

**Town of North Hempstead  
Purchasing Division  
Request for Sealed Responses  
*Taxi Services*  
TNH003-2015  
Released on November 16, 2015**



**INVITATION:**

**RESPONSES MUST BE RECEIVED PRIOR TO 11:00 AM ,  
DECEMBER 9, 2015 IN THE DEPARTMENT OF ADMINISTRATIVE  
SERVICES, PURCHASING DIVISION, STATING THE LOWEST PRICES  
FOR WHICH YOU CAN FURNISH THE ARTICLES DESCRIBED HEREIN;  
AND WILL BE PUBLICLY OPENED AT 11:30 AM ON SAID  
DATE IN THE TOWN PURCHASING OFFICE.**

**PURCHASING DIVISION**

**contracts@northhempsteadny.gov**

**220 PLANDOME ROAD  
MANHASSET, NY 11030**

**Tel 516-869-2913, Fax 516-869-2919**

**Please print:**

\_\_\_\_\_ **Name**

\_\_\_\_\_ **Telephone**

\_\_\_\_\_ **Fax**

\_\_\_\_\_ **Email**

## **SECTION I: INTRODUCTION**

The Town of North Hempstead (the “Town”) Department of Services for the Aging (the “Department”) currently operates a program entitled Project Independence. The goal of Project Independence is to foster independent senior living by providing aid in certain areas of life that would otherwise be too difficult for seniors to manage independently.

Under the Project Independence initiative, since 2009, the Department has operated a senior taxi transportation program (the “Program”). The Program furthers the Project Independence goals by providing transportation for food shopping and medical appointments within the geographic boundaries of the Town or on certain occasions in close proximity to the Town’s borders.

Since the Program’s inception until the present, the Town has gathered the following statistics on usage:

29,924 food shopping ride reservations  
1,673 food shopping cancellations  
28,251 net food shopping round trips with 56,502 one-way rides

59,252 medical ride reservations  
5,037 medical ride cancellations  
54,215 net medical round trips with 108,430 one-way rides

The purpose of this solicitation is to locate and evaluate potential providers of transportation services for the Program. Responders must comply with, in addition to the remainder of this solicitation, the requirements of the federal and New York State additional clauses and requirements attached hereto and noted as Exhibits C and D.

Please note that where indicated in this response, the term “assistive devices” shall mean any device that is designed, made, or adapted to assist a person to perform a particular task. For example, canes, crutches, walkers and collapsible wheelchairs are all assistive devices.

## **SECTION II, SERVICE REQUIREMENTS**

The successful responder(s) will provide to Town residents, aged 60 and older, who are members of Project Independence, taxi transportation services to designated food shopping centers, and medical/dental/treatment appointments. In order to be awarded a contract for a specific region, proposers must provide both food shopping transportation services and medical transportation services for that specific region:

### **A. Food Shopping transportation service:**

The successful responder(s) will render services up to two days per week in each specified region between the hours of 10 a.m. and 2 p.m. In the event of inclement weather, the Town reserves the right to alter the days on which and locations where such services will be rendered. Generally, the taxi company will provide taxi cabs and drivers who will remain on-call to provide shopping transportation, and will be paid an hourly rate for the time such services were actually performed. In order to provide the service, the provider will generally need to provide two (2) taxicabs and drivers for the time period. As such, proposers must assure that two (2) taxicabs are available to provide services during the times stated above, provided, however, that the Town will pay only for such time the successful responder actually performs the service. The Commissioner of the Department may authorize the use of more taxicabs, based upon an increasing number of service requests on a given day. During the time period, the taxi driver shall drive the residents from their homes to the designated food shopping locations and return the residents to their homes. Any support person will travel with the resident at no additional cost. Should the resident use an assistive device such as a wheelchair or walker, which collapses, the agency will determine an appropriate means of transporting the device without unnecessary delay or hardship to the client. Responders will not use vehicles that are difficult for aging residents to enter and exit, including, but not limited to, vans, sport utility vehicles, or trucks for these services. Procedures for the operation of the taxi shopping program are attached (Exhibit A of this document) for the information of the responder.

The responder(s) may respond to provide food shopping transportation services as above in one or more of the Project Independence regions within the Town of North Hempstead:

- Region 1 – New Hyde Park, Garden City Park, Herricks, Manhasset Hills areas;
- Region 2 – Great Neck, Lake Success areas;
- Region 3 – Manhasset area;
- Region 4 – Port Washington area;
- Region 5 – Roslyn area;
- Region 6 – Westbury, Carle Place areas; and
- Region 7 – Mineola, Williston Park areas, including Searingtown, Albertson, East Williston.

Note, however, that a responder may be called upon to provide service in a region other than the region(s) that such company would otherwise provide service. This “out of region” service will be assigned on an as-needed basis, subject to the responder’s availability.

Responders must be taxi companies licensed by the Town of North Hempstead or by a municipality within the Town.

Responders must ensure a quick response to service requests. The Town will award contracts based on the above-listed Regions, therefore proposals may provide pricing based on individual regions, grouped regions, or for all regions.

The contract will be valid from the commencement date listed in the contract (which is estimated to be January 1, 2016) and will extend for one (1) year. The term may be extended by the Town for up to (2) two additional periods of (1) one year with the same terms and conditions, including price.

**The responder(s) will submit a response(s) with an hourly rate that will be paid to the successful responder for services actually performed.**

### ***B. Medical Transportation Service:***

The successful responder(s) will provide round-trip taxi transportation to non-emergency medical, dental and treatment appointments located within the geographic borders of the Town and to Nassau University Medical Center in East Meadow as well as to medical providers in Garden City and the DeMatties Center in Greenvale. Should the Department decide that there is substantial demand for medical transportation to other locations within Nassau County, those locations may be added to the program at a later date during the contract period.

The successful responder(s) will provide services Monday through Sunday in designated service areas on an as needed basis. The taxi driver will pick up residents at their homes and drive them to the medical appointment. Any support person will travel with the resident at no additional cost. Should the resident use an assistive device such as a wheelchair or walker, which collapses, the agency will determine an appropriate means of transporting the device without unnecessary delay or hardship to the client. After the appointment, the resident will call the company to arrange for the return trip. Responders will not use vehicles that are difficult for aging residents to enter and exit, including but not limited to, vans, sport utility vehicles, or trucks, for providing services. Procedures for the operation of the taxi program are attached (Exhibit B on page 16 of this document) for the information of the responder.

3- The responder must agree to accept **the greater of \$3.50 or the applicable Medicaid rate plus 20% per one-way trip.** For reference purposes, a grid showing the applicable PI Medical Transportation rate per one way trip is attached hereto as Exhibit E. The rider will pay one half of that rate at the time of service and the Town will pay the other half, upon being billed by the company. Please note that this program is not a Medicaid program and the Medicaid rates are used merely as guide.

4- The responder(s) may respond to provide medical transportation services as above in one or more of the Project Independence regions within the Town of North Hempstead:

Region 1 – New Hyde Park, Garden City Park, Herricks, Manhasset Hills areas;  
Region 2 – Great Neck, Lake Success areas;  
Region 3 – Manhasset area;  
Region 4 – Port Washington area;  
Region 5 – Roslyn area;  
Region 6 – Westbury, Carle Place areas; and  
Region 7 – Mineola, Williston Park areas, including Searingtown, Albertson, East Williston.

Note, however, that a responder may be called upon to provide service in a region other than the region(s) that such company would otherwise provide service. This “out of region” service will be assigned on an as-needed basis, subject to the responder’s availability.

Responders must be taxi companies licensed by the Town of North Hempstead or by municipalities within the Town.

The Town will award contracts based on the above-listed Regions, therefore proposals may provide pricing based on individual regions, grouped regions, or for all services.

5- The contract will be valid from the commencement date listed in the contract (which is estimated to be January 1, 2016) and will extend for one (1) year. The term may be extended by the Town for (1) one or (2) two additional periods of (1) one year with the same terms and conditions, including price.

**The responder(s) will submit a response(s) indicating the regions in which they propose to provide the medical transportation service and their agreement to the cost structure stated above.**

### **SECTION III: GENERAL CONDITIONS**

#### **Questions**

Any inquiries concerning this RFP must be by email and should be addressed in writing to Maria Gomes, Procurement Coordinator at [contracts@northhempsteadny.gov](mailto:contracts@northhempsteadny.gov). All inquiries must bear the RFP number assigned to this RFP, and received by 11/24/2015, noon time. Answers to questions will be provided via an amendment to this RFP and will be posted on the Town’s website by 11/26/2015, noon time.

#### **Model Contract**

East successful responder will be required to enter into the Model Contract with the Town, which Model Contract is included in the solicitation as Section VIII. The Model Contract will include (in addition to the terms contained in the Model Contract) the terms and conditions listed in this solicitation, the state and federal clauses attached as Exhibits C and D and all other contents of this solicitation.

## **General Response Terms and Conditions**

*All responses are subject to the following terms and conditions.*

- All responses must be for services listed in this response unless otherwise instructed.
- Responses are to include all vehicles and necessary peripheral equipment to provide safe and timely services.
- Materials and supplies necessary to meet services but not included in responders proposal will be provided at the responders expense unless otherwise agreed upon.
- If the responder certifies that the response is made without any established agreements with other responders, then it is in all respects fair and without collusion or fraud.

## **Interpretation of Response Documents**

- If any responder is unsure of, or has any reservations about, the precise and true meaning of any written material contained within this solicitation, or finds apparent discrepancies therein, or possible omissions therefrom, he shall promptly submit to the Commissioner of the Department of Administrative Services, a written request, fully describing the material in question, for an interpretation, explanation or revision thereto. The response to each request for clarification will be made only by an Addendum to this solicitation. When issued, each addendum will be emailed to each person or firm that so requests them. Neither the Town nor the Commissioner of Administrative Services may be held responsible or liable for any other explanations or interpretations of this solicitation.

## **Addendum to Response Documents**

- Any addendum issued shall become an integral part of this solicitation and shall be incorporated in the responder's proposal. All addenda shall be acknowledged in the Proposal, by entering the title, date and signature of the person signing the Proposal.

## **Modifications to Response Documents**

- Proposals shall not take exception to, or request modifications for, any item of work described in this solicitation. Proposals shall not contain any recapitulation of the work to be performed. Oral proposals will not be considered.

## **Surety:**

- In the event that an award is made, the Town reserves the right to request successful responders to post within one week a performance bond of one hundred percent of the amount of the award for security reasons. It shall be understood that the whole or any part of the response may be used by the Town of North Hempstead, to supply for any default on the part of the responder. Such bonds must meet all the requirements of the Town Attorney.

## **Award:**

- The Town, prior to award, reserves the right to investigate whether the responder meets all qualifications, or facilities set forth herein and whether they are ample and sufficient to insure the proper performance in the event of an award. The responders must be prepared, if requested by the Town, to present evidence of experience, ability and financial standings. In addition, they must prepare a statement of plans and equipment capable of meeting service needs on which he or she is responding.
- Upon request of the Town, a successful responder shall file certification including: relative authorization, delivery, service and guarantees. If it is found that the conditions of the response (as stated above) are not complied with, then the Town may reject the response.
- It is distinctly understood, however, that it is no obligation of the Town to make any examinations before award. It shall further be understood that if such an examination is made, it in no way relieves the responder from fulfilling all requirements and conditions of the response.
- Awards will be based on the criteria established and shown in Section V herein.
- The Town reserves the right to judgment, to reject any and all responses in whole or in part to the technical defects, irregularities and omissions in order to serve the best interests of the Town.
- Unless otherwise indicated herein, the Town reserves the right to make awards by items, classes or by groups of items, part of the whole.

**Guarantees by Responder:**

- *The Responder hereby guarantees:*
  - o To keep the Town, its agents and employees from liability of any nature from the use of any copyrighted composition, secret process, patented or unpatented invention, article or application furnished or used in the performance hereof which the responder is not patentee or assignee or licensee.
  - o To keep its products against defective material or workmanship and to repair or replace any damages occurred in transit.
  - o To supply adequate protection from damage for all work and to repair damages of any kind, for which his or her employees are responsible, to the building or equipment, to his own work or to the work of other vendors.
  - o To pay all permits, licenses and fees, as well as give all notices and comply with all laws and ordinances of the City, Village or Town in which the installation is to be made, and of the County of Nassau and the State of New York.
  - o To carry proper insurance to protect the Town from loss in case of accident, fire or theft. Insurance requirements are listed in this solicitation. A certificate of insurance must be provided by each responder. Insurance requirements are shown in the Model Contract.
  - o To keep fully informed of all municipal ordinances and regulations, State and National laws in any manner affecting the work or goods herein specified. Any extra work contracted by the responder, shall at all times observe and comply with said ordinances, laws and regulations, including all provisions of the workman's

compensation and labor laws. They shall indemnify and keep harmless the Town of North Hempstead, its officers and agents against any claim or liability arising from it based on violation of any such laws, ordinances or regulations.

Indemnification requirements are shown in the Model Contract.

**Town Conduct:**

- The Town of North Hempstead has adopted a Code of Ethics compliant with the New York State General Municipal Law. In all aspects of the solicitation and receipt of responses with regard to this solicitation, the review of such response, the award of contracts to selected responders and the administration and management of contracts, the Town will abide by the provisions of the Code. Vendors may receive a copy of the Code by contacting the individual listed in Section IV below or may view the Code at <http://ecode360.com/NO0081>.

**Tax Exemption:**

- Purchases by the Town of North Hempstead, a political subdivision of the State of New York, are exempt from Federal and State or Excise taxes. Accordingly, responders shall not include these taxes in the response price. Exemption certificates shall be furnished upon request.

