

ADDENDUM NO.2

RFO No. V-2552 Farebox Replacement Project

March 4, 2026

Dear Prospective Bidders:

The purpose of this addendum is to provide extended due date for the above referenced Invitation for Bids (IFB) and to provide the latest Federal Provisions applicable to this procurement. The following is hereby made part of the IFB and the ensuing contract. All other provisions and requirements as originally set forth in the IFB, except as amended by an addendum, remain in full force and are binding.

The IFB requires that all offerors must appropriately acknowledge this addendum in their offer submission. Failure to do so may render the quote nonresponsive and therefore disqualified. Any questions related to this addendum shall be submitted in writing to Yevgeniya.Mann@Transdev.com. Failure of prospective offeror to submit questions or request for information or changes by the questions due date shall constitute the offeror’s acceptance of all the terms, conditions and requirements set forth in the IFB.

Notification:

Remove from IFB: IFB Due Date: March 25th, 2026 at 10:00 A.M. ET

Replace it with: IFB Due Date: April 29th, 2026 at 10:00 A.M. ET

Remove from IFB: Federal provisions application table and provisions (in Section 5 of IFB).

Replace it with: Federal provisions application table and provisions (Version: February 2026), see below.

SECTION 5: FEDERAL, NEW YORK STATE AND LOCAL PROVISIONS (Version: February 2026)

Compliance With Federal Regulations - Any contract entered pursuant to this solicitation shall contain the following applicable provisions marked (X).

No.	PROVISION	APPLICATION
1	No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	X
2	False Statements or Claims; Civil and Criminal Fraud	X
3	Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters	X
4	Access to Third Party Contract Records	X
5	Changes to Federal Requirements	X
6	Termination	X
7	Civil Rights (Title VI, ADA, EEO except Special DOL EEO clause for construction projects)	X
8	Special DOL EEO clause for construction projects	
9	Disadvantaged Business Enterprises (DBEs) – <i>as amended by IFR of 10/03/2025</i>	X
10	Prompt Payment	X
11	Incorporation of FTA Terms	X
12	Debarment and Suspension	X
13	Buy America	X
14	Bus Testing	
15	Pre-Award and Post Delivery	
16	Resolution of Disputes, Breaches, or Other Litigation	X
17	Lobbying	X
18	Clean Air and Clean Water	X
19	Cargo Preference	X
20	Fly America	X
21	Davis-Bacon Act and Copeland Anti-Kickback Act: Section 1; Section 2	
22	Contract Work Hours and Safety Standards Act	X
23	Bonding	
24	Seismic Safety	
25	Transit Employee Protective Arrangements	
26	Charter Service Operations	
27	School Bus Operations	
28	Drug and Alcohol Testing	
29	Federal Privacy Act	
30	Patent Rights and Rights in Data and Copyrights	
31	Energy Conservation	X
32	Recycled Products	X

33	Conformance with ITS National Architecture	
34	ADA Access	X
35	Notification of Federal Participation for States	
36	Prohibition on certain telecommunications and video surveillance service equipment	X
37	Build America Buy America	
38	Seat Belt Use and Distracted Driving	X
39	Federal Tax Liability and Recent Felony Convictions	X
40	Other Federal Requirements	X

FEDERAL PROVISIONS

The federally required contract clauses and provisions in this Attachment apply to all federally assisted contracts. These provisions supersede and take precedence over any other conflicting clause or provision of the Contract.

1. No Federal Government Obligations to Third Parties - Applicability – All contracts except micro-purchases.

- a) The No Obligation clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.
- b) NICE Bus 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 NICE Bus, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.
- c) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

2. Program Fraud and False or Fraudulent Statements or Related Acts – Applicability – All contracts except micro-purchases.

- a) 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.
- b) 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.
- c) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C.

chapter 53, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the Contractor, to the extent the Federal Government deems appropriate.

- d) 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.

3. Notice to FTA and U.S. DOT Inspector General of information related to fraud, waste, abuse, or other legal matters – Applicability – all contracts at all tiers expected to equal or exceed \$25,000. The prime contractor is required to “flow-down” the requirement to subcontractors.

