to CATS telephone numbers as indicated above herein, and Contractor agrees to transfer of said telephone numbers and client contact listing in a useable format.
- d) Contractor will be required to provide an Automatic Call Sequencer unit which will answer all service request calls, hold the calls in a queue if they cannot be immediately answered by a reservation agent or scheduler, and cause the calls in queue to be answered in the order in which they were received. The Sequencer unit shall capture and allow for the reporting of data on telephone system performance, including, but not limited to: **1) total calls received; 2) total of abandoned calls; 3) average time on hold; and 4) maximum time on hold**, which shall be reported monthly to CATS.
- e) In the event the telephone reservation system used by Contractor is out of service, Contractor must provide immediate notification to the CATS ADA Manager. Proposer must identify a backup telephone system/customer communication process in the event that the regular telephone system is out of service.

17. FARES AND FARE COLLECTION

- a) CATS shall establish all fares of any kind or character to be paid by CATS patrons.
- b) Contractor shall ensure that each patron pays the appropriate fare prior to being provided transportation service.
- c) All cash fares will be paid by patrons in the exact amount due for their appropriate fare classification.
- d) Contractor will collect or otherwise process in the manner directed by CATS all non-cash fares (tickets, passes and like).
- e) All fares collected are the sole property of CATS.
- f) Contractor shall, in accordance with a procedure specified by CATS, account for revenues collected on transit vehicles and deposited twice a week of such revenues on an acceptable basis into a local bank account approved by CATS for that purpose.
- g) CATS reserves the right to audit fare revenue collection and accounting at reasonable times without prior notification to Contractor.

18. TICKET SALES

- a) CATS may elect to sell or provide tickets to CATS patrons.
- b) Contractor shall collect, record, and deposit ticket sales according to instructions of CATS.

19. FARES, BOOKS, RECORDS, AND REPORTS

- a) Contractor shall maintain all books, records, documents, accounting ledgers, and similar materials relating to work performed for CATS under this AGREEMENT on file for at least five (5) years following the date of final payment to the Contractor by CATS.
- b) Any duly authorized representative(s) of CATS shall have access to such records for the purpose of inspection, audit, and copying at reasonable times, during Contractor’s usual and customary business hours. Contractor shall provide proper facilities to CATS representative(s) and CATS shall be permitted to observe and inspect any or all of Contractor’s facilities and activities during Contractor’s usual and customary business hours for the purposes of evaluating and judging the nature and extent of Contractor’s compliance with the provisions of this AGREEMENT. In such instances,
 - c) CATS representative(s) shall not interfere with or disrupt such activities.
 - d) Contractor shall collect, record, and report to CATS on a monthly and annual basis all accounting data for CATS operation in accordance with Level C of the Uniform Financial and Reporting Elements (FARE) as required under **National Transit Database (NTD)** of the Federal Transit Administration, as now in force or may hereafter be amended. All worksheets and detail information used to prepare this report shall be available to CATS within one month after the close of the applicable quarter.
 - e) Contractor shall collect, record, and report on a monthly basis all operational data required by CATS in a format approved by CATS. Such data shall include, but is not limited to: statistics required under the National Transit Database (NTD) of the Federal Transit Administration, as amended; for paratransit services passenger count data by fare category, vehicles hours, vehicle miles, vehicle revenue hours, vehicle revenue miles, passengers per hour, wheelchair boarding and paratransit passenger no-shows and cancellations. Contractor shall provide passenger mile sampling data in accordance with a method approved by the FTA for NTD purposes. The following information is required on a monthly basis:
 - 1) A summary of services provided;
 - 2) The Total Service Hours by Contract;
 - 3) A summary of trips by Contract, and any trip denials;
 - 4) A summary of client ride-time for twenty-five (25) randomly sampled trips;
 - 5) The accidents and incidents reported (the number of accidents and incidents, a brief description of each accident and incident, and what action was taken);
 - 6) All complaints and commendations received by the Contractor;
 - 7) The list of cancellations;
 - 8) The list of "no shows";
 - 9) The Total Revenue Service Miles;
 - 10) The Total Non-Revenue Service (Deadhead) Miles;
 - 11) The monthly listing of trips per passenger;
 - 12) A complete list of all trips that were more than fifteen (15) minutes late;
 - 13) A list of all completed trips;
 - 14) A complete list of all passenger trips that exceeded the 60-minute in-vehicle ride-time performance standard;
 - 15) A summary of driver pay hours;

- 16) A summary of all staff training that occurred during the previous month;
- 17) A summary of DBE participation; and
- 18) A monthly driver performance monitoring report.

NOTE: All above stated reports are to remain confidential between CATS and Contractor. This information is not to be dispersed to any other individual or firm. Any such requests for this information shall be forwarded to CATS Project Manager for his/her handling. (i.e., Media requests or public records request, etc.)

- f) **Accounting** - All costs incurred in connection with this project, and any relevant financial records and documents, shall be recorded in accounts separate from those used for other business activities, and in conformance with the guidelines of CATS. The Contractor shall submit a monthly invoice to CATS for the services rendered during the reporting period. The invoice shall be delivered to CATS no later than the 10th of the following month. Such back-up records and documents necessary for CATS to verify the validity of the charges shall support invoices.
- g) **National Transit Database (NTD)** - It shall be the responsibility of the Contractor to collect National Transit Database (NTD) data and other pertinent ridership information as requested by CATS. The NTD requirements entail a high level of financial and operational data collection, including on-board operational data sampling (approximately one (1) per week) utilizing FTA-recommended sampling techniques or by collecting 100% of the data. The Contractor shall coordinate with, and provide required data to, CATS, which is responsible for the preparation and submission of the NTD report. All source documents shall be maintained by the Contractor for two (2) years following final payment, and may be audited by the FTA at any time within this period.
- h) **FTA Triennial Review and other Reviews (or Audits)** – The Contractor shall support CATS, as needed, in any Federal Transit Administration Triennial Reviews (or other state and federal reviews), which occur during the term of this Contract, including any extensions thereof. The Contractor’s support may include, but is not limited to, the following: collection of data, preparation of reports, participation in interviews and on-site data reviews, and investigation and preparation of responses to Triennial Review findings.
- i) **Vehicle Activity:** Information concerning vehicle activity for Paratransit service shall be collected daily on the driver's log, route drivers report, dispatch log, and/or other forms as developed by Contractor and approved by CATS, and shall be summarized daily on the Operations Summary.
 1. The **operations data** shall be collected and compiled daily, weekly, monthly, quarterly, and annually; and shall provide reports according to the mode and total system. Individual totals shall be provided for weekdays, Saturdays and Sundays.
 2. **Daily logs, reports, and summaries** shall be available for CATS review at the operations facility by 3:00 PM of the next business day following data collection. Actual cash count reconciliation reports shall be available for CATS review by 10:00 a.m. of the next business day following data collection. Monthly reports shall be forwarded to CATS no later than the 10th of the following month.

21. SYSTEM PROMOTION

- a) Contractor shall not be responsible to initiate any advertising or promotional activities on behalf of CATS of any kind or character. Contractor shall, however, cooperate with CATS in any such activities initiated by CATS by making available needed equipment, facilities, and personnel at no cost or expense to CATS. Contractor also shall dispense CATS informational publications, respond to patron requests for information, act as liaison and provider of information with and to community

agencies and groups, and do all other things to assist and support CATS's advertising and public informational efforts.

22. SYSTEM RECOMMENDATIONS

- a) Contractor shall continually monitor CATS on Demand operations, facilities, and equipment; and shall, from time to time and as warranted, advise CATS and make recommendations to it based upon observed deficiencies and needed improvements. CATS shall retain all authority, however, to make determinations and to take action on such recommendations.

23. EMERGENCIES; NATURAL DISASTERS

- a) In the event of a declared emergency or natural disaster, Contractor shall make available, to the maximum extent possible, CATS vehicles and facilities to assist CATS in ameliorating such incidents. To the extent CATS requires Contractor to provide such emergency vehicles and facilities, Contractor shall be relieved of the obligation to fulfill the duties and responsibilities to operate as described hereinabove.