**Disadvantaged Business Enterprise (DBE) Requirements:**

- Contracts awarded in response to this solicitation will be funded by a grant from the New York State Department of Transportation (NYSDOT), which grant is funded with monies received from the United States Federal Transit Administration. NYSDOT has set a DBE participation goal of 3.1% in all of its federally-funded grant programs. As a subrecipient of federal funds, the Town is required to make “good faith efforts” to encourage DBE participation in its federal-funded projects, The Town is also required to assure that its contractors, in the event that subcontractors are retained, also make such “good faith efforts” to achieve DBE participation in subcontracting opportunities.

As such, respondents, if awarded a contract, must agree to facilitate participation of DBEs in its subcontracting opportunities and assure that any of its subcontractors facilitate DBE participation in its subcontracting opportunities. Requirements with regard to DBE participation are included in the required federal clauses included in Exhibit E attached to this solicitation.

**Waiver of Immunity:**

- The Responder hereby agrees to the provisions of Sections 139a and 139b of the New York State Finance Law which require that upon the refusal of a person, when called before a grand jury, head of a State department, temporary State commission or other State agency, or the organized crime task force in the Department of Law, head of a Municipal Department or other Municipal Agency, which is empowered to compel the

attendance of witnesses and examine them under oath, to testify in an investigation, concerning any transaction or contract had with the State, any political subdivision thereof, a public authority or with any public department, agency or official of the State or of any political subdivision thereof or of a public authority, to sign a waiver of immunity against subsequent criminal prosecution or to answer any relevant question concerning such transaction or contract.

1. Such person, and any firm, partnership or corporation of which he is a member, partner, director or officer shall be disqualified from thereafter selling to or submitting responses to or receiving awards from or entering into any contracts with the Town or any public department, agency or official thereof, for goods, work or services, for a period of five years after such refusal; and
2. Any and all contracts made with the Town or any public department, agency or official thereof, since the effective date of this law, by such person, and by any firm, partnership or corporation of which he is a member, partner, director or officer may be canceled or terminated by the Town without incurring any penalty or damages on account of such cancellation or termination, but any moneys owing, by the Town for goods delivered or work done prior to the cancellation or termination shall be paid.

**Specifications:**

- Responses submitted hereunder shall be in accordance with detailed specifications set forth herein. If services offered differ from provisions contained in specifications or in response sheets, then such differences must be explained in detail in writing and must be submitted along with the response. Such responses will receive careful consideration; however such services must abide by specifications set forth in the response form.

**Trade Customs:**

- There shall be no inferences to trade customs, terms, discounts or conditions on sale applicable, which are not specifically expressed in the specifications and proposals on which the award is based or contrary to the state finance law.

**Assignment:**

- The Responder represents that it will not assign the contract arising from the award of this solicitation without the prior written consent of the Town.

**Equal Employment Opportunities for Minorities, Women and Military Personnel:**

- The Town of North Hempstead recognizes the need to take affirmative action to ensure that Minority Women owned business enterprises and minority and women employees

and principals are given the opportunity to participate in the performance of contracts of the Town of North Hempstead. This opportunity for full participation in our free enterprise system by persons traditionally, socially, economically disadvantaged is essential to obtain social and economic equality.

The Town of North Hempstead promotes the participation of each individual and business firms in contracts of this Office. The Town also prohibits discrimination on military status.

**Nondiscrimination Clause:**

- *During the performance of this contract, the responder agrees as follows:*
  - o The hiring of employees for performance of work under this contract or any subcontract hereunder assures all individuals right to employment without discrimination. No responder, subcontractor to the responder or any person acting in behalf of a responder or subcontractor has any reason to discriminate against any citizen of the State of New York, based on race, creed, color, disability, sex, marital status or national origin. As long as such a person is qualified and available to perform the work to which the employee relates, he or she is equally qualified for their job of desire.
  - o Any violation of the provisions outlined in this contract or any act of discrimination against an individual will be charged against the responder. Under this contract, a penalty of five (\$5) dollars for each person per calendar day for whom the responder discriminated against may be deducted from the amount payable to the responder by the Town of North Hempstead.
  - o This contract may be canceled or terminated by the Town of North Hempstead and all monies due or to become hereunder may be forfeited.

**Protest Policy:**

- A responder may file a protest regarding this solicitation solely for the following allegations: that an action of the Town relating to this solicitation was arbitrary and capricious or that such action violated and applicable law, rule or regulation.
- A protest must be filed with the Commissioner of Administrative Services at 220 Plandome Road, Manhasset, New York 11030.
- The protest must be filed no later than five (5) calendar days after the action being protested occurred. In no event may a protest be filed after the date and time for the receipt of proposals stated in this solicitation
- Upon receipt of a protest, the Commissioner of Administrative Services shall
  - o Open a file with regard to the protest
  - o Investigate the circumstances of the action protested
  - o Within ten (10) days of receipt of the protest, respond to the protestor with the Commissioner's decision as to whether to take action in response to the protest
- If the Commissioner finds that the protest is founded, the Commissioner may take the following actions:

- If the date for the receipt of responses has passed, cancel the solicitation or reopen the solicitation for further responses after amendment of the solicitation to remedy the situation from which the protest arose.
  - If the date for the receipt of responses has not passed, amend the solicitation to remedy the situation from which the protest arose.
- If the protestor disagrees with the determination of the Commissioner, the protestor may appeal the Commissioner's decision to the Town Attorney, 220 Plandome Road, Manhasset, New York 11030.
  - Such appeal shall be filed with the Town Attorney no later than ten (10) days after the date of the Commissioner's response to the protest.
  - Upon receipt of the appeal, the Town Attorney shall review the Commissioner's protest file.
  - Within ten (10) days of the receipt of the protest, the Town Attorney shall either deny or grant the appeal.
  - If the appeal is granted, the Town Attorney may take the following actions:
    - If the date for the receipt of responses has passed, direct that the Commissioner cancel the solicitation or direct the Commissioner to reopen the solicitation for further responses after amendment of the solicitation to remedy the situation from which the protest arose.
    - If the date for the receipt of responses has not passed, direct the Commissioner amend the solicitation to remedy the situation from which the protest arose.
  - The Town Attorney's determination shall be final.
- The filing of a protest shall not stay the procurement process, unless the Commissioner of Administrative Services specifically finds that the interests of the Town are best served by staying the procurement process.

## **SECTION IV, RESPONSE REQUIREMENTS**

All responses to this solicitation must be received by the Town by 11:30 A.M. on **November 30, 2015**. Solicitations received after that date and time will not be considered and will be returned unopened.

In order to be considered responsive, all responses must contain the following materials:

1. Narrative response demonstrating compliance with the requirements stated in this solicitation, including, but not limited to, a statement that the responder agrees to comply with the terms of the Model Contract attached in Section VIII and the State and Federal Clauses included in Exhibits C and D.
2. Signed certifications contained in Exhibit D.
3. Completed Responder's Qualification Statement included as Section VI herein
4. Completed Cost Proposal in Section VII herein

Each responder's Cost Proposal contained in Section VII should be contained in a separate sealed envelope separate from the Responder's narrative response and Qualifications Statement

The completed proposal should be sent to the following address in a sealed envelope marked "Solicitation: Taxi Services":

Maria Gomes, Procurement Coordinator  
Town of North Hempstead  
220 Plandome Road  
Manhasset, New York 11030

## **SECTION V, EVALUATION CRITERIA**

All responses submitted in response to this solicitation will be evaluated by members of the Town. The Town will use the following criteria in evaluating each proposal:

1. Responder's compliance with the requirements listed in this solicitation, based on the Responder's technical proposal, which shall include, but will not be limited to, consideration of the responder's accident rate, technical safety records, car availability and compliance with the Americans with Disabilities Act (thirty percent (30%) of total score)
2. Responder's demonstrated ability to provide timely services (fifteen percent (15%) of total score)
3. Responder's experience in providing the type of service described in this solicitation (fifteen percent (15%) of total score)

4. Responder's cost proposal (forty percent (40%) of total score)

## SECTION VI. RESPONDER'S QUALIFICATION STATEMENT

### INSTRUCTIONS:

The Responder's Qualifications Statement consists of the following documents:

1. Statement of Understanding;
2. Disclosure Form;
3. Noncollusive Proposal Certification;
4. Certification of Insurance (*to be completed by an authorized insurance agent*);  
and
5. Acknowledgement of Receipt of Addenda Form.

Please complete **ALL FIVE** forms and submit with the Response/Proposal.

**THE TOWN RETAINS THE ABSOLUTE RIGHT TO REJECT ANY RESPONSE/PROPOSAL THAT FAILS TO INCLUDE COMPLETE AND ACCURATE ORIGINALS OF ALL FOUR FORMS INCLUDING ALL APPROPRIATE ACKNOWLEDGMENT(S) AND BEARING THE SIGNATURE OF A NOTARY PUBLIC.**

**STATEMENT OF UNDERSTANDING**

By signing in the space provided below, the undersigned certifies, under penalty of perjury, as follows:

1. I am duly authorized to submit this Proposal on behalf of the below listed sole proprietorship/company/partnership/corporation.
2. That he/she has read and understands all terms and conditions pursuant to this solicitation.
3. That he/she has the capacity to and will abide by all terms and conditions pursuant to this solicitation.
4. That he/she agrees to accept payment in accordance with the requirements of the solicitation; and
5. That he/she agrees that the proposed submitted to the Town shall be irrevocable and that he/she will, if his/her proposal is accepted, enter into a retainer agreement with the Town of North Hempstead pursuant to the terms and conditions set forth in the solicitation.
6. That he/she certified that his/her sole proprietorship/company/partnership/corporation will carry all types of insurance specified in the contract.

The undersigned further stipulates that the information in this Proposal is, to the best of its knowledge, true and accurate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Responder

\_\_\_\_\_  
Title of Person Signing

Sworn to and subscribed on  
this \_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
(Notary Public)

## DISCLOSURE FORM

*The signatory of this questionnaire certifies under oath the truth and correctness of all Statements and of all answers to interrogatories hereinafter made.*

### **Provide answers to each of the following and supporting documentation, where necessary:**

1. **Adverse Equal Opportunity Determinations**: Identify all adverse determinations against your Company/Corporation/Partnership, or its employees or persons acting on its behalf, with respect to actions, proceedings, claims or complaints concerning violations of state, Federal or municipal equal opportunity laws or regulations.
  
2. **Convictions and Unscrupulous Practice**: Has your Company/Corporation/Partnership, or any of its employees present or past, or anyone acting on its behalf, ever been cited for unscrupulous practice, or been convicted of any crime or offense arising directly or indirectly from the conduct of your Company/Corporation/Partnership's business, or has any of your Company/Corporation/Partnership's officers, director or persons exercising substantial policy discretion ever been convicted of any crime or offense involving business/financial misconduct or fraud? If so, describe the convictions and surrounding circumstances in detail.
  
3. **Pending or Threatened Actions/Suits**: Describe any past or present action, suit, proceeding or investigation pending or threatened against your Company/Corporation/Partnership including, without limitation, any proceeding known to be contemplated by government authorities, private parties, or current or former clients.
  
4. **Criminal Misconduct**: Has your Company/Corporation/Partnership, or any of its employees, or anyone acting on its behalf, been indicted or otherwise charged in connection with any criminal matter arising directly or indirectly from the conduct of your Company/Corporation/Partnership's business which is still pending, or has any of the Company/Corporation/Partnership's officers, directors or persons exercising substantial policy discretion been indicted or otherwise charged in connection with any criminal matter involving business or financial misconduct or fraud which is still pending? If so, describe the indictments or charges and surrounding circumstances in detail.
  
5. **Conflicts of Interest**: disclose any of the following, and describe any procedures your Company/Corporation/Partnership has, or would adopt, to assure the Town that a conflict of interest would not exist in the future):

(a) Any material financial relationships that your Company/Corporation/Partnership or any Company/Corporation/Partnership employee has that may create a conflict of interest or the appearance of a conflict of interest in contracting with or representing the Town.

(b) Any family relationship that any employee of your Company/Corporation/Partnership has with a member, employee, or official of the Town or that may create a conflict of interest or the appearance of a conflict of interest in contracting with or representing the Town.

(c) Any other matter that your Company/Corporation/Partnership believes may create a conflict of interest or the appearance of a conflict of interest in contracting with or representing the Town.

6. **Financial Disclosure:** Submit with this Disclosure Statement Form, any one of the following three items:

- (a) a financial statement, prepared on an accrual basis, in a form which clearly indicates: Proposer's (1) assets, liabilities and net worth; (2) date of financial statement; and (3) name of firm preparing statement.
- (b) a letter of credit reference from a recognized bank or financial institution; or
- (c) a certified copy of a credit report from a recognized credit bureau, such as Dun and Bradstreet or TRW.

**THE TOWN RETAINS THE ABSOLUTE RIGHT TO REJECT ANY PROPOSAL THAT FAILS TO INCLUDE COMPLETE DISCLOSURE STATEMENT FORM.**

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(Signature, if Individual)

By: \_\_\_\_\_ (Seal, if corporation)  
(Signature)

Print Name: \_\_\_\_\_  
(Legal Business Name of Company/Partnership/Corporation)

Print Title: \_\_\_\_\_

**[MANDATORY AFFIDAVIT(S) AND ACKNOWLEDGMENT APPEARS ON FOLLOWING PAGE]**

-----**(Affidavit for Individual)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that: a) he/she is an authorized representative of the Responder/Proposer; b) he/she has read all statements and answers to this DISCLOSURE STATEMENT FORM, including the attached letter of credit/certified copy of credit report or financial statement submitted pursuant to interrogatory number 7 Financial Disclosure; c) the attached letter of credit/certified copy of credit report or financial statement, taken from his/her books, is a true and accurate statement of his/her financial condition as of the date thereof; and b) all of the foregoing qualification information is true, complete, and accurate.

