



Federally Required and Other Model Contract Clauses

1. Fly America Requirements
 - Applies to all contracts for transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S. when FTA will participate in the costs of such air transportation.
2. Buy America Requirements
 - Applies to projects that involve the purchase of more than \$100,000 for construction of iron, steel, manufactured goods or rolling stock.
3. Charter Bus and School Bus Requirements
 - Applies to all contracts at every tier for operating a public transportation service contract.
4. Cargo Preference Requirements
 - Applies to all contracts involved with the transport of equipment, material, or commodities by ocean vessel.
5. Seismic Safety Requirements
 - Applies to all contracts at every tier for the construction of new buildings or additions to existing buildings.
6. Energy Efficiency and Conservation Requirements
 - Applies to all contracts for any building constructed, reconstructed, or modified.
7. Clean Water Requirements
 - Applies to all contracts and subcontract exceeding \$150,000.
8. Bus Testing
 - Applies to purchase or lease of any new bus.
9. Pre-Award and Post Delivery Audit Requirements
 - Applies to all purchases for revenue service rolling stock.
10. Lobbying
 - Applies to all contracts and subcontract at any tier under a Federal grant for Construction, A&E, Rolling Stock, Professional services and Operations Service contracts.
11. Access to Records and Reports, Audits and Inspection
 - Applies to all contracts at every tier that are federally funded.
12. Federal Changes
 - Applies to all contractors for any contracts that are federally funded.
13. Bonding Requirements
 - Applies to all construction or facility improvement contracts and subcontracts exceeding the simplified acquisition threshold.
14. Clean Air
 - Applies to all contracts and subcontracts exceeding \$150,000.

15. Recycled Products
 - Applies to all contracts at all tiers where the value of an EPA designated item exceeds \$10,000.
16. Davis-Bacon and Copeland Anti-Kickback Acts
 - Employee protection applies to third party contractors and their contracts and subcontracts for construction, alteration or repair contracts in excess of \$2,000 regardless of using the micro purchase method.
17. Contract Work Hours and Safety Standards Act
 - Employee protection applies to all third party contractors and their contracts and subcontracts in excess of \$100,000 that involve the employment of mechanics or laborers.
18. [Reserved]
19. No Government Obligation to Third Parties
 - Applies to all contracts in every tier that are federally funded.
20. Program Fraud and False or Fraudulent Statements
 - Applies to all contracts in every tier that are federally funded.
21. Termination
 - Applies to all contracts.
22. Government-wide Debarment and Suspension (Non-Procurement)
 - Applies to all contracts that meet or exceed \$25,000 awards must not be made to parties listed on the government-wide exclusions in the System for Award Management (SAM).
23. Privacy Act
 - Applies to all contracts that are federally funded at every tier.
24. Civil Rights Requirements
 - Applies to all contracts that are federally funded at every tier.
 - ✓ Title VI
 - ✓ EEO
 - ✓ ADA
25. Breaches and Dispute Resolution
 - Applies to all contracts in excess of the Simplified Acquisition Threshold at every tier.
26. Patent and Rights in Data
 - Applies to all contracts that meet the definition of a research-type project.
27. Transit Employee Protective Agreements
 - Applies to all contracts for transit operations performed by employees of a contractor recognized by FTA to be a transit operator.
28. Disadvantaged Business Enterprises (DBE)
 - Applies to all contracts that are federally funded.
29. [Reserved]
30. Incorporation of Federal Transit Administration (FTA) Terms
 - Applies to all contracts that are federally funded at every tier.

31. Drug and Alcohol Testing
 - Substance abuse requirement applies to all third party contractors at every tier who perform a safety-sensitive function for the grant recipient or subrecipient.
32. Miscellaneous Clauses
 - Conformance with National Architecture
 - Piggybacking and Tag-Ons
33. Bid Protest Procedures
34. Environmental Protection
35. Notice of Federal Participation
36. Prohibited Interest
37. Interest of Members or Delegates to Congress
38. Insurance
39. Seat Belt Use
 - Safe operation of motor vehicles applies to all contracts in every tier that are federally funded.
40. Protection of Sensitive Security Information
41. Trafficking in Persons
42. Text Messaging While Driving
 - Safe operation of motor vehicles applies to all contracts in every tier that are federally funded.
43. Conformity to Current Law
44. Veterans Employment

Commonwealth of Pennsylvania Specific Contract Requirements

Non-Collusion Statement	Certificate 1
Commonwealth Non-Discrimination/Sexual Harassment	Certificate 2
Contractor Integrity	Certificate 3

Federal Transit Administration and Other Requirements

Lobbying	Certificate 4
Disadvantaged Business Enterprise (DBE) Certification	Certificate 5-1
Affidavit of DBE (if needed)	Certificate 5.2
Debarment, Suspension & Other Ineligibility & Voluntary Exclusion	Certificate 6
Proposer Information Sheet	Certificate 7
Proposal Form	Certificate 8

Lebanon Transit
 200 Willow Street
 Lebanon, PA 17046
 717.274.3664



Federal Transit Administration (FTA) and Commonwealth of Pennsylvania Third Party
Contract/Agreement Provisions
December 2016

1. **FLY AMERICA:**

The contractor understands and agrees that the Federal Government will not participate in the costs of international air transportation of any persons involved in or property acquired for the Project unless that air transportation is provided by U.S. flag air carriers to the extent service by U.S.-flag air carriers is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, as amended, 49 U.S.C. §40118 (the "Fly America" Act), and with U.S. GSA regulations, "Use of United States Flag Air Carriers," 41 C.F.R. Parts §§301-10.131 through 301-10.143.

2. **BUY AMERICA:**

The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and requires the following; more than 60 percent domestic content for fiscal years 2016 and 2017; more than 65% for fiscal years 2018 and 2019; more than 70% for fiscal year 2020 and each fiscal year after.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 CFR Part 661.5.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B) or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B) or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

3. CHARTER BUS AND SCHOOL BUS:

Charter Service Operations - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and sub-recipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

School Bus Operations - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and sub-recipients of FTA assistance may not engage in school bus operations exclusively for the 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, recipients and sub-recipients may not use federally funded equipment, vehicles or facilities.

4. CARGO PREFERENCE REQUIREMENT:

46 U.S.C. §1241, 46 C.F.R. Part 381- The Cargo Preference requirements apply to all contracts involving equipment, materials or commodities which may be transported by ocean vessels. Micro purchases are those defined as purchases under \$3,500. These requirements do not apply to Micro-purchases. The MARAD regulations at 46 C.F.R. 381.7 contains suggested contract clauses. The following language if proffered by FTA. Cargo Preference – Use of United States- Flag Vessels-

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

5. **SEISMIC SAFETY REQUIREMENTS:**

42 U.S.C. §7701 C.F.R. Part 41- Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings. Micro-purchases are defined as those purchases under \$3,500. These requirements do not apply to Micro-purchases. The Seismic Safety requirements flow down from FTA recipients and sub-recipients to first tier contractors to assure compliance, with the applicable buildings standard for Seismic Safety including the work performed by all subcontractors. The regulations do not provide suggested language for third-party contract clauses. The following language has been developed by FTA. Seismic Safety – The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in department of transportation Seismic Safety regulations 49 C.F.R. Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agree to ensure that all work performed under this contract including work perform by a subcontractor is in compliance with the standards required by the Seismic Safety regulations and the certification of compliance issued on the project.