24. VEHICLE MAINTENANCE, SERVICING AND, STORAGE

- a) All preventative and heavy maintenance tasks will be performed by Contractor personnel at the Contractor facility.
- b) The Contractor will email the odometer readings on CATS vehicles at the end of the day to CATS' Director of Maintenance, Maintenance Manager and Maintenance Coordinator.
- c) Any Maintenance Issues and/or Road Calls shall be reported via email to the Director of Maintenance, Maintenance Manager and Maintenance Coordinator.
- d) Fuel will be provided by CATS at authorized location sites.
- e) Interior and exterior cleaning of ADA Paratransit vehicles will be performed by Contractor personnel at the Contractor facility in accordance with standards established by CATS.
- f) Contractor shall be responsible for all preventative and heavy maintenance of the vehicles and associated equipment required in connection with the operation of the ADA Paratransit Services. Contractor shall provide all labor, lubricants, solvents, repairs, parts, supplies, and maintenance tools and equipment facilities and services required needed to fulfill these maintenance responsibilities.
- g) Contractor is responsible for replacement of any keys lost, misplaced or stolen.

25. DAILY DRIVER'S INSPECTION for All vehicles

- a) Prior to vehicle operation, the driver shall inspect each vehicle daily to ascertain that it is in safe condition, it is equipped as required by all provisions of law, and all equipment is in good working order. The requirement to perform a daily pre-trip inspection applies to all drivers of all paratransit vehicles, without exception. This task is not to be delegated to someone other than the driver, such as to a mechanic who may arrive at work early to start all the vehicles and "check them out".
- b) The Drivers Daily Vehicle Inspection Report is not required to be submitted or otherwise documented until the end of the driver's work period. This is so that any defects that become apparent during the course of the work period can be included in the report. This report is required whether or not any defects are found.

26. VEHICLE CLEANING

- a) Contractor shall maintain CATS vehicles as well as Contractor vehicles in a clean and neat condition at all times.
- b) The Contractor will be responsible for cleaning the vehicles. The Contractor will clean vehicle interior and exterior on a daily basis. Exterior washing shall include vehicle body, all windows and wheels. Rubber or vinyl exterior components such as tires, bumper fascia, fender skirts and door edge guards shall be cleaned and treated with a preservative at least once per month, or as necessary to maintain an attractive appearance.
- c) The interior of all vehicles shall be kept free of litter and debris to the maximum practicable extent throughout the operating day. Vehicles shall be swept and dusted daily. Interior panels, windows, and upholstery shall be cleaned of marks as necessary. The interiors of all vehicles shall be more thoroughly washed on a daily basis, including all windows, seats, floor, stanchions, and grab rails. All foreign matter such as gum, grease and dirt shall be removed from interior surfaces during the interior cleaning process. Any damage to seat upholstery and graffiti shall be repaired/removed immediately upon discovery, and Contractor shall notify CATS of damage upon discovery of same. Ceilings and walls shall be thoroughly cleaned at least twice per month, or more often as necessary.
- d) Proposers must address how they intend to clean vehicles in their response Proposal, and summarize their Vehicle Cleaning Program. CATS will conduct periodic vehicle inspections and will require the Contractor to clean dirty vehicles upon request. Vehicles found to be dirty will be subject to penalties described elsewhere in this RFP.
- e) Vehicles shall be kept free of vermin and insects at all times. Contractor shall exterminate all vermin and insects from all vehicles immediately upon their discovery, utilizing safe and non-hazardous materials. (Contractor may have to utilize a professional exterminator, depending on La. State laws.)

27. TURNOVER PROCEDURE

- a) This procedure is designed to determine the condition of CATS vehicles and equipment at the time of turnover between Contractors. This Turnover Procedure shall be implemented toward the end of the current contract term and prior to the commencement of the new contract. At CATS' option, a Turnover Inspection may be implemented with or without a change in Contractors.
- b) **Transition to Subsequent Contractor** - In the event of a change in Contractors as a result of the solicitation process, Contractor must cooperatively participate in the transition of this service to a new Contractor, if necessary. No less than forty-five (45) calendar days prior to the start of a new contract, current Contractor, successful Proposer, and CATS shall meet. The 45-day period of time prior to the Contract expiration date is defined as the Transition Period. The Contractor shall participate in the smooth transition of service to a new provider in such a manner as to ensure that the transition results in minimum service disruption to operations. All parties shall be represented by authorized personnel at this Pre-Audit Meeting. The purpose of the Pre-Audit Meeting shall be to set guidelines for procedure during the Initial Audit. Procedures shall be agreed upon and confirmed in writing by all parties within 5 working days of the Pre-Audit Meeting. The new Contractor/Provider will be provided with the list of clients prior to, or during, the transition period.
- c) During the transition phase, CATS staff will conduct several meetings with the incumbent and new providers to discuss specific operations, records, and vehicle transition events, as well as the timeframe in which they must occur.
- d) As requested by CATS, the incumbent Contractor must make pertinent records accessible to both CATS and the new provider within fifteen (15) business days of request.

Initial Audit

- a) Current Contractor, Successful Proposer, and CATS shall meet 45 days prior to turnover at the Contractor's facility. All parties shall be represented by authorized personnel at this Initial Audit. Contractor shall make available their current facility and such personnel necessary to move vehicles and operate hoists. Contractor shall make available records, daily driver inspections, and other records as appropriate. Contractor, successful Proposer, and CATS shall cooperate fully during the Initial Audit as set forth in the guidelines determined at the Pre-Audit Meeting.

Turnover Audit

- a) Several days prior to turnover, CATS, Contractor, and successful Proposer, shall meet to physically re-examine every vehicle. Records shall be kept, and made available to CATS, documenting items that have been repaired since the Initial Inspection. Current condition of every vehicle shall be determined and documented. All parties shall be provided draft results of this inspection at the conclusion of the Turnover Audit.

28. TERMS OF PAYMENT: Payment shall be made by CATS to Contractor for performance of the services set forth in this Agreement as follows:

- a) Variable Costs – The Contractor shall be paid a fixed hourly rate for each Vehicle Service Hour operated during the calendar month. (See the definition of Vehicle Service Hour in “Definitions” herein.) The hourly rate shall be in consideration of the cost of performing those services set forth in this Scope of Work, each month according to the level of service operated.
- b) Fixed Costs – The Contractor shall be paid a monthly amount that equates to one-twelfth (1/12) of the total fixed costs that are identified in the Contract.
- c) Invoicing - Not later than 10 days after the end of each month during the term of this Agreement, the Contractor shall submit to CATS a statement of services rendered during the preceding month and an invoice for these services as set forth above. The monthly invoice shall be accompanied by submission of the Monthly Summary Report as described herein. After verification of the statement, CATS shall attempt to pay the amount due to the Contractor on or within 30 days (Net 30) of which the statement has been submitted and approved by CATS ADA Manager.
- d) Fare Revenues: All Passenger fare revenues are the property of CATS. The Contractor shall develop appropriate procedures for the secure handling of these revenues, such that they are safely transferred daily to CATS. These procedures must be submitted with Proposal to CATS for review.