- a) *Notification to FTA; Flow Down Requirement.* If a current or prospective legal matter that may affect the Federal Government emerges, the Recipient must promptly notify the FTA Chief Counsel and FTA Regional Counsel for the Region in which the Recipient is located. The notification requirement extends to Third Party Agreements and each Third-Party Participant must include an equivalent provision in its subagreements at every tier, for any agreement that is a “covered transaction” according to 2 C.F.R. §§ 180.220 and 1200.220.
 - 1) The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.
 - 2) Matters that may affect the Federal Government include, but are not limited to, the Federal Government’s interests in the Award, the accompanying Underlying Agreement, and any Amendments thereto, or the Federal Government’s administration or enforcement of federal laws, regulations, and requirements.
 - 3) *Additional Notice to U.S. DOT Inspector General.* The Recipient must promptly notify the U.S. DOT Inspector General in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Recipient is located, if the Recipient has knowledge of potential fraud, waste, or abuse occurring on a Project receiving assistance from FTA. The notification provision applies if a person has or may have submitted a false claim under the False Claims Act, 31 U.S.C. § 3729, et seq., or has or may have committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, 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 the Recipient and FTA, or an agreement involving a principal, officer, employee, agent, or Third-Party Participant of the Recipient. It also applies to subcontractors at any tier. Knowledge, as used in this paragraph, includes, but is not limited to, knowledge of a criminal or civil investigation by a Federal, state, or local law enforcement or other investigative agency, a criminal indictment or civil complaint, or probable cause that could support a criminal indictment, or any other credible information in the possession of the Recipient. In this paragraph, “promptly” means to refer information without delay and without change. This notification provision applies to all divisions of the Recipient, including divisions tasked with law enforcement or investigatory functions.

4. Access to third party contract records – Applicability – As shown below. These requirements do not apply to micro purchases.

- a) 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.
- b) The Contractor, and its subcontractors at each tier, agrees to provide (1) The U.S. Secretary of Transportation and the Comptroller General of the United States, the State, or their duly authorized representatives, access to all third party contract records (at any tier) as required by 49 U.S.C. § 5325(g), and (2) Sufficient access to all third party contract records (at any tier) as needed for compliance with applicable Federal laws and regulations or to assure proper Project management as determined by FTA.

- c) The Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- d) 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.
- e) 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.
- f) 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.
- g) 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.

5. Federal Changes – Applicability – All Contracts except micro-purchases.

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

6. Termination – Applicability – All Contracts over \$10,000

- b) For all contracts in excess of \$10,000, the Termination clause extends to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.nsuranc
- c) **Termination for Convenience (General Provision)** NICE Bus may terminate this contract, in whole or in part, at any time by written notice to contractor when it is in NICE Bus's best interest. Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. Contractor shall promptly submit its termination claim to NICE Bus. If contractor is in possession of any NICE Bus property, contractor shall account for same and dispose of it as NICE Bus directs.
- d) **Termination for Default [Breach or Cause] (General Provision)** If contractor does not deliver items in accordance with the contract delivery schedule, or, if the contract is for services, and contractor fails to perform in the manner called for in the contract, or if contractor fails to comply with any other provisions of the contract, NICE Bus may terminate this contract for default. Termination shall be affected by serving a notice of termination to contractors setting forth the manner in which contractor is in default. Contractor shall only be paid the contract price for supplies delivered and accepted, or for services performed in accordance with the manner of performance set forth in the contract. If it is later determined by NICE Bus that 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 contractor, NICE Bus, after setting up a new delivery or performance schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.
- e) **Opportunity to Cure (General Provision)** NICE Bus in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to NICE Bus's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from NICE Bus setting forth the nature of said breach or default, NICE Bus 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 NICE Bus 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 NICE Bus elects to waive its remedies for any breach by contractor of any covenant, term or condition of this Contract, such waiver by NICE Bus shall not limit its remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

- f) **Termination for Convenience (Professional or Transit Service Contracts)** NICE Bus, by written notice, may terminate this contract, in whole or in part, when it is in NICE Bus's interest. If the contract is terminated, NICE Bus shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.
- g) **Termination for Default (Supplies and Service)** If 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, NICE Bus may terminate this contract for default. NICE Bus shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for NICE Bus's convenience.
- h) **Termination for Default (Transportation Services)** If 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 contractor fails to comply with any other provisions of this contract, NICE Bus may terminate this contract for default. NICE Bus shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall 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 contractor has possession of NICE Bus goods, contractor shall, as directed by NICE Bus, protect and preserve the goods until surrendered to NICE Bus or its agent. Contractor and NICE Bus shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for NICE Bus's convenience.
- i) **Termination for Default (Construction)** If contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified, or any extension, or fails to complete the work within this time, or if contractor fails to comply with any other provisions of this contract, NICE Bus may terminate this contract for default. NICE Bus shall terminate by delivering to contractor a notice of termination specifying the nature of default. In this event, NICE Bus may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. Contractor and its sureties shall be liable for any damage to NICE Bus resulting from contractor's refusal or failure to complete the work within specified time, whether or not contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by NICE Bus in completing the work. Contractor's right to proceed shall not be terminated nor shall contractor be charged with damages under this clause if:
- 1) Delay in completing the work arises from unforeseeable causes beyond control and without the fault or negligence of contractors. Examples of such causes include acts of God, acts of NICE Bus, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
 - 2) Contractor, within 10 days from the beginning of any delay, notifies NICE Bus in writing of the causes of delay. If in NICE Bus's judgment, delay is excusable, the time for completing the work shall be extended. NICE Bus's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses. If, after termination of contractor's right to proceed, it is determined that contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if termination had been issued for NICE Bus's convenience.
- j) **Termination for Convenience or Default (Architect & Engineering)** NICE Bus may terminate this contract in whole or in part, for NICE Bus's convenience or because of contractor's failure to fulfill contract obligations. NICE Bus shall terminate by delivering to contractors a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to NICE Bus all data, drawings, specifications,

reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for NICE Bus's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, NICE Bus may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by NICE Bus. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for NICE Bus's convenience.

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

If termination is for NICE Bus's convenience, 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, NICE Bus determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, NICE Bus, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a termination for convenience.

7. Civil Rights Requirements– Applicability – All contracts except micro-purchases.

- a) The Civil Rights requirements flow down to all third-party contractors and their contracts at every tier.
- b) Under this Contract, the Contractor shall at all times comply with the following requirements and shall include these requirements in each subcontract entered into as part thereof.
 - 1) **Nondiscrimination.** In accordance with Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, disability, or age. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.
 - 2) **Race, Color, Religion, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e et seq., and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. chapter 60, and Executive Order No. 11246, "Equal Employment Opportunity in Federal Employment," September 24, 1965, 42 U.S.C. § 2000e note, as amended by any later Executive Order that amends or supersedes it, referenced in 42 U.S.C. § 2000e note. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, national origin, or sex (including sexual orientation and gender identity). Such actions 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.
- 5) **Veterans Employment** – Contractors working on a capital project funded using Federal Financial assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give a preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or a former employee.

8. Special Department of Labor (DOL) EEO clause – Applicability – All construction contracts over \$10,000

- a) The Contractor agrees to comply, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), with:
- b) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60, and
- c) 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.

9. Disadvantaged Business Enterprise (DBE) – Applicability –All contracts except micro-purchases.

- a) The DBE contracting requirements flow down to all third-party contractors and their contracts at every tier.
- b) Except as FTA determines otherwise in writing: To the extent authorized by applicable Federal law, the Contractor agrees to facilitate, and assures that each Subcontractor will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs), in the Project as follows:
 - 1) Statutory and Regulatory Requirements. The Contractor agrees to comply with:
 - i. 1 Section 1101(b) of the FAST Act, 23 U.S.C. § 101 note,
 - ii. 2 U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. Part 26, and
 - iii. 3 Federal transit law, specifically 49 U.S.C. § 5332,

a. Nondiscrimination

- a) The contractor, subcontractor, or lower tier contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 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 NICE Bus deems appropriate, which may include, but is not limited to:
 - 1) Withholding monthly progress payments;
 - 2) Assessing sanctions;

- 3) Liquidated damages; and/or
- 4) Disqualifying the contractor from future bidding as non-responsible. 49 C.F.R. § 26.13(b).

b. Special Requirements for a Transit Vehicle Manufacturer

- a) The bidder/offeror understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. Part 26.

10. Prompt payment – Applicability – All contracts with subcontractors

- a) The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from NICE Bus. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by NICE Bus and contractor's receipt of the partial retainage payment related to the subcontractor's work.
- b) If the contractor fails to pay the subcontractor within thirty (30) days after receipt of payment from NICE Bus, the contractor must notify NICE Bus and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment with the reason for nonpayment.
- c) NICE Bus may conduct prompt payment audits that require the Contractor to submit appropriate documentation to verify compliance with this provision.
- d) Failure to comply with these prompt payment requirements is a breach of the contract, which may lead to any remedies permitted under law, including, but not limited to, Bidder debarment.

11. Incorporation of Federal Transit Administration (FTA) Terms – Applicability – All contracts except micro-purchase.

- a) All USDOT-required contractual provisions, as stated in FTA Circular 4220.1G, 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 request that would cause Contractor to be in violation of FTA terms and conditions.
- b) The Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the FTA Master Agreement, as 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.