6. **ENERGY EFFICIENCY AND CONSERVATION:**

Vendors/Contractors shall recognize and comply with mandatory standards and policies relating to energy efficiency contained in State energy conservation plans issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. §6321 *et seq*).

7. **CLEAN WATER:**

The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§1251 *et seq*. The contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to Federal Transit Administration and the appropriate U.S. EPA Regional Office. *Applies to all contracts/agreements exceeding \$150,000.*

8. **BUS TESTING:**

Bus Testing – The contractor [Manufacturer] agrees to comply with 49 U.S.C. A 5323© and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

1. A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.

2. A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
3. If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.
4. If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

CERTIFICATION OF COMPLIANCE WITH FTA'S BUS TESTING REQUIREMENTS

The undersigned [contractor/manufacturer] certifies that the vehicle offered in this procurement complies with 49 U.S.C. A 5323© and FTA's implementing regulation at 49 CFR Part 665.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Date: _____

Signature: _____

Company Name: _____

Title: _____

9. PRE-AWARD AND POST DELIVERY AUDIT REQUIREMENTS:

Pre-Award and Post-Delivery Audit Requirements – The contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

1. Buy America Requirements: The contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.
2. Solicitation Specification Requirements: The contractor shall submit evidence that it will be capable of meeting the bid specifications.
3. Federal Motor Vehicle Safety Standards (FMVSS): The contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS FOR BUSES, OTHER ROLLING STOCK OR ASSOCIATED EQUIPMENT

(To be submitted with a bid or offer exceeding the Small Purchase Threshold for Federal assistance programs, currently set at \$100,000.)

Certificate of Compliance

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)©, Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49 C.F.R. 661.11:

Date: _____

Signature: _____

Company Name: _____

Title: _____

Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)© and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Date: _____

Signature: _____

Company Name: _____

Title: _____

10. LOBBYING:

Section 1352 of Title 31, U.S. Code provides in part that no appropriated funds may be expended by the recipient of a Federal contract, grant, loan or cooperative agreement to pay any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, an employee of a Member of Congress or a member or employee of a State legislature in connection with any of the following covered Federal actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement. The contractor and its subcontractors shall certify that no federal appropriated funds have been expended for the lobbying activities described in Section 1352 of Title 31, U.S. Code. The contractor and its subcontractors 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 the covered Federal actions as described by 31 U.S.C. §1352. For any contract and subcontract exceeding \$100,000, the contractor and subcontractor(s) will submit a Lobbying Certificate. (See Certificate 3). Contractors who engage in lobbying activities are required to file Standard Form—LLL, "Disclosure of Lobbying Activities" in accordance with Section 1352 of Title 31, U.S. Code.

11. ACCESS TO RECORDS AND REPORTS, AUDITS AND INSPECTION:

- a. Audit and Inspection. The contractor shall permit the authorized representatives of Lebanon Transit, U.S. Department of Transportation, the Pennsylvania Department of Transportation and the Comptroller General of the United States to inspect and audit all data and records of the contract/agreement or relating to its performance and its subcontracts under this contract/agreement from the date of the contract /agreement and for three (3) years after completion or termination of the contract/agreement.
- b. Record Retention. The contractor further agrees to include in all their subcontracts hereunder a provision to the effect that the subcontractor agrees that Lebanon Transit, the U.S. Department of Transportation, the Pennsylvania Department of Transportation and the Comptroller General of the United States or any of their duly authorized representatives shall, until the expiration of three (3) years after final payment under the subcontract, have access to and the right to examine any directly pertinent books, documents, papers, and records of each subcontractor, involving transactions related to the subcontractor. The term "subcontractor" as used in this clause excludes: (1) Purchase Orders not exceeding \$10,000; and (2) subcontracts or Purchase Orders for public utility services at rates established for uniform applicability to the general public.

12. FEDERAL CHANGES:

The contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed herein, as they may be amended or promulgated from time to time during the term of this contract/agreement, unless the Federal Government determines otherwise. The contractor's failure to so comply shall constitute a material breach of this contract/agreement. 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 Lebanon Transit requests which would cause Lebanon Transit to be in violation of the FTA terms and conditions.

13. BONDING REQUIREMENTS:

Bid Bond Requirements (Construction)

- a. Bid Security: A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.
- b. Rights Reserved: In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

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

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of

the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

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

Performance and Payment Bonding Requirements (Construction)

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

a. Performance Bonds:

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

b. Payment Bonds:

1. The penal amount of the payment bonds shall equal:
 - i. Fifty percent of the contract price if the contract price is not more than \$1 million.
 - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. Two and one half million if the contract price is more than \$5 million.
2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

a. The following situations may warrant a performance bond:

1. (Recipient) 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).
2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.
3. Substantial progress payments are made before delivery of end items starts.
4. Contracts are for dismantling, demolition or removal of improvements.

b. 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 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).
2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the

increase in contract price. The (Recipient) may secure additional protection by directing the contractor to increase the penal amount of the existing bond or to obtain an additional bond.

- c. A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.
- d. 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. Fifty percent of the contract price if the contract price is not more than \$1 million;
 - ii. Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or
 - iii. Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

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

Patent Infringement Bonding Requirements (Patent Indemnity)

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

Warranty of the Work and Maintenance Bonds

1. The contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.
 2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).
14. **CLEAN AIR:**
The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§7401 *et seq.* The contractor agrees to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to Federal Transit Administration and the appropriate U.S. EPA Regional Office. *Applies to all contracts/agreements exceeding \$150,000.*

15. **RECYCLED PRODUCTS:**

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

16. **DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS:**

The Davis-Bacon Act and Copeland Acts are codified at 40 U.S.C. §3141, *et seq.* and 18 U.S.C. §874. The Acts apply to recipient construction contracts and subcontracts that "at least partly are financed by a loan or grant from the Federal Government." 40 U.S.C. §3145(a), 29 C.F.R. Part 5.2(h), 49 C.F.R. Part 18.36(i)(5). The Acts apply to any construction contract over \$2,000, 40 U.S.C. §3142(a), 29 C.F.R. Part 5.5(a). 'Construction,' for purposes of the Acts, includes "actual construction, alteration and/or repair, including painting and decorating." 29 C.F.R. Part 5.5(a). The requirements of both Acts are incorporated into a single clause (*see 29 C.F.R. Part 3.11*) enumerated at 29 C.F.R. Part 5.5(a) and reproduced below. The language is drawn directly from 29 C.F.R. Part 5.5(a) and any deviation from the model clause below should be coordinated with counsel to ensure the Acts' requirements are satisfied.

Clause Language Davis-Bacon and Copeland Anti-Kickback Acts

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

Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this Section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 C.F.R. Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

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

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

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

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

(4) With respect to helpers as defined in 29 C.F.R. Part 5.2(n) (4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known) or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator or an authorized representative, will approve, modify or disapprove every additional classification action within thirty (30) days of receipt and so advise the contracting officer or will notify the contracting officer within the 30 day period that additional time is necessary.

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

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

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

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the

Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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

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

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

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

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known) or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator or an authorized representative, will approve, modify or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

(2) Withholding - LT shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract/agreement or any other Federal contract with the same prime contractor or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the

contract/agreement. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract/agreement, LT may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance or guarantee of funds until such violations have ceased.