-----**(Affidavit for Partnership)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that: a) he/she is a member of the partnership of \_\_\_\_\_, b) he/she has read all statements and answers this DISCLOSURE STATEMENT FORM, including the attached letter of credit/certified copy of credit report or financial statement submitted pursuant to interrogatory number 7 Financial Disclosure; c) he/she is familiar with the books of said partnership showing its financial condition; c) the attached letter of credit/certified copy of credit report or financial statement, taken from the books of said partnership, is a true and accurate statement of the financial condition of the partnership as of the date thereof; and d) all of the foregoing qualification information is true, complete and accurate.

-----**(Affidavit for Corporation)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that: a) he/she is \_\_\_\_\_ of \_\_\_\_\_ (Full Legal Name of Corporation); b) he/she has read all statements and answers this DISCLOSURE STATEMENT FORM, including the attached letter of credit/certified copy of credit report or financial statement submitted pursuant to interrogatory number 7 Financial Disclosure; c) he/she is familiar with the books of said corporation showing its financial condition; c) the attached letter of credit/certified copy of credit report or financial statement, taken from the books of said corporation, is a true and accurate statement of the financial condition of said corporation as of the date thereof; and d) that all of the foregoing qualification information is true, complete and accurate.

-----**(Acknowledgement)**-----

\_\_\_\_\_ being duly sworn, deposes and says, under penalty of perjury, that he/she is \_\_\_\_\_ of \_\_\_\_\_ (Name of Responder) that he/she is duly authorized to make the foregoing affidavit and that he/she makes it on behalf of ( ) himself/herself: ( ) said partnership; ( ) said corporation.

Sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, in the County of \_\_\_\_\_, State of \_\_\_\_\_.

\_\_\_\_\_  
\_\_\_\_\_

My commission expires:

(Notary Public)

**NONCOLLUSIVE PROPOSAL CERTIFICATION**

By submission of this proposal, each proposer and each person signing on behalf of any proposer certifies, and in the case of a joint response each party thereto certifies as to its own organization, under penalty of perjury, that to the best of knowledge and belief:

- (1) The prices in this proposal have been arrived at independently without collusion, consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with any other proposer or with any competitor;
- (2) Unless otherwise required by law, the prices which have been quoted in this proposal have not been knowingly disclosed by the proposer and will not knowingly be disclosed by the proposer prior to opening, directly or indirectly, to any other proposer or to any competitor; and
- (3) No attempt has been made or will be made by the proposer to induce any other person, partnership or corporation to submit or not to submit a proposal for the purpose of restricting competition.

I, hereby certify under the penalties of perjury that the foregoing statement is true.

By:

Proposer's Signature	Date
Print Name	Title
Legal Name of Individual or Business Name of Company/Partnership/Corporation	Proposer's Federal Tax Identification # (Do Not Use SS#)
Address	Email Address

**[MANDATORY ACKNOWLEDGMENT APPEARS ON FOLLOWING PAGE]**



**INSURANCE CERTIFICATION**

**TO BE COMPLETED BY AN AUTHORIZED INSURANCE AGENT**

**INSTRUCTIONS:**

Please complete this Insurance Certification and attach copies of proof of insurance as follows:

- (a) **Commercial General Liability/Automobile Liability:** ACCORD-25 FORM.
- (b) **Worker's Compensation:** Certificates or affidavits approved by the State Workers' Compensation Board pursuant to State Workers' Compensation Law § 57 (2) evidencing proof of workers' compensation insurance *or* proof of Responder not being required to secure same.
- (c) **Disability Benefits Insurance:** Certificates or affidavits approved by the State Workers' Compensation Board pursuant to State Workers' Compensation Law § 220 evidencing proof of disability benefits insurance *or* proof of Responder not being required to secure same.
- (d) **Professional Liability Insurance**

*This form and all supporting documentation must be submitted with this Proposal even if said information is on-file with the Town in connection with another response, project or contract.*

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(Name and Address of Responder)

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Name of RFP: \_\_\_\_\_ RFP Number: \_\_\_\_\_

(1) Commercial General Liability with completed operations (plus X.C.U. when applicable), to which the Town of North Hempstead has been added as additional insured, and Automobile Liability: \$ 2,000,000.00 Combined single limit (bodily and personal injury/property damage).

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(2) Worker's Compensation:

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(3) Disability Benefits Insurance:

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(4) Professional Liability Insurance:

Insurance Carrier: \_\_\_\_\_ Policy Number(s): \_\_\_\_\_

(5) The above insurance is effective with New York State admitted insurance companies, and is A rated or equivalent to A rated.

(6) Policy cancellation or non-renewal shall be effective only upon thirty (30) days prior notice by certified mail to:

*Town of North Hempstead, Office of the Town Attorney, 220 Plandome Road, P.O.B. 3000, Manhasset, New York 11030*

Authorized Insurance Agent's Signature and Title:

---

Name, Insurance Affiliation and Address:

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Dated \_\_\_\_\_

**ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM**

The responder hereby acknowledges that he/she has received and that he/she has considered in the preparation of his/her responses, all requirements in the following Addenda to this Response/Proposal/Contract:

**Note:** This acknowledgement shall be signed by the person executing the Statement of Understanding. Insert additional pages, as necessary.

ADDENDUM NUMBER	DATE OF ADDENDUM	ACKNOWLEDGEMENT

<input type="checkbox"/> <b><u>NO ADDENDUM</u> WAS RECEIVED IN CONNECTION WITH THIS PROPOSAL.</b> <b>ACKNOWLEDGEMENT:</b> _____
--

***IMPORTANT NOTICE:***  
**THIS FORM MUST BE COMPLETED AND SUBMITTED BY ALL PROPOSERS. IF NO ADDENDA ARE RECEIVED, CHECK THE “NO ADDENDUM” BOX ABOVE AND SIGN THE ACKNOWLEDGMENT.**

**THE TOWN RETAINS THE ABSOLUTE RIGHT TO REJECT AND PROPOSAL THAT FAILS TO INCLUDE THIS ACKNOWLEDGEMENT OF RECEIPT OF ADDENDA FORM**

**SECTION VII  
COST PROPOSAL**

For each Region in which the Proposer proposed to provide services, please indicate the hourly cost, per car, per driver, for actual time spent providing Shopping Transportation Services and initial to indicate the Proposer's agreement to the cost structure for providing Medical Transportation Services (Proposers must both propose a fee for Shopping Transportation Services and agree to the cost structure for Medical Transportation Services in order to be awarded the Region):

Region 1:

Shopping Transportation Service: Hourly Rate, per car, per driver:  
\_\_\_\_\_ for actual time spent providing the services

Medical Transportation Service: T The greater of \$3.50 or PI Medical Transportation Rate per one-way trip: \_\_\_\_\_ (indicate agreement by initialing)

Region 2:

Shopping Transportation Service: Hourly Rate, per car, per driver:  
\_\_\_\_\_ for actual time spent providing the services

Medical Transportation Service: The greater of \$3.50 or PI Medical Transportation Rate per one-way trip: \_\_\_\_\_ (indicate agreement by initialing)

Region 3:

Shopping Transportation Service: Hourly Rate, per car, per driver:  
\_\_\_\_\_ for actual time spent providing the services

Medical Transportation Service: The greater of \$3.50 or PI Medical Transportation Rate per one-way trip: \_\_\_\_\_ (indicate agreement by initialing)

Region 4:

Shopping Transportation Service: Hourly Rate, per car, per driver:  
\_\_\_\_\_ for actual time spent providing the services

Medical Transportation Service: The greater of \$3.50 or PI Medical Transportation Rate per one-way trip: \_\_\_\_\_ (indicate agreement by initialing)

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Region 5:

Shopping Transportation Service: Hourly Rate, per car, per driver:  
\_\_\_\_\_ for actual time spent providing the services

Medical Transportation Service: The greater of \$3.50 or PI Medical Transportation Rate  
per one-way trip: \_\_\_\_\_ (indicate agreement by initialing)

Region 6:

Shopping Transportation Service: Hourly Rate, per car, per driver:  
\_\_\_\_\_ for actual time spent providing the services

Medical Transportation Service: The greater of \$3.50 or PI Medical Transportation Rate  
per one-way trip: \_\_\_\_\_ (indicate agreement by initialing)

Region 7:

Shopping Transportation Service: Hourly Rate, per car, per driver:  
\_\_\_\_\_ for actual time spent providing the services

Medical Transportation Service: The greater of \$3.50 or PI Medical Transportation Rate  
per one-way trip: \_\_\_\_\_ (indicate agreement by initialing)

Subject to requests for “out of region” service. Successful responders providing such “out of region” service will be paid the rate that would have otherwise been paid to the company that would normally service such region.

The undersigned further stipulates that the information in this attachment and the proposer’s fee proposal is, to the best of its knowledge, true and accurate.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Proposer

Sworn to and subscribed on  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

\_\_\_\_\_  
Title of Person Signing

\_\_\_\_\_  
(Notary Public)

**SECTION VIII  
MODEL CONTRACT**

**THIS AGREEMENT** made as of this \_\_\_\_ day of \_\_\_\_\_, 2015 (together with all schedules, appendices, attachments and exhibits attached hereto, if any, collectively referred to as the “Agreement”), by and between the **TOWN OF NORTH HEMPSTEAD** (the “Town”), a municipal corporation duly organized and validly existing under the laws of the State of New York (the “State”), with its principal office located at 220 Plandome Road, Manhasset, New York 11030, and \_\_\_\_\_, (known as the “Contractor”), having its principal place of business at \_\_\_\_\_ (the Town and the Contractor are hereinafter jointly referred to as the “Parties,” and each is, severally, a “Party”).

**WITNESSETH:**

**WHEREAS**, in 2009, the Town through its Department of Services for the Aging (the “Department”) Project Independence program began providing senior taxi transportation to food shopping and non-urgent medical appointments within the geographic boundaries of the Town or on certain occasions, in close proximity to the Town’s borders (the “Original Program”); and,

**WHEREAS**, the goal of Project Independence is to foster independent living of senior citizens by providing aid in certain areas of life that would otherwise be too difficult for them to manage independently; and,

**WHEREAS**, the Town subsequently applied for and received a grant under the New Freedom program from the New York Metropolitan Transportation Council, which is funded by the Federal Transportation Administration and administered by the New York State Department of Transportation (the “Agency”) to provide resources in furtherance of the Project Independence senior taxi transportation program (the “Grant”), upon terms set forth in the Grant agreement on file in the Office of the Town Clerk; and,

**WHEREAS**, in connection with the Grant, the Town issued a solicitation on \_\_\_\_\_ to receive responses from qualified proposers to transport residents of the Town ages 60 years and over who are registered with Project Independence to medical appointments and designated food shopping locations within the geographic boundaries of the Town or on certain occasions, in close proximity to the Town’s borders (the “Program”); and,

**WHEREAS**, pursuant to a resolution of the Town Board duly adopted at its meeting held on \_\_\_\_\_, the Town Board awarded bids to the Contractor to provide taxi transportation services in connection with the Program and authorized execution of an agreement to effectuate the foregoing.

**NOW, THEREFORE**, in consideration of the mutual terms, conditions, covenants and agreements contained in this Agreement, the parties agree as follows:

**1. The Services**

The Contractor shall provide Town residents, aged 60 years and over who are members of Project Independence with taxi transportation services to medical appointments and designated food shopping locations within the geographic boundaries of the Town or on certain occasions, in close proximity to the Town's borders in accordance with Exhibit A (a copy of Town solicitation No. TNH\_\_\_-2015) and Exhibit B (the Contractor's response to the solicitation), which exhibits are attached hereto and made a part hereof (the "Services"). In the event of conflict between the terms contained in Exhibit and those found in the enumerated Section 1 through 19 of this Agreement, the terms of Sections 1 through 19 shall control. In the event of a conflict between the terms contained in Sections 1 through 19 of this Agreement and Exhibits C and D contained in Exhibit A, Exhibits C and D shall control.

**2. Term**

The term of this Agreement shall commence upon January 1, 2016 and expire December 31, 2016. Thereafter, the Town shall have the option to renew the Agreement twice, with the same terms and conditions, including price, for one additional year each time, for a possible total term of three years, subject to the Town's right of early termination as outlined in Section 4 of the Agreement. The option shall be considered exercised by the Town upon mailing written notice to the Consultant.

**3. Contract Amount**

- (a) In consideration of the Contractor's performance of the Services, the Town agrees to pay Contractor an amount not to exceed rate provided in the bid response (the "Contract Amount"), as set forth in Exhibit B.
- (b) Procedure for Submission of a Claim. Payments of the Contract Amount shall be made to the Contractor in arrears and shall be expressly contingent upon: (I) the Contractor submitting a claim (the "Claim") in a form satisfactory to the Town, and (ii) review, approval and audit of the Claim by the Town and/or the Comptroller. Drawdowns for the payment of eligible expenses shall be made against the activities specified herein and in accordance with applicable performance requirements, documentation submission requirements, and the Approved Budget. All Claims shall be submitted in duplicate to:

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Commissioner of the Department of Services for the Aging  
Town of North Hempstead  
Clinton G. Martin Park Administration Building  
1601 Marcus Avenue  
New Hyde Park, New York 11040

- (c) Form of Claim. All claim forms shall: (I) state with reasonable specificity the Services provided and the payment requested as consideration for such Services; (ii) certify that the Services rendered and the payment requested are in accordance with the terms of this Agreement; and (iii) be accompanied by documentation satisfactory to the Town supporting the amount claimed, including any documentation that Town, state, and/or federal department or agency may require for reimbursement under the Grant.
- (d) Timing of Payment Claims. The Contractor shall submit claims on a monthly basis. Any Claims submitted in violation of this Section shall not be payable by the Town, and the Contractor hereby expressly waives any and all rights thereto.
- (d) No Duplication of Payments. Payments for the Services shall not duplicate payment for any Services or other work performed or to be performed under any other agreement made between the Contractor and any funding source, including, but not limited to, funds received from the Town and revenues derived from activity fees.