12. Government-wide Debarment and Suspension (Non-procurement) – Applicability – Contracts over \$25,000

- a) Recipients, contractors, and subcontractors who enter into covered transactions with a participant at the next lower level, must require that participant to: (a) comply with subpart C of 2 C.F.R. part 180, as supplemented by 2 C.F.R. part 1200; and (b) pass the requirement to comply with subpart C of 2 C.F.R. part 180 to each person with whom the participant enters into a covered transaction at the next lower tier.
- b) The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Non-procurement 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 Government wide Debarment and Suspension (Non-procurement),” 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:

- 1) Debarred from participation in any federally assisted Award;
 - 2) Suspended from participation in any federally assisted Award;
 - 3) Proposed for debarment from participation in any federally assisted Award;
 - 4) Declared ineligible to participate in any federally assisted Award;
 - 5) Voluntarily excluded from participation in any federally assisted Award; or
 - 6) Disqualified from participation in any federally assisted Award.
- c) 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 NICE Bus. If it is later determined by NICE Bus that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to NICE Bus, 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.

13. Buy America Requirements – Applicability – Construction Contracts and Acquisition of Steel, Iron, and Manufactured Products (including Rolling Stock) valued at more than \$150,000.

- a) The Buy 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.
- b) The Contractor agrees to comply with 49 USC 5323(j), and FTA regulations, “Buy America Requirements,” 49 CFR 661, to the extent consistent with 49 USC 5323(j); stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in Appendix A to 49 CFR 661.7, and applies to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data, and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. The [bidder or offeror] must submit to NICE Bus the appropriate Buy America certification with its [bid or offer]. Bids that are not accompanied by a completed Buy America certification will be rejected as nonresponsive.

14. Bus Testing – Applicability – Rolling Stock/Turnkey – These requirements do not apply to micro-purchases

- a) There is no flow down requirement for Bus Testing.
- b) 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.

15. Pre-Award & Post-Delivery Audit Requirements - Applicability – Rolling Stock/Turnkey – These requirements do not apply to micro-purchases.

- a) There is no flow down requirement for Pre-Award and Post-Delivery Audits of Rolling Stock.
- b) 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.

16. Violations, Breaches, and Dispute Resolution – Applicability – All contracts over \$100,000

- a) The Violations and Breach of Contracts clause flow down to all third party contractors and their contracts at every tier.
- b) NICE Bus shall have the following rights in the event that it 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.

a. Rights and Remedies of Contractor

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

b. Remedies

- a) Substantial failure of the Contractor to complete the Project in accordance with the terms of this Contract will be a default of this Contract. In the event of a default, NICE Bus 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 NICE Bus takes action contemplated herein, NICE Bus will provide the Contractor with advance written notice that NICE Bus 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.

c. Disputes

- a) Disputes arising in the performance of this contract that are not resolved by agreement of the parties shall be decided in writing by NICE Bus's authorized representative. This decision shall be final and conclusive, unless within ten days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to NICE Bus's CEO. In connection with such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of NICE Bus's CEO shall be binding upon the Contractor, and the Contractor shall abide by the decision.

d. Performance During Dispute

- a) Unless otherwise directed by NICE Bus, contractor shall continue performance under this contract while matters in dispute are being resolved.

e. Claims for Damages

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

f. Remedies

- a) Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between NICE Bus 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 New York State.

g. Rights and Remedies

- a) 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 NICE Bus or contractors 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.

17. Lobbying – Applicability - Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts over \$100,000

- a) The lobbying requirements mandate the maximum flow down pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5).
- b) Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, et seq.] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352, as amended. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352, as amended. Such disclosures are forwarded from tier to tier up to the recipient.

18. Clean Air Act and Federal Water Pollution Control Act – Applicability – All Contracts and Subcontracts over \$150,000

- a) The Clean Air Act and Federal Water Pollution Control Act requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.
- b) The Contractor agrees:
 - 1) It will not use any violating facilities;

- 2) It will report the use of facilities placed on or likely to be placed on the U.S. EPA “List of Violating Facilities;”
 - 3) It will report violations of use of prohibited facilities to FTA; and
 - 4) It will comply with all applicable standards, orders or regulations issued pursuant to 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).
- c) Violations must be reported to NICE Bus and the Regional Office of the Environmental Protection Agency (EPA).

19. Cargo Preference - Use of US-Flag Vessels – Applicability – Contracts involving equipment, materials or commodities which may be transported by ocean vessels. These requirements do not apply to micro-purchases.

- a) The Cargo Preference requirements apply to all contracts involved with the transport of equipment, material, or commodities by ocean vessel.
- b) The Contractor agrees:
 - 1) to use privately owned US-Flag commercial vessels to ship at least 50% 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 US flag commercial vessels;
 - 2) to furnish within 20 working days following the loading date of shipments originating within the US or within 30 working days following the loading date of shipments originating outside the US, a legible copy of a rated, "on-board" commercial bill-of-lading in English for each shipment of cargo described herein to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to NICE Bus (through contractor in the case of a subcontractor's bill-of-lading.);
 - 3) to include these requirements in all subcontracts issued pursuant to this contract when the subcontract involves the transport of equipment, material, or commodities by ocean vessel; and
 - 4) to comply with shipment requirements of: 46 USC 55305, and U.S. Maritime Administration regulations, “Cargo Preference – U.S.-Flag Vessels” 46 CFR Part 381.