(3) Payrolls and Basic Records – (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 C.F.R. Part 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

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

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract/agreement and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 C.F.R. Part 5 and that such information is correct and complete;

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

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

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

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

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

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

Bureau of Apprenticeship and Training or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

(iii) Equal Employment Opportunity – The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 C.F.R. Part 30.

(5) Compliance with Copeland Act Requirements – The contractor shall comply with the requirements of 29 C.F.R. Part 3, which are incorporated by reference in this contract.

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

(7) Contract Termination; Debarment – A breach of the contract clauses in 29 C.F.R. Part 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 C.F.R. Part 5.12.

(8) Compliance with Davis-Bacon and Related Act Requirements – All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 C.F.R. Parts 1, 3, and 5 are herein incorporated by reference in this contract.

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

(10) Certification of Eligibility – (i) By entering into this contract/agreement, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts/agreements by virtue of Section 3(a) of the Davis-Bacon Act or 29 C.F.R. Part 5.12(a) (1).

(ii) No part of this contract/agreement shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 C.F.R. Part 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. §1001.

17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT:

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

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

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

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

18. **RESERVED:**

19. **NO GOVERNMENT OBLIGATION TO THIRD PARTIES:**

- A. The Federal Government is not a Party to this contract/agreement and shall not be subject to any obligations or liabilities to the contractor or any other Party (whether or not a Party to that contract/agreement) pertaining to any matter resulting from the underlying contract/agreement.
- B. The contractor agrees to include the above clause in each subcontract financed in whole or in Part with Federal assistance provided by the FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. **PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS:**

The contractor and its subcontractors acknowledge 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 contract/agreement. The contractor and its subcontractors certify or affirm the truthfulness and accuracy of any statement it has made, it makes, it may make or causes to be made, pertaining to this contract/agreement or the FTA assisted project for which this contract/agreement 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 or its subcontractors to the extent the Federal Government deems appropriate.

21. **TERMINATION:**

- a. **Termination for Convenience:** Lebanon Transit may terminate this contract/agreement in whole or in part, at any time by written notice to the contractor. The contractor shall be paid its costs, including contract/agreement close-out costs, and profit on work performed up to the time of termination. "Close-out costs" is defined as, "site deactivation costs, scrap and waste disposal costs only". Close out costs do not include labor, direct material or overhead. Within thirty (30) days of the date of the written Notice of Termination, the contractor shall promptly submit its termination claim to Lebanon Transit to be paid to the contractor. If the contractor has any property in its possession belonging to Lebanon Transit, the contractor will, within thirty (30) days of the date of the Notice of Termination, account for the same, and dispose of it in a manner directed by Lebanon Transit.

- (5) **Termination for Default:** If the contractor does not deliver supplies in accordance with the contract delivery schedule or if the contract/agreement is for services, the contractor fails to perform in the manner called for in the contract or if the contractor fails to comply with any other provisions of the contract/agreement, Lebanon Transit may terminate this contract/agreement for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the contractor is in default. The contractor will only be paid the contract/agreement price for supplies delivered and accepted or services

performed in accordance with the manner of performance set forth in the contract/agreement.

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

Lebanon Transit in its sole discretion may, in the case of a termination for default, allow the contractor a reasonably short period of time in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions.

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

If the termination is for the convenience of Lebanon Transit, the contractor shall be paid its contract/agreement close-out costs, and a fee, if the contract/agreement provides for a fee, in proportion to the work performed up to the time of termination. The contract/agreement does not provide for an additional fee.

If, after serving notice of termination of default, Lebanon Transit determines that the 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 the contractor, Lebanon Transit, after setting up a new work schedule, may allow the contractor to continue work or treat the termination as termination for convenience.

22. **GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NON-PROCUREMENT):** The contractor agrees to comply, and assures the compliance of its subcontractors or a Participant at any tier of the Project, with Executive Orders Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. §6101 note, and U.S. DOT regulations, "Non-procurement Suspension and Debarment," 2 C.F.R. Part 1200, which adopts and supplements the provisions of 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. The contractor agrees to, and assures that its subcontractors for any lower tier Participant will, review the "Excluded Parties Listing system at <http://sam.gov> before entering into any contractual arrangement in connection with this Project. For any contract and subcontract exceeding \$25,000, the Contractor and subcontractor shall submit a debarment and suspension certificate or an explanation as to why the signed certification cannot be provided. (See Certificate 5) The certification is a material representation of fact upon which reliance was placed when the transaction was entered into. If it is later determined that the contractor or subcontractors knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, Lebanon Transit may pursue available remedies, including suspension and/or debarment. The contractor or subcontractors shall provide immediate written notice to Lebanon Transit if at any time the contractor or subcontractors learns that its

certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

23. **PRIVACY ACT:**

- A. 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.
- B. 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.

24. **CIVIL RIGHTS:**

TITLE VI:

During the performance of this contract/agreement, the contractor and its subcontractors shall comply with all requirements prohibiting discrimination against any employee or applicant for employment on the basis of race, color, creed, sex, age, disability or national origin in accordance with Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000 (d); Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. §§1681-1683, 1685-88, with implementing U.S. DOT regulations, "Nondiscrimination on the Basis of Sex in Education Programs or Activities Receiving Federal Financial Assistance," 49 C.F.R. Part 25; Section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. §6102; Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. §623 and Federal transit law at 49 U.S.C. §5332; Section 202 of the American With Disabilities Act of 1990, 42 U.S.C. §12132; Federal transit law at 49 U.S.C. §5332; and U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation—Bffectuation of Title VI of the Civil Rights Act", 49, C.F.R. Part 21, and any implementing requirements FTA may issue.

EQUAL EMPLOYMENT OPPORTUNITY:

In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. §2000, and Federal transit laws at 49 U.S.C. §5332, the contractor and its subcontractor agree to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.* and any implementing requirements the FTA may issue. The contractor and its subcontractors agree that it shall not discriminate against any employee or applicant for employment because of race, color, creed, sex, disability, age or national origin. The contractor and its subcontractors shall take affirmative action to insure that applicants are employed, and the employees are treated during employment, without regard to their race, color, creed, sex, disability, age or national origin. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, lay-off 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.

AMERICANS WITH DISABILITIES ACT COMPLIANCE:

The undersigned agrees to comply with and assure that any third party contractor under this Agreement complies with all applicable requirements of the American with Disabilities Act of 1990 (ADA), 42 U.S.C. §§12101 *et seq.* and 49 U.S.C. §322; Section 504 of the Rehabilitation Act

of 1973, as amended, 29 U.S.C. §794; Section 16 of the Federal Transit Act, as amended, 49 U.S.C. app. §1612; and the following regulations and any amendments thereto:

- U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)", 49 C.F.R. Part 37;
- U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefitting from the Federal Financial Assistance", 49 C.F.R. Part 27;
- U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles", 49 C.F.R. Part 38;
- Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services", "28 C.F.R. Part 35
- DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities", 28 C.F.R. Part 36;
- General Services Administration regulations, "Construction and Alteration of Public Buildings", "Accommodations for the Physically Handicapped", 41 C.F.R. Part 101-19;
- Equal Employment Opportunity Commission (EEOC) "Regulations to Implement the Equal Employment Provisions of the American with Disabilities Act", 29 C.F.R. Part 1630;
- Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64 (F) and
- FTA regulations "Transportation for Elderly and Handicapped Persons" 49 C.F.R. Part 609.

