

November 17, 2009

Dear Prospective Proposer,

The Yosemite Area Regional Transportation System (YARTS) is inviting proposals from qualified firms interested in preparing a Short Range Transit Plan for YARTS. A description of the project and study area is provided in Attachment A, a list of the project tasks is provided in Attachment B, and a sample contract is provided in Attachment C.

Proposal Submittal

If your firm is interested in submitting a proposal for this work, please respond to the following:

1. Provide a description of your firm's qualifications, personnel to be dedicated to the project and their experience. Also include an organizational chart.
2. Prepare a detailed process and program of tasks for preparing the desired products identified in Attachment B.
3. Prepare a task schedule.
4. Identify an estimate of hours of each key staff member, by task.
5. Identify estimated total cost of each task.
6. Identify tasks to be performed by subcontractors, if any.
7. Identify project start date.
8. Identify products by task including completion date.
9. Include a list of five client references for whom planning consultant services have been rendered by the firm.
10. Proposal must demonstrate a working knowledge and experience of all member counties within the YARTS service area and cite work performed in each to be a viable candidate.

Criteria

An ad hoc committee comprised of staff representing YARTS's member counties and the YARTS Transit Manager will evaluate proposals. Based on the criteria, the ad hoc committee will review the proposals and select qualified firms for interviews, if necessary.

Proposals will be evaluated on:

1. The qualifications of the firm and staff.
2. The completeness of the proposal submittal.
3. The responsiveness and comprehensiveness of the proposal with desired contract products.
4. The continuity and schedule of the program of tasks.
5. Cost.
6. If necessary, the committee will interview select candidates. Interviews would take place the week of January 11, 2010.

Based on the proposals and interviews, if conducted, the selection committee will make a recommendation to the YARTS Governing Board for final approval.

Procedures

One original of the proposal, signed by an officer of the firm, and eight (8) copies, must be received by the Yosemite Area Regional Transportation System no later than 4:30 P.M., Wed. December 30, 2009. No late, telephone, fax, or e-mail proposals will be accepted.

Proposals must be complete and submitted in a SEALED ENVELOPE OR CARTON CLEARLY IDENTIFIED ON THE OUTSIDE AS FOLLOWS:

“SHORT RANGE TRANSIT PLAN PROPOSAL” - DUE December 30, 2009

Proposals may be mailed or delivered to:

Yosemite Area Regional Transportation System
369 West 18th Street
Merced, California 95340

Questions should be directed to Dick Whittington, YARTS Transit Manager at (209) 723-3153 Ext. 311 (voice) or (209) 723-0322 (fax) or e-mail at Dick.Whittington@mcagov.org. Responses may be shared with other vendors.

The Yosemite Area Regional Transportation System reserves the right to reject any or all proposals.

If any additional information is needed, you may contact me at (209) 723-3153.

Jesse B. Brown
Executive Director

ATTACHMENT A

PROJECT DESCRIPTION

Background

The Yosemite Area Regional Transportation System (YARTS) is a Joint Powers Authority with members from Merced, Mariposa and Mono Counties. The three-member YARTS Board of Commissioners is made up of one elected Supervisor from each of the three member counties.

A thirteen (13) member Authority Advisory Committee (AAC) also exists to assist the YARTS Board by studying issues and making recommendations to the Authority on policy matters and projects. Three AAC members are nominated by each member of the JPA Board, two by the National Park Service – Yosemite, and two by the YARTS Executive Director.

In the MCAG 2009-2010 Overall Work Program, an update of the YARTS Short Range Transit Plan is scheduled, for which consulting services are being solicited. The 2004-2009 YARTS SRTP is available on line at www.yarts.com/documents/2003/srtp04.pdf.

Study Area

The study area includes the service corridors that YARTS currently operates over, which include; routing in the city of Merced; Highway 140 between Merced and Yosemite National Park, through Mariposa County; Highway 120 East/Highway 395 between the communities of Mammoth Lakes, June Lake and Lee Vining in Mono County and Yosemite National Park.

This study will also evaluate the ramifications of expansion of the service to Tuolumne County on Hwy 120 and/or to Madera County and the city of Fresno on Hwy 41. This review should include a recommendation for the size and makeup of the YARTS Board of Commissioners, a review of staffing levels and efficiencies, and other changes that the expansion(s) might require.

ATTACHMENT B

Project Tasks

YARTS has identified the following Project Tasks. Your firm should describe in specific detail how these tasks will be prepared.

- Task 1. Review the 2004-2009 YARTS SRTP, approved October 2003.
- Task 2 Conduct four (4) Public Workshops, one in each of the counties served by YARTS, one in Yosemite National Park- Identifying input on Transit Needs and conduct rider interviews on YARTS buses. Prepare a digital interview option to be made available on the Internet.
- Task 3 Develop a comprehensive draft Short Range Transit Plan to include:
- 1) System Description and identification of issues, including duplicate service routes by other providers.
 - 2) Goals and Objectives
 - 3) Performance Standards and Overall System Evaluation, including fare structures and fare box recovery
 - 4) Projection of future transit ridership demands and identify opportunities, including effectiveness and efficiencies. Evaluate underutilized capacity on the system.
 - 5) Recommended Service Standards (seasonal levels of service and service frequencies) including connectivity to transit in member counties
 - 6) Propose a Bus Replacement Program
 - 7) Recommend differing models for a 5-year operational & capital plan, including a status quo vs. a system growth model, and their financial ramifications
 - 8) Recommend a Marketing Plan
 - 9) Recommend a cost sharing proposal by member jurisdictions
 - 10) Recommended Financial Plan, to include an emergency “carryover” fund, the potential for corporate sponsorship, more stable funding, including new funding streams from state, local and federal sources.
 - 11) Describe economic and other benefits to served counties
 - 12) Evaluate the success of the current SRTP
 - 13) Identify opportunities for intercity service connections
 - 14) Evaluate management options, including in-house vs. contracted and the advantages/disadvantages of each
 - 15) Evaluate the relationship between the YARTS SRTP and the Transportation

Improvement Strategy and the Merced River Plan, which are being conducted in Yosemite National Park.

16) Show YARTS role, if any, in the Highway 395 Corridor Management Plan being conducted by Mono County

- Task 4 Conduct three (3) public meetings in member counties, presenting the plan contents and gathering feedback.
- Task 5 Conduct three (3) jurisdiction meetings in member-counties to discuss a Cost Sharing Proposal
- Task 6. Present the Draft Short Range Transit Plan at two committee/board meetings.
- Task 7 Prepare Final Plan based on comments and feedback

Products & Schedule

Product/task:	Date:
Public Workshops	January, February - 2010
Internal Review of Draft Short Range Transit Plan	February, March - 2010
Draft Short Range Transit Plan	March
Public Meetings	March
Presentation to Committees/Board	April- 2010
Internal Review of Final Short Range Transit Plan	May - 2010
Final Short Range Transit Plan	June - 2010

Products will be submitted using the following:

- ◆ Internal Review of products sent by e-mail
- ◆ Draft products: One (1) original hard copy of the Plan suitable for duplication and on CD in Microsoft Word/Access (data) format.
- ◆ Final products: Twenty (20) original hard copy of the Plan; One (1) hard copy suitable for duplication and on copy on CD in Microsoft Word/Access (data) format.

ATTACHMENT C

Sample Contract

YARTS - _____ AGREEMENT

**Products or Services
provided _____**

THIS AGREEMENT, made and entered into this _____, by and between Yosemite Area Regional Transportation System, hereinafter referred to as "YARTS", and _____, hereinafter referred to as "CONSULTANT".

WITNESSETH;

SECTION 1 - ORGANIZATION AND CONTENTS

- SECTION 1 ORGANIZATION AND CONTENTS
- SECTION 2 SCOPE OF CONSULTING SERVICES - BASIC
- SECTION 3 SCOPE OF CONSULTING SERVICES - ADDITIONAL;
COMPLETION SCHEDULE
- SECTION 4 NOTICE TO PROCEED; PROGRESS; COMPLETION
- SECTION 5 TIME OF PERFORMANCE
- SECTION 6 COMPENSATION
- SECTION 7 CHANGES TO SCOPE - BASIC
- SECTION 8 COMPLIANCE WITH LAWS, RULES, REGULATIONS
- SECTION 9 EXHIBITS INCORPORATED
- SECTION 10 RESPONSIBILITY OF CONSULTANT
- SECTION 11 RESPONSIBILITY OF YARTS
- SECTION 12 TERM
- SECTION 13 TERMINATION FOR CONVENIENCE OF MCAG
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- SECTION 15 INTEREST OF OFFICIALS AND CONSULTANT
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SECTION 26	OWNERSHIP OF DOCUMENTS
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EXHIBIT B	COMPENSATION
EXHIBIT C	SCOPE OF CONSULTING SERVICES - ADDITIONAL; COMPLETION SCHEDULE

SECTION 2 - SCOPE OF CONSULTING SERVICES - BASIC

1. CONSULTANT agrees to perform all work necessary to complete in a manner satisfactory to YARTS, those items described in Exhibit "A" attached hereto and incorporated herein by this reference as if set forth in full.
2. CONSULTANT shall submit a detailed monthly progress report to YARTS describing the progress of the work.