20. Fly America Requirements – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and places outside the U.S. These requirements do not apply to micro-purchases.

- a) 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.
- b) 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.
- c) 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) and U.S. General Services Administration (U.S. GSA) regulations, “Use of United States Flag Air Carriers” 41 C.F.R 301-10.131 – 301-10.143 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.

- d) 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.
- e) 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:
- f) 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]:

(End of statement)

- g) 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.

21. Davis-Bacon and Copeland Anti-Kickback Acts – Applicability -Construction contracts and subcontracts, including actual construction, alteration and/or repair, including decorating and painting, over \$2,000

- a) 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.

a. Prevailing Wage and Anti-Kickback

- a) 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 Section 1 of the Copeland “Anti-Kickback” Act (18 U.S.C. § 874) and Section 2 of the 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.

22. Contract Work Hours & Safety Standards Act – Applicability – Contracts over \$100,000

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

a. Construction Contracts – Work Hours and Safety Standards

- a) The Contractor shall comply with the Contract Work Hours and Safety Standards Act, as amended, (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.

- b) 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.
- c) 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.
- d) 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.

b. Non-Construction Contracts – Work Hours and Safety Standards

- a) 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.
- b) 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.
- c) 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.
- d) The contractor shall require the inclusion of the language of this clause within subcontracts of all tiers.

23. Bonding Requirements – Applicability – For those construction or facility improvement contracts or subcontracts exceeding \$250,000.

- a) These requirements extend to all third party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier that exceed the simplified acquisition threshold.

- b) FTA may accept the bonding policy and requirements of the Contractor, provided that they meet the minimum requirements for construction contracts as follows:
- 1) A bid guarantee from each bidder equivalent to **five (5) percent** of the bid price. The "bid guarantees" shall 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 his bid, execute such contractual documents as may be required within the time specified.
 - 2) A performance bond on the part to 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.
 - 3) 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. Payment bond amounts required from Contractors are as follows:
 - i. 50% of the contract price if the contract price is not more than \$1 million;
 - ii. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. \$2.5 million if the contract price is more than \$5 million.
 - iv. A cash deposit, certified check or other negotiable instrument may be accepted by NICE Bus in lieu of performance and payment bonds, provided NICE Bus has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

a. Bid Bond Requirements (Construction)

- a) Bid Security - A Bid Bond must be issued by a fully qualified surety company acceptable to NICE Bus and listed as a company currently authorized under 31 CFR, Part 203 as possessing a Certificate of Authority as described there under.
- b) Rights Reserved - In submitting this Bid, it is understood and agreed by bidder that the right is reserved by NICE Bus to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of 180 days subsequent to the opening of bids, without the written consent of NICE Bus.
- c) It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within 180 days after the bid opening without the written consent of NICE Bus, shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of NICE Bus damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefore.
- d) It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by NICE Bus as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense NICE Bus for the damages occasioned by default, then the undersigned bidder agrees to indemnify NICE Bus and pay over to NICE Bus the difference between the bid security and NICE Bus total damages, so as to make NICE Bus as a whole.
- e) The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested will render the bid unresponsive.

b. Performance and Payment Bonding Requirements (Construction)

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

- a) Performance bonds
 - 1) The penal amount of performance bonds shall be 100 percent of the original contract price, unless NICE Bus determines that a lesser amount would be adequate for the protection of the NICE Bus.
 - 2) NICE Bus may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. NICE Bus may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
- b) Payment bonds
 - The penal amount of the payment bonds shall equal:
 - 1) Fifty percent of the contract price if the contract price is not more than \$1 million.
 - 2) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - 3) Two and one half million if the contract price is more than \$5 million.
 - c) If the original contract price is \$5 million or less, NICE Bus may require additional protection as required by subparagraph 1 if the contract price is increased.

c. Performance and Payment Bonding Requirements (Non-Construction) The Contractor may be required to obtain performance and payment bonds when necessary to protect NICE Bus’s interest.