25. **BREACHES AND DISPUTE RESOLUTION:**

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

Performance During Dispute – Unless otherwise directed by Lebanon Transit, contractor shall continue performance under this contract/agreement while matters in dispute are being resolved.

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

Remedies – Unless this contract/agreement provides otherwise, all claims, counterclaims, disputes and other matters in question between Lebanon Transit and the contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agreed or in Lebanon County Court of Common Pleas.

Rights and Remedies – The duties and obligations imposed by the contract/agreement 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 Lebanon Transit or its representative shall constitute a waiver of any right or duty afforded any of them under the contract/agreement, 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.

26. PATENT AND RIGHTS IN DATA:
CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL OR RESEARCH WORK.

Rights in Data – This following requirements apply to each contract involving experimental, developmental or research work:

1. The term “subject data” used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to: computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term “subject data” does not include financial reports, cost analyses, and similar information incidental to contract administration.
2. The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:
 - a) Except for its own internal use, the purchaser or contractor may not publish or reproduce subject data in whole or in part or in any manner or form, nor may the purchaser or contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government 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.
 - b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, 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 in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, “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 that contract, whether or not a copyright has been obtained; and
 - ii) Any rights of copyright purchased by the purchaser or contractor using Federal assistance in whole or in part provided by FTA.
 - c) When FTA awards Federal assistance for experimental, developmental or research work, it is FTA’s general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the purchaser and the contractor performing experimental, developmental or research work required by the underlying contract to which this Attachment is added 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 that 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 the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c) however, does not apply to adaptations of automatic data processing equipment or programs for the purchaser or contractor’s use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

- d) Unless prohibited by state law, upon request by the Federal Government, the purchaser and the contractor agree 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 purchaser or 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. Neither the purchaser nor 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.
 - e) 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.
 - f) Data developed by the purchaser or contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the requirements of subsections (b), (c), and (d) of this clause, provided that the purchaser or contractor identifies that data in writing at the time of delivery of the contract work.
 - g) Unless FTA determines otherwise, 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 provided by FTA.
3. Unless the Federal Government later makes a contrary determination in writing, irrespective of the contractor's status (*i.e.*, a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

4. The contractor also agrees to include these requirements in each subcontract for experimental, developmental or research work financed in whole or in part with Federal assistance provided by FTA.

Patent Rights – This following requirements apply to each contract involving experimental, developmental or research work:

1. *General* – If any invention, improvement or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement or discovery is patentable under the laws of the United States of America or any foreign country, the purchaser and contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.
2. Unless the Federal Government later makes a contrary determination in writing, irrespective of the contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the purchaser and the contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

3. The contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental or research work financed in whole or in part with Federal assistance provided by FTA.

27. **TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS:**

The contractor agrees to comply with applicable transit employee protective requirements as follows:

- a. *General Transit Employee Protective Requirements* – To the extent that FTA determines that transit operations are involved, the contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for non-urbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

- b. *Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C.*

§ 5310(a)(2) for Elderly Individuals and Individuals with Disabilities – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body sub-recipient for which work is performed on the underlying contract, the contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

- c. *Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C.*

§ 5311 in Non-urbanized Areas – If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the contractor agrees to comply with the terms and conditions of the Special Warranty for the Non-urbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

The contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

28. **DISADVANTAGED BUSINESS ENTERPRISES (DBE):**

- (7) **DBE Assurance:** Lebanon Transit shall not discriminate on the basis of race, color, national origin or sex in the award and performance of any DOT-assisted contract/agreement or in the administration of Lebanon Transit's DBE Program or the requirements of 49 C.F.R. Part 26.

Lebanon Transit shall take all necessary and reasonable steps under 49 C.F.R. Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts/agreements. Lebanon Transit's DBE Program, as required by 49 C.F.R. Part 26 and as approved by DOT, is incorporated by reference into this solicitation and any resulting contract/agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to Lebanon Transit of its failure to carry out its approved program, the Department of Transportation may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986, (31 U.S.C. §3801 *et seq*).

b) DBE Contract Clause: The contractor or subcontractor shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract/agreement. The contractor shall carry out applicable requirements of 49 C.F.R. Part 26 in award and administration of DOT assisted contracts/agreements. Failure by the contractor to carry out these requirements is a material breach of this contract/agreement, which may result in the termination of this contract/agreement or such other remedy as Lebanon Transit deems appropriate.

c) Prompt Payment Clause: The prime contractor agrees to pay each subcontractor (whether DBE or non-DBE) under this prime contract/agreement for satisfactory performance of its contract/agreement no later than thirty (30) calendar days from its receipt of each payment from Lebanon Transit. The prime contractor agrees further to return retainage payments to each subcontractor within thirty (30) calendar days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from these time frames may occur only for good cause following written approval of Lebanon Transit of the prime contractor's written request for such a delay or postponement. The request for delay or postponement must state the reasons for the request in sufficient detail as to permit Lebanon Transit to make a determination. The decision to allow a delay or postponement shall rest solely and exclusively with Lebanon Transit.

Absent written approval from Lebanon Transit for a delay or postponement, and upon receipt by Lebanon Transit of written notification from the subcontractor that prompt payment requirements have not been met, Lebanon Transit may withhold reimbursement from future prime contractor invoices for amounts due to subcontractors for satisfactory work unless and until the prime contractor takes corrective action by paying its subcontractors any past due amounts promptly in accordance with this requirement and also assuring, in writing, that future payments will be so made. A prime contractor who does not take such corrective action when required to do so will not be permitted to bid on future projects involving subcontractors unless and until a written assurance of compliance with prompt payment provisions is provided to Lebanon Transit. Lebanon Transit reserves the right to determine that a prime contractor who has not met prompt payment provisions is not a responsible bidder for future contracts/agreements.

The contractor must submit Certificate 4-1 "Disadvantaged Business Enterprise", with its proposal and the Affidavit requested on Certificate 4-2, if the Proposer is a Disadvantaged Business Enterprise.

29. RESERVED:

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS:
The contractor agrees that the definitions and terminology included in FTA Circular 4220.1F (March 2013) and the FTA Master Agreement shall be incorporated into the contract/agreement by reference.

31. **DRUG AND ALCOHOL TESTING:**
Explanation of Model Contract Clauses

Under Option 1, the recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 CFR 653 and 654. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option only for those recipients which have a testing program for their employees, and can add the contractor's safety-sensitive employees to that program.

Under Option 2, the recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 CFR 653 and 654, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that without adequate monitoring of the contractor's program, the recipient may find itself out of compliance with the rules.

Under Option 3, the recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why.

Drug and Alcohol Testing Option 1

The contractor agrees to:

- (8) *Participate in (grant recipients) drug and alcohol program established in compliance with 49 CFR 653 and 654.*

Drug and Alcohol Testing Option 2

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State) or the (insert name of grant recipient), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

Drug and Alcohol Testing Option 3

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance

with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State) or the (insert name of grant recipient), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The contractor agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the recipient wishes the contractor to use) as its policy statement as required under 49 CFR 653 and 654; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the contractor agrees to: (to be determined by the recipient, but may address areas such as: the selection of the certified laboratory, substance abuse professional or Medical Review Officer or the use of a consortium).