**4. Termination**

The Town reserves the absolute right to terminate the Services of the Contractor at any time by service of a written notice sent by certified mail to the address set forth above. The Town will be responsible for payment of any portion of the Services completed prior to termination and satisfactory to the Town's Comptroller.

**5. Amendments**

This Agreement may only be amended or modified by written agreement duly executed by the Parties.

**6. Independent Contractor**

The Contractor is an independent contractor of the Town. The Contractor shall not, nor shall any officer, director, employee, servant, agent or independent contractor of the Contractor (a "Contractor's Agent"), be (i) deemed a Town employee, (ii) commit the Town to any obligation, or (iii) hold itself, himself, or herself out as a Town employee or

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Person with the authority to commit the Town to any obligation. As used in this Agreement the word "Person" means any individual person, entity (including partnerships, corporations and limited liability companies), and government or political subdivision thereof.

**7. Reporting**

(a) The Contractor will provide the Town's Commissioner of Services for the Aging with monthly reports identifying the names, addresses, pickup and drop-off times, the number of residents transported per vehicle to the food shopping location or to their homes, and the number of residents who fail to respond and use the service.

(b) The Contractor agrees to comply with the following Federal substance abuse regulations: (a) Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants), "49 C.F.R. Part 32, that Implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, (b) Alcohol Misuse and Prohibited Drug Use. FTA Regulations, "Prevention of Alcohol Misuse and Prohibited Drug Use In Transit Operations." 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable. The Contractor's drivers shall be required to submit to drug testing no less than once per year, at the cost of the Contractor. Testing positive for drugs and intoxicating liquors shall constitute a breach of this Agreement entitling the Town to terminate this Agreement immediately. It shall be a continuing obligation of the Contractor to report to the Town any offenses committed by any of the Contractor's drivers relating to drug or alcohol use.

(c) The Contractor agrees that the drivers assigned by the Contractor to provide the Services shall submit to and pass background checks at the direction of the Office of the Town Clerk prior to the driver being assigned to provide the Services. Failure to comply with this Section 7(c) shall constitute a breach of this Agreement entitling the Town to terminate this Agreement immediately.

**8. Records**

(a) The Contractor shall, at its sole expense, maintain full, complete and accurate books and records, documents, accounts and other evidence of accounts, whether maintained electronically or manually ("Records") pertinent to performance under this Agreement. Records shall be maintained in accordance with Generally Accepted Accounting Principles and, if the Contractor is a non-profit entity and receives Federal funds, must comply with the accounting guidelines set forth in the Federal Office of Management & Budget Circular A-122, "Cost Principles for Non-Profit Organizations." The Contractor shall maintain the Records for a

period of six (6) years following the later of termination of or final payment under this Agreement.

Such Records shall at all times be available for audit and inspection by the Comptroller, the Supervisor of the Town of North Hempstead (hereinafter, "Supervisor"), any other governmental authority with jurisdiction over the provision of Services and/or the payment therefore, and any of their duly designated representatives.

- (b) The Contractor shall, at its sole expense, obtain the services of a recognized accounting firm to prepare and provide an annual audited financial statement to the Town Comptroller's office within ten (10) days after issuance of such statement. Failure to provide such statement within one hundred twenty (120) days of end of fiscal year may be considered a material breach of contract.
- © The Contractor shall cause each of its subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Town and its agents, for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

**9. Indemnification**

- (a) To the fullest extent permitted by law, the Contractor:
  - (I) shall be solely responsible for and shall indemnify and hold harmless the Town and its officers, employees, agents and servants (the "Indemnified Parties") from and against any and all liabilities, losses, costs, expenses (including, without limitation, attorneys' fees and disbursements) and damages ("Losses"), arising out of or in connection with any acts or omissions of the Contractor or any of its officers, directors, employees, servants, agents or independent contractors (individually "Contractor Agent") taken pursuant to or authorized by this Agreement regardless of whether due to negligence, fault, or default, including Losses in connection with any threatened investigation, litigation or other proceeding or preparing a defense to or prosecuting the same, except, however, that the Contractor shall not be held liable when an occurrence results solely from the negligence of the Town;
  - (ii) shall, upon the Town's demand and at the Town's direction, promptly and diligently defend, at the Contractor's sole own risk and expense, any and all suits, actions, or proceedings which may be brought or instituted against one or more Indemnified Parties and the Contractor shall pay and satisfy any judgment, decree, loss or settlement in connection therewith; and

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- (iii) shall and shall cause the Contractor Agents to cooperate with the Town in connection with the investigation, defense or prosecution of any action, suit or proceeding arising out of or in connection with this Agreement.
- (b) The obligations of the Contractor pursuant to Section 9(a) hereof shall not be limited by reason of enumeration of any insurance coverage provided under this Agreement.
- (c) Nothing in this Section 9 or elsewhere in this Agreement shall create or give to third parties any claim or right of action against the Town beyond that which legally exist regardless of the provisions of this Agreement.
- (d) The provisions of this Section 9 shall survive the termination of this Agreement.

**10. Insurance**

Contractor agrees to procure and maintain the following insurance policies, during the term of this Agreement, with a carrier holding an “A” rating from AM Best Company or its equivalent, and furnish certificates of insurance evidencing its procuring of said policies:

- (a) Commercial general liability insurance covering the liability of the Consultant, and indemnifying and holding harmless the Town, its agents, employees and representatives from any and all loss and/or damage arising out of the performance of this Agreement with a combined single limit (bodily injury/property damage) of One Million Dollars (\$1,000,000). The Town shall be named as additional insured on said policy;
- (b) Automotive liability insurance with a combined single limit of One Million Dollars (\$1,000,000.00);
- (c) Workers’ compensation insurance or proof of its not being required to secure same, as evidenced by certificates or affidavits approved by the State Workers’ Compensation Board pursuant to State Workers’ Compensation Law § 57(2); and
- (d) Disability benefits insurance or proof of its not being required to secure same, as evidenced by certificates or affidavits approved by the State Workers’ Compensation Board pursuant to State Workers’ Compensation Law § 220(8).

The Town shall be entitled to thirty (30) days advance written notice of the cancellation or termination of any and all policies listed above at (a) through (c).

**11. Confidentiality**

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- (a) The Contractor acknowledges that in the performance of the Services, it may have access to and receive disclosure of certain confidential information relating to the Town or participants in its programs (“Confidential Information”). In addition to all requirements established by law, the Contractor agrees and promises that it shall:
- A. protect and preserve the confidential and proprietary nature of the Confidential Information;
  - A. not disclose, give, sell or otherwise transfer or make available, directly or indirectly, any Confidential Information to any third party for any purpose, except as permitted pursuant to this Agreement or directed in writing by Town in advance of such disclosure. Nothing herein shall preclude Contractor from disclosing Confidential Information pursuant to the requirements of law as prescribed from time to time or as required by a court or tribunal of competent jurisdiction, however Contractor shall notify Town immediately upon receiving notification of a subpoena, court order or other similar process.
  - B. not use or make copies of the Confidential Information unless it is necessary for the performance of the Services or permitted pursuant to this Agreement;
  - C. limit the dissemination of the Confidential Information within its own organization to such individuals whose duties justify the need to know the Confidential Information and then only upon the clear understanding by such individuals of their obligations to maintain the confidential and proprietary nature of the Confidential Information according to the terms of this Agreement; and
  - D. return all Confidential Information and any copies or work product derived from Confidential Information immediately upon the request of the Town.
- (b) All tapes, reports, mailing packages or other material relating to or derived from the Confidential Information shall remain the property of the Town.

**12. Compliance With Laws**

The Contractor shall comply with and conform to any Federal, State, Town, municipal or local laws or regulations, and shall procure at its own expense any license or permit, and shall pay any and all license fees or charges. As used in this Agreement the word “Law” means any and all statutes, rules, regulations, orders, ordinances, writs, injunctions, official resolutions, official interpretations, or decrees, as the same may be amended from

time to time, enacted, adopted, promulgated, released, or issued, by or on behalf of any government or political subdivision.

**13. Limitations on Actions and Special Proceedings Against the Town**

No action or special proceeding shall lie or be prosecuted or maintained against the Town upon any claims arising out of or in connection with this Agreement unless:

- (a) Notice. At least thirty (30) days prior to seeking relief the Contractor shall have presented the demand or claim(s) upon which such action or special proceeding is based in writing to the Supervisor for adjustment and the Town shall have neglected or refused to make an adjustment or payment on the demand or claim for thirty (30) days after presentment. The Contractor shall send or deliver copies of the documents presented to the Supervisor under this Section 12 to the Town Attorney (at the address specified above for the Town) on the same day that documents are sent or delivered to the Supervisor. The complaint or necessary moving papers of the Contractor shall allege that the above-described actions and inactions preceded the Contractor's action or special proceeding against the Town.
- (b) Time Limitation. Such action or special proceeding is commenced within the earlier of (I) one (1) year of the first to occur of (A) final payment under or the termination of this Agreement, and (B) the accrual of the cause of action, or (ii) the time specified in any other provision of this Agreement.

**14. Assignment; Amendment; Waiver; Subcontracting**

- (a) This Agreement and the rights and obligations hereunder may not be in whole or part (I) assigned, transferred or disposed of, (ii) amended, (iii) waived, or (iv) subcontracted, without the prior written consent of the Supervisor and any purported assignment, other disposal or modification without such prior written consent shall be null and void. The failure of a party hereunder to assert any of its rights under this Agreement, including the right to demand strict performance, shall not constitute a waiver of such rights.
- (b) It shall be a condition to the consent of the Supervisor to any assignment or subcontract that the Person to or with whom or which such assignment or subcontract is made agrees in writing that, except as provided in the following sentence with respect to amounts payable by the Town, such person shall be bound by the terms and conditions of this Agreement as though an original party hereto. Unless the action being approved is an assignment of every right and

obligation of the Contractor under this Agreement (I) the Contractor shall remain responsible for the full performance of its obligations under this Agreement, and (ii) no amounts payable by the Town under this Agreement shall be or become payable by the Town to any Person other than the Contractor.

**15. Consent to Jurisdiction and Venue; Governing Law**

- (a) Unless otherwise specified in this Agreement or required by Law, all claims or actions with respect to this Agreement shall be resolved exclusively by a court of competent jurisdiction located in Nassau County, New York, and the parties expressly waive any objections to the same on any grounds, including venue and *forum non conveniens*.
- (b) This Agreement is intended as a contract under, and shall be governed and construed in accordance with, the Laws of New York State, without regard to the conflict of laws provisions thereof.

**16. Entire Agreement**

This Agreement represents the full and entire understanding and agreement between the parties hereto with regard to the subject matter hereof and supersedes all prior agreements (whether written or oral) of the parties relating to the subject matter of this Agreement.

**17. Executory Clause**

Notwithstanding any other provision of this Agreement:

- (a) Approval and Execution. The Town shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person unless (I) all relevant and required Town approvals have been obtained, including, if required, approval by the Town Board, and (ii) this Agreement has been executed by the Supervisor.
- (b) Availability of Funds. The Town shall have no liability under this Agreement (including any extension or other modification of this Agreement) to any Person beyond funds appropriated or otherwise lawfully available for this Agreement.

**18. Headings**

The headings of the Sections of this Agreement are for purposes of identification only and are not intended to limit the terms hereof or proscribe the rights and responsibilities of the Town or the Consultant provided for herein.

**19. Representation on Authority of Parties/Signatories**

- (a) The undersigned representative of the Town hereby represents and warrants that the undersigned is an officer, director or agent of the Town with full legal rights, power and authority to sign this Agreement on behalf of the Town and to bind the Town with respect to the obligations enforceable against the Town in accordance with its terms.
  
- (b) The undersigned representative of the Consultant hereby represents and warrants that the undersigned is an officer, director or agent of the Consultant with full legal rights, power and authority to sign this Agreement on behalf of the Consultant and to bind the Consultant with respect to the obligations enforceable against the Consultant in accordance with its terms.

**(SIGNATURES APPEAR ON THE NEXT PAGE)**

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**IN WITNESS WHEREOF**, the Parties have set their hands as of the day and year first above written.

**TOWN OF NORTH HEMPSTEAD**

By: \_\_\_\_\_  
Judi Bosworth, Supervisor

**(Contractor)**

By: \_\_\_\_\_  
Title:



**EXHIBIT A**

**PROCEDURE FOR OPERATION OF THE TAXI FOOD SHOPPING PROGRAM**

1. A resident registered with Project Independence (PI) will call 311 at least one day before he or she wishes to be picked up for food shopping transportation. If the request is for a Friday pickup, the resident must call during 311 operating hours on Thursday, or earlier.
2. 311 call takers will relay individual reservations via email to the designated taxi company as they come in, up to one week prior to the pickup. The email will include names, addresses and telephone numbers for the riders. In the event that there are no resident service requests from a particular PI region, the services of the responder will not be required that day.
3. The taxi provider will record the service request numbers, the names, addresses, pickup and drop-off times, and the number of residents transported per vehicle. These logs will be included with the company's bills to the Town.
4. The taxi driver will strive to be on time for the requested pickup time. After twenty (20) minutes, is considered late. Lateness will be monitored by the Town.
5. In the case of residents who are disabled and/or require collapsible wheelchairs, walkers, etc., the driver will assist to fold and put in the trunk. The driver may also assist the rider with car doors and provide assistance to the door with packages if necessary. Drivers will not enter the home. The taxi driver must keep the taxi reasonably clean, both inside its passenger cabin and in the trunk where assistive devices and food may be stored. Cars should also be kept at a comfortable climate/temperature. All drivers must be patient and understanding with senior riders.
6. The taxi driver and rider will discuss the pickup place and time at the shopping destination.
7. Upon dropping off a resident at the food shopping location, the taxi driver will travel to other local homes for pickup and continuously cycle from the homes back to the food shopping location during the program's hours.
8. Unless otherwise notified by the driver, the residents are limited to transporting three bags or packages per person.
9. The residents will not have to pay any cost for food shopping transportation; however, any gratuity for the taxi driver will be at the discretion of the rider.
10. The taxi company shall be responsive to any residents' complaints regarding the services. Notwithstanding the Town's absolute right to terminate the services of the responder pursuant to the agreement, failure to remedy complaints may necessitate termination of the agreement.
11. The taxi company will assemble the data collected from the program and relay that to the Commissioner of the Department of Services for the Aging, along with the individual 311 Service Request numbers when the taxi company submits monthly bills.