The following situations may warrant a performance bond:

- a) NICE Bus property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).
- b) A contractor sells assets to or merges with another concern, and NICE Bus, after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
- c) Substantial payments are made before delivery of end items starts.
- d) Contracts are for dismantling, demolition, or removal of improvements.
- e) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:
 - 1) The penal amount of performance bonds shall be 100% of the original contract price, unless NICE Bus determines that a lesser amount would be adequate for the protection of NICE Bus.
 - 2) NICE Bus may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100% of the increase in contract price. NICE Bus may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.
- f) A payment bond is required only when a performance bond is required, and if the use of payment bond is in NICE Bus interest.
- g) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:
 - 1) The penal amount of payment bonds shall equal:
 - i. 50% of the contract price if the contract price is not more than \$1 million;
 - ii. 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

iii. \$2,500,000 if the contract price is increased more than \$5 million.

d. Advance Payment Bonding Requirements

- a) The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. NICE Bus shall determine the amount of the advance payment bond necessary to protect NICE Bus.
- b) Patent Infringement Bonding Requirements (Patent Indemnity)
- c) The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. NICE Bus shall determine the amount of the patent indemnity to protect NICE Bus.

e. Warranty of the Work and Maintenance Bonds

- a) The Contractor warrants to NICE Bus, the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by NICE Bus, free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
- b) The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by NICE Bus and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to NICE Bus. As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to NICE Bus written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

24. Seismic Safety – Applicability – Contracts with first tier construction contractors for the construction of new buildings or additions to existing buildings. These requirements do not apply to micro-purchases.

- a) The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.
- b) The Contractor agrees that any new building or addition to an existing building shall be designed and constructed in accordance with the standards for Seismic Safety required in USDOT Seismic Safety Regulations 49 CFR 41, specifically, 49 CFR 41.117 and will certify compliance to the extent required by the regulation. The Contractor also agrees to comply with the Earthquake Hazards Reduction Act of 1977, as amended, 42 USC 7701 et seq and agrees to Contractor shall also ensure that all work performed under this contract, including work performed by subcontractors, complies with the standards required by 49 CFR 41 and the certification of compliance issued on the project.

25. Transit Employee Protective Provisions – Applicability – Contracts for transit operations except micro-purchase.

- a) Contractor shall comply with applicable transit employee protective requirements as follows:
 - 1) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5311 in Non-urbanized Areas – If the contract involves transit operations financed in whole or in part with FTA assistance authorized by

49 USC 5311, as amended by MAP-21, the contractor shall comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program that is most current, and any alternative comparable arrangement specified by U.S. DOL for application to the project, in accordance with U.S. DOL guidelines, “Section 5333(b), Federal Transit Law,” 29 C.F.R. Part 215, and any revision thereto. [New amendments to U.S. DOL guidelines, “Section 5333(b), Federal Transit Law,” 29 C.F.R. Part 215, were published at 73 Fed. Reg. 47046 et. Seq., August 13, 2008.]

- b) The Contractor shall also include any applicable requirements in each subcontract involving transit operations financed in whole or in part with FTA assistance.

26. Charter Bus Requirements – Applicability – Operational Service Contracts.

- a) The Charter Bus requirements flow down from FTA recipients and subrecipients to first-tier service contractors.
- b) Contractor shall comply with 49 USC 5323(d) and (g) and 49 CFR 604, which state that recipients and subrecipients of FTA assistance may provide charter service for transportation projects that uses equipment or facilities acquired with Federal assistance authorized under the Federal transit laws (except as permitted by 49 CFR 604.2), or under 23 U.S.C. 133 or 142, only in compliance with those laws and FTA regulations, “Charter Service,” 49 CFR part 604, the terms and conditions of which are incorporated herein by reference.

27. School Bus Requirements – Applicability – Operational Service Contracts.

- a) The School Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.
- b) Pursuant to 69 USC 5323(f) and 49 CFR 605, recipients’ and subrecipients’, of FTA assistance, contractors shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, contractors shall not use federally funded equipment, vehicles, or facilities.

28. Drug & Alcohol Abuse and Testing – Applicability – Operational service contracts except micro-purchases.

- a. The Substance Abuse requirements flow down to all third-party contractors at every tier who perform a safety-sensitive function for the recipient or subrecipient.
- b. The Contractor agrees to comply, and assures its Subcontractors will comply with:
 - i. Federal transit laws, specifically 49 U.S.C. § 5331,
 - ii. FTA regulations, “Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations,” 49 C.F.R. Part 655, and
 - iii. Applicable provisions of DOT regulations, “Procedures for Transportation Workplace Drug and Alcohol Testing Programs,” 49 C.F.R. Part 40.

29. Contracts Involving Federal Privacy Act Requirements – Applicability - When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases.

- a) The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

- b) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.
- c) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

30. Patent Rights and Rights in Data – Applicability – Research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual or to micro-purchases.