SECTION 3 - SCOPE OF CONSULTING SERVICES - ADDITIONAL; COMPLETION SCHEDULE

It is understood by YARTS and CONSULTANT that it may be necessary, in connection with this project, for CONSULTANT to perform or secure the performance of related services other than those set forth in Exhibit "A". In each such instance, CONSULTANT shall advise YARTS, in advance and in writing, of the need for such additional services, their cost and the estimated time required to perform them (if appropriate). CONSULTANT shall not proceed to perform any such additional service until YARTS has determined that such service is beyond the scope of the basic services to be provided by CONSULTANT, is required, and has given its written authorization to perform or obtain it. Each additional service so authorized shall constitute an amendment to this Agreement, shall be identified and sequentially numbered as "Additional Consulting Service No. 1" and so forth, shall be subject to all of the provisions of this Agreement, and shall be attached to Exhibit "C" entitled "SCOPE OF CONSULTING SERVICES - ADDITIONAL; COMPLETION SCHEDULE".

SECTION 4 - NOTICE TO PROCEED; PROGRESS; COMPLETION

Upon execution of this Agreement by the parties, YARTS shall give CONSULTANT notice to proceed with the work by issuance of a YARTS Purchase Order. Such notice may authorize CONSULTANT to render all of the services contemplated herein, or such portions or phases as may be mutually agreed upon. In the latter event, YARTS shall, in its sole discretion, issue subsequent notices from time to time regarding further portions or phases of the work. Upon receipt of such notices, CONSULTANT shall diligently proceed with the work authorized and complete it within

the agreed time period.

SECTION 5 - TIME OF PERFORMANCE

CONSULTANT shall commence work within ten (10) days following issuance of a notice to proceed. The various items involved in the Project shall be completed as indicated in EXHIBIT "A". CONSULTANT shall complete the performance of its obligations under this Agreement within the specified time period, unless an extension of time is granted in writing by YARTS, which said extension, if any, shall be granted only for good cause as determined at the sole discretion of YARTS.

SECTION 6 - COMPENSATION

A. Costs

For services performed pursuant to this Agreement, YARTS agrees to pay and CONSULTANT agrees to accept as payment in full, on an hourly rate basis plus reimbursable expense up to the maximum amount identified in Exhibit "B" - COMPENSATION of this Agreement. The CONSULTANT's hourly rate schedule shall be attached in Exhibit "B".

B. Monthly Compensation

CONSULTANT shall be reimbursed monthly no later than thirty (30) days following submission of a written, acceptable billing to YARTS. Said billing shall indicate the number of hours worked by each category of CONSULTANT's personnel, and the other direct and indirect costs incurred to the date of such billing, if any, and the professional fee determined proportionately based on the percentage of work completed. YARTS shall retain ten percent (10%) of such estimated value of work done as part security for the fulfillment of the Agreement by CONSULTANT, and shall monthly pay to CONSULTANT, while carrying on the work, the balance not retained as aforesaid, after deducting therefrom all previous payments and all sums to be kept or retained under the provision of the Agreement.

C. Final Payment

CONSULTANT shall, after the completion of all work under the Agreement, submit a final billing for work done thereunder, and MCAG shall pay the entire sum, up to the Cost Ceiling stated in Exhibit "B" - COMPENSATION, as found due after deducting therefrom all previous payments. All prior payments shall be subject to correction in the final payment. The final payment shall not be due and payable until the expiration of thirty (30) days following submission, by CONSULTANT, of a written acceptable final billing to YARTS. It is mutually agreed between the parties to this Agreement that no payments made under the Agreement, except the final payment, shall be conclusive evidence of the performance of the Agreement, either wholly or in part, against any claim of the CONSULTANT, and no payment shall be construed to be in acceptance of any defective work or improper materials.

SECTION 7 - CHANGES TO SCOPE - BASIC

YARTS may at any time, and upon a minimum of ten (10) days' written notice, modify the scope of basic services to be provided under this Agreement. CONSULTANT shall, upon receipt of said notice, determine the impact on both time and compensation of such change in scope and notify YARTS in writing. Upon agreement between YARTS and CONSULTANT as to the extent of said impacts on time and compensation, an amendment to this Agreement shall be prepared describing such changes. Execution of the amendment by YARTS and CONSULTANT shall constitute the CONSULTANT's notice to proceed with the changed scope.

SECTION 8 - COMPLIANCE WITH LAWS, RULES, REGULATIONS

All services performed by CONSULTANT pursuant to this Agreement shall be undertaken with usual and customary professional care to be performed in accordance and full compliance with all applicable Federal, State or City statutes, and any rules or regulations promulgated thereunder.

SECTION 9 - EXHIBITS INCORPORATED

All Exhibits referred to in this Agreement and attached to it are hereby incorporated in it by this reference.

SECTION 10 - RESPONSIBILITY OF CONSULTANT

By executing this Agreement, CONSULTANT warrants to YARTS that he/she possesses, or will arrange to secure from others, all of the necessary professional consulting capabilities, experience, resources and facilities to provide to YARTS the services contemplated under this Agreement. CONSULTANT further warrants that he/she will follow the best current, generally accepted practice of the consulting profession to make findings, render opinions, prepare factual presentations, and provide professional advice and recommendations regarding the project for which services are rendered under this Agreement.

SECTION 11 - RESPONSIBILITY OF MCAG

To the extent appropriate to the project contemplated by this Agreement, YARTS shall:

- A. Assist CONSULTANT by placing at his/her disposal all available information pertinent to the project, including previous reports and any other relevant data.
- B. Guarantee access to and make all provisions for CONSULTANT to enter upon public and private property as required for CONSULTANT to perform his/her services.
- C. Examine all studies, reports, proposals and other documents presented by CONSULTANT, and render verbally or in writing as may be appropriate, decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT.
- D. Designate in writing a person to act as YARTS's representative with respect to all work to be

performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define YARTS's policies and decisions with respect to materials, equipment, elements and systems pertinent to CONSULTANT's services.

E. Furnish approvals and permits from all governmental authorities having jurisdiction over the project and such approvals and consents from others as may be necessary for completion of the Project.

SECTION 12 - TERM

The term of this Agreement shall commence upon YARTS's issuance to CONSULTANT of a notice to proceed for all or a portion of the work as hereinabove provided, and shall end upon YARTS's acceptance and payment for such portion of the work as was authorized by such notice.

SECTION 13 - TERMINATION FOR CONVENIENCE OF MCAG

YARTS may terminate this Agreement at any time by giving notice to CONSULTANT of such termination and specifying the effective date thereof, at least ten (10) days before the effective date of such termination. In such event, all finished or unfinished documents and other materials shall, at the option of YARTS, become its property. If this Agreement is terminated by YARTS as provided herein, CONSULTANT shall be paid a total amount that is the ratio of completed tasks to total services as determined by YARTS, less payments already made under this contract. This prorating shall be extended to cover any fixed fee charged for a fully completed product.

SECTION 14 - TERMINATION OF AGREEMENT FOR CAUSE

A. MCAG may, by written notice to CONSULTANT, terminate the whole or any part of this Agreement in any one of the following circumstances:

1. If CONSULTANT fails to perform the services called for by this Agreement within the time(s) specified herein, or any extension thereof; or
2. If CONSULTANT fails to perform the services called for by this Agreement or so fails to make progress as to endanger performance of this Agreement in accordance with its terms, and in either of these two circumstances does not correct such failure within a period of ten (10) days (or such longer period as YARTS may authorize in writing) after receipt of notice from YARTS specifying such failure.

B. In the event YARTS terminates this Agreement in whole or in part as provided in Paragraph "A" above, YARTS may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated.

C. Except with respect to defaults of subcontractors, CONSULTANT shall not be liable for any

excess costs if the failure to perform arises out of causes beyond the control and without the fault or negligence of CONSULTANT. Such causes include, but are not limited to, acts of God or of the public enemy, acts of government, in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, and unusually severe weather. In the event the failure to perform is caused by the default of a subcontractor, CONSULTANT shall not be liable for failure to perform, unless the services to be furnished by the subcontractor were obtainable from other sources in sufficient time and within budgeted resources to permit CONSULTANT to meet the required delivery schedule or other performance requirements.

D. Should the Agreement be terminated as provided in Paragraph "A" above, CONSULTANT shall provide YARTS with all finished and unfinished documents, data, studies, services, drawings, maps, models, photographs, reports, etc., prepared by CONSULTANT pursuant to this Agreement. Upon termination as provided in Paragraph "A" above, CONSULTANT shall be paid the value of the work performed, as determined by YARTS, less payments of compensation previously made. Payments previously made by YARTS to CONSULTANT shall be credited to the amount payable to CONSULTANT for allowable costs as provided herein, except, however, CONSULTANT shall be entitled to a proportionate fixed fee, if any, which in the opinion of YARTS, it has legitimately earned and was not related to the cause for which this Agreement was terminated.