Part 5
FTA Federally Required and Other Model Contract Clauses
Operations/Management Service Contract
Solicitation #2023-ADAParatransit-010

#	FTA Federal Clauses Index <i>Note: Strike through clauses below are NOT APPLICABLE (N/A) to this Solicitation</i>	Solicitation Applicability	Page No.
1.	Access to Records & Reports	YES	2
2.	Bonding Requirement (applies >\$100,000)	N/A	2
3.	Bus Testing	N/A	2
4.	Buy America Requirements (applies >\$100,000)	N/A	3
5.	Cargo Preference	N/A	4
6.	Charter Service	N/A	4
7.	Clean Air Act & Federal Water Pollution Control Act (applies >\$150,000 ea)	YES	5
8.	Civil Rights Laws (EEO, Title VI, ADA. & ADA Access)	YES	5
9.	Disadvantaged Business Enterprise (DBE) Prompt Payment (if threshold for DBE program met)	YES	7
10.	Dispute and Breach of Contract (applies >\$100,000)	YES	10
11.	Employee Protections (Davis Bacon & Anti-Kickback >\$2000) Contract Work hours & Safety Standard Act (applies >\$250,000)	YES	12
12.	Energy Conservation	YES	14
13.	Federal Changes	YES	14
14.	Fly America	YES	14
15.	Government-Wide Debarment and Suspensions (applies >\$25,000)	YES	15
16.	Incorporation of Federal Terms	YES	16
17.	Lobbying Restrictions (applies >\$100,000 – must be signed and returned w/proposal)	YES	16
18.	No Federal Government Obligation to Third Parties	YES	17
19.	Patent Rights / Rights in Data / Copyrights	N/A	17
20.	Pre Award and Post Delivery Audits – Rolling Stock	N/A	18
21.	Program Fraud & False/ Fraudulent Statements	YES	18
22.	Public Transportation Employee Protective Arrangements	N/A	19
23.	Recycled Products/ EPA selected items >\$10,000	YES	19
24.	Safe Operations of Motor Vehicles / Distracted Driving / Seat Belts	YES	20
25.	School Bus Operations	YES	20
26.	Seismic Safety (new building & additions)	N/A	20
27.	Substance Abuse Requirements	YES	21

28.	Termination (applies >\$10,000)	YES	22
29.	Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse or other legal matters. \$25,000 Prime & Subs	YES	25
30.	Prohibition on Certain Telecommunications and Video Surveillance Services Equipment	YES	25

By submitting a proposal response, the vendor agrees to abide by the applicable federal certifications.

FTA Federally Required and Other Model Contract Clauses Operations/Management Services Solicitation # 2023-ADAPartransit-010

1. ACCESS TO RECORDS AND REPORTS - 49 U.S.C. § 5325(g), 2 C.F.R. § 200.333, 49 C.F.R. part 633

Applicability to Contracts: Requirements apply to all contracts funded in whole or in part with FTA funds. The record keeping and access requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

Access to Records and Reports

- a) Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third party agreements of any type, and supporting materials related to those records.
- b) Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.
- c) Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.
- d) Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors access to the sites of performance under this contract as reasonably may be required.

2. BONDING REQUIREMENTS - 2 C.F.R. § 200.325; 31 C.F.R. part 223

Applicability to Contracts: Bonds are required for all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold. FTA may accept the bonding policy and requirements of the recipient if FTA has determined that the Federal interest is adequately protected. If such a determination has **not** been made, the following minimum requirements apply:

- a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

3. BUS TESTING - 49 U.S.C. § 5318(e); 49 C.F.R. part 665

Applicability to Contract: The Bus Testing requirements pertain only to the purchase or lease of any new bus model, or any bus model with a major change in configuration or components to be acquired or leased with funds obligated by FTA. Recipients are responsible for determining whether a vehicle to be acquired requires full or partial testing or has already satisfied the bus testing requirements by achieving a passing test score in accordance with 49 C.F.R. part 665. Recipients must certify compliance with FTA's bus testing requirements in all grant applications for FTA funding for bus procurements.

The operator of the bus testing facility is required to provide the resulting test report to the entity that submits the bus for testing. The manufacturer or dealer of a new bus model or a bus produced with a major change in component or configuration is required to provide a copy of the corresponding full bus testing report and any applicable partial testing report(s) to the recipient during the point in the procurement process specified by the recipient, but in all cases before final acceptance of the first bus by the recipient. The complete bus testing reporting requirements are provided in 49 C.F.R. § 665.11. Although no specific certification and bus testing language is required, recipients can draw on the following language for inclusion in their federally funded procurements.

Bus Testing

The Contractor [Manufacturer] agrees to comply with the Bus Testing requirements under 49 U.S.C. 5318(e) and FTA's implementing regulation at 49 C.F.R. part 665 to ensure that the requisite testing is performed for all new bus models or any bus model with a major change in configuration or components, and that the bus model has achieved a passing score. Upon completion of the testing, the contractor shall obtain a copy of the bus testing reports from the operator of the testing facility and make that report(s) publicly available prior to final acceptance of the first vehicle by the recipient.

4. BUY AMERICA REQUIREMENTS - 49 U.S.C. 5323(j); 49 C.F.R. part 661

Applicability to Contracts: FTA's Buy America law and regulations apply to projects that involve the purchase of more than \$150,000 of iron, steel, manufactured goods, or rolling stock to be delivered to the recipient to be used in an FTA assisted project. FTA cautions that its Buy America regulations are complex. Recipients can obtain detailed information on FTA's Buy America regulation at the Federal Transit Administration's Buy America website. The Buy America regulation at 49 C.F.R. § 661.13 requires notification of the Buy America requirements in a recipient's bid (or request for proposal) for FTA funded contracts. *Recipients can draw on the following language for inclusion in their federally funded procurements. Note that recipients are responsible for including the correct Buy America certification based on what they are acquiring. Recipients should not include both the rolling stock and steel, iron, or manufactured products certificates in the documents unless acquiring both in the same procurement.*

Buy America - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. part 661, which provide that Federal funds may not be obligated unless all steel, iron, and manufactured products used in FTA funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. § 661.7. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. § 661.11.

The [bidder or offeror] must submit to CATS the appropriate Buy America certification below with its [bid or offer]. Bids or offers that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

In accordance with 49 C.F.R. § 661.6, for the procurement of steel, iron or manufactured products, use the certifications below.

Certificate of Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(1), and the applicable regulations in 49 C.F.R. part 661.

Date	
Signature	
Company	
Name	
Title	

Certificate of Non-Compliance with Buy America Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but it may qualify for an exception to the requirement pursuant to 49 U.S.C. 5323(j)(2), as amended, and the applicable regulations in 49 C.F.R. § 661.7.

Date	
Signature	
Company	
Name	
Title	

In accordance with 49 C.F.R. § 661.12, for the procurement of rolling stock (including train control, communication, and traction power equipment) use the following certifications:

Certificate of Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j), and the applicable regulations of 49 C.F.R. § 661.11.

Date	
Signature	
Company	
Name	
Title	

Certificate of Non-Compliance with Buy America Rolling Stock Requirements

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j), but may qualify for an exception to the requirement consistent with 49 U.S.C. 5323(j)(2)(C), and the applicable regulations in 49 C.F.R. § 661.7.

Date	
Signature	
Company	
Name	
Title	

5. CARGO PREFERENCE REQUIREMENTS - 46 U.S.C. § 55305; 46 C.F.R. part 381

Applicability to Contracts - The Cargo Preference Act of 1954 requirements applies to all contracts involving equipment, materials, or commodities that may be transported by ocean vessels. The Cargo Preference requirements apply to all contracts involved with the transport of equipment, material, or commodities by ocean vessel.

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees:

- a) to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels;
- b) to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.); and
- c) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

6. CHARTER SERVICE - 49 U.S.C. 5323(d) and (r); 49 C.F.R. part 604

Applicability to Contracts - The Charter Bus requirements applies to contracts for operating public transportation service.

Charter Service - The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under:

- a) Federal transit laws, specifically 49 U.S.C. § 5323(d);
- b) FTA regulations, "Charter Service," 49 C.F.R. part 604;
- c) Any other federal Charter Service regulations; or
- d) Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include:

- a) Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA;
- b) Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or
- c) Any other appropriate remedy that may apply.

The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

7. CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT - 42 U.S.C. §§ 7401 – 7671q; 33 U.S.C. §§ 1251-1387; 2 C.F.R. part 200, Appendix II (G)

Applicability to Contracts - The Clean Air and Clean Water Act requirements apply to each contract and subcontract exceeding \$150,000. Each contract and subcontract must contain a provision that requires the recipient to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

The Contractor agrees:

- a) It will not use any violating facilities;
- b) It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
- c) It will report violations of use of prohibited facilities to FTA; and
- d) It will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387).