- a) The Patent Rights and Rights in Data requirements flow down to all third-party contractors and their contracts at every tier that meet the definition of a research-type project under 37 U.S.C. § 401.2.
- b) 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 NICE Bus intellectual property access and licenses deemed necessary for the work performed under this Contract 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.
 - i. Any subject data developed under the Contract, whether or not a copyright has been obtained; and
 - ii. 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.

31. Energy Conservation – Applicability – All Contracts except micro-purchases.

- a) These requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier.
- b) The Contractor agrees to, and assures its subcontractors will:
 - 1) 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. § 6321 et seq., except as the Federal Government determines otherwise in writing, and
 - 2) Perform an energy assessment for any building constructed, reconstructed, or modified with FTA funds required under FTA regulations, “Requirements for Energy Assessments,” 49 C.F.R. part 620, subpart C.

32. Recycled Products – Applicability – All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds.

- a) These requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subcontracts at every tier where the value of an EPA designated item exceeds \$10,000.
- b) Except as the Federal Government determines otherwise in writing, The Contractor agrees to provide a competitive preference for those products and services that conserve natural resources, protect the environment, and are energy efficient by:
- c) (1) Complying and facilitating compliance with Section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962, and
- d) (2) Complying with U.S. Environmental Protection Agency (U.S. EPA), “Comprehensive Procurement Guideline for Products Containing Recovered Materials,” 40 C.F.R. part 247.

33. Conformance with ITS National Architecture - Applicability – All ITS contracts except micro-purchases.

- a) Contractor agrees to:

- 1) Conform to the National Intelligent Transportation Systems (ITS) Architecture requirements of 23 U.S.C. § 517(d), as amended, unless it obtains an exemption from those requirements, and
- 2) Except as the Federal Government determines otherwise in writing, follow:
- 3) FTA Notice, “FTA National ITS Architecture Policy on Transit Projects,” 66 Fed. Reg. 1455, January 8, 2001, and
- 4) Other applicable Federal guidance.

34. Access Requirements for Persons with Disabilities – Applicability – All contracts except micro-purchases.

- a) The ADA requirements flow down to all third party contractors and their contracts at every tier.
- b) The Contractor shall comply with 49 USC 5301(d), stating Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of (a) Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, (b) the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto. (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for seniors or individuals with disabilities,
- c) Federal regulations, including:
 - 1) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. Part 37,
 - 2) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. Part 27,
 - 3) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. Part 39,
 - 4) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. Part 1192 and 49 C.F.R. Part 38,
 - 5) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. Part 35,
 - 6) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. Part 36,
 - 7) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. Part 1630,
 - 8) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. Part 64, Subpart F,
 - 9) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. Part 1194, and
 - 10) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. Part 609, and
- d) Other applicable Federal civil rights and nondiscrimination guidance.

35. Notification of Federal Participation – Applicability – All contracts except micro-purchases.

- a) To the extent required under Federal law, the State, as the Recipient, agrees to provide the following information about FTA funding for State Programs or Projects:
 - 1) Types of Information. The State will provide information including:
 - i. Identification of FTA as the Federal agency providing the Federal funds for the Program or Project,
 - ii. The Catalog of Federal Domestic Assistance Number of the Program from which the Federal funding for the Program or Project is authorized, and
 - iii. The amount of Federal funds FTA has provided for the Program or Project, and
 - iv. Documents. The State will provide the information required under this provision in the following documents:
 - 1. Requests for proposals,
 - 2. Solicitations,
 - 3. Grant or cooperative agreement applications,
 - 4. Forms,
 - 5. Notifications,
 - 6. Press releases, and
 - 7. Other publications.

36. Telecommunications and Video Surveillance Services or Equipment - Applicability – All Contracts

§ 200.216 Prohibition on certain telecommunications and video surveillance services or equipment.

(a) Recipients and subrecipients are prohibited from obligating or expending loan or grant funds to:

- (1) Procure or obtain;
- (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.

37. FTA Build America, Buy America Act - Applicability – Construction Contracts and Acquisition of Steel, Iron, Manufactured Products, and Construction Materials valued at more than \$150,000.

- a) The Buy 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.
- b) The Contractor agrees to comply with the domestic preference requirements when steel, iron, manufactured products [as defined in 49 CFR §§ 661.3 and 661.5, to the extent consistent with 49 U.S.C. § 5323(j)], and

construction materials [as defined in Build America, Buy America Act, Pub. L. 117-58, div. G, tit. IX, §§ 70911 – 70927 (2021), as implemented by the U.S. Office of Management and Budget’s “Buy America Preferences for Infrastructure Projects,” 2 CFR Part 184] are being procured. The Contractor must ensure that such items used in the FTA-funded project 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 Appendix A to 49 CFR 661.7, and applies to microprocessors, computers, microcomputers, or software, or other such devices, which are used solely for the purpose of processing or storing data. This general waiver does not extend to a product or device which merely contains a microprocessor or microcomputer and is not used solely for the purpose of processing or storing data, and small purchases (currently less than \$150,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. The [bidder or offeror] must submit to NICE Bus the appropriate Build America Buy America certification with its [bid or offer]. Bids that are not accompanied by a completed Build America Buy America certification will be rejected as nonresponsive.