E. If after notice of termination of this Agreement, as provided for in this Section, it is determined for any reason that CONSULTANT was not in default under the provisions of this Section or that the default was excusable under the provisions of this Section, then the rights and obligations of the parties shall be the same as if the Agreement had been terminated for the convenience of YARTS.

SECTION 15 - INTEREST OF OFFICIALS AND CONSULTANT

A. No member of or delegate to the Congress of the United States of America nor any Resident Commissioner shall be admitted to any share or part hereof or to any benefits to arise herefrom.

B. CONSULTANT hereby covenants that he or she has, at the time of the execution of this Agreement, no interest, and that he or she shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed pursuant to this Agreement. CONSULTANT further covenants that in the performance of this work, no person having any such interest shall be employed.

SECTION 16 - SUBCONTRACTING

A. CONSULTANT shall not subcontract or otherwise assign any portion of the work to be performed under this Agreement without the prior written approval of YARTS.

B. All subcontracts shall be subject to the provisions contained in this contract between YARTS and CONSULTANT.

SECTION 17 - SUCCESSORS AND ASSIGNS

This Agreement shall be binding upon and shall inure to the benefit of any successors to or assigns of the parties. CONSULTANT shall not assign, delegate or transfer the rights and duties under this Agreement or any part thereof without the prior written consent of YARTS.

SECTION 18 - INDEPENDENT CONTRACTOR

YARTS and CONSULTANT agree that CONSULTANT is an independent contractor. CONSULTANT shall be solely responsible for the conduct and control of the work performed under this Agreement. CONSULTANT shall be free to render consulting services to others during the term of this Agreement, so long as such activities do not interfere with or diminish CONSULTANT's ability to fulfill the obligations established herein to YARTS.

SECTION 19 - DISPUTE

Any dispute not resolvable by informal discussion between the parties to this contract may be adjudicated in a Court of Law under the laws of the State of California or the U.S. Government, as applicable. In such event the prevailing party shall be entitled to recover reasonable attorney's fees and costs as fixed by the court.

SECTION 20 - EQUAL EMPLOYMENT OPPORTUNITY

In connection with the execution of this Agreement, CONSULTANT shall not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. CONSULTANT shall take affirmative action to ensure that applicants are employed, and the employees are treated during their employment, without regard to their race, religion, color, sex or national origin. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT shall comply with Executive Order 11246, entitled "Equal Employment Opportunity" as amended by Executive Order 11375, and as supplemented in Department of Labor Regulations (41 CFR Part 60), the California Fair Employment and Housing Act, and any other applicable Federal and State laws and regulations relating to equal employment opportunity.

SECTION 21 - DISADVANTAGED BUSINESS ENTERPRISE

It is the policy of YARTS that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Agreement.

CONTRACTOR agrees to ensure that disadvantaged business enterprises as defined in 49

CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard, CONTRACTOR shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that DBE's have the maximum opportunity to compete for and perform contracts. CONTRACTOR shall not discriminate on the basis of race, color, national origin, sex, age, or handicap in the award and performance of contracts. YARTS's DBE goal is 1%.

SECTION 22 - TITLE VI COMPLIANCE

CONSULTANT shall comply with Title VI of the Civil Rights Act of 1964, as amended, and with the provisions contained in 49 CFR 21 through Appendix C and 23 CFR 710.405(b). During the performance of this Agreement, the CONSULTANT, for itself, its assignees and successors in interest, agrees as follows:

1. **Compliance with Regulations:** The CONSULTANT shall comply with the Regulations relative to nondiscrimination in federally-assisted programs, Title 49, Code of Federal Regulations, Parts 21, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
2. **Nondiscrimination:** The CONSULTANT, with regard to the work performed by it during the Agreement, shall not discriminate on the grounds of race, religion, color, sex, age or national origin in the selection or retention of subcontractors, including procurements of materials and leases of equipment. The CONSULTANT shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the Agreement covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiations made by the CONSULTANT for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the CONSULTANT of the CONSULTANT's obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, religion, color, sex, age or national origin.
4. **Information and Reports:** The CONSULTANT shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by YARTS to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the CONSULTANT shall so certify to YARTS, as appropriate, and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the CONSULTANT's noncompliance with the nondiscrimination provisions of this Agreement, YARTS shall impose such contract sanctions as it may determine to be appropriate, including, but not limited to:

a. Withholding of payments to the CONSULTANT under the Agreement until the CONSULTANT complies, and/or

b. Cancellation, termination or suspension of the Agreement, in whole or in part.

6. **Incorporation of Provisions:** The CONSULTANT shall include the provisions of Paragraphs (1) through (6) of this Section in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The CONSULTANT shall take such action with respect to any subcontract or procurement as YARTS may direct as a means of enforcing such provisions including sanctions for noncompliance: provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the CONSULTANT may request YARTS to enter into such litigation to protect the interests of YARTS, and in addition, the CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

7. **Civil Rights:** All subcontracts awarded by contractors shall contain provisions requiring compliance with Title VI of the Civil Rights Act of 1964, as amended. Accordingly, 49 CFR Part 21, through Appendix C and 23 CFR 710.405(b) shall be made applicable by reference in all subcontracts financed in whole or in part with Federal funds.

SECTION 23 - PUBLICATION

A. Any and all reports published by CONSULTANT shall acknowledge that it was prepared in cooperation with YARTS.

B. Articles, reports, or works reporting on the work provided for herein or on portions thereof which are published by CONSULTANT shall contain in the foreword, preface, or footnote the following statement:

"The contents of this report reflect the view of the author who is responsible for the facts and accuracy of the data presented herein. The contents do not necessarily reflect the official views of YARTS. This report does not constitute a standard, specification, or regulation."

SECTION 24 - COPYRIGHTS

CONSULTANT shall be free to copyright material developed under this Agreement with the provision that YARTS reserve a royalty-free, nonexclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use the material for government or public purposes.

SECTION 25 - INDEMNIFICATION

CONSULTANT shall hold YARTS, its officers, boards and commissions, and members thereof, its employees and agents harmless of and free from any and all liabilities which might arise out of or relating to this Agreement to the extent caused by CONSULTANT's negligence. Should YARTS or any of its officers, boards and commission, and members thereof, its employees and agents, be named in any suit, or should any claim be made against it or any of them by suit or otherwise, whether the same may be groundless or not, arising out of or relating to this Agreement, to the extent caused by CONSULTANT's negligence, CONSULTANT shall defend YARTS and said officers, boards and commission, and members thereof, its employees and agents, and shall indemnify them for any judgment rendered against them or any sums paid out in settlement or otherwise, **including but not limited to, reasonable attorney's fees and costs incurred by YARTS, to the extent such judgment or settlement is caused by the CONSULTANT's negligence for which the CONSULTANT is held legally liable by a court or forum of competent jurisdiction.**

SECTION 26 - OWNERSHIP OF DOCUMENTS

Original documents, methodological explanations, computer programs, drawings, designs and reports generated by this Agreement shall belong to and become the property of YARTS in accordance with accepted standards relating to public work contracts. Any additional copies, not otherwise provided for herein, shall be the responsibility of YARTS.

SECTION 27 - DOCUMENTATION/ACCESS TO RECORDS

CONSULTANT shall document the results of the work to the satisfaction of YARTS. Such documentation may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of contract objectives.

CONSULTANT and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred, and make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment to CONSULTANT. Such materials shall be available for inspection by authorized representatives of YARTS, or the copies thereof shall be furnished if requested. The FHWA, Comptroller General of the United States, or any authorized representative, shall have access to any books, documents, papers and records of the CONSULTANT, which are directly pertinent to that specific contract, for the purpose of making audit, examination, excerpts, and transcriptions.

SECTION 28 - NOTICES

Any notices required to be given pursuant to this Agreement shall be deemed to have been given by their deposit, postage prepaid, in the United States Postal Service, addressed to the parties

as follows:

a. To YARTS: Jesse Brown
Executive Director
Yosemite Area Regional Transportation System
369 West 18th Street
Merced, CA 95340

b. To CONSULTANT: _____

Nothing hereinabove shall prevent either YARTS or CONSULTANT from personally delivering any such notices to the other.

SECTION 29 - JURISDICTION

Except as otherwise specifically provided, this Agreement shall be administered and interpreted under the laws of the State of California. Jurisdiction of litigation arising from this Agreement shall be in that State. If any part of this Agreement is found to be in conflict with applicable laws, such part shall be inoperative, null and void insofar as it is in conflict with said laws, but the remainder of the Agreement shall be in full force and effect.

SECTION 30 - INTEGRATION

This agreement represents the entire understanding of YARTS and CONSULTANT as to those matters contained herein. No prior oral or written understanding shall be of any force or effect with respect to those matters covered hereunder. This Agreement may not be modified or altered except in writing signed by YARTS and CONSULTANT.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement the day and year first above written.