8. CIVIL RIGHTS LAWS AND REGULATIONS - (EEO, Title VI, ADA & ADA Access)

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

1. **Federal Equal Employment Opportunity (EEO) Requirements.** These include, but not limited to:
 - a) Nondiscrimination in Federal Public Transportation Programs. 49 U.S.C. § 5332, covering projects, programs, and activities financed under 49 U.S.C. Chapter 53, prohibits discrimination on the basis of race, color, religion, national origin, sex (including sexual orientation and gender identity), disability, or age, and prohibits discrimination in employment or business opportunity.
 - b) Prohibition against Employment Discrimination. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e, and Executive Order No. 11246, “Equal Employment Opportunity,” September 24, 1965, as amended, prohibit discrimination in employment on the basis of race, color, religion, sex, or national origin.
2. **Nondiscrimination on the Basis of Sex.** Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq. and implementing Federal regulations, “Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance,” 49 C.F.R. part 25 prohibit discrimination on the basis of sex.
3. **Nondiscrimination on the Basis of Age.** The “Age Discrimination Act of 1975,” as amended, 42 U.S.C. § 6101 et seq., and Department of Health and Human Services implementing regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, prohibit discrimination by participants in federally assisted programs against individuals on the basis of age. The Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq., and Equal Employment Opportunity Commission (EEOC) implementing regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, also prohibit employment discrimination against individuals age 40 and over on the basis of age.
4. **Federal Protections for Individuals with Disabilities.** The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. § 12101 et seq., prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

Civil Rights and Equal Opportunity

The AGENCY is an Equal Opportunity Employer. As such, the AGENCY agrees to comply with all applicable Federal civil rights laws and implementing regulations. Apart from inconsistent requirements imposed by Federal laws or regulations, the AGENCY agrees to comply with the requirements of 49 U.S.C. § 5323(h) (3) by not using any Federal assistance awarded by FTA to support procurements using exclusionary or discriminatory specifications.

Under this Agreement, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.

1. **Nondiscrimination** - In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
2. **Race, Color, Religion, National Origin, Sex** - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such action shall include, but not be limited to, the following: employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
3. **Age** - In accordance with the Age Discrimination in Employment Act, 29 U.S.C. §§ 621-634, U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, "Age Discrimination in Employment Act," 29 C.F.R. part 1625, the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., U.S. Health and Human Services regulations, "Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance," 45 C.F.R. part 90, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.
4. **Disabilities** - In accordance with section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, the Americans with Disabilities Act of 1990, as amended, 42 U.S.C. § 12101 et seq., the Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against individuals on the basis of disability. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

9. DISADVANTAGED BUSINESS ENTERPRISE (DBE) - 49 C.F.R. part 26

Background and Applicability - The Disadvantaged Business Enterprise (DBE) program applies to FTA recipients receiving planning, capital and/or operating assistance that will award prime contracts (excluding transit vehicle

purchases) exceeding \$250,000 in FTA funds in a Federal fiscal year. All FTA recipients above this threshold must submit a DBE program and overall triennial goal for DBE participation. The overall goal reflects the anticipated amount of DBE participation on DOT-assisted contracts. As part of its DBE program, FTA recipients must require that each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurements, certify that it has complied with the requirements of 49 C.F.R. § 26.49. Only those transit vehicle manufacturers listed on FTA's certified list of Transit Vehicle Manufacturers, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved at the time of solicitation, are eligible to bid.

FTA recipients must meet the maximum feasible portion of their overall goal using race-neutral methods. Where appropriate, however, recipients are responsible for establishing DBE contract goals on individual DOT-assisted contracts. FTA recipients may use contract goals only on those DOT-assisted contracts that have subcontracting responsibilities. See 49 C.F.R. § 26.51(e). Furthermore, while FTA recipients are not required to set a contract goal on every DOT-assisted contract, they are responsible for achieving their overall program goals by administering their DBE program in good faith. FTA recipients and third party contractors can obtain information about the DBE program at the Federal Transit Administration website Disadvantaged Business Enterprise or Department of Transportation website Disadvantaged Business Enterprise Program.

For all DOT-assisted contracts, each FTA recipient must include assurances that third party contractors will comply with the DBE program requirements of 49 C.F.R. part 26, when applicable. The following contract clause is required in all DOT-assisted prime and subcontracts:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- a) Withholding monthly progress payments;
- b) Assessing sanctions;
- c) Liquidated damages; and/or
- d) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

Further, recipients must establish a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment the recipient makes to the prime contractor. 49 C.F.R. § 26.29(a). Finally, for contracts with defined DBE contract goals, each FTA recipient must include in each prime contract a provision stating that the contractor shall utilize the specific DBEs listed unless the contractor obtains the recipient's written consent; and that, unless the recipient's consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE. 49 C.F.R. § 26.53(f) (1).

As an additional resource, recipients can draw on the following language for inclusion in their federally funded procurements.

It is the policy of the AGENCY and the United States Department of Transportation (“DOT”) that Disadvantaged Business Enterprises (“DBE’s”), as defined herein and in the Federal regulations published at 49 C.F.R. part 26, shall have an equal opportunity to participate in DOT-assisted contracts. It is also the policy of the AGENCY to:

- a) Ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- b) Create a level playing field on which DBE’s can compete fairly for DOT-assisted contracts;
- c) Ensure that the DBE program is narrowly tailored in accordance with applicable law;
- d) Ensure that only firms that fully meet 49 C.F.R. part 26 eligibility standards are permitted to participate as DBE’s;
- e) Help remove barriers to the participation of DBEs in DOT assisted contracts;
- f) To promote the use of DBEs in all types of federally assisted contracts and procurement activities; and
- g) Assist in the development of firms that can compete successfully in the marketplace outside the DBE program.

This Contract is subject to 49 C.F.R. part 26. Therefore, the Contractor must satisfy the requirements for DBE participation as set forth herein. These requirements are in addition to all other equal opportunity employment requirements of this Contract. The AGENCY shall make all determinations with regard to whether or not a Bidder/Offeror is in compliance with the requirements stated herein. In assessing compliance, the AGENCY may consider during its review of the Bidder/Offeror’s submission package, the Bidder/Offeror’s documented history of non-compliance with DBE requirements on previous contracts with the AGENCY.

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Contractor shall carry out applicable requirements of 49 C.F.R. part 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as the AGENCY deems appropriate.

DBE Participation

For the purpose of this Contract, the AGENCY will accept only DBE’s who are:

- a) Certified, at the time of bid opening or proposal evaluation, by the [certifying agency or the Unified Certification Program (UCP)]; or
- b) An out-of-state firm who has been certified by either a local government, state government or Federal government entity authorized to certify DBE status or an agency whose DBE certification process has received FTA approval; or
- c) Certified by another agency approved by the AGENCY.

DBE Participation Goal - The DBE participation goal for this Contract is set at **11% (zero)**. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling **not less than** % of the total Contract price. Failure to meet the stated goal at the time of proposal submission may render the Bidder/Offeror non-responsive.

Proposed Submission - Each Bidder/Offeror, as part of its submission, shall supply the following information:

- a) A completed **DBE Utilization Form** that indicates the percentage and dollar value of the total bid/contract amount to be supplied by Disadvantaged Business Enterprises under this Contract.

- b) A list of those qualified DBE's with whom the Bidder/Offeror intends to contract for the performance of portions of the work under the Contract, the agreed price to be paid to each DBE for work, the Contract items or parts to be performed by each DBE, a proposed timetable for the performance or delivery of the Contract item, and other information as required by the **DBE Participation Schedule**. No work shall be included in the Schedule that the Bidder/Offeror has reason to believe the listed DBE will subcontract, at any tier, to other than another DBE. If awarded the Contract, the Bidder/Offeror may not deviate from the DBE Participation Schedule submitted in response to the bid. Any subsequent changes and/or substitutions of DBE firms will require review and written approval by the AGENCY.
- c) An original **DBE Letter of Intent** (see below) from each DBE listed in the **DBE Participation Schedule**.
- d) An original **DBE Affidavit** (see below) from each DBE stating that there has not been any change in its status since the date of its last certification.