32. MISCELLANEOUS CLAUSES:

Conformance with National ITS Architecture – The contractor agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards requirement of 23 U.S.C. § 517 (d), as amended by MAP-21, unless an exemption is obtained from those requirements, and to follow FTA Notice, "FTA National ITS Architecture Policy on Transit Projects" 66 Fed. Reg. 1455 et seq., January 8, 2001, and all other applicable Federal guidance.

Piggybacking/Tag-Ons/Assignment -- A public agency shall have the option of participating in any award made for the purchase of goods and services hereinafter including vehicles, as a result of this solicitation at the same prices, terms and conditions. LT reverses the right to assign all or any portion of the goods and services awarded under this contract including option quantities. This assignment, should it occur, shall be agreed to by LT and the contractor. Once assigned, the public agency will enter into its own contract and be solely responsible to the contractor for obligations related to the goods and services assigned. LT's right of assignment will remain in force over the contract term as defined in the contract or until completion of the contract to include options, whichever occurs first. LT shall incur no financial responsibility in connection with the contract issued by the public agency. The public agency shall accept sole responsibility for placing orders or making payments to the contractor.

33. LEBANON TRANSIT BID PROTEST PROCEDURES:

1.0 PURPOSE

1.1 The policies and procedures governing the receipt and resolution of protests in connection with an Invitation for Bid (IFB) or Request for Proposal (RFP) are outlined below. This procedure is applicable to all IFBs or RFPs. These procedures are in compliance with FTA Circular 4220.1F (March 2013).

2.0 DEFINITIONS

- 2.1 "Interested Party" means any Bidders/Proposers.
- 2.2 "Days" means business days.

- 2.3 "Filed" means the date of receipt by the Office of the Executive Director or his/her designee.
- 2.4 "Federal/State Law or Regulation" means any valid requirement imposed by Federal, State or other statute or regulation.
- 2.5 "Presumptive Contractor" means the Bidder/Proposer that is in line for award of the contract/agreement in the event that the protest is denied.
- 2.6 "Protestant" is an Interested Party who is aggrieved in connection with the solicitation or award of a contract/agreement and who files a protest.

3.0 TYPES OF PROTESTS/ TIME LIMITS

3.1 Pre-Bid/Proposal Protest are based upon alleged restrictive specifications or alleged improprieties in Lebanon Transit's (LT) procurement process. A protestant must file a pre-bid/proposal protest no later than five (5) days prior to bid opening date by 4:00 P.M. Lebanon, Pennsylvania prevailing time.

3.2 Pre-Award Protest is based upon alleged improprieties of a Bid/Proposal. A protestant must file a pre-award protest no later than five (5) days after the protestant knows or should have known of the facts giving rise thereto by 4:00 P.M. Lebanon, Pennsylvania prevailing time.

3.3 Post-Award Protest is based upon the award of a contract/agreement. A protestant must file a post-award protest no later than five (5) days after the notification to the unsuccessful firms of LT's intent to award or no later than five (5) days after an unsuccessful firm becomes aware of LT's intent to award a contract/agreement, whichever comes first, by 4:00 P.M. Lebanon, Pennsylvania prevailing time.

4.0 CONTENTS OF PROTEST

4.1 Protests must be in writing, and filed directly with the Office of the Executive Director at:

Theresa L. Giurintano
Lebanon Transit
200 Willow Street
Lebanon, PA 17046

and must contain the following information:

- a. The name, address and telephone number of the protestant;
- b. Identity of the IFB or RFP (by number and description);
- c. A detailed factual statement of the grounds for protest and
- d. The desired relief, action or ruling.

5.0 ACTION BY LEBANON TRANSIT

5.1 Procurement Process Status

Upon timely receipt of a protest, Lebanon Transit will delay the opening of bids until after resolution of the protest for protests filed prior to the bid opening or withhold award until after resolution of the protest for protests filed after bid opening. However, Lebanon Transit may open bids or award a contract/agreement whenever Lebanon Transit, at its sole discretion, determines that:

- a. The items or work to be procured are urgently required;
- b. Delivery or performance will be unduly delayed by failure to make the award promptly; or
- c. Failure to make prompt award will otherwise cause undue harm to Lebanon Transit or a funding source.

If the protest is filed before the award of the contract/agreement, Lebanon Transit will advise the presumptive contractor of the pending protest.

5.2 If deemed appropriate, Lebanon Transit may conduct an informal conference on the merits of the protest with all interested parties invited to attend.

5.3 Response to the Protest

Lebanon Transit's Executive Director will respond in detail to each substantive issue raised in the protest within a reasonable time after the protest is filed. Lebanon Transit's response shall address only the issues raised originally by the protestant. When, on its face a protest does not state a valid basis for protest or is untimely, the Executive Director may summarily dismiss the protest without requiring a detailed response.

5.4 Rebuttal to Lebanon Transit Response

The protestant may submit a written rebuttal to Lebanon Transit's response, addressed to the Executive Director, but must do so within five (5) days after receipt of the original Lebanon Transit response. Lebanon Transit will not address new issues raised in the rebuttal. After receipt of the protestant's rebuttal, the Executive Director will review the protest and notify the protestant of his/her final decision.

5.5 Request for Additional Information

Failure of the protestant to comply with a request for information as specified by Lebanon Transit may result in determination of the protest without consideration of the additional information if subsequently produced. If any interested party requests information from another interested party, the request shall be made to Lebanon Transit's Executive Director, and, if Lebanon Transit so directs, shall be complied with by the other party within five (5) days.

5.6 Request for Reconsideration

If data becomes available that was not previously known or there has been an error of law, a protestant may submit a request for reconsideration of the protest. Lebanon Transit's Executive Director will again review the protest considering all currently available information. The Executive Director's determination will be made within a reasonable period of time, and his/her decision will be considered final.

5.7 Decision

Upon review and consideration of all relevant information the determination as issued by Lebanon Transit will be final.

6.0 Confidentiality of Protest

Material submitted by a protestant will not be withheld from any interested party, except to the extent that the withholding of information is permitted or required by law or regulation. If the protestant considers that the protest contains proprietary material which should be withheld, a statement advising of this fact must be affixed to the front page of the protest submission and the allegedly protected information must be so identified whenever it appears.

7.0 Federal Transit Administration (FTA) Involvement

Where procurements are funded by the FTA, Lebanon Transit will notify the Regional Office of any known or pending protests. Lebanon Transit will notify FTA again within five (5) business days from receipt of Lebanon Transit's final decision, the protestant may file a protest with the FTA only where the protest alleges that Lebanon Transit failed to have or failed to adhere to its protest procedures or there was a violation of Federal Law or Regulation. Any protest to the FTA must be filed in accordance with FTA Circular 4220.1F.

The contractor and its subcontractors agree to comply with all applicable requirements and implementing regulations of the National Environmental Policy Act of 1969, as amended, (NEPA) 42 U.S.C. §§4321 through 4335 (as restricted by 42 U.S.C. §5159, if applicable), Executive Order No. 11514, as amended, "Protection and Enhancement of Environmental Quality," 42 U.S.C. §4321 note; FTA statutory requirements on environmental matters at 49 U.S.C. §5324(b). U.S. Council on Environmental Quality regulations on compliance with NEPA, 40 C.F.R. Parts 1500 through 1508; joint FHWA/FTA regulations, "Environmental Impact and Related Procedures," 23 C.F.R. Part 771 and 49 C.F.R. Part 622; and other applicable Federal environmental protection regulations that may be promulgated at a later date.