MCAG:

CONSULTANT:

By _____
Jesse B.
Executive Director

By _____

APPROVED AS TO FORM:

Jeffery G. Green
Attorney, Yosemite Area Regional
Transportation System

Exhibit A - Scope of Work

Exhibit B - Compensation Maxims

Cost ceiling: Total cost for all tasks is not to exceed \$ _____

Staff assigned to project including rate of pay:

THIRD PARTY CONTRACT
FTA and California Department of Transportation Required Provisions

1. Source of Funding. This contract entered on _____ (date) between _____ and _____ for _____ (type of purchase) is being funded with the following fund source(s) and amount:

Fund Source	Amount

2. Antitrust Claims. The **CONTRACTOR** by signing this contract hereby certifies that if these services or goods are obtained by means of a competitive bid, the **CONTRACTOR** shall comply with the requirements of the Government Codes Sections set out below.

A. The Government Code Chapter on Antitrust claims contains the following definitions:

1. "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the Awarding Agency or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professional Code.
2. "Public purchasing body" means the Awarding Agency or the subdivision of agency making a public purchase. Government Code Section 4550.

B. The **CONTRACTOR** agrees to assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the **CONTRACTOR** for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the **CONTRACTOR**. Government Code Section 4552.

3. Child Support Compliance Act. "For any Contract in excess of \$100,000, the **CONTRACTOR** acknowledges in accordance with Public Contract Code 7110, that:

A. The **CONTRACTOR** recognizes the importance of child and family support obligations and shall fully comply with all applicable California Department of Transportation and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and

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- B. The **CONTRACTOR**, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.”
4. Procurements. All procurements, including local procurement of supplies, equipment, construction, and services shall be conducted in accordance with the Procurement Standards set forth in FTA's implementing regulations of 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Contracts to California Department of Transportation and Local Governments" and 2 CFR Part 225 or 49 CFR Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Educations, Hospitals, and Other Non-profit Organizations" and 2 CFR Part 230 and FTA Circular 4220.1F, "Third-Party Contracting Guidance.”
5. Exclusionary or Discriminatory Specifications. Apart from inconsistent requirements imposed by Federal statute or regulations, the **CONTRACTOR** agrees that it will comply with the requirements of 49 U.S.C. Section 5323(h)(2) by refraining from using any Federal assistance funds awarded to Awarding Agency on behalf of the California Department of Transportation to support procurements using exclusionary or discriminatory specifications.
6. Buy America. The **CONTRACTOR** shall comply with the Buy America requirements of 49 USC 5323(j) and 49 CFR Part 661 for all procurements of steel, iron and manufactured products used in PROJECT. Buy America requirements apply to all purchases, including materials and supplies funded as operating costs, if the purchase exceeds the threshold for small purchases (currently \$100,000). Separate requirements for rolling stock are set out at 49 USC 5323(j)(2)(c) and 49 CFR 661.11. Rolling stock must be assembled in the United California Department of Transportations and have a 60 percent domestic content.
7. U.S. Flag Requirements.
- A. Shipments by Ocean Vessel. For third-party contracts that may involve equipment, materials, or commodities which may be transported by ocean vessels, the **CONTRACTOR** and subcontractors must comply with 46 U.S.C. Section 55303 and 46 CFR Part 381, "Cargo Preference-U.S. Flag Vessels.”
- B. Shipments by Air Carrier. For third-party contracts that may involve shipments of federally assisted property by air carrier, the **CONTRACTOR** and subcontractors must comply with the "Fly America" Act and 49 U.S.C. Section 40118, "Use of United California Department of Transportations Flag Air Carriers," and 41 CFR Sections 301-10.131 through 301-10.143.
- C. Project Travel. In accordance with Section 5 of the International Air Transportation Fair Competitive Practices Act of 1973, as amended, ("Fly America" Act), 49 U.S.C. 40118 and 41 CFR Part 301-10, the **CONTRACTOR** and all subcontractors are required to use

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U.S. Flag air carriers for U.S. Government-financed international air travel and transportation, to the extent such service is available or applicable.

8. Vehicle Operator Licensing (Transit Operation & Rolling Stock Only). The **CONTRACTOR** is required to comply with all applicable requirements of the Federal Motor Carrier Safety Administration regulations and the California Vehicle Code including, but not limited to, the requirement that all vehicle operators have a valid State of California driver's license, including any special operator license that may be necessary for the type of vehicle operated.
9. Record Keeping. The **CONTRACTOR** and all subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of this Contract. All parties shall make such materials available at their respective offices at all reasonable times during the performance period and for three (3) years from the date of final payment under this Contract and all subcontracts.
10. Accounting Records. The **CONTRACTOR** shall establish and maintain separate accounting records and reporting procedures specified for the fiscal activities of the **PROJECT**. The **CONTRACTOR'S** accounting system shall conform to generally accepted accounting principles (GAAP) and uniform standards that may be established by California Department of Transportation. All records shall provide a breakdown of total costs charged to the **PROJECT** including properly executed payrolls, time records, invoices and vouchers.
11. Examination of Records. The Awarding Agency, the California Department of Transportation's Audits Office, the California Department of Transportation Auditor General, and any duly authorized representative of the Federal government shall have access to any books, records, and documents of the **CONTRACTOR** and its subcontractors that are pertinent to this Contract for audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. The **CONTRACTOR** shall include a clause to this effect in every subcontract entered into relative to the **PROJECT**.
12. Debarment and Suspension. The **CONTRACTOR** agrees as follows:
 - A. The **CONTRACTOR** agrees to comply with the requirements of Executive Order Nos. 12549 and 12689, "Debarment and Suspension," 31 U.S.C. Section 6101 note; and U.S. DEPARTMENT OF TRANSPORTATION regulations on Debarment and Suspension and 49 CFR Part 29.
 - B. Unless otherwise permitted by the California Department of Transportation, the **CONTRACTOR** agrees to refrain from awarding any third-party contract of any amount to or entering into any sub-contract of any amount with a party included in the "U.S. General Services Administration's (U.S. GSA) List of Parties Excluded from Federal procurement or Non-procurement Program," implementing Executive Order Nos. 12549 and 12689, "Debarment and suspension" and 49 CFR Part 29. The list also include the names of parties debarred, suspended, or otherwise excluded by agencies, and

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contractors declared ineligible for contract award under statutory or regulatory authority other than Executive Order Nos. 12549 and 12689.

- C. Before entering into any subcontracts with any subcontractor, the **CONTRACTOR** agrees to obtain a debarment and suspension certification from each prospective recipient containing information about the debarment and suspension status and other specific information of that awarding agency and its "principals," as defined at 49 CFR Part 29.
- D. Before entering into any third-party contract exceeding \$25,000, the **CONTRACTOR** agrees to obtain a debarment and suspension certification from each third-party contractor containing information about the debarment and suspension status of that third-party contractor and its "principals," as defined at 49 CFR 29.105(p). The **CONTRACTOR** also agrees to require each third-party contractor to refrain from awarding any third-party sub-contract of any amount (at any tier) to a debarred or suspended subcontractor, and to obtain a similar certification from any third-party subcontractor (at any tier) seeking a contract exceeding \$25,000.

13. Compliance with Federal Statutes. During the performance of this Contract, the **CONTRACTOR**, its assignees and successors in interest, agree to comply with all Federal statutes and regulations applicable to grantee recipients under the Federal Transit Act, including, but not limited to the following:

- A. Race, Color, Creed, National Origin, Sex - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the **CONTRACTOR** agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the PROJECT. The **CONTRACTOR** agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the **CONTRACTOR** agrees to comply with any implementing requirements the California Department of Transportation may issue.
- B. Nondiscrimination. The **CONTRACTOR**, with regard to the work performed by it during the contract term shall act in accordance with Title VI. Specifically, the **CONTRACTOR** shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of subcontractors, including

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procurement of materials and leases of equipment. The **CONTRACTOR** shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DEPARTMENT OF TRANSPORTATION's Regulations, including employment practices when the contract covers a program whose goal is employment. Further, In accordance with Section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the **CONTRACTOR** agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the **CONTRACTOR** agrees to comply with any implementing requirements the California Department of Transportation may issue.

- C. Solicitations for Subcontracts Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation by the **CONTRACTOR** for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the **CONTRACTOR** of the subcontractor's obligations under this Contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

- D. Information and Reports. The **CONTRACTOR** shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Awarding Agency or the California Department of Transportation to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a **CONTRACTOR** is in the exclusive possession of another who fails or refuses to furnish this information, the **CONTRACTOR** shall so certify to the Awarding Agency or the California Department of Transportation as appropriate, and shall set forth what efforts it has made to obtain the information.

- E. In accordance with 49 CFR Part 26 and as described in FTA Circular 4702.1, and the California Department of Transportation Title VI Program Plan, and upon request from the Awarding Agency, the **CONTRACTOR** shall comply with the following reporting requirements. The **CONTRACTOR** is also responsible for ensuring compliance of each third-party contractor at any tier of the PROJECT.
 - 1. Provide an Annual Title VI Certification and Assurance.
 - 2. Establish and maintain Title VI complaint procedures.
 - 3. Record Title VI investigations, complaints, and lawsuits.
 - 4. Provide meaningful access to Limited English Proficient Persons.
 - 5. Notify beneficiaries of protection under Title VI.
 - 6. Provide additional information upon request.
 - 7. Prepare and submit a Title VI Report.
 - 8. Guidance on conducting an Analysis of Construction PROJECT'S.