**EXHIBIT B**

**PROCEDURE FOR OPERATION OF THE MEDICAL PROGRAM**

1. A resident registered with Project Independence (PI) will call 311 at least the day before or she wishes to be picked up for transport to a medical or evening appointment. If the service request is for a Friday, the resident must call during 311 operating hours on Thursday or earlier.
2. 311 call takers will relay individual reservations via email to the designated taxi company as they come in, up to one week prior to the pickup. The email will include names, addresses and telephone numbers for the riders. In the event that there are no resident service requests from a particular PI region, the services of the responder will not be required that day.
3. The resident must call the taxi company directly to arrange for a return trip.
4. The taxi driver will strive to be at the resident's location on time, after twenty (20) minutes is considered late.
5. In the case of residents who are disabled and/or require collapsible wheelchairs, walkers, etc., the driver will assist to fold and put in the trunk. The driver may also assist the rider with car doors. Drivers will not enter the home.
6. The taxi driver must keep the taxi reasonably clean, both inside its passenger cabin and in the trunk where assistive devices may be stored. Cars should also be kept at a comfortable climate/temperature. All drivers must be patient and understanding with senior riders.
7. A second person who accompanies the resident will ride at no additional cost. A third person adds \$2.00 each way.
8. The taxi provider will record the service request number, name, address, rate and locations.
9. The rider will pay half of the transportation cost for the trip to the appointment and half of the cost for the return trip as determined by the published Project Independence rate schedule. Any gratuity for the taxi driver will be at the discretion of the rider.
10. The taxi driver and responder shall be responsive to any residents' complaints regarding the services. Notwithstanding the Town's absolute right to terminate the services of the responder pursuant to the agreement, failure to remedy complaints by a resident may necessitate termination of the agreement.
11. The taxi company will assemble the data collected from the program and relay that to the Commissioner of the Department of Services for the Aging, along with the individual 311 Service Request (SR) numbers when the taxi company submits monthly bills.

**EXHIBIT C: STATE CLAUSES**

STANDARD CLAUSES FOR NEW YORK STATE  
CONTRACTS  
JANUARY 2014

**STANDARD CLAUSES FOR NYS CONTRACTS**

The parties to the attached contract, license, lease, amendment or other agreement of any kind (hereinafter, "the contract" or "this contract") agree to be bound by the following clauses which are hereby made a part of the contract (the word "Contractor" herein refers to any party other than the State, whether a contractor, licensor, licensee, lessor, lessee or any other party):

**1. EXECUTORY CLAUSE.** In accordance with Section 41 of the State Finance Law, the State shall have no liability under this contract to the Contractor or to anyone else beyond funds appropriated and available for this contract.

**2. NON-ASSIGNMENT CLAUSE.** In accordance with Section 138 of the State Finance Law, this contract may not be assigned by the Contractor or its right, title or interest therein assigned, transferred, conveyed, sublet or otherwise disposed of without the State's previous written consent, and attempts to do so are null and void. Notwithstanding the foregoing, such prior written consent of an assignment of a contract let pursuant to Article XI of the State Finance Law may be waived at the discretion of the contracting agency and with the concurrence of the State Comptroller where the original contract was subject to the State Comptroller's approval, where the assignment is due to a reorganization, merger or consolidation of the Contractor's business entity or enterprise. The State retains its right to approve an assignment and to require that any Contractor demonstrate its responsibility to do business with the State. The Contractor may, however, assign its right to receive payments without the State's prior written consent unless this contract concerns Certificates of Participation pursuant to Article 5-A of the State Finance Law.

**3. COMPTROLLER'S APPROVAL.** In accordance with Section 112 of the State Finance Law (or, if this contract is with the State University or City University of New York, Section 355 or Section 6218 of the Education Law), if this contract exceeds \$50,000 (or the minimum thresholds agreed to by the Office of the State Comptroller for certain S.U.N.Y. and C.U.N.Y. contracts), or if this is an amendment for any amount to a contract which, as so amended, exceeds said statutory amount, or if, by this contract, the State agrees to give something other than money when the value or reasonably estimated value of such consideration exceeds \$10,000, it shall not be valid, effective or binding upon the State until it has been approved by the State Comptroller and filed in his office. Comptroller's approval of contracts let by the Office of General Services is required when such contracts exceed \$85,000 (State Finance Law Section 163.6-a). However, such pre-approval shall not be required for any contract established as a centralized contract through the Office of General Services or for a purchase order or other transaction issued under such centralized contract.

**4. WORKERS' COMPENSATION BENEFITS.** In accordance with Section 142 of the State Finance Law, this contract shall be void and of no force and effect unless the Contractor shall provide and maintain coverage during the life of this contract for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.

**5. NON-DISCRIMINATION REQUIREMENTS.** To the extent required by Article 15 of the Executive Law (also known as the Human Rights Law) and all other State and Federal statutory and constitutional non-discrimination provisions, the Contractor will not discriminate against any employee or applicant for employment because of race, creed, color, sex (including gender identity or expression),

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national origin, sexual orientation, military status, age, disability, predisposing genetic characteristics, marital status or domestic violence victim status. Furthermore, in accordance with Section 220-e of the Labor Law, if this is a contract for the construction, alteration or repair of any public building or public work or for the manufacture, sale or distribution of materials, equipment or supplies, and to the extent that this contract shall be performed within the State of New York, Contractor agrees that neither it nor its subcontractors shall, by reason of race, creed, color, disability, sex, or national origin: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. If this is a building service contract as defined in Section 230 of the Labor Law, then, in accordance with Section 239 thereof, Contractor agrees that neither it nor its subcontractors shall by reason of race, creed, color, national origin, age, sex or disability: (a) discriminate in hiring against any New York State citizen who is qualified and available to perform the work; or (b) discriminate against or intimidate any employee hired for the performance of work under this contract. Contractor is subject to fines of \$50.00 per person per day for any violation of Section 220-e or Section 239 as well as possible termination of this contract and forfeiture of all moneys due hereunder for a second or subsequent violation.

**6. WAGE AND HOURS PROVISIONS.** If this is a public work contract covered by Article 8 of the Labor Law or a building service contract covered by Article 9 thereof, neither Contractor's employees nor the employees of its subcontractors may be required or permitted to work more than the number of hours or days stated in said statutes, except as otherwise provided in the Labor Law and as set forth in prevailing wage and supplement schedules issued by the State Labor Department. Furthermore, Contractor and its subcontractors must pay at least the prevailing wage rate and pay or provide the prevailing supplements, including the premium rates for overtime pay, as determined by the State Labor Department in accordance with the Labor Law. Additionally, effective April 28, 2008, if this is a public work contract covered by Article 8 of the Labor Law, the Contractor understands and agrees that the filing of payrolls in a manner consistent with Subdivision 3-a of Section 220 of the Labor Law shall be a condition precedent to payment by the State of any State approved sums due and owing for work done upon the project.

**7. NON-COLLUSIVE BIDDING CERTIFICATION.** In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, Contractor affirms, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. Contractor further affirms that, at the time Contractor submitted its bid, an authorized and responsible person executed and delivered to the State a non-collusive bidding certification on Contractor's behalf.

**8. INTERNATIONAL BOYCOTT PROHIBITION.** In accordance with Section 220-f of the Labor Law and Section 139-h of the State Finance Law, if this contract exceeds \$5,000, the Contractor agrees, as a material condition of the contract, that neither the Contractor nor any substantially owned or affiliated person, firm, partnership or corporation has participated, is participating, or shall participate in an international boycott in violation of the federal Export Administration Act of 1979 (50 USC App. Sections 2401 et seq.) or regulations thereunder. If such Contractor, or any of the aforesaid affiliates of Contractor, is convicted or is otherwise found to have violated said laws or regulations upon the final determination of the United States Commerce Department or any other appropriate agency of the United States subsequent to the contract's execution, such contract, amendment or modification thereto shall be

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rendered forfeit and void. The Contractor shall so notify the State Comptroller within five (5) business days of such conviction, determination or disposition of appeal (2NYCRR 105.4).

**9. SET-OFF RIGHTS.** The State shall have all of its common law, equitable and statutory rights of set-off. These rights shall include, but not be limited to, the State's option to withhold for the purposes of set-off any moneys due to the Contractor under this contract up to any amounts due and owing to the State with regard to this contract, any other contract with any State department or agency, including any contract for a term commencing prior to the term of this contract, plus any amounts due and owing to the State for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The State shall exercise its set-off rights in accordance with normal State practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the State agency, its representatives, or the State Comptroller.

**10. RECORDS.** The Contractor shall establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under this contract (hereinafter, collectively, "the Records"). The Records must be kept for the balance of the calendar year in which they were made and for six (6) additional years thereafter. The State Comptroller, the Attorney General and any other person or entity authorized to conduct an examination, as well as the agency or agencies involved in this contract, shall have access to the Records during normal business hours at an office of the Contractor within the State of New York or, if no such office is available, at a mutually agreeable and reasonable venue within the State, for the term specified above for the purposes of inspection, auditing and copying. The State shall take reasonable steps to protect from public disclosure any of the Records which are exempt from disclosure under Section 87 of the Public Officers Law (the "Statute") provided that: (i) the Contractor shall timely inform an appropriate State official, in writing, that said records should not be disclosed; and (ii) said records shall be sufficiently identified; and (iii) designation of said records as exempt under the Statute is reasonable. Nothing contained herein shall diminish, or in any way adversely affect, the State's right to discovery in any pending or future litigation.

**11. IDENTIFYING INFORMATION AND PRIVACY NOTIFICATION.** (a) Identification Number(s). Every invoice or New York State Claim for Payment submitted to a New York State agency by a payee, for payment for the sale of goods or services or for transactions (e.g., leases, easements, licenses, etc.) related to real or personal property must include the payee's identification number. The number is any or all of the following: (i) the payee's Federal employer identification number, (ii) the payee's Federal social security number, and/or (iii) the payee's Vendor Identification Number assigned by the Statewide Financial System. Failure to include such number or numbers may delay payment. Where the payee does not have such number or numbers, the payee, on its invoice or Claim for Payment, must give the reason or reasons why the payee does not have such number or numbers.

(b) Privacy Notification. (1) The authority to request the above personal information from a seller of goods or services or a lessor of real or personal property, and the authority to maintain such information, is found in Section 5 of the State Tax Law. Disclosure of this information by the seller or lessor to the State is mandatory. The principal purpose for which the information is collected is to enable the State to identify individuals, businesses and others who have been delinquent in filing tax returns or may have understated their tax liabilities and to generally identify persons affected by the taxes administered by the Commissioner of Taxation and Finance. The information will be used for tax administration purposes and for any other purpose authorized by law. (2) The personal information is requested by the purchasing

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unit of the agency contracting to purchase the goods or services or lease the real or personal property covered by this contract or lease. The information is maintained in the Statewide Financial System by the Vendor Management Unit within the Bureau of State Expenditures, Office of the State Comptroller, 110 State Street, Albany, New York 12236.

**12. EQUAL EMPLOYMENT OPPORTUNITIES FOR MINORITIES AND WOMEN.** In accordance with Section 312 of the Executive Law and 5 NYCRR 143, if this contract is: (i) a written agreement or purchase order instrument, providing for a total expenditure in excess of \$25,000.00, whereby a contracting agency is committed to expend or does expend funds in return for labor, services, supplies, equipment, materials or any combination of the foregoing, to be performed for, or rendered or furnished to the contracting agency; or (ii) a written agreement in excess of \$100,000.00 whereby a contracting agency is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon; or (iii) a written agreement in excess of \$100,000.00 whereby the owner of a State assisted housing project is committed to expend or does expend funds for the acquisition, construction, demolition, replacement, major repair or renovation of real property and improvements thereon for such project, then the following shall apply and by signing this agreement the Contractor certifies and affirms that it is Contractor's equal employment opportunity policy that:

(a) The Contractor will not discriminate against employees or applicants for employment because of race, creed, color, national origin, sex, age, disability or marital status, shall make and document its conscientious and active efforts to employ and utilize minority group members and women in its work force on State contracts and will undertake or continue existing programs of affirmative action to ensure that minority group members and women are afforded equal employment opportunities without discrimination. Affirmative action shall mean recruitment, employment, job assignment, promotion, upgradings, demotion, transfer, layoff, or termination and rates of pay or other forms of compensation;

(b) at the request of the contracting agency, the Contractor shall request each employment agency, labor union, or authorized representative of workers with which it has a collective bargaining or other agreement or understanding, to furnish a written statement that such employment agency, labor union or representative will not discriminate on the basis of race, creed, color, national origin, sex, age, disability or marital status and that such union or representative will affirmatively cooperate in the implementation of the Contractor's obligations herein; and

(c) the Contractor shall state, in all solicitations or advertisements for employees, that, in the performance of the State contract, all qualified applicants will be afforded equal employment opportunities without discrimination because of race, creed, color, national origin, sex, age, disability or marital status.