35. **NOTICE OF FEDERAL PARTICIPATION:**

The contractor agrees to specify the amount of federal assistance in any subcontract having an aggregate value of \$500,000 or more for goods and services, including construction services, and to express the amount of federal assistance as a percentage of the total cost of that subcontract.

36. **PROHIBITED INTEREST:** No member, officer or employee of Lebanon Transit, during their tenure or for one year thereafter, shall have any interest, direct or indirect, in this contract/agreement or the proceeds therefrom. Lebanon Transit's officers, employees or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors, potential contractors or parties to sub-agreements.

37. **INTEREST OF MEMBERS OR DELEGATES TO CONGRESS:** No member or delegate to the Congress of the United States shall be admitted to any share or part of this contract/agreement or receive any benefit arising therefrom.

38. **INSURANCE:** At a minimum, the contractor shall comply with the insurance requirements imposed by the Commonwealth of Pennsylvania and Lebanon County governments or as otherwise required or defined in the specifications for the project.

39. **SEAT BELT USE:** Pursuant to Executive Order No. 13043, April 16, 1997, 23 U.S.C. §402, the contractor and its subcontractors are encouraged to adopt on-the-job seat belt use policies and programs for its employees when operating company-owned, rented or personally-operated vehicles.

40. **PROTECTION OF SENSITIVE SECURITY INFORMATION:** The contractor shall protect, and take measures to ensure its subcontractors at each tier protect, "sensitive security information" made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. §40119(b) and implementing DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 15, and with 49 U.S.C. §114(s) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information", 49 C.F.R. Part 1520. In accordance with 49 U.S.C. §40119(b) (1), "sensitive security information" is information obtained or developed in the conduct of security activities, including research and development. The information, and records containing such information, that constitute "sensitive security information" is further defined in 49 C.F.R. Part 15.5.

41. **TRAFFICKING IN PERSONS:** The contractor, its subcontractors and the employees of the contractor and its subcontractors that are participating in the Project that is the subject of this Contract and during the period this contract/agreement is in effect may not engage in severe

forms of trafficking in persons, procure a commercial sex act or use forced labor in the performance of the contract/agreement. Lebanon Transit may unilaterally terminate the contract/agreement for the Project, without penalty to Lebanon Transit, if the contractor, its subcontractors and the employees of the contractor and its subcontractors are determined to have violated this prohibition. This provision implements the requirements of subsection 106(g) of the Trafficking Victims Protection Act of 2000, as amended, 22 U.S.C. §7104(g) and U.S. OMB guidance, "Trafficking in Persons: Grants and Cooperative Agreements," 2 C.F.R., Part 175.

42. **TEXT MESSAGING WHILE DRIVING:** In accordance with Executive Order No. 13513, "Federal Leadership on Reducing Text Messaging While Driving," October 1, 2009, 23 U.S.C.A. §402 note, and DOT Order 3902.10, "Text Messaging While Driving," December 30, 2009, the recipient is encouraged to comply with the terms of the following Special Provision.
- a. **Definitions.** As used in this Special Provision:
- (1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.
 - (2) "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.
- b. **Safety.** The Contractor is encouraged to:
- (1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving-
 - (a) Contractor-owned or contractor-rented vehicles or Government-owned, leased or rented vehicles; or
 - (b) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or
 - © Any vehicle, on or off duty, and using an employer supplied electronic device.
 - (2) Conduct workplace safety initiatives in a manner commensurate with the contractor's size, such as:
 - (a) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
 - (b) Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.
 - (3) Include this Special Provision in its sub-agreements with its subcontractors and also encourage its subcontractors to comply with the terms of this Special Provision, and include this Special Provision in any sub-agreement they entered into for the Project.

43. **CONFORMITY TO CURRENT LAW:**

All statutes and regulations cited herein include any existing amendments thereto

44. **VETERANS PREFERENCE:**

As provided in U.S.C. § 5325 (k), the extent practicable, LT agrees and assures that each of its sub-recipients:

- Will give a hiring preference to veterans, as defined in 5 U.S.C. § 2108, who have the skills and abilities required to perform construction work required under a third party

contact/agreement in connection with a capital project supported with Federal Assistance appropriated or made available for 49 U.S.C. Chapter 53 and

- Will not be required to give preference to a y 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.

Signature

Lebanon Transit
200 Willow Street
Lebanon, PA 17046
717.274.3664

COMMONWEALTH OF PENNSYLVANIA SPECIFIC CONTRACT REQUIREMENTS:

NON-COLLUSION STATEMENT
COMMONWEALTH NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE
CONTRACTOR INTEGRITY

FEDERAL TRANSIT ADMINISTRATION AND OTHER REQUIRMENTS

LOBBYING CERTIFICATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) CERTIFICATION
AFFIDAVIT OF DBE (IF NEEDED) CERTIFICATION
DEBARMENT, SUSPENSION & OTHER INELIGIBILITY & VOLUNTARY EXCLUSION
CERTIFICATE
PROPOSER INFORMATION SHEET
PROPOSAL SHEET

CERTIFICATE 1

NON-COLLUSION STATEMENT
LEBANON TRANSIT
200 WILLOW STREET
LEBANON, PENNSYLVANIA 17046

TO: Lebanon Transit, Lebanon, Pennsylvania

The Undersigned, having examined the Specifications, Standard Requirements and other documents and being familiar with the various conditions under which these services, equipment and/or supplies are to be used, agrees to furnish all labor, materials, tools, equipment and services called for in the proposal for the prices stated.

The Undersigned hereby certifies that this proposal is genuine and not a sham, collusive or fraudulent or made in the interest of or in behalf of any person, firm or corporation not herein named, and that the Undersigned has not, directly induced or solicited any Proposer to submit a sham proposal or any other person, firm or corporation to refrain from submitting a proposal and that the Undersigned has not, in any manner, sought by collusion to secure for themselves an advantage over any other Proposer.

Company Name _____

Address _____

Signature _____

Printed Name _____

Title _____

Date _____

TRADING AND DOING BUSINESS AS (CHECK ONE)

Individual Partnership Corporation

(Seal)

Failure to Complete This Form and Submit With Proposal Will Render the Proposal Non-Responsive.

CERTIFICATE 2

COMMONWEALTH NON-DISCRIMINATION/SEXUAL HARASSMENT CLAUSE

The Proposer Agrees:

- a. In the hiring, recruitment, placement or promotion of any employee(s) for the manufacture of supplies, compensation and benefits performance of work or any other activity required under the contract or subcontract, the Contractor, a subcontractor or any person acting on behalf of the contractor shall not, by reason of gender, race, creed or color, discriminate against any citizen of the Commonwealth of Pennsylvania who is qualified and available to perform the work to which the employment relates.
- b. The Contractor or any subcontractor or any person acting on their behalf shall not in any manner discriminate against or intimidate any of its employees on account of gender, race, creed or color.
- c. The Contractor or any subcontractor shall establish and maintain a written sexual harassment policy and shall inform their employees of the policy. The policy must contain a notice that sexual harassment will not be tolerated and employees who practice it will be disciplined.
- d. The Contractor or any subcontractor shall not discriminate by reason of gender, race, creed or color against any contractor, subcontractor or supplier who is qualified to perform the work to which the contracts/agreements relates.
- e. The Contractor or any subcontractor shall, within the time periods requested by the Commonwealth of Pennsylvania, furnish all necessary employment documents and records and permit access to their books, records, and accounts by the Pennsylvania Department of Transportation and the Bureau of Minority and Women Business Opportunities (BM/WBO), for the purpose of ascertaining compliance with provisions of this Non-discrimination/ Sexual Harassment Clause.
- f. The Contractor or any subcontractor shall include the provisions of this Nondiscrimination/ Sexual Harassment Clause in every contract or subcontract so that those provisions applicable to Contractors or subcontractors will be binding upon each Contractor or subcontractor.
- g. Lebanon Transit may cancel or terminate the contract/agreement and all money due or to become due under the contract/agreement may be forfeited for a violation of the terms and conditions of this Non-discrimination/Sexual Harassment Clause. In addition, Lebanon Transit may proceed with debarment or suspension and may place the Contractor or subcontractor in the Contractor Responsibility File.