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9. Guidance on promoting Inclusive Public Participation.

F. Sanctions for Noncompliance. In the event of the **CONTRACTOR**'s noncompliance with the nondiscrimination provisions of this Contract, the Awarding Agency shall impose such contract sanctions as it or the California Department of Transportation may determine to be appropriate, including, but not limited to:

1. Withholding of payments to the **CONTRACTOR** under the Contract until the **CONTRACTOR** complies, and/or
2. Cancellation, termination or suspension of the Contract, in whole or in part.

G. Incorporation of Provisions. The **CONTRACTOR** shall include the provisions of these paragraphs A through F in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations or directives issued pursuant thereto. The **CONTRACTOR** will take such action with respect to any subcontractor or procurement as the Awarding Agency or the California Department of Transportation may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event a **CONTRACTOR** becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the **CONTRACTOR** may request the Awarding Agency to enter into such litigation to protect the interest of the Awarding Agency, and, in addition, the **CONTRACTOR** may request the United California Department of Transportations to enter into such litigation to protect the interests of the United California Department of Transportations.

14. Disadvantaged Business Enterprise. The **CONTRACTOR** agrees to comply with U.S. Department of Transportation regulations, "Participation by Disadvantaged Enterprises in Department of Transportation Financial Assistance Programs", 49 CFR Part 26 and will cooperate with California Department Of Transportation with regard to maximum utilization of disadvantaged business enterprises, and will use its best efforts to ensure that disadvantaged business enterprises shall have the maximum opportunity to compete for sub contractual work under this Agreement.

15. Section 504 and Americans with Disabilities Act Program Requirements. The **CONTRACTOR** will comply with 49 C.F.R. Parts 27, 37 and 38, implementing the Americans with Disabilities Act and Section 504 of the Rehabilitation Act or 1973, 29 U.S.C. Section 794, as amended.

16. Public Lands. The **CONTRACTOR** agrees to refrain from using in its PROJECT any publicly owned land from a park, recreation area, or wildlife or waterfowl refuge of National, California Department of Transportation, or local significance as determined by the Federal, California Department of Transportation, or local officials having jurisdiction thereof, and also refrain from using in its PROJECT any land from a historic site of National, California Department of Transportation, or local significance unless the Federal Government makes the specific findings as required by 49 U.S.C. § 303.

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17. Energy Conservation. The **CONTRACTOR** agrees to comply with the mandatory energy efficiency standards and policies within the applicable California Department of Transportation energy conservation plans issued in compliance with the Energy Policy and Conservation Act, 42, U.S.C. § 6321 *et seq.*
18. Conflict of Interest.
- A. In accordance with 41 U.S.C. § 22, no member of or delegate to the Congress of the United California Department of Transportations shall be admitted to any share or part of this Contract or to any benefit arising there from.
 - B. The **CONTRACTOR** certifies that its employees and the officers of its governing body shall avoid any actual or potential conflicts of interest, and that no officer or employee who exercises any functions or responsibilities in connection with this Contract shall have any personal financial interest or benefit which either directly or indirectly arises from this Contract.
 - C. The **CONTRACTOR** shall establish safeguards to prohibit its employees or its officers from using their positions for a purpose which could result in private gain or which gives the appearance of being motivated for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
 - D. The **CONTRACTOR** will not be awarded a contract if the financial interests are held by a current officer or employee of the Awarding Agency. Additionally, a contract will not be awarded to an officer or employee of the Awarding Agency to provide goods and service. Likewise, the **CONTRACTOR** officials and employees shall also avoid actions resulting in or creating an appearance of:
 - 1. Using an official position for private gain;
 - 2. Giving preferential treatment to any particular person;
 - 3. Losing independence or impartiality;
 - 4. Affecting adversely the confidence of the public or local officials in the integrity of the program.
 - E. Former California Department of Transportation employees will not be awarded a contract for 2 years from the date of separation if that employee had any part of the decision making process relevant to this contract, or for 1 year from the date of separation if that employee was in a policy making position in the same general subject area as the proposed contract within the 12-month period to his or her separation from California Department of Transportation service.

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- F. Neither the **CONTRACTOR** nor any of its employees, suppliers or subcontractors shall enter into any contract, subcontract, or arrangement in connection with the PROJECT or any property included or planned to be included in the PROJECT, in which any member, officer, or employee of the **CONTRACTOR** or its subcontractor, during the PROJECT term and for one year thereafter, has any direct or indirect conflict of interest. If any such present or former member, officer, or employee involuntarily acquires or had acquired prior to the beginning of the PROJECT term any such interest, and if such interest is immediately disclosed to the **CONTRACTOR** and such disclosure is entered upon the Minutes of the **CONTRACTOR**'s written report to the Awarding Agency of such interest, the Awarding Agency, may waive the conflict of interest; provided that the officer or employee shall not participate in any action by the **CONTRACTOR** or the locality relating to such contract, subcontract, or arrangement.
- G. No member, officer, or employee of the **CONTRACTOR** or of the locality during the PROJECT term or for one year thereafter shall have any interest, direct or indirect, in this Contract or the proceeds thereof.
- H. The provisions of this subsection shall not be applicable to any contract between the **CONTRACTOR** and its fiscal depositories or to any contract for utility services, the rates for which are fixed or controlled by a governmental agency.

19. Lobbying.

- A. The **CONTRACTOR** agrees that it will not use Federal assistance funds to support lobbying. In accordance with 31 U.S.C. and U.S. DEPARTMENT OF TRANSPORTATION Regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, if the bid is for an award of \$100,000 or more, the Awarding Agency will not make any Federal assistance available to the **CONTRACTOR** until the Awarding Agency has received the **CONTRACTOR**'s certification that the **CONTRACTOR** has not and will not use Federal appropriated funds to pay any person or organization to influence or attempt to influence an officer or employee of any Federal 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 grant, cooperative agreement or any other Federal award from which funding for the PROJECT is originally derived, consistent with 31 U.S.C. Section 1352, and;
- B. If applicable, if any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal 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 the form instructions.
- C. The **CONTRACTOR** shall require that the language of these paragraphs A through C be included in the award documents for all sub-awards at all tiers (including subcontracts,

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sub-grants, and contracts under grants, loans, and cooperative agreements) which exceed \$100,000 and that all awarding agencies shall certify and disclose accordingly.

This Contract is a material representation of facts upon which reliance was placed when this Contract was made or entered into. Signing of this Contract is a prerequisite for making or entering into this Contract imposed by Section 1352, Title 31, U. S. Code. Any person who fails to comply with these provisions shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

20. Program Fraud and False or Fraudulent California Department of Transportation or Related Acts.

- A. The **CONTRACTOR** acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et. seq. and U.S. DEPARTMENT OF TRANSPORTATION regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this PROJECT. Upon execution of an underlying contract, the **CONTRACTOR** certifies or affirms the truthfulness and accuracy of any California Department of Transportation it has made, it makes, it may make, or causes to be made, pertaining to that underlying contract or the Federally assisted PROJECT for which this contracted work is being performed. In addition to other penalties that may be applicable, the **CONTRACTOR** further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, California Department of Transportation, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the **CONTRACTOR** to the extent the Federal Government deems appropriate.
- B. The **CONTRACTOR** also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, California Department of Transportation, submission, or certification to the Federal Government under a contract connected with a PROJECT that is financed in whole or in part with Federal assistance originally awarded by the California Department of Transportation under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the **CONTRACTOR**, to the extent the Federal Government deems appropriate.
- C. The **CONTRACTOR** agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by the California Department of Transportation. It is further agreed that these clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

21. Contracts Involving Federal Privacy Act Requirements. 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:

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- A. The **CONTRACTOR** agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a. Among other things, the **CONTRACTOR** agrees to obtain the express consent of the Federal Government before the **CONTRACTOR** or its employees operate a system of records on behalf of the Federal Government. The **CONTRACTOR** understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved and that failure to comply with the terms of the Privacy Act may result in termination of the underlying Contract.
- B. The **CONTRACTOR** also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by the California Department of Transportation.
22. Drug-Free Workplace. The **CONTRACTOR** certifies by signing this Contract that it will provide a drug-free workplace, and shall establish policy prohibiting activities involving controlled substances in compliance with Government code Section 8355, et seq. The **CONTRACTOR** is required to include the language of this Paragraph in award documents for all sub-awards at all tiers (including subcontracts, contracts under grants, and cooperative agreements) and that all awarding agencies shall disclose accordingly. To the extent the **CONTRACTOR**, any third-party contractor at any tier, any awarding agency at any tier, or their employees, perform a safety sensitive function under the PROJECT, the **CONTRACTOR** agrees to comply with, and assure the compliance of each affected third-party contractor any tier, each affected awarding agency at any tier, and their employees with 49 U.S.C. Section 5331, and FTA regulations, "Prevention of Alcohol Misuse and Prohibited Drug use in Transit Operations," 49 CFR Part 655.
23. Charter Service Operations (Transit Operation & Rolling Stock Only). The **CONTRACTOR** agrees to comply with 49 U.S.C. Section 5323(d) and 49 CFR Part 604, which provides that recipients and awarding agencies of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions listed at 49 CFR-Subpart B. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation. The **CONTRACTOR** assures and certifies that the revenues generated by its incidental charter bus operations (if any) are, and shall remain, equal to or greater than the cost (including depreciation on Federally assisted equipment) of providing the service. The **CONTRACTOR** understands that the requirements of 49 CFR Part 604 will apply to any charter service provided, the definitions in 49 CFR part 604 apply to this contract, and any violation of this contract may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.
24. School Bus Operations (Transit Operation & Rolling Stock Only). Pursuant to 49 U.S.C. 5323(F) and 49 CFR Part 605, the **CONTRACTOR** agrees that it and all its subcontractors will:

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(1) engage in school transportation operations in competition with private school transportation operators only to the extent permitted by an exception provided by 49 U.S.C. 5323 (f) and implementing regulations, and (2) comply with requirements of 49 CFR Part 605 before providing any school transportation using equipment or facilities acquired with Federal assistance awarded by FTA and authorized by 49 U.S.C. Chapter 53 or Title 23 U.S.C. for transportation projects. The **CONTRACTOR** understands that the requirements of 49 CFR Part 605 will apply to any school transportation it provides, that the definitions of 49 CFR part 605 apply to any school transportation agreement, and a violation of this contract may require corrective measures and the imposition of penalties, including debarment from the receipt of further Federal assistance for transportation.

25. Use of \$1 Coins. As applicable, and to comply with Section 104 of the Presidential \$1 Coin Act of 2006, 31 U.S.C. Section 5312(p), the **CONTRACTOR** must ensure that FTA assisted property that requires the use of coins or currency in public transportation service or supporting service be fully capable of accepting and dispensing \$1 coins.

26. Protection of Animals. The **CONTRACTOR** must ensure that all third-party contractors providing services involving the use of animals must comply with the Animal Welfare Act, 7 U.S.C. Sections 2131 et seq. and Department of Agriculture regulations, "Animal Welfare," 9 CFR Subchapter A, Parts 1, 2, 3, and 4.

27. Additional Termination Clauses.

A. Termination for Convenience. When it is in the Awarding Agency best interest, the Awarding Agency reserves the right to terminate this Contract, in whole or in part, at any time by providing a ten (10) day written notice to the **CONTRACTOR**. The **CONTRACTOR** shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The **CONTRACTOR** shall promptly submit its termination claim to the Awarding Agency. If the **CONTRACTOR** has any property in its possession belonging to the Awarding Agency, the **CONTRACTOR** will account for the same, and dispose of it in the manner the Awarding Agency directs.

B. Lack of Beneficial Results. This Contract may also be terminated if the Awarding Agency and the **CONTRACTOR** agree that its continuation would not produce beneficial results commensurate with the further expenditure of funds or if there are inadequate funds to operate the PROJECT equipment or otherwise complete the PROJECT.

C. Termination for Default. The Awarding Agency may terminate this Contract upon a finding that the **CONTRACTOR** has not made satisfactory progress toward procuring the PROJECT equipment, services, salary and wages, as appropriate, within twelve (12) months of execution of this Contract, has not billed for operating assistance funds within twelve (12) months of execution of this Contract, or that the **CONTRACTOR** is otherwise not complying with the terms of this Contract. Termination shall be by written notice specifying the reason for termination and giving the **CONTRACTOR** thirty (30)

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days to correct the default. The Awarding Agency shall be the sole judge as to whether the **CONTRACTOR**'s corrective measures are adequate. If the **CONTRACTOR** fails to remedy to the Awarding Agency's satisfaction the breach or default or any of the terms, covenants, or conditions of this Contract the Awarding Agency shall have the right to terminate the Contract without any further obligation to the **CONTRACTOR**. Any such termination for default shall not in any way operate to preclude the Awarding Agency from also pursuing all available remedies against the **CONTRACTOR**.

- D. Period of Performance Extension. If it is later determined by the Awarding Agency that the **CONTRACTOR** had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the **CONTRACTOR**, the Awarding Agency, after setting up a new delivery of performance schedule, may allow the **CONTRACTOR** to continue work, or treat the termination as a termination for convenience.
- E. Mutual Termination. The PROJECT may also be terminated if the Awarding Agency and the **CONTRACTOR** agree that its continuation would not produce beneficial results commensurate with the further expenditure of funds or if there are inadequate funds to operate the PROJECT equipment or otherwise complete the PROJECT.

28. Disputes. The Awarding Agency and the **CONTRACTOR** shall deal in good faith and attempt to resolve potential disputes informally. If the dispute persists, the **CONTRACTOR** shall submit to the authorized Awarding Agency Representative for this Contract or designee a written demand for a decision regarding the disposition of any dispute arising under this Contract. The Awarding Agency Representative shall make a written decision regarding the dispute and will provide it to the **CONTRACTOR**. The **CONTRACTOR** shall have an opportunity to challenge the Awarding Agency Representative's determination but must make that challenge in writing within ten (10) working days to the Awarding Agency's Executive Director or his/her designee. If the **CONTRACTOR** challenge is not made within the ten (10) day period, the Awarding Agency Representative shall become the final decision of the Awarding Agency. The Awarding Agency and the **CONTRACTOR** shall submit written, factual information and supporting data in support their respective positions. The decision of the Awarding Agency shall be final, conclusive and binding regarding the dispute, unless the **CONTRACTOR** commences an action in court of competent jurisdiction to contest the decision in accordance with Division 3.6 of the California Government Code.

29. Third Party Procurement. In accordance with applicable U.S. Department of Transportation third-party procurement regulations in FTA Circular 4220.1F, "Third-Party Contracting Guidance," November 1, 2008, and any later revision thereto, the **CONTRACTOR** agrees that it may not use FTA assistance to support its procurements unless there is satisfactory compliance with Federal laws and regulations including but not limited to the following:

- A. To California Department of Transportation clearly that the final contract award to any bidder requires prior written approval by the Awarding Agency and that bids are consistent with the PROJECT equipment description identified in the Standard

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Agreement, Exhibit A, Scope of Work between California Department of Transportation and the Awarding Agency.

- B. To comply with applicable Federal laws and regulations including, but not limited to, Federal transit laws at 49 U.S.C. Chapter 53, FTA regulations, and other Federal laws and regulations that contain requirements applicable to FTA recipients and their FTA assisted procurements. Also, to include all required Federal procurement provisions in each subcontract financed in whole or in part with Federal assistance provided by FTA.
- C. For all contracts and subcontracts financed with Federal assistance, to comply with cargo preference requirements of 46 U.S.C. § 1241 and 46 CFR Part 381 when contracts involve equipment, materials, or commodities which may be transported by ocean vessels.
- D. To comply with the requirements of 49 U.S.C. § 5323 (c) and FTA regulations, “Bus Testing”, 49 C.F.R. Part 665, and any revision thereto.
- E. To comply with the requirements of 49 U.S.C. § 5323(l) and FTA regulations, “Pre-Award and Post-Delivery Audits of Rolling Stock Purchases,” 49 C.F.R. Part 663, and any revision thereto.
- F. To comply with the requirements of 49 U.S.C. § 5325(b) to award a third-party contract using a competitive procurement process.
- G. In accordance with 49 U.S.C. § 5325(e)(1), in the procurement of rolling stock, may not enter into a multi-year contract to purchase additional rolling stock and replacement parts with options exceeding five (5) years after the date of the original contract.
- H. To comply with 49 U.S.C. § 5325(f), agrees that any third-party contract award it makes for rolling stock will be based on initial capital costs, or on performance, standardization, life cycle costs, and other factors, or on a competitive procurement process.
- I. To comply with the requirements of 49 U.S.C. Section 5323(m) and FTA regulations, “Pre- Award and Post-Delivery Audits of Rolling Stock Purchases, “ 49 CFR Part 663, and any revision thereto.
- J. To award a third-party contract using a competitive procurement process in compliance with the requirements of 49 U.S.C. Section 5325.
- K. To comply with the requirements of 49 U.S.C. Section 5318(e) and FTA regulations, “Bus Testing”, 49 CFR Part 665, including the certification that before expending any Federal assistance to acquire the first bus of any new bus model or any bus model with a new major change in configuration or components or before authorizing final acceptance of that bus, that model of bus will have been tested at the ALTOONA Bus Research and

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Testing Center. The **CONTRACTOR** must obtain the final testing report and provide a copy of the report to the Awarding Agency.