Contractor will include the provisions of "a", "b", and "c" above, in every subcontract over \$25,000.00 for the construction, demolition, replacement, major repair, renovation, planning or design of real property and improvements thereon (the "Work") except where the Work is for the beneficial use of the Contractor. Section 312 does not apply to: (i) work, goods or services unrelated to this contract; or (ii) employment outside New York State. The State shall consider compliance by a contractor or subcontractor with the requirements of any federal law concerning equal employment opportunity which effectuates the purpose of this section. The contracting agency shall determine whether the imposition of the requirements of the provisions hereof duplicate or conflict with any such federal law and if such

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duplication or conflict exists, the contracting agency shall waive the applicability of Section 312 to the extent of such duplication or conflict. Contractor will comply with all duly promulgated and lawful rules and regulations of the Department of Economic Development's Division of Minority and Women's Business Development pertaining hereto.

**13. CONFLICTING TERMS.** In the event of a conflict between the terms of the contract (including any and all attachments thereto and amendments thereof) and the terms of this Appendix A, the terms of this Appendix A shall control.

**14. GOVERNING LAW.** This contract shall be governed by the laws of the State of New York except where the Federal supremacy clause requires otherwise.

**15. LATE PAYMENT.** Timeliness of payment and any interest to be paid to Contractor for late payment shall be governed by Article 11-A of the State Finance Law to the extent required by law.

**16. NO ARBITRATION.** Disputes involving this contract, including the breach or alleged breach thereof, may not be submitted to binding arbitration (except where statutorily authorized), but must, instead, be heard in a court of competent jurisdiction of the State of New York.

**17. SERVICE OF PROCESS.** In addition to the methods of service allowed by the State Civil Practice Law & Rules ("CPLR"), Contractor hereby consents to service of process upon it by registered or certified mail, return receipt requested. Service hereunder shall be complete upon Contractor's actual receipt of process or upon the State's receipt of the return thereof by the United States Postal Service as refused or undeliverable. Contractor must promptly notify the State, in writing, of each and every change of address to which service of process can be made. Service by the State to the last known address shall be sufficient. Contractor will have thirty (30) calendar days after service hereunder is complete in which to respond.

**18. PROHIBITION ON PURCHASE OF TROPICAL HARDWOODS.** The Contractor certifies and warrants that all wood products to be used under this contract award will be in accordance with, but not limited to, the specifications and provisions of Section 165 of the State Finance Law, (Use of Tropical Hardwoods) which prohibits purchase and use of tropical hardwoods, unless specifically exempted, by the State or any governmental agency or political subdivision or public benefit corporation. Qualification for an exemption under this law will be the responsibility of the contractor to establish to meet with the approval of the State.

In addition, when any portion of this contract involving the use of woods, whether supply or installation, is to be performed by any subcontractor, the prime Contractor will indicate and certify in the submitted bid proposal that the subcontractor has been informed and is in compliance with specifications and provisions regarding use of tropical hardwoods as detailed in §165 State Finance Law. Any such use must meet with the approval of the State; otherwise, the bid may not be considered responsive. Under bidder certifications, proof of qualification for exemption will be the responsibility of the Contractor to meet with the approval of the State.

**19. MACBRIDE FAIR EMPLOYMENT PRINCIPLES (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS).** In accordance with the MacBride Fair

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Employment Principles (Chapter 807 of the Laws of 1992), the Contractor hereby stipulates that the Contractor either (a) has no business operations in Northern Ireland, or (b) shall take lawful steps in good faith to conduct any business operations in Northern Ireland in accordance with the MacBride Fair Employment Principles (as described in Section 165 of the New York State Finance Law), and shall permit independent monitoring of compliance with such principles.

**20. OMNIBUS PROCUREMENT ACT OF 1992 (APPLICABLE ONLY IN NON-FEDERAL AID NEW YORK STATE CONTRACTS).** It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors and suppliers on its procurement contracts.

Information on the availability of New York State subcontractors and suppliers is available from:

NYS Department of Economic Development  
Division for Small Business  
Albany, New York 12245  
Telephone: 518-292-5100  
Fax: 518-292-5884  
email: [opa@esd.ny.gov](mailto:opa@esd.ny.gov)

A directory of certified minority and women-owned business enterprises is available from:

NYS Department of Economic Development  
Division of Minority and Women's Business Development  
633 Third Avenue  
New York, NY 10017  
212-803-2414  
email: [mwbecertification@esd.ny.gov](mailto:mwbecertification@esd.ny.gov)  
<https://ny.newnycontracts.com/FrontEnd/VendorSearchPublic.asp>

The Omnibus Procurement Act of 1992 requires that by signing this bid proposal or contract, as applicable, Contractors certify that whenever the total bid amount is greater than \$1 million:

(a) The Contractor has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors, including certified minority and women-owned business enterprises, on this project, and has retained the documentation of these efforts to be provided upon request to the State;

(b) The Contractor has complied with the Federal Equal Opportunity Act of 1972 (P.L. 92-261), as amended;

(c) The Contractor agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The Contractor agrees to document these efforts and to provide said documentation to the State upon request; and

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(d) The Contractor acknowledges notice that the State may seek to obtain offset credits from foreign countries as a result of this contract and agrees to cooperate with the State in these efforts.

**21. RECIPROCITY AND SANCTIONS PROVISIONS.** Bidders are hereby notified that if their principal place of business is located in a country, nation, province, state or political subdivision that penalizes New York State vendors, and if the goods or services they offer will be substantially produced or performed outside New York State, the Omnibus Procurement Act 1994 and 2000 amendments (Chapter 684 and Chapter 383, respectively) require that they be denied contracts which they would otherwise obtain. NOTE: As of May 15, 2002, the list of discriminatory jurisdictions subject to this provision includes the states of South Carolina, Alaska, West Virginia, Wyoming, Louisiana and Hawaii. Contact NYS Department of Economic Development for a current list of jurisdictions subject to this provision.

**22. COMPLIANCE WITH NEW YORK STATE INFORMATION SECURITY BREACH AND NOTIFICATION ACT.** Contractor shall comply with the provisions of the New York State Information Security Breach and Notification Act (General Business Law Section 899-aa; State Technology Law Section 208).

**23. COMPLIANCE WITH CONSULTANT DISCLOSURE LAW.** If this is a contract for consulting services, defined for purposes of this requirement to include analysis, evaluation, research, training, data processing, computer programming, engineering, environmental, health, and mental health services, accounting, auditing, paralegal, legal or similar services, then, in accordance with Section 163 (4-g) of the State Finance Law (as amended by Chapter 10 of the Laws of 2006), the Contractor shall timely, accurately and properly comply with the requirement to submit an annual employment report for the contract to the agency that awarded the contract, the Department of Civil Service and the State Comptroller.

**24. PROCUREMENT LOBBYING.** To the extent this agreement is a "procurement contract" as defined by State Finance Law Sections 139-j and 139-k, by signing this agreement the contractor certifies and affirms that all disclosures made in accordance with State Finance Law Sections 139-j and 139-k are complete, true and accurate. In the event such certification is found to be intentionally false or intentionally incomplete, the State may terminate the agreement by providing written notification to the Contractor in accordance with the terms of the agreement.

**25. CERTIFICATION OF REGISTRATION TO COLLECT SALES AND COMPENSATING USE TAX BY CERTAIN STATE CONTRACTORS, AFFILIATES AND SUBCONTRACTORS.**

To the extent this agreement is a contract as defined by Tax Law Section 5-a, if the contractor fails to make the certification required by Tax Law Section 5-a or if during the term of the contract, the Department of Taxation and Finance or the covered agency, as defined by Tax Law 5-a, discovers that the certification, made under penalty of perjury, is false, then such failure to file or false certification shall be a material breach of this contract and this contract may be terminated, by providing written notification to the Contractor in accordance with the terms of the agreement, if the covered agency determines that such action is in the best interest of the State.

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26. **IRAN DIVESTMENT ACT.** By entering into this Agreement, Contractor certifies in accordance with State Finance Law §165-a that it is not on the “Entities Determined to be Non-Responsive Bidders/Offerers pursuant to the New York State Iran Divestment Act of 2012” (“Prohibited Entities List”) posted at: <http://www.ogs.ny.gov/about/regs/docs/ListofEntities.pdf>

Contractor further certifies that it will not utilize on this Contract any subcontractor that is identified on the Prohibited Entities List. Contractor agrees that should it seek to renew or extend this Contract, it must provide the same certification at the time the Contract is renewed or extended. Contractor also agrees that any proposed Assignee of this Contract will be required to certify that it is not on the Prohibited Entities List before the contract assignment will be approved by the State.

During the term of the Contract, should the state agency receive information that a person (as defined in State Finance Law §165-a) is in violation of the above-referenced certifications, the state agency will review such information and offer the person an opportunity to respond. If the person fails to demonstrate that it has ceased its engagement in the investment activity which is in violation of the Act within 90 days after the determination of such violation, then the state agency shall take such action as may be appropriate and provided for by law, rule, or contract, including, but not limited to, imposing sanctions, seeking compliance, recovering damages, or declaring the Contractor in default.

The state agency reserves the right to reject any bid, request for assignment, renewal or extension for an entity that appears on the Prohibited Entities List prior to the award, assignment, renewal or extension of a contract, and to pursue a responsibility review with respect to any entity that is awarded a contract and appears on the Prohibited Entities list after contract award.

**EXHIBIT D: FEDERAL CLAUSES**

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**Federally Required Clauses**

**Fly America Requirements** – Applicability – all contracts involving transportation of persons or property, by air between the U.S. and/or places outside the U.S. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

Contractor shall comply with 49 USC 40118 (the “Fly America” Act) in accordance with General Services Administration regulations 41 CFR 301-10, stating that recipients and subrecipients of Federal funds and their contractors are required to use US Flag air carriers for US Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a US flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. Contractor shall include the requirements of this section in all subcontracts that may involve international air transportation.

**Buy America Requirements** – Applicability – Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000)

Contractor shall comply with 49 USC 5323(j) and 49 CFR 661, stating that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include software, microcomputer equipment and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are stated at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock must be manufactured in the US and have a minimum 60% domestic content. A bidder or offeror shall submit appropriate Buy America certification to the recipient with all bids on FTA-funded contracts, except those subject to a general waiver. Proposals not accompanied by a completed Buy America certification shall be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

**Charter Bus Requirements** – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

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

**School Bus Requirements** – Applicability – Operational Service Contracts. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000).

Pursuant to 69 USC 5323(f) or (g) as amended by MAP-21, 23 USC 133, 23 USC 142, and 49 CFR 605, recipients and subrecipients of FTA assistance shall not engage in school bus operations exclusively for transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients shall not use federally funded equipment, vehicles, or facilities. Violations. If a Recipient or any Third Party Participant that has operated school bus service in violation of FTA’s School Bus laws and regulations, FTA may: (1) Require the Recipient or Third Party Participant to take such remedial measures as FTA considers appropriate, or (2) Bar the Recipient or Third Party Participant from receiving Federal transit funds.

**Energy Conservation** – Applicability – All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000) Contractor shall comply with mandatory standards and policies relating to energy efficiency, stated in the state energy conservation plan issued in compliance with the Energy Policy & Conservation Act.

**Clean Water** – Applicability – All Contracts and Subcontracts over \$100,000

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 USC 1251 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient shall, in turn, report each violation as required to FTA and the appropriate EPA Regional Office. Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

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

**Access to Records and Reports**– Applicability – As shown below. These requirements do not apply to micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)  
The following access to records requirements apply to this Contract:

1. Where the purchaser is not a State but a local government and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 18.36(i), contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives access to any books, documents, papers and contractor records which are pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor shall also, pursuant to 49 CFR 633.17, provide authorized FTA representatives, including any PMO contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which is receiving FTA assistance through the programs described at 49 USC 5307, 5309 or 5311.
2. Where the purchaser is a State and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 633.17, contractor shall provide the purchaser, authorized FTA representatives, including any PMO Contractor, access to contractor's records and construction sites pertaining to a capital project, defined at 49 USC 5302(a)1, which receives FTA assistance through the programs described at 49 USC 5307, 5309 or 5311. By definition, a capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.
3. Where the purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 CFR 19.48, contractor shall provide the purchaser, the FTA, the US Comptroller General or their authorized representatives, access to any books, documents, papers and record of the contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where a purchaser which is an FTA recipient or a subgrantee of FTA recipient in accordance with 49 USC 5325(a) enters into a contract for a capital project or improvement (defined at 49 USC 5302(a)1) through other than competitive bidding, contractor shall make available records related to the contract to the purchaser, the Secretary of USDOT and the US Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.
5. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
6. Contractor shall maintain all books, records, accounts and reports required under this contract for a period of not less than three (3) years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case contractor agrees to maintain same until the recipient, FTA Administrator, US Comptroller General, or any of their authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Re: 49 CFR 18.39(i)(11).

FTA does not require the inclusion of these requirements in subcontracts.

**Federal Changes** – Applicability – All Contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)  
Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the recipient and FTA, as they may be amended or promulgated from time to time during the term of the contract. Contractor's failure to comply shall constitute a material

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breach of the contract.

**Clean Air** – Applicability – All contracts over \$100,000

- 1) Contractor shall comply with all applicable standards, orders or regulations pursuant to the Clean Air Act, 42 USC 7401 et seq. Contractor shall report each violation to the recipient and understands and agrees that the recipient will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.
- 2) Contractor shall include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with FTA assistance.

**Recycled Products** – Applicability – All contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the current or previous fiscal year using Federal funds. The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

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

(1) Overtime requirements - No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 40 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 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in para. (1) of this section, contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable 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 para. (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 40 hours without payment of the overtime wages required by the clause set forth in para. (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - the recipient shall upon its own action or upon written request of USDOL withhold or cause to be withheld, from any moneys payable on account of work performed by 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 & 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 para. (2) of this section.