DATE

FIRM NAME

BY:

SIGNATURE

TITLE

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal
Non-Responsive.**

CERTIFICATE 3

CONTRACTOR INTEGRITY

It is essential that those who seek to contract/agreement with Lebanon Transit observe high standards of honesty and integrity. They must conduct themselves in a manner that fosters public confidence in the integrity of the Lebanon Transit procurement process. In furtherance of this policy, Contractor agrees to the following:

- Contractor shall maintain the highest standards of integrity during the performance of this agreement and shall take no action in violation of state or federal laws or regulations or other requirements applicable to the Contractor or that govern contracting with the Commonwealth of Pennsylvania ("Commonwealth") and/or Lebanon Transit.
- Contractor, its affiliates, agents and employees shall not influence or attempt to influence, any Lebanon Transit or Commonwealth employee to breach the standards of ethical conduct for employees or to breach any other state or federal law or regulation.
- Contractor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a Lebanon Transit or Commonwealth official or employee or to any other person at the direction or request of any Lebanon Transit or Commonwealth official or employee.
- Contractor, its affiliates, agents and employees shall not offer, give or agree or promise to give any gratuity to a Lebanon Transit or Commonwealth official or employee, the acceptance of which would violate the applicable code of conduct or any statute, regulation, statement of policy, management directive or any other published standard of Lebanon Transit or the Commonwealth.
- Contractor, its affiliates, agents and employees shall not, directly or indirectly, offer, confer or agree to confer any pecuniary benefit on anyone as consideration for the decision, opinion, recommendation, vote, other exercise of discretion or violation of a known legal duty by any official or employee of Lebanon Transit or the Commonwealth.
- Contractor, its affiliates, agents, employees or anyone in privity with him or her shall not accept or agree to accept from any person, any gratuity in connection with the performance of work under the contract, except as provided in the contract/agreement.
- Contractor shall not have financial interest in any other contractor, subcontractor or supplier providing services, labor or material on this project, unless the financial interest is disclosed to Lebanon Transit in writing at the time of proposal submission and Lebanon Transit consents to the Contractor's financial interest prior to Lebanon Transit execution of the contract/agreement.
- Contractor, its affiliates, agents and employees shall not disclose to others any information, documents, reports, data or records provided to or prepared by, Contractor under this contract/agreement or secured by Contractor from a third party in connection with the performance of this contract/agreement, without the prior approval of Lebanon Transit, except as required by the Pennsylvania Right-to-Know Law, 65 P.S. §§ 67.101-3104; necessary for purposes of Contractor's internal assessment and review; or otherwise required by law.
- Contractor certifies that neither it nor any of its officers, directors, associates, partners, limited partners or individual owners has not been officially notified of, charged with or convicted of the commission of embezzlement, theft, forgery, bribery or destruction of public records; commission of fraud or other improper conduct associated with obtaining, attempting to obtain or performing a public contract; violation of any federal or state law regulating campaign contributions; violation of any federal or state environmental law; violation of any federal or state law regulating hours of labor, minimum wage standards or prevailing wage standards, discrimination in wage or child labor violations; violation of any federal or state law prohibiting discrimination in employment; debarment by any agency or department of the federal government or by any other state. Contractor acknowledges that Lebanon Transit may, in its sole discretion, terminate the contract/agreement for

cause upon such notification or when Lebanon Transit otherwise learns that Lebanon Transit has been officially notified, charged or convicted.

- Contractor shall comply with requirements of the Lobbying Disclosure Act, 65 PA.C.S. § 13A01 *et seq.*, and the regulations promulgated pursuant to that law.
- When Contractor has reason to believe that any breach of ethical standards as set forth in law or in these provisions has occurred or may occur, Contractor shall immediately notify the Lebanon Transit contracting officer in writing.
- Contractor, by submission of its proposal and/or execution of this agreement and by the submission of any bills or invoices for payment pursuant to the contract/agreement, certifies and represents that it has not violated any of these contractor integrity provisions with the submission of the bid or proposal, during any contract/agreement negotiations or during the term of the contract/agreement.
- Contractor shall cooperate with the Office of State Inspector General in its investigation of any alleged Lebanon Transit or Commonwealth employee breach of ethical standards and any alleged Contractor non-compliance with these provisions. Contractor agrees to make identified Contractor employees available for interviews at reasonable times and places. Contractor, upon the request of the Controller or the Inspector General, shall provide or make promptly available for inspection and copying, any information of any type or form deemed relevant by the Controller or the Inspector General to Contractor's integrity and compliance with these provisions. Such information may include, but shall not be limited to, Contractor's business or financial records, documents or files of any type or form that refers to or concern this contract/agreement.
- For violation of any of the above provisions, Lebanon Transit (or Commonwealth, if applicable) may terminate this and any other agreement with the Contractor, claim liquidated damages in an amount equal to the value of anything received in breach of these provisions, claim damages for all additional costs and expenses incurred to debar and suspend the Contractor from doing business with Lebanon Transit or Commonwealth. These rights and remedies are cumulative, and the use or no-use of any one shall not preclude the use of all or any other. These rights and remedies are in addition to those Lebanon Transit and the Commonwealth or Lebanon Transit may have under law, statute or regulations.
- For purposes of these Contractor Integrity Provisions, the following terms shall have the meanings found in this paragraph:
 - a. "Confidential information" means information that is not already in the public domain; is not available to the public open request; is not or does not become generally known to the Contractor from a third party without an obligation to maintain its confidentiality; has not become generally known to the public through an act or omission of the Contractor; or has not been independently developed by Contractor without the use of confidential information of the Commonwealth of Pennsylvania or Lebanon Transit.
 - b. "Consent" means written permission signed by a duly authorized officer or employee of the Commonwealth or Lebanon Transit, provided that where the material facts have been disclosed, in writing, by pre-qualification, bid, proposal or contractual terms, Lebanon Transit shall be deemed to have consented by virtue of execution of this contract/agreement.
 - c. "Contractor" means the individual or entity that has entered into this agreement with Lebanon Transit, including those directors, officers, partners, managers and owners having more than five percent (5%) interest in the Contractor.
 - d. "Financial Interest" means:
 - (1) Ownership of more than five (5%) percent interest in any business; or
 - (2) Holding a position as an officer, director, trustee, partner, employee or holding any position of management;
 - e. "Gratuity" means tendering, giving or providing anything of more than nominal monetary value including, but not limited to, cash, travel, entertainment, gifts, meals, lodging, loans, subscriptions, advances, deposits of money, services, employment or contracts/agreements of any kind;
 - f. "Immediate family" means a spouse and any unemancipated child;

- g. "Political contribution" means any payment, gift, subscription, assessment, contract, payment for services, dues, loan, forbearance, advance or deposit of money or any valuable thing, to a candidate for public office or to a political committee, including but not limited to a political action committee, made for the purpose of influencing any election in the Commonwealth of Pennsylvania or for paying debts incurred by or for a candidate or committee before or after any election.