Good Faith Efforts - If the Bidder/Offeror is unable to meet the goal set forth above (DBE Participation Goal), the AGENCY will consider the Bidder/Offeror's documented good faith efforts to meet the goal in determining responsiveness. The types of actions that the AGENCY will consider as part of the Bidder/Offeror's good faith efforts include, but are not limited to, the following:

- a) Documented communication with the AGENCY's DBE Coordinator (questions of IFB or RFP requirements, subcontracting opportunities, appropriate certification, will be addressed in a timely fashion);
- b) Pre-bid meeting attendance. At the pre-bid meeting, the AGENCY generally informs potential Bidder/Offeror's of DBE subcontracting opportunities;
- c) The Bidder/Offeror's own solicitations to obtain DBE involvement in general circulation media, trade association publication, minority-focus media and other reasonable and available means within sufficient time to allow DBEs to respond to the solicitation;
- d) Written notification to DBE's encouraging participation in the proposed Contract; and
- e) Efforts made to identify specific portions of the work that might be performed by DBE's.

The Bidder/Offeror shall provide the following details, at a minimum, of the specific efforts it made to negotiate in good faith with DBE's for elements of the Contract:

- a) The names, addresses, and telephone numbers of DBE's that were contacted;
- b) A description of the information provided to targeted DBE's regarding the specifications and bid proposals for portions of the work;
- c) Efforts made to assist DBE's contacted in obtaining bonding or insurance required by the Bidder or the Authority.

Further, the documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted when a non-DBE subcontractor was selected over a DBE for work on the contract. 49 C.F.R. § 26.53(b) (2) (VI). In determining whether a Bidder has made good faith efforts, the Authority may take into account the performance of other Bidders in meeting the Contract goals. For example, if the apparent successful Bidder failed to meet the goal, but meets or exceeds the average DBE participation obtained by other Bidders, the Authority may view this as evidence of the Bidder having made good faith efforts.

Administrative Reconsideration - Within five (5) business days of being informed by the AGENCY that it is not responsive or responsible because it has not documented sufficient good faith efforts, the Bidder/Offeror may request

administrative reconsideration. The Bidder should make this request in writing to the AGENCY's [Contact Name]. The [Contact Name] will forward the Bidder/Offeror's request to a reconsideration official who will not have played any role in the original determination that the Bidder/Offeror did not document sufficient good faith efforts.

As part of this reconsideration, the Bidder/Offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Bidder/Offeror will have the opportunity to meet in person with the assigned reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The AGENCY will send the Bidder/Offeror a written decision on its reconsideration, explaining the basis for finding that the Bidder/Offeror did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Termination of DBE Subcontractor - The Contractor shall not terminate the DBE subcontractor(s) listed in the **DBE Participation Schedule** without CATS prior written consent. The AGENCY may provide such written consent only if the Contractor has good cause to terminate the DBE firm. Before transmitting a request to terminate, the Contractor shall give notice in writing to the DBE subcontractor of its intent to terminate and the reason for the request. The Contractor shall give the DBE five days to respond to the notice and advise of the reasons why it objects to the proposed termination. When a DBE subcontractor is terminated or fails to complete its work on the Contract for any reason, the Contractor shall make good faith efforts to find another DBE subcontractor to substitute for the original DBE and immediately notify CATS in writing of its efforts to replace the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the Contract as the DBE that was terminated, to the extent needed to meet the Contract goal established for this procurement. Failure to comply with these requirements will be in accordance with Section 8 below (Sanctions for Violations).

The AGENCY shall monitor the Contractor's DBE compliance during the life of the Contract. In the event this procurement exceeds ninety (90) days, **it will be the responsibility of the Contractor to submit quarterly written reports to CATS that** summarize the total DBE value for this Contract. These reports shall provide the following details:

- DBE utilization established for the Contract;
- Total value of expenditures with DBE firms for the quarter;
- The value of expenditures with each DBE firm for the quarter by race and gender;
- Total value of expenditures with DBE firms from inception of the Contract; and
- The value of expenditures with each DBE firm from the inception of the Contract by race and gender.

Reports and other correspondence must be submitted to the DBE Coordinator with copies provided to the [Agency Name1] and [Agency Name2]. Reports shall continue to be submitted quarterly until final payment is issued or until DBE participation is completed.

The successful Bidder/Offeror shall permit:

- CATS to have access to necessary records to examine information as CATS deems appropriate for the purpose of investigating and determining compliance with this provision, including, but not limited to, records of expenditures, invoices, and contract between the successful Bidder/Offeror and other DBE parties entered into during the life of the Contract.
- The authorized representative(s) of CATS, the U.S. Department of Transportation, the Comptroller General of the United States, to inspect and audit all data and record of the Contractor relating to its performance under the Disadvantaged Business Enterprise Participation provision of this Contract.

- All data/record(s) pertaining to DBE shall be maintained as stated in Section [insert reference to record keeping requirements for the Project.]

Sanctions for Violations - If at any time CATS has reason to believe that the Contractor is in violation of its obligations under this Agreement or has otherwise failed to comply with terms of this Section, CATS may, in addition to pursuing any other available legal remedy, commence proceedings, which may include but are not limited to, the following:

- Suspension of any payment or part due the Contractor until such time as the issues concerning the Contractor’s compliance are resolved; and
- Termination or cancellation of the Contract, in whole or in part, unless the successful Contractor is able to demonstrate within a reasonable time that it is in compliance with the DBE terms stated herein.

10. DISPUTE AND BREACH OF CONTRACT - 2 C.F.R. § 200.326; 2 C.F.R. part 200, Appendix II (A)

Applicability to Contracts - All contracts in excess of the Simplified Acquisition Threshold (currently set at \$150,000) shall contain administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

FTA does not prescribe the form or content of such provisions. The provisions developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts. Recipients can draw on these examples for inclusion in their federally funded procurements.

Rights and Remedies of CATS

CATS shall have the following rights in the event that CATS deems the Contractor guilty of a breach of any term under the Contract.

1. The right to take over and complete the work or any part thereof as agency for and at the expense of the Contractor, either directly or through other contractors;
2. The right to cancel this Contract as to any or all of the work yet to be performed;
3. The right to specific performance, an injunction or any other appropriate equitable remedy; and
4. The right to money damages.

For purposes of this Contract, breach shall include [CATS to define].

Rights and Remedies of Contractor - Inasmuch as the Contractor can be adequately compensated by money damages for any breach of this Contract, which may be committed by CATS, the Contractor expressly agrees that no default, act or omission of CATS shall constitute a material breach of this Contract, entitling Contractor to cancel or rescind the Contract (unless CATS directs Contractor to do so) or to suspend or abandon performance.

Remedies - Substantial failure of the Contractor to complete the Project in accordance with the terms of this Agreement will be a default of this Agreement. In the event of a default, CATS will have all remedies in law and equity, including the right to specific performance, without further assistance, and the rights to termination or suspension as provided herein. The Contractor recognizes that in the event of a breach of this Agreement by the Contractor before CATS takes action contemplated herein, CATS will provide the Contractor with sixty (60) days

written notice that CATS considers that such a breach has occurred and will provide the Contractor a reasonable period of time to respond and to take necessary corrective action.