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

**No Government Obligation to Third Parties** - Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) The recipient and contractor acknowledge and agree that, notwithstanding any concurrence by the US Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the US Government, the US Government is not a party to this contract and shall not be subject to any obligations or liabilities to the recipient, the contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) Contractor agrees to include the above clause in each subcontract financed in whole or in part with FTA assistance. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

**Program Fraud and False or Fraudulent Statements or Related Acts** – Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 USC

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3801 et seq. and USDOT regulations, "Program Fraud Civil Remedies," 49 CFR 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification, the US Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act (1986) on contractor to the extent the US Government deems appropriate.

(2) If contractor makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submittal, or certification to the US Government under a contract connected with a project that is financed in whole or in part with FTA assistance under the authority of 49 USC 5307, the Government reserves the right to impose the penalties of 18 USC 1001 and 49 USC 5307(n)(1) on contractor, to the extent the US Government deems appropriate.

(3) Contractor shall include the above two clauses in each subcontract financed in whole or in part with FTA assistance. The clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

**Termination** – Applicability – All Contracts over \$10,000, except contracts with nonprofit organizations and institutions of higher learning, where the threshold is \$100,000

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

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

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

c. Opportunity to Cure (General Provision) the recipient in its sole discretion may, in the case of a termination for breach or default, allow contractor an appropriately short period of time in which to cure the defect. In such case, the notice of termination shall state the time period in which cure is permitted and other appropriate conditions. If contractor fails to remedy to the recipient's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract within ten (10) days after receipt by contractor or written notice from the recipient setting forth the nature of said breach or default, the recipient shall have the right to terminate the Contract without any further obligation to contractor. Any such termination for default shall not in any way operate to preclude the recipient from also pursuing all available remedies against contractor and its sureties for said breach or default.

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

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

f. Termination for Default (Supplies and Service) If contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

g. Termination for Default (Transportation Services) If contractor fails to pick up the commodities or to perform the services,

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including delivery services, within the time specified in this contract or any extension or if contractor fails to comply with any other provisions of this contract, the recipient may terminate this contract for default. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature of default. Contractor shall only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while contractor has possession of the recipient goods, contractor shall, as directed by the recipient, protect and preserve the goods until surrendered to the recipient or its agent. Contractor and the recipient shall agree on payment for the preservation and protection of goods. Failure to agree on an amount shall be resolved under the Dispute clause. If, after termination for failure to fulfill contract obligations, it is determined that contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for the recipient's convenience.

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

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

1. Delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of contractor. Examples of such causes include: acts of God, acts of the recipient, acts of another contractor in the performance of a contract with the recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and

2. Contractor, within 10 days from the beginning of any delay, notifies the recipient in writing of the causes of delay. If in the recipient's judgment, delay is excusable, the time for completing the work shall be extended. The recipient's judgment shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

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

i. Termination for Convenience or Default (Architect & Engineering) the recipient may terminate this contract in whole or in part, for the recipient's convenience or because of contractor's failure to fulfill contract obligations. The recipient shall terminate by delivering to contractor a notice of termination specifying the nature, extent, and effective date of termination. Upon receipt of the notice, contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the recipient all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process. If termination is for the recipient's convenience, it shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services. If termination is for contractor's failure to fulfill contract obligations, the recipient may complete the work by contract or otherwise and contractor shall be liable for any additional cost incurred by the recipient.

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

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

If, after serving a notice of termination for default, the recipient determines that contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of contractor, the recipient, after setting up a new work schedule, may allow contractor to continue work, or treat the termination as a

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termination for convenience.

**Government-wide Debarment and Suspension (Nonprocurement)** – Applicability – Contracts over \$25,000

The Recipient agrees to the following: (1) It will comply with the requirements of 2 C.F.R. part 180, subpart C, as adopted and supplemented by U.S. DOT regulations at 2 C.F.R. part 1200, which include the following: (a) It will not enter into any arrangement to participate in the development or implementation of the Project with any Third Party Participant that is debarred or suspended except as authorized by: 1 U.S. DOT regulations, “Nonprocurement Suspension and Debarment,” 2 C.F.R. part 1200, 2 U.S. OMB, “Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),” 2 C.F.R. part 180, including any amendments thereto, and 3 Executive Orders Nos. 12549 and 12689, “Debarment and Suspension,” 31 U.S.C. § 6101 note, (b) It will review the U.S. GSA “System for Award Management,” <https://www.sam.gov>, if required by U.S. DOT regulations, 2 C.F.R. part 1200, and (c) It will include, and require each of its Third Party Participants to include, a similar provision in each lower tier covered transaction, ensuring that each lower tier Third Party Participant: 1 Will comply with Federal debarment and suspension requirements, and 2 Reviews the “System for Award Management” at <https://www.sam.gov>, if necessary to comply with U.S. DOT regulations, 2 C.F.R. part 1200, and (2) If the Recipient suspends, debars, or takes any similar action against a Third Party Participant or individual, the Recipient will provide immediate written notice to the: (a) FTA Regional Counsel for the Region in which the Recipient is located or implements the Project, (b) FTA Project Manager if the Project is administered by an FTA Headquarters Office, or (c) FTA Chief Counsel,

**Contracts Involving Federal Privacy Act Requirements** – Applicability - When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

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

(1) 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.

(2) 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.

**Civil Rights Requirements**– Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The following requirements apply to the underlying contract:

The Recipient understands and agrees that it must comply with applicable Federal civil rights laws and regulations, and follow applicable Federal guidance, except as the Federal Government determines otherwise in writing. Therefore, unless a Recipient or Program, including an Indian Tribe or the Tribal Transit Program, is specifically exempted from a civil rights statute, FTA requires compliance with that civil rights statute, including compliance with equity in service:

a. Nondiscrimination in Federal Public Transportation Programs. The Recipient agrees to, and assures that each Third Party Participant will, comply with Federal transit law, 49 U.S.C. § 5332 (FTA’s “Nondiscrimination” statute): (1) FTA’s “Nondiscrimination” statute prohibits discrimination on the basis of: (a) Race, (b) Color, (c) Religion, (d) National origin, (e) Sex, (f) Disability, or (g) Age, and (2) The FTA “Nondiscrimination” statute’s prohibition against discrimination includes: (a) Exclusion from participation, (b) Denial of program benefits, or (c) Discrimination, including discrimination in employment or business opportunity, (3) Except as FTA determines otherwise in writing: (a) General. Follow: 1 The most recent edition of FTA Circular 4702.1, “Title VI Requirements and Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance, and 2 Other applicable Federal guidance that may be issued, but (b) Exception for the Tribal Transit Program. FTA does not require an Indian Tribe to comply with FTA program-specific guidelines for Title VI when administering its projects funded under the Tribal Transit Program,

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b. Nondiscrimination – Title VI of the Civil Rights Act. The Recipient agrees to, and assures that each Third Party Participant will: (1) Prohibit discrimination based on: (a) Race, (b) Color, or (c) National origin, (2) Comply with: (a) Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., (b) U.S. DOT regulations, “Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964,” 49 C.F.R. part 21, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in the preceding section a, and (3) Except as FTA determines otherwise in writing, follow: (a) The most recent edition of FTA Circular 4702.1, “Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients,” to the extent consistent with applicable Federal laws, regulations, and guidance. (b) U.S. DOJ, “Guidelines for the enforcement of Title VI, Civil Rights Act of 1964,” 28 C.F.R. § 50.3, and (c) Other applicable Federal guidance that may be issued,

c. Equal Employment Opportunity. (1) Federal Requirements and Guidance. The Recipient agrees to, and assures that each Third Party Participant will, prohibit discrimination on the basis of race, color, religion, sex, or national origin, and: (a) Comply with Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e et seq., (b) Facilitate compliance with Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246, Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note, (c) Comply with Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, and (d) Comply with other applicable EEO laws and regulations, as provided in Federal guidance, including laws and regulations prohibiting discrimination on the basis of disability, except as the Federal Government determines otherwise in writing, (2)

General. The Recipient agrees to: (a) Ensure that applicants for employment are employed and employees are treated during employment without discrimination on the basis of their: 1 Race, 2 Color, 3 Religion, 4 Sex, 5 Disability, 6 Age, or 7 National origin, (b) Take affirmative action that includes, but is not limited to: 1 Recruitment advertising, 2 Recruitment, 3 Employment, 4 Rates of pay, 5 Other forms of compensation, 6 Selection for training, including apprenticeship, 7 Upgrading, 8 Transfers, 9 Demotions, 10 Layoffs, and 11 Terminations, but (b) Indian Tribe. Title VII of the Civil Rights Act of 1964, as amended, exempts Indian Tribes under the definition of “Employer”. (3) Equal Employment Opportunity Requirements for Construction Activities. In addition to the foregoing, when undertaking “construction” as recognized by the U.S. Department of Labor (U.S. DOL), the Recipient agrees to comply, and assures the compliance of each Third Party Participant, with: (a) U.S. DOL regulations, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor,” 41 C.F.R. chapter 60, and (b) Executive Order No. 11246, “Equal Employment Opportunity,” as amended by Executive Order No. 11375, “Amending Executive Order No. 11246, Relating to Equal Employment Opportunity,” 42 U.S.C. § 2000e note,

d. Disadvantaged Business Enterprise. To the extent authorized by applicable Federal law, the Recipient agrees to facilitate, and assures that each Third Party Participant will facilitate, participation by small business concerns owned and controlled by socially and economically disadvantaged individuals, also referred to as “Disadvantaged Business Enterprises” (DBEs), in the Project as follows: 1) Requirements. The Recipient agrees to comply with: (a) Section 1101(b) of MAP-21, 23 U.S.C. § 101 note, (b) U.S. DOT regulations, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs,” 49 C.F.R. part 26, and (c) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a, (2) Assurance. As required by 49 C.F.R. § 26.13(a),

(b) DBE Program Requirements. Recipients receiving planning, capital and/or operating assistance that will award prime third party contracts exceeding \$250,000 in a Federal fiscal year must: 1 Have a DBE program meeting the requirements of 49 C.F.R. part 26, 2 Implement a DBE program approved by FTA, and 3 Establish an annual DBE participation goal, (c) Special Requirements for a Transit Vehicle Manufacturer. The Recipient understands and agrees that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, must certify that it has complied with the requirements of 49 C.F.R. part 26, (d) the Recipient provides assurance that: The Recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE program or the requirements of 49 C.F.R. part 26. The Recipient 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. The Recipient's DBE program, as required by 49 C.F.R. part 26 and as approved by DOT, is incorporated by reference in this 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 the Recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under 49 C.F.R. 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., (2) Exception for the Tribal Transit Program. FTA exempts Indian tribes from the Disadvantaged Business Enterprise regulations at 49 C.F.R. part 26 under MAP-21 and previous legislation,

e. Nondiscrimination on the Basis of Sex. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of sex, including: (1) Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. § 1681 et seq., (2) 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, and (3) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

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f. Nondiscrimination on the Basis of Age. The Recipient agrees to comply with Federal prohibitions against discrimination on the basis of age, including: (1) The Age Discrimination in Employment Act (ADEA), 29 U.S.C. §§ 621 – 634, which prohibits discrimination on the basis of age, (2) U.S. Equal Employment Opportunity Commission (U.S. EEOC) regulations, “Age Discrimination in Employment Act,” 29 C.F.R. part 1625, which implements the ADEA, (3) The Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6101 et seq., which prohibits discrimination against individuals on the basis of age in the administration of programs or activities receiving Federal funds, (4) U.S. Health and Human Services regulations, “Nondiscrimination on the Basis of Age in Programs or Activities Receiving Federal Financial Assistance,” 45 C.F.R. part 90, which implements the Age Discrimination Act of 1975, and (5) Federal transit law, specifically 49 U.S.C. § 5332, as stated in section a,

g. Nondiscrimination on the Basis of Disability. The Recipient agrees to comply with the following Federal prohibitions pertaining to discrimination against seniors or individuals with disabilities: (1) Federal laws, including: (a) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in the administration of federally funded programs or activities, (b) The Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. § 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities, 1 General. Titles I, II, and III of the ADA apply to FTA Recipients, but 2 Indian Tribes. While Titles II and III of the ADA apply to Indian Tribes, Title I of the ADA exempts Indian Tribes from the definition of “employer,” (c) The Architectural Barriers Act of 1968, as amended, 42 U.S.C. § 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, (d) Federal transit law, specifically 49 U.S.C. § 5332, which now includes disability as a prohibited basis for discrimination, and (e) Other applicable laws and amendments pertaining to access for elderly individuals or individuals with disabilities, (2) Federal regulations, including: (a) U.S. DOT regulations, “Transportation Services for Individuals with Disabilities (ADA),” 49 C.F.R. part 37, (b) U.S. DOT regulations, “Nondiscrimination on the Basis of Disability in Programs and Activities Receiving or Benefiting from Federal Financial Assistance,” 49 C.F.R. part 27, (c) U.S. DOT regulations, “Transportation for Individuals with Disabilities: Passenger Vessels,” 49 C.F.R. part 39, (d) Joint U.S. Architectural and Transportation Barriers Compliance Board (U.S. ATBCB) and U.S. DOT regulations, “Americans With Disabilities (ADA) Accessibility Specifications for Transportation Vehicles,” 36 C.F.R. part 1192 and 49 C.F.R. part 38, (e) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability in State and Local Government Services,” 28 C.F.R. part 35, (f) U.S. DOJ regulations, “Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities,” 28 C.F.R. part 36, (g) U.S. EEOC, “Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act,” 29 C.F.R. part 1630, (h) U.S. Federal Communications Commission regulations, “Telecommunications Relay Services and Related Customer Premises Equipment for Persons with Disabilities,” 47 C.F.R. part 64, Subpart F, (i) U.S. ATBCB regulations, “Electronic and Information Technology Accessibility Standards,” 36 C.F.R. part 1194, and (j) FTA regulations, “Transportation for Elderly and Handicapped Persons,” 49 C.F.R. part 609, and (3) Other applicable Federal civil rights and nondiscrimination guidance,

h. Drug or Alcohol Abuse - Confidentiality and Other Civil Rights Protections. The Recipient agrees to comply with the confidentiality and civil rights protections of: (1) The Drug Abuse Office and Treatment Act of 1972, as amended, 21 U.S.C. § 1101 et seq., (2) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, 42 U.S.C. § 4541 et seq., and (3) The Public Health Service Act, as amended, 42 U.S.C. §§ 290dd – 290dd-2,

i. Access to Services for People with Limited English Proficiency. Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote accessibility of public transportation services to people whose understanding of English is limited by following: 1) Executive Order No. 13166, “Improving Access to Services for Persons with Limited English Proficiency,” August 11, 2000, 42 U.S.C. § 2000d-1 note, and (2) U.S. DOT Notice, “DOT Policy Guidance Concerning Recipients’ Responsibilities to Limited English Proficiency (LEP) Persons,” 70 Fed. Reg. 74087, December 14, 2005,

j. Other Nondiscrimination Laws. Except as the Federal Government determines otherwise in writing, the Recipient agrees to: (1) Comply with other applicable Federal nondiscrimination laws and regulations, and (2) Follow Federal guidance prohibiting discrimination.\

k. Remedies. Remedies for failure to comply with applicable Federal Civil Rights laws and Federal regulations may be enforced as provided in those Federal laws or Federal regulations.