38. Seat Belt Use and Distracted Driving - Applicability – All Contracts

(a) Seat Belt Use. The Recipient agrees to implement Executive Order No. 13043, “Increasing Seat Belt Use in the United States,” April 16, 1997, 23 U.S.C. § 402 note, (62 Fed. Reg. 19217), by:

(1) Adopting and promoting 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; and

(2) Including a “Seat Belt Use” provision in each third party agreement related to the Award.

(b) Distracted Driving, Including Text Messaging While Driving. The Recipient agrees to comply with:

(1) Executive Order No. 13513, “Federal Leadership on Reducing Text Messaging While Driving,” October 1, 2009, 23 U.S.C. § 402 note, (74 Fed. Reg. 51225);

(2) U.S. DOT Order 3902.10, “Text Messaging While Driving,” December 30, 2009; and

(3) The following U.S. DOT Special Provision pertaining to Distracted Driving:

(i) Safety. The Recipient 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 Recipient owns, leases, or rents, or a privately-owned vehicle when on official business in connection with the Award, or when performing any work for or on behalf of the Award;

(ii) Recipient Size. The Recipient agrees to conduct workplace safety initiatives in a manner commensurate with its size, such as establishing new rules and programs to prohibit text messaging while driving, re-evaluating the existing programs to prohibit text messaging while driving, and providing education, awareness, and other outreach to employees about the safety risks associated with texting while driving; and

(iii) Extension of Provision. The Recipient agrees to include the preceding Special Provision of section 34(b)(3)(i) – (ii) of this Master Agreement in its third party agreements, and encourage its Third Party Participants to comply with this Special Provision, and include this Special Provision in each third party subagreement at each tier supported with federal assistance.

39. Federal Tax Liability and Recent Felony Convictions - Applicability – All Contracts

a) Transactions Prohibited.

i. The Contractor hereby certifies by submission of its bid, or proposal that the Contractor –
(A) Does not have any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not

- being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability; and (B) Was not convicted of the felony criminal violation under any Federal law within the preceding 24 months.
- ii. The Contractor agrees to flow this requirement down to participants at all lower tiers (i.e., subcontractors), without regard to the value of any subagreement. Furthermore, if the prospective subcontractor cannot so certify, the Contractor agrees to refer the matter to NICE Bus and not to enter into any agreement with the entity without NICE Bus' written approval.

40. Other Federal Requirements

Full and Open Competition – In accordance with 49 U.S.C. § 5325(h) all procurement transactions shall be conducted in a manner that provides full and open competition.

Prohibition Against Exclusionary or Discriminatory Specifications – Apart from inconsistent requirements imposed by Federal statute or regulations, the contractor shall comply with the requirements of 49 USC 5323(h)(2) by refraining from using any FTA assistance to support procurements using exclusionary or discriminatory specifications.

Interest of Members or Delegates to Congress - No members of, or delegates to, the US Congress shall be admitted to any share or part of this contract nor to any benefit arising therefrom.

Ineligible Contractors and Subcontractors - Any name appearing upon Comptroller General’s list of ineligible contractors for federally assisted contracts shall be ineligible to act as a subcontractor for contractors pursuant to this contract. If contractor is on the Comptroller General’s list of ineligible contractors for federally financed or assisted construction, NICE Bus shall cancel, terminate or suspend this contract.

Other Contract Requirements - To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with NICE Bus’s Procurement Guidelines, available upon request from NICE Bus.

Real Property - Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 29 CFR 18.31, 49 CFR Part 24, Subpart B, FTA Circular 5010.1E, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor’s failure to so comply shall constitute a material breach of this contract.

Access to Services for Persons with Limited English Proficiency. To the extent applicable and except to the extent that FTA determines otherwise in writing, contractor agrees to comply with the policies of Executive Order No. 13166, "Improving Access to Services for Persons with Limited English Proficiency," 42 U.S.C. § 2000d-1 note, and with the provisions of U.S. DOT Notice, “DOT Guidance to Recipients on Special Language Services to Limited English Proficient (LEP) Beneficiaries,” 70 *Fed. Reg.* 74087, December 14, 2005.

Environmental Protections – Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53.

(End of Federal Provisions)

End of Addendum No.2