Disputes

1. **Example 1:** Disputes arising in the performance of this Contract that are not resolved by agreement of the parties shall be decided in writing by the authorized representative of CATS's [title of employee]. This decision shall be final and conclusive unless within [10] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. 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 [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.
2. **Example 2:** CATS and the Contractor intend to resolve all disputes under this Agreement to the best of their abilities in an informal manner. To accomplish this end, the parties will use an Alternative Dispute Resolution process to resolve disputes in a manner designed to avoid litigation. In general, the parties contemplate that the Alternative Dispute Resolution process will include, at a minimum, an attempt to resolve disputes through communications between their staffs, and, if resolution is not reached at that level, a procedure for review and action on such disputes by appropriate management level officials within CATS and the Contractor's organization.

In the event that a resolution of the dispute is not mutually agreed upon, the parties can agree to mediate the dispute or proceed with litigation. Notwithstanding any provision of this section, or any other provision of this Contract, it is expressly agreed and understood that any court proceeding arising out of a dispute under the Contract shall be heard by a Court de novo and the court shall not be limited in such proceeding to the issue of whether the Authority acted in an arbitrary, capricious or grossly erroneous manner.

Pending final settlement of any dispute, the parties shall proceed diligently with the performance of the Contract, and in accordance with CATS's direction or decisions made thereof.

Performance during Dispute - Unless otherwise directed by CATS, 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 its employees, agents or others for whose acts it is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this Contract provides otherwise, all claims, counterclaims, disputes and other matters in question between CATS 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 CATS 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 law. No action or failure to act by CATS 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.

11. EMPLOYEE PROTECTIONS - (Davis Bacon, Anti-Kickback, Contract Work Hours & Safety Standards) -
49 U.S.C. § 5333(a); 40 U.S.C. §§ 3141 – 3148; 29 C.F.R. part 5; 18 U.S.C. § 874; 29 C.F.R. part 3; 40 U.S.C. §§3701-3708; 29 C.F.R. part 1926

Applicability to Contracts - Certain employee protections apply to all FTA funded contracts with particular emphasis on construction related projects. The recipient will ensure that each third party contractor complies with all federal laws, regulations, and requirements, including:

1. Prevailing Wage Requirements

- a) *Federal transit laws, specifically 49 U.S.C. § 5333(a), (FTA’s “Davis-Bacon Related Act”);*
- b) *The Davis-Bacon Act, 40 U.S.C. §§ 3141 – 3144, 3146, and 3147; and*
- c) *U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.*

2. “Anti-Kickback” Prohibitions

- a) *Section 1 of the Copeland “Anti-Kickback” Act, as amended, 18 U.S.C. § 874;*
- b) *Section 2 of the Copeland “Anti-Kickback” Act, as amended, 40 U.S.C. § 3145; and*
- c) *U.S. DOL regulations, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States,” 29 C.F.R. part 3.*

3. Contract Work Hours and Safety Standards

- a) *Contract Work Hours and Safety Standards Act, as amended, 40 U.S.C. §§ 3701-3708; and supplemented by Department of Labor (DOL) regulations, 29 C.F.R. part 5; and*
- b) *U.S. DOL regulations, “Safety and Health Regulations for Construction,” 29 C.F.R. part 1926.*

These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier. The Davis-Bacon Act and the Copeland “Anti-Kickback” Act apply to all prime construction, alteration or repair contracts in excess of \$2,000.

The **Contract Work Hours and Safety Standards Act** apply to all FTA funded contracts in excess of \$100,000 that involve the employment of mechanics or laborers.

The recipient must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. In addition, recipients can draw on the following language for inclusion in their federally funded procurements.

Prevailing Wage and Anti-Kickback

For all prime construction, alteration or repair contracts in excess of \$2,000 awarded by FTA, the Contractor shall comply with the Davis-Bacon Act and the Copeland “Anti-Kickback” Act. Under 49 U.S.C. § 5333(a), prevailing wage protections apply to laborers and mechanics employed on FTA assisted construction, alteration, or repair projects. The Contractor will comply with the Davis-Bacon Act, 40 U.S.C. §§ 3141-3144, and 3146-3148 as supplemented by DOL regulations at 29 C.F.R. part 5, “Labor Standards Provisions Applicable to Contracts Governing Federally Financed and Assisted Construction.” In accordance with the statute, the Contractor shall pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made

by the Secretary of Labor. In addition, the Contractor agrees to pay wages not less than once a week. The Contractor shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by DOL regulations at 29 C.F.R. part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United States.” The Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

Contract Work Hours and Safety Standards

For all contracts in excess of \$100,000 that involve the employment of mechanics or laborers, the Contractor shall comply with the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 3701-3708), as supplemented by the DOL regulations at 29 C.F.R. part 5. Under 40 U.S.C. § 3702 of the Act, the Contractor shall compute the wages of every mechanic and laborer, including watchmen and guards, on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. **These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or to contracts for transportation or transmission of intelligence.**

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

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

The Contractor or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this agreement.

Contract Work Hours and Safety Standards for Awards Not Involving Construction

The Contractor shall comply with all federal laws, regulations, and requirements providing wage and hour protections for non-construction employees, in accordance with 40 U.S.C. § 3702, Contract Work Hours and Safety Standards Act, and other relevant parts of that Act, 40 U.S.C. § 3701 et seq., and U.S. DOL regulations, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction (also Labor

Standards Provisions Applicable to Non-construction Contracts Subject to the Contract Work Hours and Safety Standards Act),” 29 C.F.R. part 5.

The Contractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three (3) years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

Such records maintained under this paragraph shall be made available by the Contractor for inspection, copying, or transcription by authorized representatives of the FTA and the Department of Labor, and the Contractor will permit such representatives to interview employees during working hours on the job.

The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

12. ENERGY CONSERVATION - 42 U.S.C. 6321 et seq.; 49 C.F.R. part 622, subpart C

Applicability to Contracts - The Energy Policy and Conservation requirements are applicable to all contracts. The Recipient agrees to, and assures that its subrecipients, if any, will comply with the mandatory energy standards and policies of its state energy conservation plans under the Energy Policy and Conservation Act, as amended, 42 U.S.C. § 6201 et seq., and perform an energy assessment for any building constructed, reconstructed, or modified with federal assistance as required under FTA regulations, “Requirements for Energy Assessments,” 49 C.F.R. part 622, subpart C.

These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.

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

13. FEDERAL CHANGES - 49 CFR Part 18

Applicability to Contracts - 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 Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

14. FLY AMERICA - 49 U.S.C. § 40118; 41 C.F.R. part 301-10; 48 C.F.R. part 47.4

Applicability to Contracts + The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air

transportation agreement to which the U.S. Government and a foreign government are parties and which the U.S. DOT has determined meets the requirements of the Fly America Act.

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Fly America Requirements

- a) Definitions. As used in this clause-- “International air transportation” means transportation by air between a place in the United States and a place outside the United States or between two places both of which are outside the United States. “United States” means the 50 States, the District of Columbia, and outlying areas. “U.S.-flag air carrier” means an air carrier holding a certificate under 49 U.S.C. Chapter 411.
- b) When Federal funds are used to fund travel, Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. 40118) (Fly America Act) requires contractors, recipients, and others use U.S.-flag air carriers for U.S. Government-financed international air transportation of personnel (and their personal effects) or property, to the extent that service by those carriers is available. It requires the Comptroller General of the United States, in the absence of satisfactory proof of the necessity for foreign-flag air transportation, to disallow expenditures from funds, appropriated or otherwise established for the account of the United States, for international air transportation secured aboard a foreign-flag air carrier if a U.S.-flag air carrier is available to provide such services.
- c) If available, the Contractor, in performing work under this contract, shall use U.S.-flag carriers for international air transportation of personnel (and their personal effects) or property.
- d) In the event that the Contractor selects a carrier other than a U.S.-flag air carrier for international air transportation, the Contractor shall include a statement on vouchers involving such transportation essentially as follows:

Statement of Unavailability of U.S.-Flag Air Carriers - International air transportation of persons (and their personal effects) or property by U.S.-flag air carrier was not available or it was necessary to use foreign-flag air carrier service for the following reasons. See FAR § 47.403. [State reasons]: The Contractor shall include the substance of this clause, including this paragraph (e), in each subcontract or purchase under this contract that may involve international air transportation.