- L. To require each bidder to certify that it has complied with 49 CFR 26, which requires each transit vehicle manufacturer to establish annual goals for the participation of disadvantaged business enterprise and to submit those goals to FTA for approval.
- M. To comply with 49 U.S.C. Section 5323(j), FTA's Buy America regulations at 49 CFR Part 661 and any amendments thereto, and any implementing guidance issued by FTA, with respect to each third-party contract.
- N. To meet applicable regulations of 49 CFR Part 663 in the purchase of revenue rolling stock.
- O. In subcontracts exceeding \$100,000, to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. Section 7401 et. seq. and Clean Water Act, as amended, 33 U.S.C. Section 1251 et. seq. Agrees to report and require each third-party subcontractor at any tier to report any violation of these requirements resulting from any PROJECT implementation activity of a third-party subcontractor, or itself to FTA and the appropriate U.S. EPA Regional Office.
- P. To comply with U.S. Environmental Protection Agency (U.S. EPA), "Comprehensive Procurement Guideline for Products Containing Recovered Materials," 40 C.F.R. Part 247, which implements section 6002 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6962. Accordingly, the **CONTRACTOR** agrees to provide a competitive preference for products and services that conserve natural resources, protect the environment, and are energy efficient, except to the extent that the Federal Government determines otherwise in writing.
- Q. To comply with mandatory standards and policies relating to energy efficiency, which are contained in the California Department of Transportation energy conservation, plan issued in compliance with the Energy Policy and Conservation Act.
- R. To the extent applicable, agrees to conform to the National Intelligent Transportation Systems (ITS) Architecture and Standards as required by SAFETEA-LU § 5307(c), 23 U.S.C. § 512 note, and follow the provisions of FTA Notice, "FTA National ITS Architecture Policy on Transit PROJECT'S," 66 Fed. Reg. 1455 *et seq.*, January 8, 2001, and any other implementing directives FTA may issue at a later date, except to the extent FTA determines otherwise in writing.
- S. In accordance with 40 CFR Part 85, "Control of Air Pollution from Mobile Sources," 40 CFR Part 86, "Control of Air Pollution from New and In-Use Motor Vehicles and New and In-Use Motor Vehicle Engines," and 40 CFR Part 600, "Fuel Economy of Motor Vehicles, the **CONTRACTOR** must include provisions in all third-party contract for

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procurement of rolling stock to ensure compliance with applicable Federal air pollution control and fuel economy regulations.

T. **CONTRACTOR** shall refer to FTA “Best Practices Procurement Manual” for additional procurement guidance on procurement processes and any omissions applicable to the PROJECT. The **CONTRACTOR’S** failure to comply with all mandates shall constitute a material breach of this Contract.

30. Amendments to Federal, California Department of Transportation and Local Laws, Regulations and Directives. The terms of the most recent amendment to any Federal, California Department of Transportation, or local laws, regulations, FTA directives, and amendments to the grant or cooperative contract that may be subsequently adopted, are applicable to the PROJECT to the maximum extent feasible, unless the California Department of Transportation provides otherwise in writing.
31. Disposition of Equipment. The disposition of all PROJECT equipment shall be made in accordance with the requirements set forth in FTA's implementing regulations of 49 CFR Part 18, "Uniform Administrative Requirements for Grants and Cooperative Contracts to California Department of Transportation and Local Governments" and FTA Circular 9040.1F or 49 CFR Part 19, "Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Educations, Hospitals, and Other Non-profit Organizations" and FTA Circular 9070.1F. Whenever any PROJECT equipment is withdrawn from the PROJECT for any reason, the **CONTRACTOR** shall immediately notify the Awarding Agency. Should the PROJECT be terminated, all property procured under this contract becomes property of the Awarding Agency and may be transferred to other eligible contractors at the sole discretion of the Awarding Agency. At the option of the Awarding Agency, the **CONTRACTOR** shall do one of the following:
- A. Written Notice of Termination. The Awarding Agency may terminate this contract upon finding that the **CONTRACTOR** is not operating the PROJECT equipment in accordance with the project description in the Scope of Work, or that the **CONTRACTOR** is otherwise not complying with the terms of this contract. Termination shall be by written notice specifying the reason for termination and giving the **CONTRACTOR** thirty (30) days to correct the default. The Awarding Agency shall be the sole judge as to whether the **CONTRACTOR'S** corrective measures are adequate. If **CONTRACTOR** fails to remedy to Awarding Agency's satisfaction the breach or default or any of the terms, covenants, or conditions of this contract the Awarding Agency shall have the right to terminate the contract without any further obligation to the **CONTRACTOR**. Any such termination for default shall not in any way operate to preclude the Awarding Agency from also pursuing all available remedies against **CONTRACTOR** and its sureties for said breach or default. Once a contract has been terminated within the provisions of this section, the Awarding Agency reserves the right to seize vehicles or equipment procured under this contract.

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- B. Remit to the Awarding Agency the proportional amount of current market value that exceeds \$5,000 per unit at the time of disposition, if any, of PROJECT equipment which shall be based on the percentage of the FTA grant funds paid by **CONTRACTOR** under this contract. Fair market value shall be deemed to be the value of the PROJECT equipment as determined by a competent appraisal at the time the equipment is withdrawn from use; and
- C. Return the equipment to the Awarding Agency in the same condition as when received by the **CONTRACTOR**, except for reasonable wear and tear resulting from its use. The parties shall thereupon determine the amount of compensation, if any, to be paid by the **CONTRACTOR** to the Awarding Agency in order to avoid any Awarding Agency liability to the California Department of Transportation or to others.

32. Insurance. While the PROJECT equipment is in the possession or control of the **CONTRACTOR**, the **CONTRACTOR** shall maintain adequate insurance protection against liability for damages for personal bodily injuries (including death), property damage, and vehicle damage as conditioned in this section.

- A. The minimum limits of liability, shown below in parts J and K, may be increased by the Awarding Agency at any time upon thirty (30) days notice to the **CONTRACTOR**.
- B. The **CONTRACTOR** shall place Vehicle Physical Damage, including collision and comprehensive (fire, theft, etc.) insurance for amounts equal to the actual cash value of each vehicle and any other equipment that is part of the PROJECT equipment, with deductibles acceptable to the Awarding Agency. This insurance shall include a provision designating the California Department of Transportation as the Loss Payee for all purposes of adjusting, settling, or paying claims for damage to the insured vehicle(s).
- C. The California Department of Transportation, its officers, employees, and agents shall be named as additional insured.
- D. The California Department of Transportation will not be responsible for any premiums or assessments on the policy.
- E. The **CONTRACTOR**, and/or third-party subcontractor, shall furnish to the Awarding Agency, before delivery of the PROJECT vehicle(s) to the **CONTRACTOR**, a certificate of insurance issued by a company licensed to write such insurance in California.
- F. Prior to the annual insurance policy expiration date, the **CONTRACTOR** shall furnish to the Awarding Agency a new certificate of insurance or other written evidence of insurance satisfactory to the Awarding Agency. At any time that such evidence of insurance has not been provided, the Awarding Agency shall have the right immediately to take possession of the PROJECT equipment and to enter the property of the **CONTRACTOR** for this purpose.

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- G. The **CONTRACTOR** shall provide the Awarding Agency at least thirty (30) days notice of cancellation or material change of the vehicle insurance policy.
- H. Public Agency or For-Profit CONTRACTORS. The following terms apply to all **CONTRACTORS** who are defined as a Public Agency or For-Profit entity, regardless if they are providing the service as the prime contractor or subcontractor:
1. Property Damage: The **CONTRACTOR** shall place property damage, whether the property of one or more claimants, in an amount not less than one million five hundred thousand dollars (\$1,500,000) per occurrence (combined single limit) for property damage liability combined in respect to vehicles with seating capacity of fifteen (15) or less, or five million dollars (\$5,000,000) per occurrence for property damage liability combined in respect to vehicles with seating capacity of sixteen (16) or more.
 2. Bodily Injury: The **CONTRACTOR** shall place bodily injury in an amount not less than one million five hundred thousand dollars (\$1,500,000) per occurrence (combined single limit) in respect to vehicles with seating capacity of fifteen (15) or less, or five million dollars (\$5,000,000) per occurrence for bodily injury in respect to vehicles with seating capacity of sixteen (16) or more.
 3. Vehicle Physical Damage: The **CONTRACTOR** shall place Vehicle Physical Damage, including collision and comprehensive (fire, theft, etc.) insurance for amounts equal to the actual cash value of each vehicle and any other equipment that is part of the PROJECT equipment, with deductibles acceptable to the Awarding Agency. This insurance shall include a provision designating the California Department of Transportation as the Loss Payee for all purposes of adjusting, settling, or paying claims for damage to the insured vehicle(s).
- I. Non-Profit Agencies: The following terms apply to all **CONTRACTORS** who are defined as a non-profit agency, regardless if they are providing the service as the prime contractor or subcontractor:
1. Property Damage: The **CONTRACTOR** shall place property damage, whether the property of one or more claimants, in an amount not less than one million dollars (\$1,000,000) per occurrence (combined single limit) for property damage liability combined in respect to vehicles with seating capacity of fifteen (15) or less, or one million five hundred thousand dollars (\$1,500,000) per occurrence for property damage liability combined in respect to vehicles with seating capacity of sixteen (16) or more.
 2. Bodily Injury: The **CONTRACTOR** shall place bodily injury in an amount not less than one million dollars (\$1,000,000) per occurrence (combined single

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limit) in respect to vehicles with seating capacity of fifteen (15) or less, or one million five hundred thousand dollars (\$1,500,000) per occurrence for bodily injury in respect to vehicles with seating capacity of sixteen (16) or more.