**Breaches and Dispute Resolution** – Applicability – All contracts over \$100,000

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Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the recipient's authorized representative. This decision shall be final and conclusive unless within ten (10) days from the date of receipt of its copy, contractor mails or otherwise furnishes a written appeal to the recipient's CEO. In connection with such appeal, contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the recipient's CEO shall be binding upon contractor and contractor shall abide by the decision. FTA has a vested interest in the settlement of any violation of Federal law including the the False Claims Act, 31 U.S.C. § 3729.

Performance During Dispute - Unless otherwise directed by the recipient, contractor shall continue performance under this contract while matters in dispute are being resolved.

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

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the recipient and contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the residing State. Rights and Remedies - Duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the recipient or contractor shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

**Transit Employee Protective Provisions** – Applicability – Contracts for transit operations except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

(1) Contractor shall comply with applicable transit employee protective requirements as follows:

(a) Transit Employee Protective Requirements for Projects Authorized by 49 USC 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with FTA assistance authorized by 49 USC 5311, the contractor shall comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program that is most current, and any alternative comparable arrangement specified by U.S. DOL for application to the project, in accordance with U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, and any revision thereto. [New amendments to U.S. DOL guidelines, "Section 5333(b), Federal Transit Law," 29 C.F.R. Part 215, were published at 73 Fed. Reg. 47046 et. Seq., August 13, 2008.]

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

**Disadvantaged Business Enterprise (DBE)** – Applicability – Contracts over \$3,000 awarded on the basis of a bid or proposal offering to use DBEs

a. This contract is subject to the requirements of Section 1101(b) of Map-21, 23U.S.C. § 101 note, Title 49, Code of Federal Regulations, Part 26, and 49 U.S.C. § 5332 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The recipient's overall goal for DBE participation is listed elsewhere. If a separate contract goal for DBE participation has been established for this procurement, it is listed elsewhere.

b. The contractor shall not discriminate on the basis of race, color, religion, national origin or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the municipal corporation deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. If a separate contract goal has been established, Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53.

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

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e. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the recipient. In addition, the contractor may not hold retainage from its subcontractors or must return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed or must return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the recipient and contractor's receipt of the partial retainage payment related to the subcontractor's work.

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

**Prompt payment** - Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than 30 days from the receipt of each payment the prime contract receives from the Recipient. The prime contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the Recipient. This clause applies to both DBE and non-DBE subcontracts.

**Incorporation of Federal Transit Administration (FTA) Terms** – Applicability – All contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The preceding provisions include, in part, certain Standard Terms & Conditions required by USDOT, whether or not expressly stated in the preceding contract provisions. All USDOT-required contractual provisions, as stated in FTA Circular 4220.1F, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The contractor shall not perform any act, fail to perform any act, or refuse to comply with any request that would cause the recipient to be in violation of FTA terms and conditions.

**Drug & Alcohol Abuse and Testing** – Applicability – Operational service contracts except micro-purchases (\$3,000 or less, except for construction contracts over \$2,000)

The Contractor agrees to comply with the following Federal substance abuse regulations: a. Drug-Free Workplace. U.S. DOT regulations, "Drug-Free Workplace Requirements (Grants), " 49 C.F.R. Part 32, that implements the Drug-Free Workplace Act of 1988 as amended, 41 U.S.C. §§ 8103 et seq., and 2 CFR part 182, b. Alcohol Misuse and Prohibited Drug Use. FTA Regulations, Prevention of Alcohol Misuse and Prohibited Drug Use in Transit Operations," 49 USC 5331, as amended by MAP-21, 49 CFR part 40, 49 USC chapter 53, 49 CFR Part 655, to the extent applicable.

**LOBBYING CERTIFICATION**

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

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*.)]
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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

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

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

\_\_\_\_\_ Signature of Contractor's Authorized Official

\_\_\_\_\_ Name and Title of Contractor's Authorized Official

\_\_\_\_\_ Date

**SUSPENSION AND DEBARMENT CERTIFICATION**

Instructions for Certification: By signing and submitting this bid or proposal, the prospective lower tier participant is providing the signed certification set out below.

(1) It will comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 CFR part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 CFR part 180,

- (2) To the best of its knowledge and belief, that its Principals and Subrecipients at the first tier:
- a. Are eligible to participate in covered transactions of any Federal department or agency and are not presently:
    - (1) Debarred,
    - (2) Suspended,
    - (3) Proposed for debarment,
    - (4) Declared ineligible,
    - (5) Voluntarily excluded, or
    - (6) Disqualified,
  - b. Its management has not within a three-year period preceding its latest application or proposal been convicted of or had a civil judgment rendered against any of them for:
    - (1) Commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction, or contract under a public transaction,
    - (2) Violation of any Federal or State antitrust statute, or
    - (3) Commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making any false statement, or receiving stolen property,
  - c. It is not presently indicted for, or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses listed in the preceding subsection 2.b of this Certification,
  - d. It has not had one or more public transactions (Federal, State, or local) terminated for cause or default within a three-year period preceding this Certification,
  - e. If, at a later time, it receives any information that contradicts the statements of subsections 2.a – 2.d above, it will promptly provide that information to FTA,
  - f. It will treat each lower tier contract or lower tier subcontract under its Project as a covered lower tier contract for purposes of 2 CFR part 1200 and 2 CFR part 180 if it:
    - (1) Equals or exceeds \$25,000,
    - (2) Is for audit services, or
    - (3) Requires the consent of a Federal official, and
  - g. It will require that each covered lower tier contractor and subcontractor:

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- (1) Comply and facilitate compliance with the Federal requirements of 2 CFR parts 180 and 1200, and
- (2) Assure that each lower tier participant in its Project is not presently declared by any Federal department or agency to be:

- a. Debarred from participation in its federally funded Project,
- b. Suspended from participation in its federally funded Project,
- c. Proposed for debarment from participation in its federally funded Project,
- d. Declared ineligible to participate in its federally funded Project,
- e. Voluntarily excluded from participation in its federally funded Project, or
- f. Disqualified from participation in its federally funded Project, and

(3) It will provide a written explanation as indicated on a page attached in FTA's TEAM-Web or the Signature Page if it or any of its principals, including any of its first tier Subrecipients or its Third Party Participants at a lower tier, is unable to certify compliance with the preceding statements in this Certification Group.

Certification

Contractor: \_\_\_\_\_

Signature of Authorized Official \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_

Name and Title of Contractor's Authorized Official \_\_\_\_\_

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**Other Federal & Contract Requirements (not clauses)**  
**(Recommended for inclusion in solicitation/contract language)**

**Other Federal Requirements**

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

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

**Conformance with ITS National Architecture** – Contractor shall conform, to the extent applicable, to the National Intelligent Transportation Standards architecture as required by Map-21 and follow the provisions of FTA Notice, "FTA National Architecture Policy on Transit Projects," 66 Fed. Reg.1455 etseq., January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.

**Access Requirements for Persons with Disabilities** – Contractor shall comply with Federal policy that the elderly and persons with disabilities have the same rights as other persons to use mass transportation services and facilities and that special efforts shall be made in planning and designing those services and facilities to implement that policy. Contractor shall also comply with all applicable requirements of Sec. 504 of the Rehabilitation Act (1973), as amended, 29 USC 794, which prohibits discrimination on the basis of handicaps, and the Americans with Disabilities Act of 1990 (ADA), as amended, 42 USC 12101 et seq., which requires that accessible facilities and services be made available to persons with disabilities, including any subsequent amendments thereto.

**Notification of Federal Participation** – To the extent required by law, in the announcement of any third party contract award for goods and services (including construction services) having an aggregate value of \$500,000 or more, contractor shall specify the amount of Federal assistance to be used in financing that acquisition of goods and services and to express that amount of Federal assistance as a percentage of the total cost of the third party contract.

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

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

**Other Contract Requirements**

To the extent not inconsistent with the foregoing Federal requirements, this contract shall also include those standard clauses attached hereto, and shall comply with the recipient's Procurement Guidelines, available upon request from the recipient.

**Compliance With Federal Regulations** - Any contract entered pursuant to this solicitation shall contain the following provisions: All USDOT-required contractual provisions, as set forth in FTA Circular 4220.1F, are incorporated by reference. Anything to the contrary herein notwithstanding, FTA mandated terms shall control in the event of a conflict with other provisions contained in this Agreement. Contractor shall not perform any act, fail to perform any act, or refuse to comply with any grantee request that would cause the recipient to be in violation of FTA terms and conditions. Contractor shall comply with all applicable FTA regulations, policies, procedures and directives, including, without limitation, those listed directly or incorporated by reference in the Master Agreement between the recipient and FTA, as may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

**Real Property** - Any contract entered into shall contain the following provisions: Contractor shall at all times comply with all applicable statutes and USDOT regulations, policies, procedures and directives governing the acquisition, use and disposal of real property, including, but not limited to, 49 CFR 18.31-18.34, 49 CFR 19.30-19.37, 49 CFR Part 24, 49 CFR 5326 as amended by MAP-21, 49 CFR part 18 or 19, 49 USC 5334, applicable FTA Circular 5010, and FTA Master Agreement, as they may be amended or promulgated during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

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

**Environmental Justice** - Except as the Federal Government determines otherwise in writing, the Recipient agrees to promote environmental justice by following:

(1)  
Executive Order No. 12898, "Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations," February 11, 1994, 42 U.S.C. § 4321 note, as well as facilitating compliance with that Executive Order, and (2) DOT Order 5610.2, "Department of Transportation Actions To Address Environmental Justice in Minority Populations and Low-Income Populations," 62 Fed. Reg. 18377, April 15, 1997, and (3) The most recent and applicable edition of FTA Circular 4703.1, "Environmental Justice Policy Guidance for Federal Transit Administration Recipients," August 15, 2012, to the extent consistent with applicable Federal laws, regulations, and guidance,

**Environmental Protections** – Compliance is required with any applicable Federal laws imposing environmental and resource conservation requirements for the project. Some, but not all, of the major Federal laws that may affect the project include: the National Environmental Policy Act of 1969; the Clean Air Act; the Resource Conservation and Recovery Act; the comprehensive Environmental response, Compensation and Liability Act; as well as environmental provisions with Title 23 U.S.C., and 49 U.C. chapter 53. The U.S. EPA, FHWA and other federal agencies may issue other federal regulations and directives that may affect the project. Compliance is required with any applicable Federal laws and regulations in effect now or that become effective in the future.

**Geographic Information and Related Spatial Data** – Any project activities involving spatial data or geographic information systems activities financed with Federal assistance are required to be consistent with the National Spatial Data Infrastructure promulgated by the Federal Geographic Data Committee, except to the extent that FTA determines otherwise in writing.

**Federal Single Audit Requirements For State Administered Federally Aid Funded Projects Only**

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Non Federal entities that expend \$500,000 or more in a year in Federal awards from all sources are required to comply with the Federal Single Audit Act provisions contained in U.S. Office of Management and Budget (OMB) Circular No. A 133, Audits of States, Local Governments, and Non Profit Organizations. Non Federal entities that expend Federal awards from a single source may provide a program specific audit, as defined in the Circular. Non Federal entities that expend less than \$500,000 in a year in Federal awards from all sources are exempt from Federal audit requirements for that year, except as noted in 3052.215(a), but records must be available for review or audit by appropriate officials of the Federal and State agencies.

**Catalog of Federal Domestic Assistance (CFDA) Identification Number**

The municipal project sponsor is required to identify in its accounts all Federal awards received and expended, and the Federal programs under which they were received. Federal program and award identification shall include, as applicable, the CFDA title and number, award number and year, name of the Federal agency, and name of the pass through entity.

**The CFDA number for the Federal Transit Administration Nonurbanized Area Formula (Section 5311) is 20.509.** A Recipient covered by the Single Audit Act Amendments of 1996 and OMB Circular A-133, "Audits of States, Local Governments, and Non-Profit Organizations," agrees to separately identify the expenditures for Federal awards under the Recovery Act on the Schedule of Expenditures of Federal Awards (SEFA) and the Data Collection Form (SF-SAC) required by OMB Circular A-133. The Recipient agrees to accomplish this by identifying expenditures for Federal awards made under Recovery Act separately on the SEFA, and as separate rows under Item 9 of Part III on the SF-SAC by CFDA number, and inclusion of the prefix "ARRA" in identifying the name of the Federal program on the SEFA and as the first characters in Item 9d of Part III on the SF-SAC

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**EXHIBIT E – PI MEDICAL TRANSPORTATION RATE SHEET**