CONTRACTOR: _____

BY: _____
Signature

Print Name

Date

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CERTIFICATE 4

LOBBYING CERTIFICATE

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

- No Federal appropriated funds have been paid or will be paid by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement.
- If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

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

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

The Proposer, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Proposer understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

DATE

SIGNATURE OF AUTHORIZED OFFICIAL

TITLE OF AUTHORIZED OFFICIAL

(Applies to contracts/subcontracts with a contract sum of \$100,000 and over.)

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CERTIFICATE 5 - 1

DISADVANTAGED BUSINESS ENTERPRISE CERTIFICATION

- (1) Policy - It is the policy of the Department of Transportation that Disadvantaged Business Enterprises (DBE) as defined in 49 C.F.R. Part 26 shall have the opportunity to participate in the performance of contracts/agreements financed in whole or in part with Federal funds under this agreement. Consequently, the DBE requirements of 49 C.F.R. Part 26 apply to this agreement.

- (2) DBE Obligation- The Proposer agrees to ensure that Disadvantaged Business Enterprises as defined in 49 C.F.R. Part 26 have the opportunity to participate in the performance of contracts/agreements and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all Proposers shall take necessary and reasonable steps in accordance with 49 C.F.R. Part 26 to ensure that disadvantaged business enterprises have the opportunity to compete for and perform contracts/agreements. Proposer shall not discriminate on the basis of race, color, national origin or sex in the performance of this Agreement.

Failure by the Proposer to carry out these requirements is a material breach of the Agreement which may result in the termination of this Agreement or such other remedy as Lebanon Transit deems appropriate.

_____ DATE

_____ SIGNATURE

_____ TITLE

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CERTIFICATE 5 - 2

AFFIDAVIT OF DISADVANTAGED BUSINESS ENTERPRISE (AS NEEDED)

I HEREBY DECLARE AND AFFIRM that I am the _____ and the duly authorized representative of (the firm of) _____

_____ doing business at _____
(include address, city, state and zip code).

I HEREBY DECLARE AND AFFIRM that the above business is: (check as appropriate)

- _____ A firm that is at least 51% owned by one or more individuals who are disadvantaged as defined in 49 C.F.R. Part 26, (D) or
- _____ A corporation in which at least 51% of the stock is owned by one or more disadvantaged individuals as defined in 49 C.F.R. Part 26 (D).

And that such firm or corporation has been organized/incorporated since _____, 20____ and is controlled by one or more individuals defined as disadvantaged in 49 C.F.R. Part 26, (D).

FURTHERMORE, I HEREBY DECLARE AND AFFIRM that I will provide such additional information as requested by Lebanon Transit to document this fact as provided for in 49 C.F.R. Part 26, (D) and (E).

I DO SOLEMNLY DECLARE AND AFFIRM UNDER THE PENALTIES OF PERJURY THAT THE CONTENTS OF THE FOREGOING DOCUMENT ARE TRUE AND CORRECT, AND THAT I AM AUTHORIZED, ON BEHALF OF THE ABOVE FIRM, TO MAKE THIS AFFIDAVIT.

AFFIANT: _____

DATE: _____

On this _____ day of _____, 20____, before me, _____, the undersigned officer, personally appeared _____, known to me to be the person described in the foregoing Affidavit and acknowledged that he/she executed the same in the capacity therein stated and for the purposes therein contained.

In witness thereof, I hereunto set my hand and official seal.

(Notary Public)

My Commission Expires _____ (SEAL)

STATE OF: _____

COUNTY/CITY OF: _____

CERTIFICATE 6

CERTIFICATION OF PARTICIPANTS REGARDING
DEBARMENT, SUSPENSION, AND OTHER INELIGIBILITY AND VOLUNTARY
EXCLUSION

The participant (a potential sub-recipient under an Federal Transit Administration project, a potential third party contractor or a potential subcontractor under a major third party contractor), certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any Federal Department or agency.

If the participant (sub-recipient under a Federal Transit Administration project, a potential third party contractor or a potential subcontractor under a major third party contract) is unable to certify to any of the statements in this certification, such participant shall attach an explanation to this proposal.

THE PARTICIPANT (A POTENTIAL RECIPIENT OR SUB-RECIPIENT UNDER AN FTA PROJECT, A POTENTIAL THIRD PARTY CONTRACTOR OR A POTENTIAL SUBCONTRACTOR UNDER A MAJOR THIRD PARTY CONTRACT) CERTIFIES OR AFFIRMS THE TRUTHFULNESS AND ACCURACY OF THE CONTENTS OF THE STATEMENTS SUBMITTED ON OR WITH THIS CERTIFICATION AND UNDERSTANDS THAT THE PROVISIONS OF 31 U.S.C.. §§3801 *et seq.* ARE APPLICABLE THERETO.

Signature of Authorized Official

Title of Authorized Official

Date

(Applies to contracts/agreements and sub-contracts over \$25,000)

Failure to Complete This Form and Submit With Proposal Will Render the Proposal
Non-Responsive.

CERTIFICATE 7

PROPOSER INFORMATION SHEET

The following information must be provided.

Name of Individual, Partnership or Corporation

Mailing Address

Business Address (if different from mailing address)

Contact Person

Telephone Number

Fax Number

Authorized Person and Title

Signature of Authorized Person and Date

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CERTIFICATE 8
PROPOSAL FORM

In conformity with and acceptance of the specifications and the Proposal documents, including all the clauses attached to this document, the undersigned submits this Proposal and guarantees the validity of same for a period of ninety (90) days after the date hereof. It is understood that this Proposal Form and all attached clauses, specifications and documents constitutes a legal and binding contract/agreement when accepted and signed by the Authority to proceed with the purchase of goods and services intended by this Proposal.

It is hereby certified that the undersigned is the only person(s) interested in this Proposal as principal, and that the Proposal is made without collusion with any person, firm or corporation. Proposer agrees that, if awarded the contract/agreement, Proposer will execute the contract/agreement in accordance with the specification to the complete satisfaction and acceptance of the Authority.

It is understood that the Authority reserves the right to reject any or all proposals or part thereof or items therein and to waive technicalities required for the interest of Lebanon Transit. It is further understood that competency and responsibility of Proposers will receive consideration before the award of the contract and the judgment of Lebanon Transit shall be binding on these considerations. The Proposer agrees that Proposer will not assign the proposal or any Proposer's rights, interest thereunder without the written consent of Lebanon Transit.

THE UNDERSIGNED ACKNOWLEDGES RECEIPT OF THE FOLLOWING
ATTACHMENTS TO THE REQUEST FOR PROPOSAL (RFP)

Signature of Authorized Person

Title and Date

**Failure to Complete This Form and Submit With Proposal Will Render the Proposal
Non-Responsive.**