3. Vehicle Physical Damage: The **CONTRACTOR** shall place Vehicle Physical Damage, including collision and comprehensive (fire, theft, etc.) insurance for amounts equal to the actual cash value of each vehicle and any other equipment that is part of the PROJECT equipment, with deductibles acceptable to the Awarding Agency. This insurance shall include a provision designating the California Department of Transportation as the Loss Payee for all purposes of adjusting, settling, or paying claims for damage to the insured vehicle(s).

33. Potential Subcontractors

- A. No Relationship Between the California Department of Transportation and Third-Party Contractor. Nothing contained in this Contract or otherwise, shall create any contractual relation, obligation or liability between the California Department of Transportation and any third-party contractors, and no third-party contract shall relieve the **CONTRACTOR** of his responsibilities and obligations hereunder. The **CONTRACTOR** agrees to be as fully responsible to the California Department of Transportation for the acts and omissions of its third-party contractors and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by the **CONTRACTOR**. The **CONTRACTOR's** obligation to pay its third-party contractors is an independent obligation from the California Department of Transportation's obligation to make payments to the **CONTRACTOR**. As a result, the California Department of Transportation shall have no obligation to pay or to enforce the payment of any moneys to any third-party contractor.
- B. Third-Party Contracts and Subagreements Affected. To the extent applicable, Federal requirements extend to third-party contractors and their contracts at every tier, and to the subcontractors of third-party contractors and their subcontracts at every tier. Accordingly, the **CONTRACTOR** agrees to include, and to require its third-party contractors to include appropriate clauses in each third-party contract and each subcontract financed in whole or in part with financial assistance provided by FTA.
- C. No Federal Government Obligations to Third Parties. The **CONTRACTOR** agrees that, absent of the Federal Government's express written consent, the Federal Government shall not be subject to any obligations or liabilities to any contractor, any third-party contractor, or any other person not a party to the Grant Agreement in connection with the performance of the PROJECT. Notwithstanding any concurrence provided by the Federal Government in or approval of any solicitation, or third-party agreement, the Federal Government continues to have no obligation or liabilities to any party, including the **CONTRACTOR** or third-party contractor.

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- D. Obligations on Behalf of the California Department of Transportation. The **CONTRACTOR** shall have no authority to contract for or on behalf of, or incur obligations on behalf of the California Department of Transportation.
- E. Awarding Agency Approval of All Third-Party Contracts. The Awarding Agency shall approve in writing all proposed third-party contract contracts, Memorandums of Understanding (MOU), or similar documents relating to the performance of the Contract prior to implementation. The **CONTRACTOR** agrees that it will not enter into any third-party contracts unless the same are approved in writing by the Awarding Agency. Any proposed amendments to such third-party contracts must be approved by the Awarding Agency prior to implementation.
34. Environmental Impact and Related Procedures (Construction Only). The **CONTRACTOR** assures and certifies that contracts involving the construction of public transportation project much comply with regulations of 23 CFR Part 771. NEPA and CEQA requirements.
35. Research, Development, Demonstration, Deployment, and Special Studies (Research or Data Development Only). In accordance with 37 CFR Part 401, 49 CFR Parts 18 and 19, the **CONTRACTOR** must comply with patent and rights in data requirements for federally assisted contracts involving experimental, developmental or research work. The awarding agency reserve a royalty-free, nonexclusive and irrevocable right to the data, patents, and/or inventions produced under this contract and has the irrevocable right to reproduce, publish, or otherwise use the work for Federal purposes and reserves the right to grant authority to others.
36. Third Party construction or facility improvement contracts.
- A. Davis-Bacon. In accordance with the requirements of 49 U.S.C. § 5333(a) and the implementing regulations of 29 CFR Part 5, the **CONTRACTOR** shall comply with the employee protection requirements of the Davis-Bacon Act for construction activities exceeding \$2,000 performed in connection with the PROJECT. The Davis-Bacon Act applies to contracts in excess of \$2,000 for construction, alteration, or repair of public buildings or public works and requires the inclusion of a clause that no laborer or mechanic employed directly upon the site of the work shall receive less than the prevailing wage rates as determined by the Secretary of Labor.
- B. Bonding. For contracts or subcontracts exceeding \$100,000, the following bonding requirements must be included: Bid guarantee from each **CONTRACTOR** equivalent to five (5%) percent of the bid price; performance bond on the part of the **CONTRACTOR** for 100 percent of the contract price; and payment bond in the amount of either (1) 50% of the contract price if the contract price is not more than \$1 million or, (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million, or (3) \$2.5 million if the contract price is more than \$5 million.
- C. Copeland Anti-Kickback. For contracts or subcontracts exceeding \$100,000 and in accordance with 18 U.S.C. Section 874, Copeland “Anti-Kickback” Act, 29 CFR Part 3,

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the **CONTRACTOR** and Subcontractors on Public Building or Public Work Financed in Whole or in part by Loans or Grants from the United California Department of Transportations,” the **CONTRACTOR** and subcontractors are prohibited from inducing, by any means, any employee, to give up any part of his or her compensation to which he or she is otherwise entitled.

D. Construction Safety. As prohibited by the safety requirements of Section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 3704 and 29 CFR Part 1926, “Safety and Health Regulations for Construction,” the **CONTRACTOR** and subcontractors must ensure safety at construction sites so that no laborer or mechanic shall be required to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous.

37. Registration Requirements (Recovery Act Contracts Only). The **CONTRACTOR** and all subcontractors must obtain a Dun and Bradstreet Data Universal Number (DUNS), (<http://www.dnb.com>), or update the existing DUNS record, and register with the Central Contractor Registration (CCR) (<http://www.ccr.gov>). The **CONTRACTOR** shall ensure that all third party contractors and subcontractors have a DUNS number and are registered in the Central Contractor Registration (CCR).

38. Certifications and Assurances (Recovery Act Contracts Only).

A. The **CONTRACTOR** agrees to separately identify to subcontractor, and document at the time of contract award and at the time of disbursement of funds, the Federal award number, Standard Agreement number, project title, and amount of Recovery Act funds.

B. The **CONTRACTOR** must ensure each invoice submitted by subcontractors shall certify that the PROJECT items delivered and/or PROJECT work performed is authorized under the Recovery Act.

39. Additional Contract Clauses (Recovery Act Contracts Only). The following contract provisions must be included in all third party contracts involving Recovery Act funds. Model contract clauses are available in the Federal Acquisition Regulation (FAR) website at, <http://www.arnet.gov/far/>.

FAR Reference	Title
FAR 52.203-15	Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009 (Mar 2009)
FAR 52.204-11	American Recovery and Reinvestment Act – Reporting Requirements (Mar 2009)
FAR 52.215-2	Audit and Records – Negotiation (Jun 1999), Alt. I (Mar 2009)
FAR 52.216-24	Limitation of Government Liability

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FAR 52.225-23	Required Use of American Iron, Steel, and Other Manufactured Goods— Buy American Act – Construction Materials under Trade Agreements (Mar 2009)
FAR 52.225-24	Notice of Required Use of American Iron, Steel, and Other Manufactured Goods – Buy American Act – Construction Materials under Trade Agreements (Mar 2009)

40. Utilization of Small Business: **CONTRACTOR** shall to the maximum extent practicable give a preference to small business in the award of subcontracts for projects funded by Recovery Act dollars.
41. Contract Term Limitation (Rolling Stock Only). In accordance with 49 U.S.C. Section 5325(e)(1), **CONTRACTOR** understands that contracts for the procurement of rolling stock and replacement parts is limited to no more than five years under a single contract, even though delivery may take place beyond five years from the date of the initial contract.
42. Transit Employee Protective Agreements (Transit Operation Only). The **CONTRACTOR** agrees to the comply with applicable transit employee protective requirements as follows:
- A. The **CONTRACTOR** agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 CFR Part 215, and any amendments thereto.
 - B. The **CONTRACTOR** also agrees to include the applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.
43. Useful Life Standard. In accordance with FTA Circular 5010.1D, the following Useful Life standards shall determine when PROJECT property will no longer be subject to monitoring and reporting requirements once the CONTRACTOR notifies the California Department of Transportation in writing. These criteria are subject to review by the 5310, 5311, 5316 or 5317 Branch Chief if either factor is less than the value shown herein.

Large Size, Heavy-Duty Transit Buses	12 years or 500,000 miles
Small Size, Heavy-Duty Transit Buses	10 years or 350,000 miles
Medium Size, Medium-Duty Transit Buses	7 years or 200,000 miles
Medium Size, Light-Duty Transit Buses	5 years or 150,000 miles
Other Light-Duty Vehicles (Small Buses & Specialized Vans)	4 years or 100,000 miles
Facilities (Concrete, Steel, Frame and Construction)	40 years
Computers, GPS, AVL, Phone System	3 years
Fareboxes	10 years
Bus Shelters/Benches	5 years

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In reference to rolling stock, while age and mileage are the primary criteria used to determine the useful life of vehicles, this determination is based on the date the vehicle was put into active service, not the actual model year of the vehicle.