15. GOVERNMENT-WIDE DEBARMENT AND SUSPENSION - 2 C.F.R. part 180; 2 C.F.R part 1200; 2 C.F.R. § 200.213; 2 C.F.R. part 200 Appendix II (I), Executive Order 12549; Executive Order 12689

Background and Applicability - A contract award (of any tier) in an amount expected to equal or exceed \$25,000 or a contract award at any tier for a federally required audit (irrespective of the contract amount) must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. part 180. The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

Recipients, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) with which they propose to contract or subcontract is not excluded or disqualified. This is done by: (a) checking the SAM exclusions; (b) collecting a certification from that person; or (c) adding a clause or condition to the contract or subcontract.

Debarment, Suspension, Ineligibility and Voluntary Exclusion - The Contractor shall comply and facilitate compliance with U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

- The certification in this clause is a material representation of fact relied upon by CATS. If it is later determined by CATS that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to CATS, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

16. INCORPORATION OF FEDERAL TERMS

Applicability to Contracts - The incorporation of FTA terms applies to all federally funded contracts.

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

17. LOBBYING RESTRICTIONS - 31 U.S.C. § 1352; 2 C.F.R. § 200.450; 2 C.F.R. part 200 appendix II (J); 49 C.F.R. part 20

Applicability to Contracts - The lobbying requirements apply to all contracts and subcontracts of \$100,000 or more at any tier under a Federal grant. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this agreement,

the payor must complete and submit the Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

49 C.F.R. part 20, Appendices A and B provide specific language for inclusion in FTA funded third party contracts as follows:

Lobbying Restrictions

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

- a) 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.
- b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with 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.
- c) The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, 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 section 1352, title 31, U.S. Code. 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.

	Signature of Contractor's Authorized Official
	Name and Title of Contractor's Authorized Official
	Date

18. NO FEDERAL GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts - The No Obligation clause applies to all third party contracts that are federally funded.

No Federal Government Obligation to Third Parties. The Recipient and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this Contract and shall not be subject to any obligations or liabilities to the Recipient, Contractor or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying Contract. The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal

assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

19. PATENT RIGHTS / RIGHTS IN DATA / COPYRIGHT - 2 C.F.R. part 200, Appendix II (F); 37 C.F.R. part 401

Applicability to Contracts - If the recipient or subrecipient wishes to enter into a contract (or subcontract) with a small business firm or nonprofit organization for the performance of experimental, developmental, or research work under the FTA award, the recipient or subrecipient must comply with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency. Except in the case of an "other agreement" in which the Federal Government has agreed to take more limited rights, the Federal Government is entitled to a non-exclusive, royalty free license to use the resulting invention, or patent the invention for Federal Government purposes. The FTA has the right to:

1. Obtain, reproduce, publish, or otherwise use the data produced under a Federal award; and
2. Authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes.

Intellectual Property Rights - This Project is funded through a Federal award with FTA for experimental, developmental, or research work purposes. As such, certain Patent Rights and Data Rights apply to all subject data first produced in the performance of this Contract. The Contractor shall grant CATS intellectual property access and licenses deemed necessary for the work performed under this Agreement and in accordance with the requirements of 37 C.F.R. part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by FTA or U.S. DOT. The terms of an intellectual property agreement and software license rights will be finalized prior to execution of this Agreement and shall, at a minimum, include the following restrictions: Except for its own internal use, the Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Contractor authorize others to do so, without the written consent of FTA, until such time as FTA may have either released or approved the release of such data to the public. This restriction on publication, however, does not apply to any contract with an academic institution. For purposes of this agreement, the term "subject data" means recorded information whether or not copyrighted, and that is delivered or specified to be delivered as required by the Contract. Examples of "subject data" include, but are not limited to computer software, standards, specifications, engineering drawings and associated lists, process sheets, manuals, technical reports, catalog item identifications, and related information, but do not include financial reports, cost analyses, or other similar information used for performance or administration of the Contract.

1. The Federal Government reserves a royalty-free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use for "Federal Government Purposes," any subject data or copyright described below. For "Federal Government Purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.
 - a) Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - b) Any rights of copyright purchased by the Contractor using Federal assistance in whole or in part by the FTA.
2. Unless FTA determines otherwise, the Contractor performing experimental, developmental, or research work required as part of this Contract agrees to permit FTA to make available to the public, either FTA's

license in the copyright to any subject data developed in the course of the Contract, or a copy of the subject data first produced under the Contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of this Contract, is not completed for any reason whatsoever, all data developed under the Contract shall become subject data as defined herein and shall be delivered as the Federal Government may direct.

3. Unless prohibited by state law, upon request by the Federal Government, the Contractor agrees to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. The Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.
4. Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.
5. Data developed by the Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying Contract is exempt from the requirements herein, provided that the Contractor identifies those data in writing at the time of delivery of the Contract work.
6. The Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance.

20. PRE-AWARD AND POST-DELIVERY AUDITS OF ROLLING STOCK PURCHASES - 49 U.S.C.

5323(m); 49 C.F.R. part 663

Applicability to Contracts - Recipients purchasing revenue service rolling stock with FTA funds must comply with the pre-award and post-delivery audit requirements set forth in 49 U.S.C. 5323(m) and supplemented by 49 C.F.R. part 663. For more information about pre-award and post-delivery audit requirements, please go to FTA's Buy America page on its website.

Part 663 of Title 49, Code of Federal Regulations, does not contain specific language to be included in third party contracts but does contain requirements applicable to subrecipients and third party contractors. Recipients are advised to use the model certificates and language contained in the audit handbook. Additionally, recipients can draw on the following language for inclusion in their federally funded procurements.

Pre-Award and Post-Delivery Audit Requirements

The Contractor agrees to comply with 49 U.S.C. § 5323(m) and FTA's implementing regulation at 49 C.F.R. part 663. The Contractor shall comply with the Buy America certification(s) submitted with its proposal/bid. The Contractor agrees to participate and cooperate in any pre-award and post-delivery audits performed pursuant to 49 C.F.R. part 663 and related FTA guidance.

21. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS - 49

U.S.C. § 5323(l) (1); 31 U.S.C. §§ 3801-3812; 18 U.S.C. § 1001; 49 C.F.R. part 31

Applicability to Contracts - The Program Fraud clause applies to all third party contracts that are federally funded.

The Program Fraud clause extends to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier. These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

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

The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(I) on the Contractor, to the extent the Federal Government deems appropriate.

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

22. PUBLIC TRANSPORTATION EMPLOYEE PROTECTIVE ARRANGEMENTS - 49 U.S.C. § 5333(b) ("13(c)"); 29 C.F.R. part 215

Applicability to Contracts - The Public Transportation Employee Protective Arrangements apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator.

Public Transportation Employee Protective Arrangements - The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. **U.S. DOL Certification.** Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.
2. **Special Warranty.** When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.
3. **Special Arrangements.** The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

23. RECYCLED PRODUCTS - 42 U.S.C. § 6962; 40 C.F.R. part 247; 2 C.F.R. part § 200.322

Applicability to Contracts - The Resource Conservation and Recovery Act, as amended, (42 U.S.C. § 6962 et seq.), requires States and local governmental authorities to provide a competitive preference to products and services that conserve natural resources, protect the environment, and are energy efficient. Recipients are required to procure only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000.

Recovered Materials - The Contractor agrees to provide a preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by complying with and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

24. SAFE OPERATION OF MOTOR VEHICLES - 23 U.S.C. part 402; Executive Order No. 13043; Executive Order No. 13513; U.S. DOT Order No. 3902.10

Applicability to Contracts - The Safe Operation of Motor Vehicles requirements apply to all federally funded third party contracts. In compliance with Federal Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. Section 402 note, FTA encourages each third party contractor 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 each third party subcontract involving the project. Additionally, recipients are required by FTA to include a Distracted Driving clause that addresses distracted driving, including text messaging in each of its third party agreements supported with Federal assistance.

Safe Operation of Motor Vehicles

1. **Seat Belt Use** - The Contractor is encouraged to adopt and promote on-the-job seat belt use policies and programs for its employees and other personnel that operate company-owned vehicles, company-rented vehicles, or personally operated vehicles. The terms “company-owned” and “company-leased” refer to vehicles owned or leased either by the Contractor or CATS.
2. **Distracted Driving** - The Contractor agrees to adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers, including policies to ban text messaging while using an electronic device supplied by an employer, and driving a vehicle the driver owns or rents, a vehicle Contractor owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the work performed under this agreement.

25. SCHOOL BUS OPERATIONS - 49 U.S.C. 5323(f); 49 C.F.R. part 605

Applicability to Contracts - The School Bus requirements apply to contracts for operating public transportation service.

School Bus Operations - The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, “School Bus Operations,” 49 C.F.R. part 605;
3. Any other Federal School Bus regulations; or
4. Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

26. SEISMIC SAFETY- 42 U.S.C. 7701 et seq.; 49 C.F.R. part 41; Executive Order (E.O.) 12699

Applicability to Contracts - The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

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

27. SUBSTANCE ABUSE REQUIREMENTS - 49 U.S.C. § 5331; 49 C.F.R. part 655; 49 C.F.R. part 40

Applicability to Contracts - Third party contractors who perform safety-sensitive functions must comply with FTA’s substance abuse management program under 49 C.F.R. part 655, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations.” Under 49 C.F.R. § 655.4, Safety-sensitive function means any of the following duties, when performed by employees of recipients, subrecipients, operators, or contractors:

1. Operating a revenue service vehicle, including when not in revenue service;
2. Operating a nonrevenue service vehicle, when required to be operated by a holder of a Commercial Driver's License;
3. Controlling dispatch or movement of a revenue service vehicle;
4. Maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service. This section does not apply to the following: an employer who receives funding under 49 U.S.C. § 5307 or § 5309, is in an area less than 200,000 in population, and contracts out such services; or an employer who receives funding under 49 U.S.C. § 5311 and contracts out such services;
5. Carrying a firearm for security purposes.

Additionally, third party contractors providing testing services involving the performance of safety sensitive activities must also comply with 49 C.F.R. part 40, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs.”

FTA's drug and alcohol rules, 49 C.F.R. part 655, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with part 655. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

How a recipient does so depends on several factors, including whether the contractor is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipient has with the contractor, and the financial resources available to the recipient to oversee the contractor's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules.

FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

- 1) **Explanation of Model Contract Clauses - Option 1** - The recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 C.F.R. part 655. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option for only those recipients that have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.
- 2) **Explanation of Model Contract Clauses - Option 2** - The recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under Option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that, without adequate monitoring of the contractor's program, the recipient may find itself out of compliance with the rules.
- 3) **Explanation of Model Contract Clauses - Option 3** - The recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why.

SUBSTANCE ABUSE TESTING

- 1) **Option 1** - The Contractor agrees to participate in CATS's drug and alcohol program established in compliance with 49 C.F.R. part 655.
- 2) **Option 2** - The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. parts 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of [name of State], or CATS, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before [insert date] and to submit the Management Information System (MIS) reports before [insert date before March 15] to [insert title and address of person responsible for receiving information]. To certify compliance, the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.
- 3) **Option 3** - The Contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 C.F.R. part 655, produce any documentation necessary to establish its compliance with part 655, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of [name of State], or CATS, to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 C.F.R. part 655 and review the testing process. The Contractor agrees further to certify annually its compliance with parts 655 before [insert date] and to submit the Management Information System (MIS) reports before [insert date before March 15] to [insert title and address of person responsible for receiving information]. To certify compliance the Contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before [insert date or upon request] a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt [insert title of the Policy Statement the recipient wishes the contractor to use] as its policy statement as required under 49 C.F.R. part 655; OR (c) submit for review and approval before [insert date or upon request] a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the Contractor agrees to: [to be determined by the recipient, but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium].

28. TERMINATION - 2 C.F.R. § 200.339; 2 C.F.R. part 200, Appendix II (B)

Applicability to Contracts - All contracts in excess of \$10,000 must address termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement.

Termination for Convenience (General Provision) - CATS may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in CATS'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 CATS to be paid the Contractor. If the Contractor has any property in its

possession belonging to CATS, the Contractor will account for the same, and dispose of it in the manner CATS directs.

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

If it is later determined by CATS 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, CATS, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Opportunity to Cure (General Provision) - CATS, 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 CATS's satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [10 days] after receipt by Contractor of written notice from CATS setting forth the nature of said breach or default, CATS 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 CATS from also pursuing all available remedies against Contractor and its sureties for said breach or default.

Waiver of Remedies for any Breach

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

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

Termination for Default (Supplies and Service) - If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, CATS may terminate this contract for default. CATS shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of CATS.

Termination for Default (Transportation Services) - If the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension, or if the Contractor fails to comply with any other provisions of this contract, CATS may terminate this contract for default. CATS shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of CATS goods, the Contractor shall, upon direction of CATS, protect and preserve the goods until surrendered to CATS or its agent. The Contractor and CATS shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of CATS.

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

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

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

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

Termination for Convenience or Default (Architect and Engineering) - CATS may terminate this contract in whole or in part, for CATS's convenience or because of the failure of the Contractor to fulfill the contract obligations. CATS shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to CATS 's Contracting Officer all data,

drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. CATS has a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, all such data, drawings, specifications, reports, estimates, summaries, and other information and materials.

If the termination is for the convenience of CATS, CATS's Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, CATS may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by CATS.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of CATS.

Termination for Convenience or Default (Cost-Type Contracts) - CATS may terminate this contract, or any portion of it, by serving a Notice of Termination on the Contractor. The notice shall state whether the termination is for convenience of CATS or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the Contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from CATS, or property supplied to the Contractor by CATS. If the termination is for default, CATS may fix the fee, if the contract provides for a fee, to be paid the Contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to CATS and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of CATS, the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a Notice of Termination for Default, CATS determines that the Contractor has an excusable reason for not performing, CATS, after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

29. Notice to FTA and U. S. DOT Inspector General of information related to fraud, waste, abuse or other legal matters - 2 C.F.R. § 180.220 and 2 C.F.R.1200 220

Applicability to Contracts - CATS must Notify FTA if a current or prospective legal matter that may affect the Federal Government emerges, CATS must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which CATS is located. CATS must include a similar notification requirement in its Third Party Agreements and must require each Third Party Participant to include an equivalent provision in its sub agreements at every tier, for any agreement that is a "covered transaction" according to 22 C.F.R. §§ 180.220 and 1200.220.

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

- (2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.
- (3) Additional Notice to U.S. DOT Inspector General. CATS must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which CATS is located, if CATS has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bid rigging, misappropriation or embezzlement, bribery, gratuity, or similar misconduct involving federal assistance. This responsibility occurs whether the Project is subject to this Agreement or another agreement between CATS and FTA, or an agreement involving a principal, officer, employee, agent, or Third Party Participant of CATS. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of CATS. In this paragraph, "promptly" means to refer information without delay and without change. This notification provision applies to all divisions of CATS, including divisions tasked with law enforcement or investigatory functions.

30. Prohibition on *certain telecommunications and video surveillance services or equipment* - 2 C.F.R. § 200.216

Applicability to Contract - Recipients and sub-recipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
 - (2) Extend or renew a contract to procure or obtain; or
 - (3) Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- (i) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (ii) Telecommunications or video surveillance services provided by such entities or using such equipment.
- (iii) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

In implementing the prohibition under Public Law 115-232, section 889, subsection (f), paragraph (1), heads of executive agencies administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

See Public Law 115-232, section 889 and § 200.471 for additional information. .